

 <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> 500.50.14	<b>Page</b> 1 of 8
	<b>Original Effective Date:</b> 06/15/05	<b>New Effective Date:</b> 05/01/16
	<b>Supersedes:</b> 500.50.14	<b>Dated:</b> 09/16/13
	<b>Administrator's Approval:</b> Jim Schwochert, 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 Amend or Correct Protected Health Information		

**POLICY**

Current and former inmate patients may request that the Division of Adult Institutions amend or correct protected health information contained in their Health Care Records. The Division of Adult Institutions has the authority to approve or deny the inmate patient's request.

**REFERENCES**

Code of Federal Regulations – Title 45 – Part 164.526 – Health Insurance Portability Accountability Act (HIPAA)

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

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

DAI Policy 500.50.09 – Attachment 3 – Individuals With Right to Access and Authorize Disclosure of Health Information

**DEFINITIONS, ACRONYMS AND FORMS**

Authorized representative – Individual with legal authority to act upon behalf of an inmate 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.

Business Associate – Person or entity that performs or assists in the performance of a function or activity involving the use or disclosure of PHI or who provides legal, actuarial, accounting, consulting, or other services where the service involves the disclosure of PHI. A business associate is not an employee or an inmate worker.

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

CFR – Code of Federal Regulations

Correctional facility – Institution or correctional center operated by Division of Adult Institutions.

DAI – Division of Adult Institutions

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Dental Service Request (DSR) – 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 Health Care Record.

Dental Services Unit (DSU) – Includes the dentists, dental assistants and support staff who provide dental care to inmate patients residing in a DAI correctional facility.

DOC – Department of Corrections

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

DOC-3035 – Health Service Request and Copayment Disbursement Authorization

DOC-3035B – Psychological Service Request

DOC-3392 – Dental Service Request and Copayment Disbursement Authorization

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

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

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

Health Care Record – Official confidential DOC record created and maintained for each inmate patient consisting of all or some of the following components: gray/green Medical Chart and/or orange Short Term Inmate Admission Medical 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.

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 Health Care Record.

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.

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

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.

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.

Patient – Individual who receives health care services from a health care provider; including current and former patients of the DOC. For purposes of this policy, patient includes a patient’s authorized representative.

P/P – Policy/Procedure

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 Health Care Record.

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

## **PROCEDURES**

### **I. Request by An Inmate Patient/Former Inmate Patient**

- A. An inmate patient in a correctional facility completes a DOC-3035 – Health Service Request and Copayment Disbursement Authorization, DOC-3392 – Dental Service Request and Copayment Disbursement Authorization or DOC-3035B – Psychological Service Request, to begin the process to request amendment/correction of PHI contained in his or her Health Care Record.
- B. Former inmate patients shall contact the DOC HIPAA Compliance Officer in DOC Central Office by telephone or in writing to begin the process to request amendment/correction of PHI contained in his/her Health Care Record.
- C. See DAI Policy 500.50.09 – Attachment 3, for a table showing who may act on behalf of a minor or adult inmate patient.

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- II. Provision of DOC-3484 – Request by a Current Patient for Amendment/Correction of Protected Health Information (PHI) or DOC-3484A – Request by a Former Patient for Amendment/Correction of Protected Health Information (PHI) and Completion of Step 1 by the Current or Former Inmate Patient**
- A. Upon receipt of a request from a current inmate patient to amend/correct PHI, the HSU, DSU, PSU, CMR or IWMR provides the requestor with a DOC-3484 at no charge within 10 calendar days of the request, whenever practicable.
  - B. Upon receipt of a request from a former inmate patient to amend/correct PHI, the HIPAA Compliance Officer provides the requestor with a DOC-3484A at no charge within 10 calendar days of the request, whenever practicable.
  - C. Upon receipt of a DOC-3484 or DOC-3484A, the current or former inmate patient shall complete Step 1 of the form.
    - 1. A current inmate patient returns the DOC-3484 to the HSU, DSU or PSU at which he/she currently resides.
    - 2. A former inmate patient returns the DOC-3484A to the HIPAA Compliance Officer in DOC Central Office.
- III. DOC-3484 – Step 2: Completion by Health Services Manager, Dentist or Psychology Supervisor**
- A. Within 10 calendar days of receipt of the form, the appropriate HSU, DSU or PSU supervisory level employee shall review Step 1 of the form, and complete Step 2.
  - B. When a currently employed DOC health provider created the form, the reviewer shall check the applicable boxes in Step 2, and forward the DOC-3484 to that health provider for further action.
  - C. When the DOC health provider who created the document is no longer employed at the DOC, the reviewer shall check the applicable boxes in Step 2 and complete Step 3 as described below.
  - D. When a non-DOC (off-site) health care provider created the PHI, the reviewer shall check the applicable box in Step 2 and forward the form to the inmate patient.
- IV. DOC-3484A – Step 2: Completion by HIPAA Compliance Officer**
- A. Within 10 calendar days, the HIPAA Compliance Officer shall contact CMR or IWMR asking that the disputed document(s) of the Health Care Record be scanned and sent via email.
  - B. When a currently employed DOC health provider created the form, the HIPAA Compliance Officer shall check the applicable boxes in Step 2, and forward the DOC-3484A to that health provider for further action.

