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|  <p style="text-align: center;"><b>DIVISION OF ADULT INSTITUTIONS</b></p> <p style="text-align: center;"><b>POLICY AND PROCEDURES</b></p> | <b>DAI Policy #:</b> 500.50.13                                   | <b>Page</b> 1 of 7                     |
|  | <b>Original Effective Date:</b><br>03/01/05                      | <b>New Effective Date:</b><br>09/16/13 |
|  | <b>Supersedes:</b> BHS500:13                                     | <b>Dated:</b> 01/01/09                 |
|  | <b>Administrator's Approval:</b> Cathy A. Jess.<br>Administrator |  |
| <b>Required Posting or Restricted:</b>   |  |  |
| <input checked="" type="checkbox"/> <b>Inmate</b> <input checked="" type="checkbox"/> <b>All Staff</b> <input type="checkbox"/> <b>Restricted</b>  |  |  |
| <b>Chapter:</b> 500 Health Services  |  |  |
| <b>Subject:</b> Request to Restrict Use/Disclosure of Protected Health Information   |  |  |

**POLICY**

An inmate patient, or former inmate patient, may request that the Division of Adult Institutions restrict, in whole or part, an otherwise permissible use or disclosure of protected health information that could be made without written authorization. The Division of Adult Institutions may approve or deny a request. If the Division of Adult Institutions approves a request, it shall follow the approved restriction, except in a medical emergency.

**REFERENCES**

Code of Federal Regulations – Title 45 – Section 164.522(a) – Public Welfare – Security and Privacy

Wisconsin Statutes s. 146.81 – Health Care Records; Definitions.

Health Services Policy and Procedure 500:09 – Disclosure of Protected Health Information With Patient Authorization – Appendix A

**DEFINITIONS, ACRONYMS AND FORMS**

Authorized representative – Individual with legal authority to act upon behalf of a patient, such as a legal guardian of the person, or health care agent under an activated Power of Attorney for Health Care, or a parent of a minor child.

Central Medical Records – Unit at Dodge Correctional Institution that for males sets up new Health Care Records, stores inactive Health Care Records, reactivates Health Care Records upon readmission, and responds to requests for information contained in Health Care Records.

CFR – Code of Federal Regulations

CMR – Central Medical Records

Correctional facility – Institution or correctional center operated by DAI.

DAI – Division of Adult Institutions

Dental Services Request – DOC-3392 used by an inmate patient to request an appointment with a dentist, to ask a health-related question, or to request a DOC form needed to exercise a legal right related to the inmate patient's HCR.

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Designated record set – HCR and billing information used for payment of off-site health care providers.

Disclosure – Release, transfer, provision of access to, or divulging in any other manner of PHI outside of DOC.

DOC – Department of Corrections

DOC-3035 – Health Service Request and Copayment Disbursement Authorization

DOC-3035B – Psychological Service Request

DOC-3392 – Dental Services Request and Copayment Disbursement Authorization

DOC-3487 – Request by Current Patient for Restriction on Use/Disclosure of PHI

DOC-3487A – Request by Former Patient for Restriction on Use/Disclosure of PHI

DSU – Dental Services Unit

HCR – Health Care Record

Health Care Providers – For purposes of this policy, includes the professionals described in Wisconsin Statutes s. 146.81.

Health Insurance Portability and Accountability Act (HIPAA) – Federal law that requires all covered entities to follow national standards that protect the privacy and security of protected health information.

Health Service Request – DOC-3035 used by an inmate patient to request an appointment with Health Services to ask a health-related question, or to request a DOC form needed to exercise a legal right related to the inmate patient's HCR.

Health Services Unit (HSU) – Includes the physicians, dentists, nurses and support staff who provide health care services to an inmate patient residing in a DAI correctional facility.

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

Inactive HCR – A Health Care Record stored at Central Medical Records at Dodge Correctional Institution(males) or at Inactive Women's Medical Records at Taycheedah Correctional Institution(females) for an individual no longer in a DOC facility.

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Inactive Women's Medical Records (IWMR) – Unit at Taycheedah Correctional Institution that for females sets up new Health Care Records, stores inactive Health Care Records, reactivates Health Care Records upon readmission, and responds to requests for information contained in Health Care Records.

Individually identifiable health information – Information that identifies an individual, including demographic information, created or received by a health care provider that 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.

Patient – An individual who receives or has received health services from a qualified health care professional or health care provider. For purposes of this policy, patient includes an authorized representative.

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.

Psychological Service Request – DOC-3035B used by an inmate patient to request an appointment with Psychological Services, to ask a mental health related question or to request a DOC form needed to exercise a legal right related to the inmate patient's HCR.

Psychological Services Unit (PSU) – Includes the psychologists and support staff who provide psychological services to an inmate patient residing in a correctional facility.

Use – Sharing, employment, application, utilization, examination, or analysis of PHI within DOC.

## **PROCEDURES**

### **I. Written Request by a Current or Former Patient**

- A. An inmate patient in a correctional facility completes a DOC-3035 – Health Service Request and Copayment Disbursement Authorization, DOC-3392 – Dental Services Request and Copayment Disbursement Authorization or DOC-3035B – Psychological Service Request to request a DOC-3487 – Request by Current Patient for Restriction on Use/Disclosure of PHI.
- B. A former male inmate patient contacts CMR and a former female inmate patient contacts IWMR to request a DOC-3487A – Request by Former Patient for Restriction on Use/Disclosure of PHI (Former Patient).
- C. Refer to Health Services Policy and Procedure 500:09 – Appendix A, for a table showing who may act on behalf of a minor or adult inmate patient.

