

 <p style="text-align: center;">DIVISION OF ADULT INSTITUTIONS</p> <p style="text-align: center;">POLICY AND PROCEDURES</p>	DAI Policy #: 500.50.08	Page 1 of 14
	Original Effective Date: 05/15/04	New Effective Date: 09/07/23
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Required Posting or Restricted:		
<input checked="" type="checkbox"/> PIOC <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted		
Chapter: 500 Health Services		
Subject: Access by PIOC to Their Health Care Records		

POLICY

All Division of Adult Institution facilities shall permit patients to inspect and/or obtain copies of documents in their Department of Corrections Health Care Records in accordance with applicable policies and procedures, and Wisconsin and federal laws.

REFERENCES

Standards for Health Services in Prisons, National Commission on Correctional Health Care, 2018, P-A-08 Health Records

Wisconsin Statutes s. 51.30 – State Alcohol, Drug Abuse, Developmental Disabilities and Mental Health Act; Records

Wisconsin Statutes ss.146.81-.84 – Miscellaneous Health Provisions

Wisconsin Statutes s. 302.85 – Medical Care of Prisoners

Wisconsin Statutes Ch. 980 – Sexually Violent Persons Commitment

42 C.F.R. Part 2 – Confidentiality of Patient Records Regarding Substance Use Disorder

45 C.F.R. Part 164 – Health Insurance Portability and Accountability Act

Executive Directive 71 – Language Assistance Policy and Implementation for Addressing the Needs of Offenders with Limited English Proficiency (LEP)

DAI Policy 300.00.61 – Limited English Proficiency (LEP) Inmates

DAI Policy 309.51.01 – Legal Loans

DAI Policy 500.30.11 – Daily Handling of Non-Emergency Requests for Health Care

DAI Policy 500.50.02 – Health Care Record Format, Content and Documentation

DAI Policy 500.50.09 – Disclosure of Protected Health Information (PHI) with Patient Authorization and Court Orders

DAI Policy 500.70.11 – Psychological Services Unit Record

Attachment A – Example of Redacted Document

Attachment B – Redacting Instructions

DEFINITIONS, ACRONYMS AND FORMS

ACP - Advanced Care Provider

Adult – An individual 18 years of age and older.

C.F.R. – Code of Federal Regulations

DAI – Division of Adult Institutions

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Dental Service Request (DSR) – DOC-3392 form used to request an appointment with a dentist, health information, copies of documents, a record review.

DOC – Department of Corrections

DOC-184 – Disbursement Request

DOC-1163A – Authorization for Use and Disclosure of Protected Health Information (PHI)

DOC-1290 – Loan Application & Repayment Agreement

DOC-1490 – End of Confinement Review Board (ECRB) Case Review Summary and Disposition.

DOC-2056 – Mental Health Screen for Wisconsin Secure Program Facility

DOC-2295 – Special Purpose Evaluation Report

DOC-2466 – Incident Report (WICS)

DOC-3035 – Health Services Request and Copayment Disbursement Authorization

DOC-3035B – Psychological Service Request

DOC-3326 – Signature Verification

DOC-3370 – Psychological Records (Copies) – Medical Chart (White Envelope – Male)

DOC-3370A – Psychological Services Unit Record (Male)

DOC-3370B – Psychological Records (Copies) – Medical Chart (White Envelope – Female)

DOC-3370C – Psychological Services Unit Record (Female)

DOC-3469 – Medications Record – Medical Chart (Blue Envelope – Male)

DOC-3469A – Medications Record – Medical Chart (Blue Envelope – Female)

DOC-3473 – Psychological Services Clinical Contact

DOC-3484 – Request by Current Patient for Amendment/Correction of Protected Health Information (PHI)

DSR – Dental Service Request

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DSU – Dental Services Unit

Electronic file review – Process by which patients will access and review applicable portions of their Health Care Record (HCR) electronically, as available.

EMR – Electronic Medical Record

Facility – Institution or correctional center operated by DAI.

Guardian of the Person – An individual named in a court order to act on behalf of a patient found to be legally incompetent.

