

 <p style="text-align: center;">DIVISION OF ADULT INSTITUTIONS</p> <p style="text-align: center;">POLICY AND PROCEDURES</p>	DAI Policy #: 300.00.09	Page 1 of 14
	Original Effective Date: 12/01/77	New Effective Date: 08/20/18
	Supersedes: 300.00.09	Dated: 10/15/16
	Administrator's Approval: Jim Schwochert, Administrator	
	Required Posting or Restricted:	
<input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted		
Chapter: 300 Administrative		
Subject: Death of an Inmate		

POLICY

The Division of Adult Institutions shall ensure specific action is taken in the event of an inmate death. This shall include completion of proper notification, documentation and review of the death. All deaths shall be reviewed to determine the appropriateness of clinical care; to ascertain whether changes to policies, procedures and/or practices are warranted and to identify issues requiring further study.

REFERENCES

2017 Wisconsin Act 246 – Inmate Death
Wisconsin Statutes s. 146.37 – Health Care Services Review, Civil Immunity
Wisconsin Statutes s. 146.38 – Health Care Services Review, Confidentiality of Information
Wisconsin Statutes s. 146.82 – Confidentiality of Patient Health Care Records
Wisconsin Statutes s. 157.02 – Disposal of Unclaimed Corpses
Wisconsin Statutes s. 301.32 – Property of Prisoners, Residents and Probationers
Wisconsin Statutes s. 302.14 – Property of Deceased Inmates, Parolees, Probationers, or Persons on Extended Supervision, Disposition
Wisconsin Statutes s. 852.01 – Basic Rules for Intestate Succession
Wisconsin Statutes s. 867.03 – Transfer by Affidavit
Wisconsin Statutes s. 979.01 – Reporting Deaths Required; Penalty; Taking Specimens by Coroner or Medical Examiner
Wisconsin Statutes s. 979.025 – Autopsy of Correctional Inmate
Executive Directive 58 – Department of Corrections Review of Inmate/Youth Deaths
Wisconsin Administrative Code Ch. DHS 135 – Human Corpses and Stillbirths
Wisconsin Administrative Code Ch. DHS 136 – Embalming Standards
Wisconsin Administrative Code s. DOC 309.20 – Personal Property
Standards for Health Care in Prisons, National Commission on Correctional Health Care, 2014, P-A-10 – Procedure in the Event of an Inmate Death
DAI Policy 300.00.10 – Review by Committee on Inmate/Youth Deaths
DAI Policy 300.00.71 – Reporting Serious Incidents, Events of Special Interest, Media Contacts and Legislative Inquiries
DAI Policy 306.00.14 – Protection, Gathering and Preservation of Evidence
DAI Policy 500.10.27 – Continuous Quality Improvement Plan
DAI Policy 500.10.33 – Inmate Patient Safety
DAI Policy 500.30.13 – Organ Transplants/Donations

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42 Code of Federal Regulations, Part 2, Confidentiality of Alcohol and Drug Abuse Information

45 Code of Federal Regulations, Part 164, Security and Privacy Records Office Procedure I-03 – Death of an Inmate

Attachment – Template for Requesting Information from Staff

DEFINITIONS, ACRONYMS, AND FORMS

Anticipated Death – Any death where the inmate was in the terminal stage of an illness and had an anticipated life expectancy of 12 months or less.

BHS – Bureau of Health Services

BHS-CO – Bureau of Health Services Central Office/Madison

COIYD – Committee on Inmate/Youth Deaths. See DAI Policy 300.00.10.

CQI – Continuous Quality Improvement

DAI – Division of Adult Institutions

Determination of Death – An individual, who has sustained either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem, is considered dead. A determination of death shall be made in accordance with accepted medical standards.

DHS – Department of Health Services

Direct Burial – Includes casket, preparation of the deceased consistent with the Department of Health and Family Services s. 136.04, vault and cemetery charges. Embalming is not required.

DOC – Department of Corrections

DOC-236D – Identification Property Access Record

DOC-2309 – Certification of Records

DOC-2466 – Incident Report (WICS)

DOC-2466B – Incident Information (WICS)

DOC-2606 – Offender Demise Checklist

DOC-2606A – Demise Chronological Log

DOC-3021 – Progress Notes

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DOC-3356 – Inmate/Youth Death Review – Institution/Facility

DOC-3356E – Inmate/Youth Death Review – Palliative Care Program

DOJ – Department of Justice

DSU – Dental Services Unit

Emergency Contact – Contact information initially obtained at intake and annually updated by a social worker from an inmate to provide facility staff with immediate access to the appropriate name and telephone numbers in case of an emergency.

