

**DAI Policy 500.50.09 – Disclosure of Protected Health Information (PHI) With Inmate
Patient Authorization and Court Orders
Attachment C – Individuals With Right To Access And Authorize Disclosure Of Health
Information
Effective Date: 08/25/14**

Types of records covered by each law:

s. 146.82, Wis. Stats.: health care records *except* for s. 51.30, s. 252.15, and 42 CFR Part 2. The vast majority of documents in the DOC HCR are health care records under this law.

s. 252.15, Wis. Stats.: HIV Test Results.

s. 51.30, Wis. Stats.: records regarding mental health and developmental disabilities created by NON DOC health providers such as Mendota/Winnebago Mental Health Institutes, Milwaukee County Behavioral health, other community mental health providers.

42 CFR Part 2: alcohol and other drug abuse diagnostic and treatment information.

45 CFR Part 164: protected health information of all kinds, except for AODA.

ADULT (18 years and older)				
S. 146.82	S. 51.30	S. 252.15	42 C.F.R. Part 2	45 C.F.R. Part 164
Adult patient	Adult patient	Adult patient	Adult patient	Adult patient
HEALTH CARE AGENT, GUARDIAN OF THE PERSON & OTHER AUTHORIZED REPRESENTATIVES				
S. 146.82	S. 51.30	S. 252.15	42 C.F.R. Part 2	45 C.F.R. Part 164
Health care agent under a valid activated Power of Attorney for Health Care or guardian of the person appointed by a court. Certain persons upon death of a patient.	Same as s. 146.82.	Same as s. 146.82. plus for a person who is unable to communicate due to a medical condition, the person's closest living relative or person with meaningful social and emotional relationship.	Guardian or other person with legal authority to act under state law.	Person with legal authority to make health care decisions.
PARENT/GUARDIAN OF A MINOR				
S. 146.82	S. 51.30	S. 252.15	42 C.F.R. Part 2	45 C.F.R. Part 164
Parent/guardian of a minor under 18 years of age.	Parent/guardian of a minor under 18 years of age.	Parent/guardian of a minor under 14 years of age. NOTE: See below regarding minor aged 14 years and older.	Parent/guardian of a minor under 12 years of age and in some cases parent/guardian of minor of any age. NOTE: See box below regarding minor aged 12 years and older.	Parent/guardian for an unemancipated minor, unless minor can consent to care without consent of parent/guardian. NOTE: Defers to state law.

MINOR (under 18 years of age)				
S. 146.82	S. 51.30	S. 252.15	42 C.F.R. Part 2	45 C.F.R. Part 164
Minors lack authority to access or authorize disclosure.	Minor aged 14 years and older may access and authorize disclosure. NOTE: Consent of both minor and parent/guardian not required.	Minor 14 years of age or older controls access to and disclosure of information; may deny access to parent or guardian.	Minor 12 years of age or older controls access to and disclosure of information regarding services obtained without parent/guardian consent; may deny access to parent or guardian	Unemancipated minors lack authority unless legally authorized to consent to care without consent of parent/guardian.
AUTHORIZED REPRESENTATIVES OF A DECEASED PERSON				
S. 146.82	S. 51.30	S. 252.15	42 C.F.R. Part 2	45 C.F.R. Part 164
<ul style="list-style-type: none"> • Parent/guardian of a deceased minor. • Spouse, domestic partner or personal representative (appointed to handle estate of deceased person) of a deceased adult. • If no spouse/ domestic partner survives, the following next of kin have equal authority: adult children, parents, grandparents and adult siblings, and their spouses. 	<ul style="list-style-type: none"> • Executor, administrator or other court-appointed representative of the estate. • Spouse if no court appointed representative. • Responsible member of patient's family if no spouse or court-appointed representative. 	No provision.	<ul style="list-style-type: none"> • Executor, administrator or other court-appointed representative of the estate. • Spouse if no court appointed representative. • Responsible member of patient's family if no spouse or court-appointed representative. 	<ul style="list-style-type: none"> • Executor, administrator or other person with legal authority to act on behalf of deceased individual, or estate.