Health Care Agent – An individual designated by a person (known as the principal) to make health care decisions on behalf of the principal who is no longer able to make decisions due to mental incapacity.

Health Care Record (HCR) – Official confidential DOC record created and maintained for each patient consisting of all or some of the following components: Medical Chart, Dental Services 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.

Health Information – any information, including genetic information, whether oral or recorded in any form or medium, that: is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

Health Service Request (HSR) – DOC-3035 form used by a patient to request an appointment with health services for health information, copies of documents, a record review, or a DOC form needed to exercise a legal right related to the patient's HCR.

HIPAA – Health Information Portability and Accountability Act

HIPAA Compliance Officer – Employee designated by the Secretary of the DOC under 45 CFR Part 164 to oversee implementation of and compliance with DOC policies and procedures, and Wisconsin and federal laws pertaining to confidentiality of health care information.

HSU – Health Services Unit

Individually identifiable health information – Information that is a subset of health information, including demographic information collected from an individual, and: is created or received by a health care provider, health plan, employer, or health care clearinghouse; and relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past,

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present, or future payment for the provision of health care to an individual; and that identifies the individual; or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

LEP – Limited English Proficiency

LEP Coordinator – Facility staff assigned to monitor compliance with LEP laws and policies, assist with provision of language assistance, and maintain records related to language assistance.

Medical Chart – Primary part of a HCR consisting of gray/green or orange/off white hard covers with metal prongs and a standard set of dividers.

Medications Record – Blue envelope maintained in the HSU that documents administration of medications.

Off-Site Provider – Health provider in the community who does not provide services within a DOC facility.

Paper copy – A photocopy or file printout that is to be delivered in paper format. It does not matter what the original form the medical record was stored in. For example: electronic (EMR) file printouts and paper chart photocopies are both considered paper copies.

Patient Request Folder – Manila folder in which forms completed by patients to communicate with HSUs are stored; formerly called the Health Service Request/Medication Refill Request Folder.

PIOC – Persons in Our Care

POC-038 – Notice to Patients – Health Care Record Review (poster)

POC-052 – Notice of Redaction and Withholding of Documents

POC-058 – Notice to Patients – Health Care Record Review Procedures

Protected Health Information (PHI) – Individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium.

PSU – Psychological Services Unit

Psychological Records – Copies – White envelope maintained in HSU that contains copies of designated records filed in the PSU Record.

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Psychological Service Request (PSR) – DOC-3035B form used by a patient to request an appointment with psychological services, health information, copies of documents, a record review.

SUD – Substance Use Disorder

PROCEDURES

I. General Guidelines

- A. The DOC shall provide current patients with access to their HCR in accordance with applicable Wisconsin and Federal laws.
 - B. HSUs, DSUs and PSUs shall post in a visible location the POC-038 Notice to Patients – Health Care Record Review (poster) and POC-038S (Spanish version).
 - C. HSUs, DSUs and PSUs shall follow Executive Directive 71 and DAI Policy 300.00.61 to accommodate patients who require language assistance.
 - D. Institution education staff shall be consulted if a patient lacks sufficient reading ability to review the HCR and confirm reading ability.
 - E. HIPAA regulations require that a covered entity must act upon the request for copies or a record review no later than 30 calendar days after receipt of the request which means that HSUs, DSUs and PSUs shall complete requests for copies and record reviews within 30 calendar days, unless the Health Information Supervisor grants a request by a HSU, DSU or PSU for an extension due to extenuating circumstances.
 - F. Patients shall request copies and record reviews on a HSR, DSR, or PSR. HSUs, DSUs and PSUs shall educate patients when they use the incorrect form, but shall honor all verbal and written requests.
 - G. Prior to a record review or the copying of documents, HSU, DSU or PSU shall page through the relevant part of or entire HCR to determine if it includes any documents that pertain to another patient and immediately remove the misfiled document and file in the appropriate HCR. It is a reportable HIPAA breach if a patient accesses in any way a document pertaining to another patient.
- ### II. Processing Requests by Patients for Copies of Documents
- A. Patients who want copies of documents shall complete a HSR, DSR or PSR checking the box for requesting copies and specifically describing as much of the following as possible: type of document(s), title of document(s), author if known, and the date(s), along with a partially completed DOC-184 – Disbursement Request.