Health Care Record (HCR) – Official confidential DOC record created and maintained for each inmate patient consisting of all or some of the following components: gray/green and/or orange Medical Chart, Hemodialysis Chart, Dental Record, Psychological Records-Copies envelope, Medications Record envelope, Patient Request Folder, Psychological Services Unit Record and other components as defined by the Bureau of Health Services.

HIPAA – Health Insurance Portability and Accountability Act

HSU – Health Services Unit

Intestate – Died without a valid will.

Next of Kin – Those living individuals related to the deceased by blood or marriage.

OLC – Office of Legal Counsel

Palliative Care Program – Inmate patient and family centered care that optimizes quality of life by anticipating, preventing and treating suffering. The illness continuum of palliative care addresses physical, intellectual, emotional, social and spiritual needs while facilitating inmate patient autonomy, information access and choice.

PHI – Protected health information

PR-1831 – Transfer by Affidavit (\$50,000 and under)

PSU – Psychological Services Unit

Standard (Universal) Precautions – Work practices which require everyone to assume that all blood and body substances are potential sources of infection independent of perceived risk.

Unanticipated Death – Any death which occurs where there was no diagnosis by a physician of a terminal medical condition or where the physician had indicated the

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anticipated life expectancy should be 12 months or longer with a terminal medical condition.

UPS – United Parcel Service

WICS – Wisconsin Integrated Corrections System

WRC – Wisconsin Resource Center

WWRC – Women’s Wisconsin Resource Center

PROCEDURE

I. Pronouncement of Death

- A. Only a physician, coroner or medical examiner can pronounce the individual deceased. The time of death shall be determined by the time of contact with and pronouncement by the physician, coroner or medical examiner.
- B. If time of death was pronounced by a physician, the time of pronouncement shall be given to the coroner or medical examiner for placement on the death certificate.
- C. At the time of death, the facility shall contact the coroner/medical examiner to request an autopsy per Wisconsin Statutes s. 979.025.
 1. Due to autopsy requirements, request by the inmate prior to death to donate body cannot be honored.
 2. See DAI Policy 500.30.13 for process for donation of organs.
- D. As soon as possible after pronouncement of death, designated HSU staff shall document the following information on DOC-3021 to be filed in the Medical Chart:
 1. Information regarding activities that occurred outside the DOC facility, such as at a hospital, if death occurred off-site.
 2. Synopsis of assessment and medical care provided immediately prior to death.
 3. Date, time and location of death.
 4. Observation or assessment made.
 5. Contact with physician and their response.
 6. Time of pronouncement.
 7. Notifications made regarding the death.
- E. Upon receipt of a request from a coroner/medical examiner for written or verbal PHI, HSU and/or PSU staff shall provide requested information. See Section VIII.
- F. Security staff may answer questions posed by the coroner/medical examiner relating to events surrounding the death that are not health related.

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II. Actions by Security Staff

- A. Initiate and complete the DOC-2606A and DOC-2606.
- B. Ensure crime scene security measures are implemented to preserve evidence per DAI Policy 306.00.14.
- C. The body of the deceased inmate, equipment, appliances or dressings, shall not be removed until the coroner, medical examiner or any involved law enforcement personnel grants authorization. Equipment may be powered off.
- D. Immediately notify the Warden/designee and report the death to law enforcement of the jurisdiction in which the death occurred and/or in which the facility having responsibility is located.
- E. Once the scene has been cleared by law enforcement, standard precautions shall be followed when cleaning up blood and other body fluids that may be present.
- F. Ensure inmate's property is collected, inventoried and secured.
 1. Law enforcement shall not be permitted to review or remove from the premises any documents found in the deceased inmate's cell that include PHI.
 2. A court order, subpoena or search warrant signed by a judge is required to authorize the DOC to disclose PHI to law enforcement.
- G. Secure and inventory all medications and medical equipment that were in the possession of the inmate and any controlled medications and medication records that were in staff control.
 1. Law enforcement shall not be permitted to remove from the premises any medications or medical equipment that were in the possession of the inmate, or in staff control. The county coroner does have the authority to remove these items.
 2. After inventory of medications and medical equipment is complete, security staff shall deliver the medications and medical equipment to the HSU unless they have been removed by the coroner.
- H. Ensure all staff present complete a DOC-2466.
- I. Communicate administrative review findings and recommendations to appropriate employees, including health providers, when applicable.

III. Notification of Death

- A. Immediately notify the DAI Administrator or the DAI staff person on call.
- B. Complete DOC-2466B and forward to the DOC DL DAI Demise Contacts and DOC DL DAI Incident Reporting Group via email.

