

 <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> 300.00.09	<b>Page</b> 1 of 13
	<b>Original Effective Date:</b> 12/01/77	<b>New Effective Date:</b> 10/19/20
	<b>Supersedes:</b> 300.00.09	Dated: 08/20/18
	<b>Administrator's Approval:</b> Makda Fessahaye, 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> 300 Administrative		
<b>Subject:</b> Death of an Inmate		

**POLICY**

The Division of Adult Institutions shall ensure in the event of an inmate death, proper notification, documentation and review of the death occurs. The review shall address the appropriateness of clinical care, determine whether changes to policies, procedures or practices are warranted and identify issues requiring further study.

**REFERENCES**

2017 Wisconsin Act 246 – Inmate Death

Wisconsin Statutes s. 146.37 – Health Care Services Review, Civil Immunity

Wisconsin Statutes s. 146.38 – Health Care Services Review, Confidentiality of Information

Wisconsin Statutes s. 146.82 – Confidentiality of Patient Health Care Records

Wisconsin Statutes s. 157.02 – Disposal of Unclaimed Corpses

Wisconsin Statutes s. 301.32 – Property of Prisoners, Residents and Probationers

Wisconsin Statutes s. 302.14 – Property of Deceased Inmates, Parolees, Probationers, or Persons on Extended Supervision, Disposition

Wisconsin Statutes s. 852.01 – Basic Rules for Intestate Succession

Wisconsin Statutes s. 867.03 – Transfer by Affidavit

Wisconsin Statutes s. 979.01 – Reporting Deaths Required; Penalty; Taking Specimens by Coroner or Medical Examiner

Wisconsin Statutes s. 979.025 – Autopsy of Correctional Inmate

Executive Directive 58 – Department of Corrections Review of Inmate/Youth Deaths

Wisconsin Administrative Code Ch. DHS 135 – Human Corpses and Stillbirths

Wisconsin Administrative Code Ch. DHS 136 – Embalming Standards

Wisconsin Administrative Code s. DOC 309.20 – Personal Property

Standards for Health Care in Prisons, National Commission on Correctional Health Care, 2018, P-A-09 – Procedure in the Event of an Inmate Death

DAI Policy 300.00.10 – Review by Committee on Inmate/Youth Deaths

DAI Policy 300.00.71 – Reporting Serious Incidents, Events of Special Interest, Media Contacts and Legislative Inquiries

DAI Policy 306.00.14 – Protection, Gathering and Preservation of Evidence

DAI Policy 500.10.27 – Continuous Quality Improvement Plan

DAI Policy 500.10.33 – Inmate Patient Safety

DAI Policy 500.30.13 – Organ Transplants/Donations

42 Code of Federal Regulations, Part 2, Confidentiality of Alcohol and Drug Abuse Information

45 Code of Federal Regulations, Part 164, Security and Privacy

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Records Office Procedure I-03 – Death of an Inmate

Attachment – Template for Requesting Information from Staff

### **DEFINITIONS, ACRONYMS AND FORMS**

Anticipated Death – Any death where the inmate was in the terminal stage of an illness and had an anticipated life expectancy of 12 months or less.

BHS – Bureau of Health Services

BHS-CO – Bureau of Health Services Central Office/Madison

COIYD – Committee on Inmate/Youth Deaths. See DAI Policy 300.00.10.

CQI – Continuous Quality Improvement

DAI – Division of Adult Institutions

Determination of Death – An individual, who has sustained either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem, is considered dead. A determination of death shall be made in accordance with accepted medical standards.

DHS – Department of Health Services

Direct Burial – Includes casket, preparation of the deceased consistent with the Department of Health and Family Services s. 136.04, vault and cemetery charges. Embalming is not required.

DOC – Department of Corrections

DOC-236D – Identification Property Access Record

DOC-2309 – Certification of Records

DOC-2466 – Incident Report (WICS)

DOC-2466B – Incident Information (WICS)

DOC-2606 – Offender Demise Checklist

DOC-2606A – Demise Chronological Log

DOC-3356 – Inmate/Youth Death Review – Institution/Facility

DOC-3356E – Inmate/Youth Death Review – Palliative Care Program

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DOJ – Department of Justice

DSU – Dental Services Unit

Emergency Contact – Contact information initially obtained at intake and annually updated by a social worker from an inmate to provide facility staff with immediate access to the appropriate name and telephone numbers in case of an emergency.

Health Care Record (HCR) – (Electronic or other method) – Official confidential DOC record created and maintained for each patient in our care.