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- B. Facilities shall not require a record review when a patient clearly describes in the HSR, DSR or PSR, the record(s) the patient wants copied.
- C. When health staff cannot determine which records the patient is requesting on the HSR, DSR or PSR, staff shall send the patient a DOC-1146 – Memo, or respond on the bottom of the HSR, DSR or PSR, stating that the request cannot be processed as written, and that a record review will be scheduled within 30 days. See Section III below.
- D. Staff triaging the requests shall complete the bottom portion of the HSR, DSR or PSR acknowledging receipt of the request for copies and return the copy to the patient, and forward the request to the staff responsible for making copies.
- E. Designated staff shall complete a copy request or file review Powerform in the electronic medical record.
- F. When the request for copies is ready to be fulfilled, staff shall check for a valid DOC-1163A.
 - 1. Paper Record, including
 - a. Medical Chart – Consents/Refusals Section,
 - b. Dental Record – Consents/Authorizations/DJC Documents Section, or the
 - c. PSU Record – Legal Documents/ Consents/Outside Records Section– Authorization for Use and Disclosure of Protected Health Information (PHI).
 - 2. Electronic Health Record
 - a. For HSU, PR Authorization folder
 - b. For PSU, PR Psychological Authorization
 - 3. if none is found, send a DOC-1163A to the patient
 - 4. Prior to sending a DOC-1163A to the patient, enter the following information in the first section of the form:
 - a. Disclosing entity: Department of Corrections, Bureau of Health Services, 3099 E. Washington Avenue, Madison, Wisconsin, 53704.
 - b. Telephone Number: (608) 240-5152.
 - c. Fax number: Not required.
 - d. Use of the DOC Central Office information, rather than a specific facility, is preferred due to the frequent movement of patients between facilities.
 - 5. Enter the patient’s name/DOC number/address in the “subject of the PHI” and “recipient” sections of the form. Do not include current facility because of frequent movement between facilities.
 - 6. Staff shall suggest to the patient that “end of incarceration” be entered as the effective expiration date, so that a new form need not be obtained each time the patient wants copies. Authorization expires in one year if no event or date is entered.

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7. A court appointed guardian of the person or health care agent under an activated Power of Attorney for Health Care may sign the DOC-1163A on behalf of the patient.
 8. A patient may not use a DOC-1163A to authorize another PIOC to receive copies or review their HCR.
- G. After records are requested verbally or in writing, a valid DOC-1163A – Authorization for Use and Disclosure of Protected Health Information (PHI) is verified and a DOC-184 – Disbursement Request is submitted, count the pages, assess the applicable fees, verify there are adequate funds available, and make the copies.
1. Submit the completed DOC-184 to the Business Office with a copy to the patient.
 2. See Section V. regarding legal loans.
- H. A patient may receive one free copy of an optical prescription when at the time of the appointment only. Requests for copies after the appointment require a fee.
- I. A patient may not obtain a copy of the following records for security or confidentiality reasons:
1. Any future Off-Site appointments unless redacted.
 2. DOC-3326 – Signature Verification: filed in the Medical Chart.
 3. Documents filed in the PSU Record, Restricted Section, in accordance with DAI Policy 500.70.11, including but not limited to the following:
 - a. DOC-2056 – Mental Health Screening for Wisconsin Secure Program Facility.
 - b. Victim statements.
 - c. Copyrighted documents whether or not the patient's name appears on the document; e.g., psychological testing instruments
 - d. Pre-sentence Investigation Reports.
 - e. Non-redacted copies of documents in PSU Record that include information from the Presentence Investigation Report. Patients may obtain a copy of the redacted documents.
 - i. References to Presentence Investigation Report may be found in documents such as the DOC-2295 – Special Purpose Evaluation Report; DOC-1490 – End of Confinement Review Board (ECRB) Case Review Summary and Disposition; and DOC-3473 – Psychological Services Clinical Contact.
 - ii. See Attachment A – Example of Redacted Document and Attachment B – Redacting Instructions.
- J. Request for copies from Patient Request Folder
1. When a patient wants to review the contents of the Patient Request Folder that have been removed and scanned into OnBase, a search must be done in that database.

