

 <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> 500.50.19	<b>Page</b> 1 of 6
	<b>Original Effective Date:</b> 05/25/07	<b>New Effective Date:</b> 06/01/16
	<b>Supersedes:</b> 500.50.19	<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> Requests For Protected Health Information from Off-Site Health Care Providers		

**POLICY**

The Division of Adult Institutions shall ensure health care staff shall request protected health information from off-site health care providers in accordance with applicable federal and State of Wisconsin laws and Department of Corrections policies.

**REFERENCES**

Code of Federal Regulations – Title 42 –Public Health – Part 2

Code of Federal Regulations – Title 45 –Public Welfare – Parts 160 and 164

Wisconsin Statutes s. 51.30 – Records

Wisconsin Statutes s. 146.816 – Uses and Disclosures of Protected Health Information

Wisconsin Statutes ss. 146.81-84 – Health Care Records

Wisconsin Statutes s. 252.15 – Restrictions on Use of an HIV Test

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

DAI Policy 500.50.10 – Authorized Disclosure of Protected Health Information (PHI) Without Inmate Patient Authorization

**DEFINITIONS, ACRONYMS AND FORMS**

AODA – Alcohol and other drug abuse

Authorization – Legal form signed by an inmate patient, or person authorized to act on behalf of an inmate patient, that permits a health care provider to communicate identified protected health information to another entity.

CFR – Code of Federal Regulations

DSU – Dental Services Unit

DOC – Department of Corrections

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

DOC-3335 – Request for Protected Health Information for Ongoing Treatment, Payment or Health Care Operations

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DOC-3508 – Notarized Statement For Access to Health Information Regarding a Deceased Person

DSU – Dental Services Unit

Health Care Provider – Health professionals listed in Wisconsin Statutes s. 146.81.

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 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 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.

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

myDOC – DOC Intranet site that posts approved forms.

Off-site health care provider – For purposes of this policy, a non-DOC health care provider who provides health care outside of a DOC facility.

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 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. Requesting PHI from an Off-Site Health Care Provider for Ongoing Treatment**

- A. In order to provide ongoing treatment, DOC health care providers may request, without a signed authorization from the patient, PHI created by a non-DOC health provider prior to or during incarceration.

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- B. PHI that may be requested without an inmate patient authorization includes medical, dental and mental health information, but does not include AODA information.
- C. The HSU, DSU or PSU shall obtain from myDOC a DOC-3335 – Request for Protected Health Information for Ongoing Treatment, Payment or Health Care Operations.
  - 1. Complete DOC-3335 being sure to include the inmate patient identifying information and describing clearly the PHI being requested.
  - 2. State on the DOC-3335 that the request is from a DOC health care provider by identifying the name and title of the health care provider, and including the facility HSU, DSU or PSU on the form.
  - 3. Check the box indicating the request is for ongoing treatment.
  - 4. Forward DOC-3335 to the off-site provider via mail, fax or global-scan.
- D. Even though a health provider may legally disclose PHI, without inmate patient authorization, to another health provider, an off-site health care provider may require a signed authorization.
  - 1. When the off-site provider requires a signed authorization, obtain from myDOC a DOC-1163A – Authorization for Use and Disclosure of Protected Health Information, or use the form required by the off- site provider, being sure to complete the form fully and accurately, including identifying the specific PHI being requested.
  - 2. Consult, as needed, DAI Policy 500.50.09 – Attachment 3, which describes who may sign an authorization on behalf of adult and minor inmate patients.
  - 3. Answer questions about the form to ensure that inmate patient, or person signing on behalf of the inmate patient, understands what is being signed.
  - 4. Forward the signed form to the off-site health care provider via mail, fax or global-scan.

## II. Requesting AODA Information for Ongoing Treatment

- A. Federal regulations at 42 C.F.R. Part 2 govern records relating to AODA diagnosis and treatment under circumstances applicable to the DOC. Wisconsin Statutes s. 51.30 governing AODA information defers to the federal regulations.
- B. Federal regulations at 42 C.F.R. Part 2, requires a signed authorization from the inmate patient, or person authorized to act on behalf of the inmate patient, except to medical personnel in a medical emergency, and some additional exceptions generally not applicable to the DOC.
  - 1. Consult, as needed, DAI Policy 500.50.09 – Attachment 3, which describes who may sign an authorization on behalf of adult and minor inmate patients.
  - 2. Answer questions about the form to ensure that the inmate patient, or person signing on behalf of the inmate patient, understands what is being signed.

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3. Forward the signed form to the off-site health care provider via mail, fax or global-scan.

### III. Requesting PHI Following Death for Purpose of Health Care Operations

- A. Under Wisconsin Statutes Ch. 146 and HIPAA regulations, a health care provider may disclose PHI about medical care and treatment to another health provider, without a signed authorization, for purposes of health care operations such as quality assessment investigations and audits. This includes the death investigations performed at DOC facilities and by the Committee on Inmate/Youth Deaths.
- B. If an off-site health care provider that treated an inmate patient does not upon death disclose PHI to DOC health care providers, or respond to a verbal request take the following steps:
  1. Obtain from myDOC a DOC-3335 – Request for Protected Health Information for Ongoing Treatment, Payment or Health Care Operations.
  2. Complete DOC-3335 being sure to include the inmate patient identifying information and describing clearly the PHI being requested.
  3. State on the DOC-3335 that the request is from a DOC health care provider by identifying the name and title of the health care provider, and including the facility HSU, DSU or PSU on the form.
  4. Check the box indicating the request is for health care operations, review of patient death.
  5. Forward DOC-3335 to the off-site provider by mail, fax or global-scan.
- C. Even though Wisconsin and federal laws permit health care providers to disclose PHI for the health care operations of another health provider, they may establish a policy that requires a signed authorization
  1. The DOC shall determine who has legal authority to act on behalf of the deceased individual and obtain the required signed forms: DOC-3508 – Notarized Statement For Access to Health Information Regarding a Deceased Person and DOC-1163A – Authorization for Use and Disclosure of Protected Health Information (PHI).
    - a. The court-appointed personal representative or the current spouse of the decedent has the legal authority to sign an authorization form on behalf of the deceased person.
    - b. If the decedent does not have a surviving spouse, the inmate patient's adult children, parents, grandparents, siblings, and their spouses, have equal authority to sign an authorization.
  2. Obtain from the authorized individual a signed DOC-3508 – Notarized Statement For Access to Health Information Regarding a Deceased Person.
  3. Obtain from the authorized individual a signed DOC-1163A – Authorization for Use and Disclosure of Protected Health Information (PHI), or other form required by the off-site health provider.

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4. Forward the signed forms to the off-site provider who has previously refused to provide the requested PHI.
5. Consult with Health Information Supervisor/HIPAA Compliance Officer or Office of Legal Counsel, as needed.
6. Consult with the DOC HIPAA Compliance Officer or Office of Legal Counsel if AODA information is required from an off-site health care provider.

**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>Chapter:</b> 500 Health Services		
<b>Subject:</b> Requests For Protected Health Information from Off-Site Health Care Providers		
<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.
    - 1.
      - a.
  - B.
  - C.
  
- II.
  - A.
  - B.
  - C.