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C. Notify the inmate's agent of record.

IV. Notification of Emergency Contact/Next of Kin

- A. Notify the next of kin of the death, but do not provide PHI. If the next of kin cannot be found, make efforts to notify relatives.
- B. Notify the inmate's designated emergency contact, but do not provide PHI.
- C. If next of kin or emergency contact requests PHI, refer the individual to the HIPAA Compliance Officer.
- D. If, after due diligence, no next of kin or emergency contact is located, efforts may cease.
- E. Provide a written notification to the next of kin informing him/her they may request a copy of the autopsy from the coroner or medical examiner's office.
- F. Determine if the next of kin wishes to claim the body or cremated remains and provide burial.
- G. If the next of kin claims the body or cremated remains, the facility bears no responsibility for funeral or burial expenses.
- H. If the next of kin does not claim the body, arrangements shall be made for cremation or direct burial at facility expense. If the deceased inmate has remaining funds, the funds shall be used towards cremation or burial expenses.
 - 1. Unclaimed bodies shall not be cremated prior to 48 hours after death.
 - 2. Cremation shall not occur if death was caused by:
 - a. Homicide
 - b. Contagious or infectious disease
- I. An honorably discharged veteran of the U.S. Armed Forces is entitled to certain burial expenses. The facility shall claim these benefits when appropriate to defray the expenditures.

V. Autopsy Report

- A. The facility shall request a copy of the preliminary report from the coroner or medical examiner to be used in the facility mortality review.
- B. The facility shall request a copy of the final report from the coroner or medical examiner, and forward the final report to BHS-CO Program Support Supervisor for filing in the deceased inmate's mortality review file.

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VI. Death Certificate

- A. Facilities shall request two certified copies of the death certificate from the county courthouse or from the DHS, Division of Health, Section for Vital Statistics, PO Box 309, Madison, WI 53701-0309.
- B. Forward one certified death certificate to:
 - 1. Facility Records Office for filing in the deceased inmate's legal file.
 - 2. BHS-CO Program Support Supervisor for filing in the inmate's mortality review file.
- C. The family or next of kin may obtain copies of the death certificate from the DHS, Division of Health, Section for Vital Statistics, PO Box 309, Madison, WI 53701-0309.

VII. Disbursement of Property and Funds

- A. Facilities shall designate staff responsible for contacting the inmate's next of kin regarding personal property and funds.
- B. Upon the death of an inmate, the next of kin shall receive written notice of the inmate's personal property and money currently in trust to include PR-1831.
- C. Follow the procedures of disbursing property for inmates, including vital documents stored in the DOC-236D and funds, as established in Wisconsin Statutes s. 302.14 and 867.03.
- D. Property, including identification property, vital documents and funds from inmates who have died intestate shall be disbursed to the surviving heir as defined in Wisconsin Statutes s. 852.01.
- E. The DOC shall not send to next of kin or emergency contacts, documents that contain PHI.
 - 1. During the inventorying of the deceased inmate's property, designated property staff shall review all documents and set aside the documents that appear to be health records, either from the DOC HCR, or from a community health provider.
 - 2. Property staff shall place the health care documents in a sealed envelope and deliver to the HSU who shall forward to Central Medical Records and Inactive Women's Medical Records for confidential destruction.
 - 3. Staff shall maintain the confidentiality of the information contained in the health records.
- F. If the funds remain unclaimed for one year after the inmate's death, they shall be deposited in the general fund.
 - 1. Unclaimed personal property, including vital documents, shall be securely disposed of by shredding, preferably in a cross-cut shredder.
 - 2. All other personal property shall be disposed of or sold after one year and any proceeds deposited in the general fund.

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3. See Wisconsin Statutes s. 301.32 and Wisconsin Administrative Code s. DOC 309.20.