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2. A 5600 form is used to gain access to OnBase.
 3. Contact Health Information Supervisor/HIPAA Compliance Officer and/or Central Medical Records for instructions for doing searches.
- K. Patient requests for copies of computer disks or images from an off-site appointment shall be made by the patient to the originating clinic or hospital.
- L. Request for off-site billing/payment information
When a patient requests billing/payment information and/or diagnostic/treatment codes for an off-site appointment, advise patient to complete a DOC-1163A – Authorization for Use and Disclosure of Protected Health Information (PHI) including the date of service and off-site provider; (e.g., Waupun Memorial Hospital, April 14, 2014), and send it to the Health Information Supervisor/HIPAA Compliance Officer.
1. Forty-five to 60 days after the date of service, off-site information will be retrieved and forwarded to the Health Services Manager.
 2. Designated health staff shall obtain a DOC-184 – Disbursement Request from the patient prior to giving the patient copies of the information.
- M. Failure to meet 30 calendar day timeline
1. When it is noted that copies will not be provided within 30 calendar days of the request, staff shall email the Health Information Supervisor and provide explanation for the delay.
 2. Health Information Supervisor shall decide whether to grant a 30 day extension.
 3. When an extension is granted, the HSU, DSU, or PSU shall notify the patient of the date the copies shall be provided and reason for the extension.
 4. When an extension is not granted, the copies shall be provided to the patient immediately.
 5. Update extension request approvals, denials, dates, etc. on the aforementioned EMR file review powerform.
- N. Reporting a Breach
1. If a patient reports receiving a copy of a document about another PIOC, retrieve the document as soon as possible, but no later than 24 hours after learning of the breach.
 2. Complete DOC-2718 HIPAA Breach Report by Employee, notifying the HIPAA Compliance Officer.
 3. If the patient whose document was given to the wrong PIOC is at the facility, place the document in the correct location in the HCR.
 4. If patient whose document was given to the wrong PIOC is not at the facility, determine location in WICS, and forward document to location of the HCR.

III. Processing Requests to Review/Inspect HCRs

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- A. Federal and Wisconsin health records laws do not authorize limitations on the frequency with which a patient may inspect his/her records.
- B. Contact the Health Information Supervisor regarding patients who frequently request reviews that are interfering with the ability to process requests from other patients in a timely manner.
- C. Request to review HCR shall be placed on a HSR, DSR and/or PSR.
- D. A log shall be kept for patients requesting to review their HCR, which includes the PIOC names/DOC numbers, dates of receipt of the requests, and dates of the record reviews.
- E. When a patient states the review needs to be scheduled in fewer than 30 calendar days for legal reasons and makes the request a reasonable number of days (10 or more calendar days), the request shall be honored only if the patient provides written documentation showing the legal need.
- F. Prior to the review, the patient must sign a DOC-1163A.

III. **Checking for Consents/Refusals**

- A. Check the Medical Chart – Consents/Refusals Section, Dental Record – Consents/Authorizations/DJC Documents Section, or the PSU Record – Legal Documents/Consents/Outside Records Section for a valid DOC-1163A – Authorization for Use and Disclosure of Protected Health Information (PHI), and, if none is found, send a DOC-1163A to the patient.
- B. Prior to sending a DOC-1163A to the patient, enter the following information in the first section of the form:
 1. Disclosing entity: Department of Corrections, Bureau of Health Services, 3099 E. Washington Avenue, Madison, Wisconsin, 53704.
 2. Telephone Number: 608 240-5152.
 3. Fax number: Not required.
 4. Use of the DOC Central Office information, rather than a specific facility, is preferred due to the frequent movement of patient's between facilities.
- C. Enter the patient's name and DOC number in the "subject of the PHI" and "recipient" sections of the form. Do not include current facility because of frequent movement between facilities.
- D. Staff shall suggest to the patient that "end of incarceration" be entered as the effective expiration date, so that a new form need not be obtained each time the patient wants copies. Authorization expires in one year if no event or date is entered.
 1. A court appointed guardian of the person or health care agent under an activated Power of Attorney for Health Care may sign the DOC-1163A on behalf of the patient.