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- C. When the DOC health provider who created the document is no longer employed at the DOC, the HIPAA Compliance Officer shall consult with an appropriate supervisory level health provider, and check the applicable boxes in Step 2, and complete Step 3 as described below.
- D. When a non-DOC (off-site) health care provider created the PHI, the HIPAA Compliance Officer shall check the applicable box in Step 2, and forward the form to the former inmate patient.

**V. DOC-3484 and DOC-3484A – Step 3: Review and Decision by DOC Health Care Provider**

- A. Within 60 days of the request, when the health provider who created the document is a current DOC employee, he/she shall review the current or former inmate patient's request and the disputed document(s), complete Step 3, and return the DOC-3484 or DOC-3484A to the current or former inmate patient.
- B. Within 60 days of a request by a current inmate patient, when the DOC health provider who created the document(s) is no longer employed at the DOC, the Health Services Manager, Dentist or Psychology Supervisor at the facility in which the inmate patient resides shall review the inmate patient's request and the disputed document(s), complete Step 3, and return the DOC-3484 to the current inmate patient.
- C. Within 60 days of a request by a former inmate patient, the HIPAA Compliance Officer shall consult with an appropriate supervisory level health care provider to review the disputed document(s), complete Step 3, and return the DOC 3484A to the former inmate patient.
- D. Approval of Request: The responding health provider shall:
  1. Amend/correct the PHI in the original document in the inmate patient's Health Care Record in accordance with DAI Policy 500.50.02 directions for correcting a health care record, or attach a newly created document if a significant portion of the document requires correction.
  2. Make a copy of the corrected document and attach to the DOC-3484 or DOC-3484A.
  3. Forward the DOC-3484 or DOCI-3484A to the current or former inmate patient so that the inmate patient may complete Step 4 to tell the DOC whether he/she wants the amended documents forwarded to persons who he/she believes have copies, and if so, to whom.
  4. File the corrected document in the appropriate location in the Health Care Record.
  5. Make reasonable efforts to inform individuals who have relied upon, or may rely upon, the PHI as written prior to the amendment/correction of the document, to the detriment of the inmate patient.

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- E. Denial of Request: The health care provider shall check the applicable box in Step 3 to indicate the reason for the denial, and forward the DOC-3484 or DOC-3484A to the current or former inmate patient. Reasons for denial include:
1. The health care provider believes that the PHI is accurate and complete.
  2. The PHI is not contained in the DOC Health Care Record.
  3. The PHI was compiled in anticipation of or for use in a civil, criminal or administrative proceeding.
  4. The PHI is subject to Clinical Laboratory Improvements Amendments of 1988 that prohibits access by the inmate patient.
  5. The PHI is contained in psychotherapy notes. Note that this reason is highly unlikely because mental health providers do not create psychotherapy notes. Consult with the HIPAA Compliance Officer.

#### **VI. DOC-3484 – Step 4: Completion by Inmate Patient**

- A. Upon the denial of all or part of a request, an inmate patient may write a “statement of disagreement” in Step 4 of the DOC-3484.
1. If the inmate patient submits a “statement of disagreement”, DOC will disclose the DOC-3484 and related documents with a future disclosure of the disputed document. The HSU or PSU shall file the related documents submitted by the inmate patient with the DOC-3484 so that they will be disclosed with a future disclosure of the disputed document.
  2. If the inmate patient does NOT submit a “statement of disagreement”, the inmate patient must tell DOC in Step 4 if he/she wants the DOC-3484 attached to future disclosures of the disputed document. The related documents submitted by the inmate would not be disclosed.
- B. Upon approval of all or part of a request, in Step 4 the inmate patient informs DOC whether she/he wants DOC to forward the amended document to persons in possession of the document, and, if so, must provide their names/addresses.
- C. Upon receipt of the DOC-3484 with Step 4 completed, HSU, DSU or PSU shall file it in the Medical Chart – Correspondence Section, Dental Record - Correspondence Section, or in the PSU Record - Inmate Correspondence Section, depending on the type of PHI involved.

#### **VII. DOC-3484 – Step 5: Rebuttal Statement by DOC**

- A. The health care provider who completed Step 3 may enter in Step 5 a rebuttal statement in response to an inmate patient statement of disagreement.
- B. The health care provider who completed Step 3 completes the rebuttal statement within 10 calendar days and forwards the DOC-3484 to the inmate patient.

#### **VIII. Amendment/Correction Approved By Non-DOC Health Provider**

- A. When DOC receives notification from a non-DOC health provider that an

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inmate patient's PHI has been amended/corrected, the work unit that maintains that part of the Health Care Record shall ensure that the amendment/correction is appended to all applicable records of the inmate patient.

- B. DOC shall also inform its Business Associates that may use or rely on the inmate patient's PHI of the amendment, and require them to make the necessary corrections. Consult with HIPAA Compliance Officer or Office of Legal Counsel.

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

\_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
Ryan Holzmacher, MD, Medical Director

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

**Administrator's Approval:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
Jim Schwochert, Administrator

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Name		
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<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 Amend or Correct 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