HIPAA – Health Insurance Portability and Accountability Act

HSU – Health Services Unit

Intestate – Died without a valid will.

Next of Kin – Those living individuals related to the deceased by blood or marriage.

OLC – Office of Legal Counsel

Palliative Care Program – Inmate patient and family centered care that optimizes quality of life by anticipating, preventing and treating suffering. The illness continuum of palliative care addresses physical, intellectual, emotional, social and spiritual needs while facilitating inmate patient autonomy, information access and choice.

PHI – Protected Health Information

PR-1831 – Transfer by Affidavit (\$50,000 and under)

PSU – Psychological Services Unit

Standard (Universal) Precautions – Work practices which require everyone to assume that all blood and body substances are potential sources of infection independent of perceived risk.

SUD – Substance Use Disorder

Unanticipated Death – Any death which occurs where there was no diagnosis by a physician of a terminal medical condition or where the physician had indicated the anticipated life expectancy should be 12 months or longer with a terminal medical condition.

UPS – United Parcel Service

WICS – Wisconsin Integrated Corrections System

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WRC – Wisconsin Resource Center

WWRC – Women’s Wisconsin Resource Center

## **PROCEDURE**

### **I. Pronouncement of Death**

- A. Only a physician, coroner or medical examiner can pronounce the individual deceased. The time of death shall be determined by the time of contact with and pronouncement by the physician, coroner or medical examiner.
- B. At the time of death, the facility shall contact the coroner/medical examiner to request an autopsy per Wisconsin Statutes s. 979.025.
  1. Due to autopsy requirements, request by the inmate prior to death to donate body cannot be honored.
  2. See DAI Policy 500.30.13 for process for donation of organs.
- C. As soon as possible after pronouncement of death, designated HSU staff shall document the following information in the HCR.
  1. Information regarding activities that occurred outside the DOC facility, such as at a hospital, if death occurred off-site.
  2. Synopsis of assessment and medical care provided immediately prior to death.
  3. Date, time and location of death.
  4. Observation or assessment made.
  5. Notification to primary provider.
  6. Contact with physician and their response.
  7. Time of pronouncement.
  8. Any other notifications made regarding the death.
- D. Upon receipt of a request from a coroner/medical examiner for written or verbal PHI, HSU and/or PSU staff shall provide requested information. See Section VIII.
- E. Security staff may answer questions posed by the coroner/medical examiner relating to events surrounding the death that are not health related.
- F. Within one business day, the primary provider reviews the HCR and discusses the case with the Medical Director or Associate Medical Director.

### **II. Actions by Security Staff**

- A. Initiate and complete the DOC-2606A and DOC-2606.
- B. Ensure crime scene security measures are implemented to preserve evidence per DAI Policy 306.00.14.

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- C. The body of the deceased, equipment, appliances or dressings, shall not be removed until the coroner, medical examiner or any involved law enforcement personnel grants authorization.
- D. Immediately notify the Warden/designee and report the death to law enforcement of the jurisdiction in which the death occurred and/or in which the facility having responsibility is located.
- E. Ensure Confidentiality of PHI during law enforcement investigation
  1. DOC staff shall inform law enforcement prior to entering the scene or the inmate's cell that they are not permitted to review or remove PHI, including but not limited to medical, psychological, or substance abuse records, prescription medications and/or authorized medical devices.
  2. A court order, subpoena or search warrant signed by a judge is required to authorize the DOC to disclose PHI to law enforcement.
  3. If law enforcement reviews or removes any documents that include PHI without a court order subpoena or search warrant, notify the HIPAA Compliance Officer and the Office of Legal Counsel.
  4. The county coroner/medical examiner does have the authority to review and remove PHI.
- F. Secure and inventory areas
  1. All medical records, prescription medications and authorized medical equipment that were in the possession of the inmate.
  2. Any controlled medications and medication records that were in staff control.
  3. After inventory of medications and medical equipment is complete, security staff shall deliver the medications and medical equipment to the HSU unless they have been removed by the coroner.
- G. Once the scene has been cleared by law enforcement, standard precautions shall be followed when cleaning up blood and other body fluids that may be present.
- H. Ensure all staff present complete a DOC-2466.
- I. Communicate any facility investigation findings to Warden/designee.

### **III. Notification of Death**

- A. Immediately notify the DAI Administrator or the DAI staff person on call.
- B. Complete DOC-2466B and forward to the DOC DL DAI Demise Contacts and DOC DL DAI Incident Reporting Group via email.
- C. Notify the inmate's agent of record.

