



CHAIRMAN'S MEMORANDUM

NO. 4-2004

MAY 3, 2004

TO: SHERIFFS, JAIL ADMINISTRATORS, COMMISSIONERS OF CORRECTION,
COUNTY ATTORNEYS

RE: HIPAA'S EFFECT ON THE COMMISSION'S ACCESS TO INMATE MEDICAL AND
MENTAL HEALTH RECORDS

The Commission of Correction is required by Correction Law sections 47(1)(a) and 47(1)(e) to investigate both the circumstances surrounding all inmate deaths and the delivery of medical care to inmates while in custody. To effectuate these investigations, Correction Law §46(1) grants Commission employees access at any and all times to any correctional facility and to all books, records and data pertaining to a correctional facility.

As of late, several local correctional facilities have inquired as to whether the recently effective provisions of the Health Insurance Portability and Accountability Act (HIPAA) would preclude the Commission's access to inmate medical and mental health records. To answer this question, I have attached a Memorandum of Law from the Commission's Senior Attorney, Brian M. Callahan.

Since 9 NYCRR §7013.10 requires the facility medical director to separately and confidentially maintain all inmate medical and mental health records, the Commission suggests that you share and discuss this matter with the facility medical director. Should either you or the medical director have any questions concerning this issue, please feel free to contact Mr. Callahan at (518) 485-2463.

Alan J. Croce, Chairman/Commissioner

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