G. The sale of unclaimed personal property shall be arranged through the DOC Purchasing Officer.

VIII. Copying and Forwarding of HCR

A. The HSU or Infirmary shall:

1. Immediately retrieve all components of the HCR kept in the HSU, including all or some of the following. Not all inmates shall have all the components.
 - a. All volumes of the Medical Chart.
 - b. Dialysis Chart.
 - c. Medications Record envelope.
 - d. Psychological Records – Copies envelope.
 - e. Patient Request Folder.
 - f. Any documents not yet filed in the proper location in the HCR.
2. Write in pencil the date of death on the outside of the current volume of the Medical Chart.
3. Notify PSU and DSU of the death, and shall request the immediate delivery to HSU or Infirmary, of the entire original PSU Record, including a PSU Record – AODA envelope, if any, and Dental Record, for forwarding to BHS-CO.
4. Ensure all documents pertaining to the deceased are filed in the proper location within the HCR (including DSU and PSU staff).
5. Make three to four copies of the most recent six months of the Medical Chart, Medical Records envelope, Psychological Records – Copies envelope and Patient Request Folder. This includes documents from the Patient Request Folder that may have been scanned into the OnBase database.
 - a. Retain one copy at the HSU or Infirmary.
 - b. When requested by the Coroner and/or Medical Examiner, forward a copy to one, or to both, depending on county of death, and complete a DOC-2309 when a certified copy has been requested.
 - i. If a law enforcement official states that s(he) will deliver the copy to the Medical Examiner and/or Coroner, HSU may place the copy in a sealed envelope addressed to the Medical Examiner and/or Coroner, and provide to a law enforcement official.
 - ii. The Responsible Health Authority shall coordinate the response to a verbal or written request for additional health information from a Medical Examiner and/or Coroner, and may provide copies of records in addition to the most recent six months when those records are at the facility.
 - iii. The Health Information Supervisor shall respond to requests for additional written records when the HCR is at the BHS-CO.

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- c. The first working day following the death, HSU shall send the entire original HCR, and one set of the copies of the most recent six months to the BHS-CO Program Assistant Supervisor.
 - i. Forward the HCR by certified mail with return receipt requested, bonded carrier (e.g., UPS, Federal Express), or hand delivered by DOC staff.
 - ii. Do not send the HCR via inmate transport vehicles.
 - d. Do not delay sending the HCR to BHS-CO while waiting for other documents. When other pertinent documents (e.g., ambulance record, emergency room report, hospital discharge summary, autopsy report) are received, the facility shall forward them to BHS-CO Program Support Supervisor.
 - B. In the event of a suicide or suspected suicide, PSU shall make one copy of the past six months of the PSU record and the PSU Record – AODA, if any, except for the psychiatric dictations, and provide the copy along with the original PSU record to the HSU for forwarding to BHS-CO.
 - C. WRC/WWRC shall follow the procedures of its Committee on Resident Death.
 - 1. WRC/WWRC may make copies of all or part of the DOC HCR prior to sending the entire original HCR to BHS-CO.
 - 2. WRC/WWRC shall forward the entire original DOC HCR to the BHS-CO Program Support Supervisor the business day following the death. This includes all components of the HCR maintained in the HSU, DSU and PSU.
- IX. Electronic Records Preservation Related to Inmate Patient Death For Inmate Suicides and Unanticipated Deaths**
- A. The Facility Litigation Coordinator/Designee shall:
 - 1. Utilize the template example in the Attachment to this policy to request information from all facility staff via email. Include DOC OLC Office Manager and Civil Litigation Unit at DOJ Office of Assistant Attorney Generals in the carbon copy of the email.
 - 2. Gather and transfer to specified DAI electronic folder for storage of any electronic records relative to the deceased inmate, including documents, spreadsheets, video recordings, personal folders etc.
 - B. OLC Shall:
 - 1. Complete and submit a DOC-2119A when necessary to gather and retain all emails and related attachments.
 - 2. Save all related information.
 - 3. Work in conjunction with DOJ staff to ensure necessary records are preserved for each facility at which the inmate has resided.

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X. Facility Mortality Review

- A. The facility mortality review team shall conduct a review of the circumstances surrounding the individual's death with an emphasis on the health care provided, and submit its findings and when appropriate, an action plan to the COIYD.
- B. Each division responsible for the custody of inmates/youths shall promulgate internal management procedures establishing the makeup and responsibilities of the mortality review teams.
- C. The BHS Medical Director shall make the determination of whether the death is anticipated or unanticipated.
- D. The mortality review team may address the following issues:
 - 1. Adequacy of health care practices.
 - 2. Clinical judgment.
 - 3. Utilization of expertise.
 - 4. Staff training.
 - 5. Staffing issues.
 - 6. Presence and appropriateness of internal policies and procedures.
 - 7. Implementation of internal policies and procedure.
 - 8. Notification and involvement of appropriate family members.
 - 9. Notification of external agencies.
 - 10. Reporting of the death to the DOC facility mortality review team.
 - 11. Other issues as deemed appropriate.
- E. A DAI mortality review team at the facility shall complete:
 - 1. A clinical mortality review assessing the clinical care provided and the circumstances leading up to a death in order to identify areas of inmate patient medical and/or mental health care, or system policies and procedures that can be improved.
 - 2. An administrative Security review of the circumstances surrounding the death of the inmate, in order to assess correctional and emergency response actions, and identify areas where facility operations, policies and procedures can be improved.
 - 3. In cases of suicide, a psychological autopsy or psychological reconstruction of an individual's life with an emphasis on factors that led up to and may have contributed to an individual's death, shall be conducted by a psychologist or other qualified mental health professional.
 - 4. Timelines:
 - a. Within 10 working days of the inmate's death for an unanticipated death.
 - b. Within 20 working days of the inmate's death for an anticipated death.