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2. A patient may not use the DOC-1163A to authorize another PIOC to review the HCR.

V. Review of HCR

A. HSU

1. Patients doing a review based upon a HSR may review their HCR including Medical Chart, Patient Request Folder and Medications Record (blue envelope).
2. Any future Off-Site appointments unless redacted.
3. Patients may review the DOC-3326 – Signature Verification sheets, but may not obtain a copy due to identify theft concerns.
4. See Attachment A – Example of Redacted Document and Attachment B – Redacting Instructions.
5. Documents created by non-DOC health providers may remain in the HCR for review by the patient even if marked with “do not release”, or similar phrase. The “do not release”, or similar phrase, does not apply to a record review by the subject of the document.

B. DSU

Patients doing a review based upon a DSR may review their Dental Record.

C. PSU

Patients doing a record review based upon a PSR may review their PSU Record.

1. Prior to the review, staff shall remove the documents from the Restricted Access section of a PSU Record, in accordance with DAI Policy 500.70.11, including but not limited to:
 - a. DOC-2056 – Mental Health Screening for Wisconsin Secure Program Facility.
 - b. Victim statements.
 - c. Copyrighted documents whether or not the patient’s name appears on the document; e.g., psychological testing instruments.
 - d. Pre-sentence Investigation Reports.
 - e. Non-redacted documents that include information from the Presentence Investigation Report.
 - i. References to Presentence Investigation Report may be found in documents such as the DOC-2295 – Special Purpose Evaluation Report; DOC-1490 – End of Confinement Review Board (ECRB) Case Review Summary and Disposition; and DOC-3473 – Psychological Services Clinical Contact.
 - ii. See Attachment A – Example of Redacted Document and Attachment B – Redacting Instructions.

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2. Staff may remove from the PSU Record copies of the Psychiatric Reports and advise the patient to submit a HSR to request a record review of the HCR Medical Chart which contains the complete set of original Psychiatric Reports.
 3. Documents created by non-DOC health providers may remain in the PSU Record for review by the patient even if marked with “do not release”, or some similar phrase. The “do not release”, or similar phrase, does not apply to a record review by the subject of the document.
 4. Trained employees approved by the Mental Health Director shall handle PSU Record review requests at a correctional center with no PSU on site.
- D. Offer an electronic file review if institutional capability exists, or proceed with printing of the files requested for review. For assistance with the process of printing the requested documents from the EMR, please see the EMR HIM Job Aids posted on MyDoc or contact the Health Information Supervisor.
- E. Supervision of Record Review
1. Provide the patient with access to a POC-0058 – Notice to Patients – Health Care Record Review Procedures by giving the patient his/her own copy, posting it in the record review area, or placing it in a sheet protector for review.
 2. Supervise the review to prevent alteration, destruction or removal of documents or any part of the HCR, and to protect the privacy of the patient.
 3. Provide the patient with a method to indicate the copies desired, if any, such as paper clips or post-it notes/flags. Inform the patient that a fee of 15 cents per side of a page shall be charged. See Section V below regarding fees.
 4. Provide the patient with a method for taking notes including paper and a pencil or red pen. Do not allow an to have any writing instrument, except for the one provided by the HSU, DSU or PSU.
 5. A red pen insert, or other way of taking notes, shall be provided if a regular pen is not permitted for security reasons such as in Segregation or Observation.
 6. In situations wherein When a patient must review the HCR through a glass partition with the employee holding the pages up to the glass, provide a security approved writing instrument which may be of any color because patient has no direct access to the HCR. If the patient is on one side of the glass with the HCR, and the employee is on the other side of the glass, provide a red pen insert, if permitted by security.
 7. At the end of the review appointment, retrieve the writing instrument from the patient.
 8. A patient may take his/her handwritten notes to his/her cell unless prohibited for security reasons.

