

 <p style="text-align: center;">DIVISION OF ADULT INSTITUTIONS</p> <p style="text-align: center;">POLICY AND PROCEDURES</p>	DAI Policy #: 300.00.27	Page 1 of 5
	Original Effective Date: 04/01/02	New Effective Date: 08/24/23
	Supersedes: 300.00.27	Dated: 02/14/22
	Administrator's Approval: Sarah Cooper, Administrator – 07/31/23	
Required Posting or Restricted:		
<input checked="" type="checkbox"/> PIOC <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted		
Chapter: 300 Administrative		
Subject: Medical Guardianship		

POLICY

The Division of Adult Institutions shall seek a court appointed guardian for a PIOC who lacks the mental capacity to make decisions regarding their health care needs, and whom does not have advanced directives, including a Power of Attorney for Health Care.

REFERENCES

Wisconsin Statutes s. 146.81(5) – Person Authorized by the Patient
Wisconsin Statutes s. 146.82(1) – Confidentiality of Patient HealthCare Records
Wisconsin Statutes Ch. 54 – Guardianships and Conservatorships
DAI Policy 500.00.01 – Advance Directives for Health Care

DEFINITIONS, ACRONYMS AND FORMS

Advance Directives – Legal documents completed by competent adults that explain the health care the person wants to receive if the person is unable or cannot or chooses not to make his or her own decisions. The three kinds of advance directives for our purposes are Power of Attorney for Health Care, Declaration to Physicians and Do Not Resuscitate.

BHS – Bureau of Health Services

DAI – Division of Adult Institutions

DOC – Department of Corrections

DOC-2806 Office of Legal Counsel Referral for a Temporary or Permanent Guardianship.

Guardian – Person appointed by a court under Wisconsin Statutes s. 54.10 to manage the income and assets and provide for the essential requirements for health and safety and the personal needs of a minor, an individual found incompetent or a spendthrift.

Guardian of the Person – A guardian appointed to comply with the duties specified in Wisconsin Statutes s. 54.25 (1) and to exercise any of the powers specified in Wisconsin Statutes s. 54.25 (2).

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Health Care Record (HCR) – Official confidential Electronic DOC health care record created and maintained for each patient. In the Infirmity setting a separate health care record is maintained

HSM – Health Services Manager

HSU – Health Services Unit

Incompetent – An individual who has been adjudicated by a court as meeting the requirements of Wisconsin Statutes s. 54.120(3)

GN-3130 - Examining Physician's or Psychologist's Report. Report can be obtained from the Wisconsin Circuit Court forms website.

Guardian ad Litem (GAL) – An attorney appointed by the court when a petition for appointment of a guardian is brought under Wisconsin Statutes s. 54.34(10) to carry out responsibilities, duties, etc. under Wisconsin Statutes s. 54.40. The GAL is an advocate for the best interest of the proposed ward or ward as to guardianship.

Notice – The court document used to notify participants in a court proceeding of the date, time and place of hearing.

OLC – Office of Legal Counsel (DOC)

Petition for Guardianship/Protective Placement – The legal document used to initiate a temporary guardianship, permanent guardianship or both at the same time.

PIOC – Persons in our Care

Proposed Ward – The person for whom has been identified as the need for a guardian

Ward – The person for whom a guardian has been appointed.

WICS – Wisconsin Integrated Computer System

PROCEDURE

I. General

- A. The DOC recognizes competent PIOC's retain the right to make decisions about their health care.
- B. Staff identifying changes in a PIOC's cognitive abilities shall notify HSU.
- C. Healthcare staff shall be proactive and discuss Advance Directives with patients annually.

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II. Identifying and Obtaining a Guardian

- A. The HSM/designee shall discuss PIOC with reported cognitive difficulties with members of multi-disciplinary team including the Physician, Psychologist, Psychiatrist and assigned Social Worker.
- B. When a decline in cognitive abilities is noted, the HSM/designee shall review the HCR to determine whether the PIOC has previously signed a Power of Attorney for Health Care that could be activated which may eliminate the need for a guardianship.
- C. A physician shall assess the PIOC to verify the presence of cognitive decline and to determine whether there are treatable medical causes for the decline.
- D. Initiating a referral for guardianship
 1. DOC physician or licensed psychologist shall personally examine the PIOC and complete the following documents:
 - a. GN-3130.
 - b. DOC-2806 – complete top portion.
 2. After the top portion of the DOC-2806 is complete, the DOC physician or licensed psychologist shall forward DOC-2806 to the assigned social worker.
 3. The assigned social worker shall complete sections I – IV of the DOC-2806 and forward to DOCDLBHSReferral@wisconsin.gov for Director of Healthcare Administration or Medical Director approval.
 4. The Director of Healthcare Administration or Medical Director shall email the completed GN-3130 and DOC-2806 to DOCOLCOfficeManager@wisconsin.gov for OLC to determine the next steps for filing GN-3130 with a court to obtain a hearing date.
- E. The assigned social worker shall:
 1. Coordinate activities with field agent in contacting individuals for consideration as guardians.
 2. Arrange for the GAL to meet with proposed ward.
- F. The OLC shall:
 1. Initiate all legal matters related to the guardianship proceedings including initiating the Petition for Guardianship/Protective Placement.
 2. File as the attorney for the petitioner.
 3. Collaborate with HSM/designee and facility in securing the guardianship.
 4. Provide the proposed guardian with required materials to guide them in carrying out their duties and responsibilities.
- G. The Warden/designee shall:
 1. Serve as petitioner.
 2. Receive a copy of petition and notice of hearing as custodian of PIOC.

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3. Receive documents to be served on PIOC before and after the hearing. Service of documents on PIOC includes the reading of the document to PIOC.
4. After service, complete an affidavit of service that the PIOC has been served. Return the affidavit of service to the court and provide OLC with a copy.

III. Guardian Appointed

- A. After the hearing OLC shall provide HSU staff with the Letter of Guardianship to scan in the HCR.
- B. HSU staff shall:
 1. Enter a “court ordered treatment” order in HCR.
 2. Enter guardian information into the Court Ordered Treatment ad-hoc form and the PM conversation within the HCR.
 3. Enter special handling into WICS.
 4. Ensure the guardian is involved in decision making for care needs of the PIOC including obtaining consent as necessary for invasive procedures.
 5. Notify guardian of changes in health status, emergency/life-threatening situations and discuss actions to be taken.
 6. Ensure staff communicate to outside agencies that a guardian is appointed and send copies of guardianship papers to outside agencies.
 7. Ensure all off-site medical consultation forms contain information that the PIOC has a guardian and also includes the guardian contact information.
- C. The appointed guardian of the person has a right to access the ward’s entire DOC HCR and to verbal protected health information in order to make informed decisions.

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
Original Effective Date: 00/00/00	DAI Policy Number: 300.00.27	Page 5 of 5
New Effective Date: 00/00/00	Supersedes Number: 300.00.27	Dated:
Chapter: 300 Administrative		
Subject: Medical Guardianship		
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.
 - A.
 - B.
 - 1.
 2.
 - a.
 - b.
 - c.
 - 3.
 - C.

II.

III.

RESPONSIBILITY

I. Staff

II. PIOC

III. Other