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- II. Provision and Completion of DOC-3487 or DOC-3487A and Completion of the Form**
- A. HSU, DSU or PSU sends to the inmate patient a blank DOC-3487 at no charge within 10 calendar days of the request.
  - B. CMR or IWMR sends to the former inmate patient a blank DOC-3487A at no charge within 10 calendar days of the request.
  - C. Upon receipt of the DOC-3487/3487A, the inmate patient /former inmate patient completes Section 1 of the form.
    - 1. A current inmate patient returns the DOC-3487 to the HSU, DSU or PSU.
    - 2. A former inmate patient returns the DOC-3487A to the HIPAA Compliance Officer to the address on the form.
- III. Review and Decision**
- A. For a current inmate patient, the Health Services Manager or Psychologist Supervisor reviews the DOC-3487, completes Section 3, and returns the form to the inmate patient, within 14 calendar days.
  - B. For a former inmate patient, the HIPAA Compliance Officer/designee reviews the DOC-3487A, completes Section 3, and returns the form to the former inmate patient, within 14 calendar days.
  - C. The reviewer may approve or deny the restriction for any reason.
- IV. Upon Approval of the Request**
- A. Filing the DOC-3487
    - 1. Health Services Manager or Psychologist Supervisor files the original DOC-3487 in the appropriate part of the HCR: Medical Chart - Miscellaneous Section, Dental Record, or in PSU Record, Inmate Correspondence Section, depending on the type of PHI involved in the restriction request.
    - 2. HIPAA Compliance Officer forwards the DOC-3487A to CMR/IWMR for filing in the proper location in the HCR.
  - B. Health Services Manager or Psychologist Supervisor ensures the HSU, DSU, PSU, CMR or IWMR is directed to comply with the approved restriction from the date of the approval until the restriction is terminated.
- V. Upon Denial of the Request**
- A. Health Services Manager or Psychologist Supervisor files the original DOC-3487 in the appropriate part of the HCR: Medical Chart – Miscellaneous Section, Dental Record, or in PSU Record, Inmate Correspondence Section, depending on the type of PHI involved in the restriction request.

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- B. HIPAA Compliance Officer forwards the DOC-3487A to CMR/IWMR for filing in the proper location in the HCR.

## VI. Termination of a Restriction

- A. Inmate patient requests termination of the restriction in writing
1. A current inmate patient submits a DOC-3035, DOC-3392 or DOC-3035B, to request the termination of a restriction.
  2. HSU, DSU, or PSU retrieves the previously completed DOC-3487 from the HCR and asks the inmate patient to sign the form in Section 4.
  3. A former inmate patient contacts the HIPAA Compliance Officer in writing to request termination of a restriction.
  4. The HIPAA Compliance Officer obtains from CMR or IWMR the previously completed DOC-3487A, and sends the form to the former inmate patient for completion of Section 4 and signing.
- B. Inmate patient agrees in writing or verbally to the termination of a restriction. The HSU, DSU, PSU, or HIPAA Compliance Officer retrieves the DOC-3487 or DOC-3487A from the HCR, and meets with the inmate patient or sends the form to the former inmate patient to inform him/her that DOC wishes to end the restriction. The inmate patient/former inmate patient either:
1. Signs in Section 4 to indicate written agreement, or
  2. DOC records a verbal agreement by checking the appropriate box in Section 4.
- C. DOC notifies inmate patient/former inmate patient that it is terminating the agreement to the restriction as of a stated effective date.
1. DOC shall note termination of the restriction in the appropriate part of the HCR, depending on the type of PHI involved in the restriction.
  2. Termination of the restriction shall apply to PHI created or received starting with the date of the notice to the inmate patient/former inmate patient.
- D. Medical Emergency
1. HSU, DSU, PSU, CMR or IWMR may use or disclose PHI in violation of the agreed upon restriction in an emergency medical treatment situation.
  2. The disclosing DOC entity documents the medical emergency use or disclosure in the Medical Chart as a Progress Note, in the Dental Record, or in the PSU Record, depending on the type of PHI involved in the restriction.
  3. The disclosing DOC entity notifies the recipient of the PHI that further disclosure of the PHI is prohibited.

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**Bureau of Health Services:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
James Greer, Director

\_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
David Burnett, MD, Medical Director

\_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
Mary Muse, Nursing Director

**Administrator's Approval:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
Cathy A. Jess, Administrator

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

|  |                                     |                    |
|--|-------------------------------------|--------------------|
| <b>Facility:</b> Name  |                                     |                    |
| <b>Original Effective Date:</b>  | <b>DAI Policy Number:</b> 500.50.13 | <b>Page</b> 7 of 7 |
| <b>New Effective Date:</b> 00/00/00  | <b>Supersedes Number:</b>           | <b>Dated:</b>      |
| <b>Chapter:</b> 500 Health Services  |                                     |                    |
| <b>Subject:</b> Request to Restrict Use/Disclosure of Protected Health Information   |                                     |                    |
| <b>Will Implement</b> <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation |                                     |                    |
| <b>Warden's/Center Superintendent's Approval:</b>  |                                     |                    |

**REFERENCES**

**DEFINITIONS, ACRONYMS, AND FORMS**

**FACILITY PROCEDURE**

- I.
  - A.
  - B.
    - 1.
    - 2.
      - a.
      - b.
      - c.
    - 3.
  - C.

II.

III.

**RESPONSIBILITY**

I. Staff

II. Inmate

III. Other