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- F. May permit more than one patient to do a review at the same time if seating can be arranged in a manner that provides privacy to each patient and staff can monitor.
- G. When a patient attempts to damage any part of the HCR, or if a patient behaves inappropriately, end the record review immediately, complete a DOC-2466 – Incident Report (WICS), and document in the HCR. Request assistance from a Correctional Officer, as needed, for the safety of the employee, and to protect the integrity of the HCR.
- H. Schedule an additional appointment if the-patient cannot complete the review in the routine 30 minutes permitted for a review.
 - 1. HSU, DSU or PSU shall make reasonable efforts to schedule the follow-up appointment within 30 days of the original request.
 - 2. Contact the Health Information Supervisor/ HIPAA Compliance Officer if follow-up appointment cannot be scheduled within 30 days of request.
- I. The DOC has no obligation to obtain for the patient copies of records from an off-site appointment that have not been received by the DOC. Advise patient to contact the off-site provider to obtain copies.
- J. Reporting a Breach
 - 1. If a patient reports finding a document about another patient during a record review, remove the document immediately.
 - 2. Notify the HIPAA Compliance Officer of the breach via email including:
 - a. Name and DOC number of the patient who viewed the document,
 - b. Name and DOC number of the patient whose document was found misfiled.
 - c. Description of the document.
 - d. Date/time and circumstances of the incident.
 - 3. If the patient whose document was misfiled is at the facility, file the document in the correct HCR.
 - 4. If patient whose document was misfiled is not at the facility, determine location in WICS and forward document to location of the HCR.

VI. *Assessing Fees for Copies and Documenting Provision of Copies*

- A. The first 200 pages cumulatively of paper copies will be provided free of charge. After the first 200 pages, a labor and supplies fee of \$0.15 per page—which consists of \$0.08 for average labor cost, and \$0.07 for supplies (paper and toner)—will be applied.
- B. If the institution has capability to provide for electronic file reviews this option is preferred.
- C. Do not make copies before verifying, per facility procedure, that the patient has funds to pay costs, or has a legal loan related to the documents being requested.

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- D. For any paper copy request extending beyond 200 pages that is viewed as cost-prohibitive by the patient, they may refer to DAI Policy 309.51.01 to obtain copies of documents filed in the Health Care Record, without paying for the copies at the time the copies are provided, only when the patient can demonstrate a clear need for the records for the litigation for which the loan has been approved.
1. Contact the Business Office and ask for the information provided by the patient on the DOC-1290 – Loan Application & Repayment Agreement that describes the nature of the case.
 2. Litigation must relate to patient’s medical, dental and/or mental health conditions, and treatment of those conditions.
 3. Contact the Health Information Supervisor/HIPAA Compliance Officer for assistance in determining whether the copies requested relate to the legal loan.
- E. Upon payment by the patient, or when exception applies such as the free 200 page paper copy quota, or a legal loan, provide the copies directly to the patient, or place them in a sealed envelope for delivery to the patient.
1. Label the envelope as being from the HSU/DSU/PSU.
 2. Affix the sticker: “Open and inspect in presence of PIOC” to the outside of the envelope.
 3. Write the correct first and last name of the patient, DOC number and housing unit on the envelope. It is a reportable HIPAA breach if the copies are provided to the wrong patient.

VII. Documentation of Record Reviews

- A. Document the data pertinent to the file review using the AdHoc file review tool located in the EMR. (See EMR HIM Job Aids located on MyDoc or contact Health Information Supervisor for further instruction if needed).

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
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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.
 - A.
 - B.
 - 1.
 - 2.
 - a.
 - b.
 - c.
 - 3.
 - C.

II.

III.

RESPONSIBILITY

I. Staff

II. PIOC

III. Other