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- F. Anticipated death mortality review team shall consist of the following:
1. Warden/Superintendent from the facility at which the death occurred.
 2. Security Representative.
 3. Physician/Advanced Practice Nurse Prescriber/Physician's Assistant.
 4. HSU Manager/designee.
 5. BHS Nursing Coordinator.
 6. PSU representative, if requested.
 7. Others as determined to be appropriate.
- G. Unanticipated death mortality review team shall consist of the following:
1. All of the above members.
 2. PSU Representative (if death is by suicide).
 3. BHS Director.
 4. BHS Nursing Director
 5. BHS Medical Director.
 6. BHS Mental Health Director, Psychiatry Director and Psychology Director (for suicides, and other deaths, as deemed appropriate)
 7. DAI Assistant Administrator or DOC Security Chief (as determined by the DAI Administrator).
- H. When the death involves an inmate recently transferred from another DOC facility, the facility that transferred the inmate shall assist the facility at which the death occurred to conduct the mortality review.
- I. Information to be reviewed by the facility mortality review team:
1. Review the partially completed the DOC-3356/DOC-3356E.
 2. DOC-3356E shall be used only for inmates consented to admission into a Palliative Care Program.
 3. DOC policies and facility procedures, including Executive Directives, DAI policies and facility procedures, when relevant.
 4. DOC-2466s/2466Bs.
 5. Videotapes/photographs/security camera recordings.
 6. Investigations (internal and external).
 7. Correspondence (e.g., letters from the inmate to family/friends).
 8. Preliminary autopsy reports.
 9. Medical Chart and other relevant components of the HCR, such as the Medications Record envelope, Dental Record and Patient Request Folder.
 10. PSU Record (for suicides and as requested).
 11. Law enforcement reports.
 12. Any other documents or items related to the death.
- J. During the facility review, areas of improvement related to the death shall be identified and entered on the DOC-3356/3356E.
- K. Issues/recommendations entered on the DOC-3356/3356E may include the following:
1. Facility specific.

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2. System wide.
 3. Health care related.
 4. Security related.
 5. Action to be taken.
 6. Timetable to start and complete.
 7. Individuals responsible for implementation.
- L. The facility shall send the documents identified below to the BHS-CO Program Support Supervisor for use by the COIYD within 10 working days of completion of the team's review to include:
1. Final signed version DOC-3356/DOC-3356E and supporting documents.
 2. Pertinent facility procedures.
 3. Facility DOC-2466s.
 4. Autopsy report, when available.
- M. Within 10 working days of the review, the facility shall send the DOC-3356/DOC-3356E to the DOC Secretary and the Division Administrator.
- N. Facilities shall implement and monitor recommended corrective actions identified on the DOC-3356/DOC-3356E through the facility's CQI program for systemic issues under DAI Policy 500.10.27, and by the patient safety program for staff related issues under DAI Policy 500.10.33. When appropriate, direct health care providers shall be informed of the findings of the review and recommended corrective actions.
- O. Following a death of an inmate at WRC/WWRC, that facility shall follow the DHS Committee on Resident Deaths procedures, and forward documents resulting from that review to the BHS-CO Program Support Supervisor.
- XI. Investigation of Deaths of DOC Inmates at County Jails**
- A. DAI and BHS shall work collaboratively with the Office of Detention Facilities to facilitate the sharing of information for a thorough and complete death review for a DOC inmate at a Wisconsin County Jail.
- B. The Office of Detention Facility Specialist responsible for the County Jail shall conduct the death review and the final report shall be shared with DAI and BHS.

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Administrator's Approval: _____ **Date Signed:** _____
Jim Schwochert, Administrator

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
Original Effective Date:	DAI Policy Number: 300.00.09	Page 14 of 14
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Will Implement <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation		
Warden's/Center Superintendent's Approval:		

REFERENCES

DEFINITIONS, ACRONYMS, AND FORMS

FACILITY PROCEDURE

- I.
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 - 1.
 - a.
 - B.
 - C.
- II.
 - A.
 - B.
 - C.