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#### **IV. Notification of Emergency Contact/Next of Kin**

- A. Notify the next of kin of the death, but do not provide PHI or details relating to cause of death. If the next of kin cannot be found, make efforts to notify relatives.
- B. Notify the inmate's designated emergency contact, but do not provide PHI.
- C. If next of kin or emergency contact requests PHI, refer the individual to the HIPAA Compliance Officer.
- D. If, after due diligence, no next of kin or emergency contact is located, efforts may cease.
- E. Provide a written notification to the next of kin informing him/her they may request a copy of the autopsy from the coroner or medical examiner's office.
- F. Determine if the next of kin wishes to claim the body or cremated remains and provide burial.
- G. If the next of kin claims the body or cremated remains, the facility bears no responsibility for funeral or burial expenses.
- H. If the next of kin does not claim the body, arrangements shall be made for cremation or direct burial at facility expense. If the deceased inmate has remaining funds, the funds shall be used towards cremation or burial expenses.
  - 1. Unclaimed bodies shall not be cremated prior to 48 hours after death.
  - 2. Cremation shall not occur if death was caused by:
    - a. Homicide
    - b. Contagious or infectious disease
- I. An honorably discharged veteran of the U.S. Armed Forces is entitled to certain burial expenses. The facility shall claim these benefits when appropriate to defray the expenditures.

#### **V. Autopsy Report**

- A. The facility shall request a copy of the preliminary report from the coroner or medical examiner to be used in the facility mortality review.
- B. The BHS-CO Program Support Supervisor shall request a copy of the final report from the coroner or medical examiner, for filing in the deceased inmate's mortality review file. BHS-CO Program Support Supervisor shall forward a final autopsy copy to facility.

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## **VI. Death Certificate**

- A. Facilities shall request two certified copies of the death certificate from the county courthouse or Wisconsin Vital Records office, PO Box 309, Madison, WI 53701-0309.
- B. Forward one certified death certificate to:
  - 1. Facility Records Office for filing in the deceased inmate's legal file.
  - 2. BHS-CO Program Support Supervisor for filing in the inmate's mortality review file.
- C. The family or next of kin may obtain copies of the death certificate from the Wisconsin Vital Records office, PO Box 309, Madison, WI 53701-0309.

## **VII. Disbursement of Property and Funds**

- A. Facilities shall designate staff responsible for contacting the inmate's next of kin regarding personal property and funds.
- B. Upon the death of an inmate, the next of kin shall receive written notice of the inmate's personal property and money currently in trust to include PR-1831.
- C. Follow the procedures of disbursing property for inmates, including vital documents stored in the DOC-236D and funds, as established in Wisconsin Statutes s. 302.14 and 867.03.
- D. Property, including identification property, vital documents and funds from inmates who have died intestate shall be disbursed to the surviving heir as defined in Wisconsin Statutes s. 852.01.
- E. Documents that contain PHI should not be sent to emergency contacts.
  - 1. During the inventorying of the deceased inmate's property, designated property staff shall review all documents and set aside the documents that appear to be health records, either from the DOC HCR, or from a community health provider.
  - 2. Property staff shall place the health care documents in a sealed envelope and deliver to the HSU who shall forward to Central Medical Records and Inactive Women's Medical Records for confidential destruction.
  - 3. Staff shall maintain the confidentiality of the information contained in the health records.
- F. If the funds remain unclaimed for one year after the inmate's death, they shall be deposited in the general fund.
  - 1. Unclaimed personal property, including vital documents, shall be securely disposed of by shredding, preferably in a cross-cut shredder.
  - 2. All other personal property shall be disposed of or sold after one year and any proceeds deposited in the general fund.
  - 3. See Wisconsin Statutes s. 301.32 and Wisconsin Administrative Code s. DOC 309.20.

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- G. The sale of unclaimed personal property shall be arranged through the DOC Purchasing Officer.

### **VIII. Health Care Records**

- A. For paper records, the HSU or Infirmary shall:
1. Immediately retrieve all components of the paper HCR kept in the HSU.
  2. Write in pencil the date of death on the outside of the current volume of the Medical Chart.
  3. Notify PSU and DSU of the death, and request that they immediately provide the HSU or infirmary with the paper PSU Record (including SUD envelope, if any) and paper DSU Record.
  4. On the first working day following the death, forward the entire paper HCR (including medical, psychological and dental components) to the Health Information Supervisor in Central Office.
    - a. Forward the HCR by certified mail with return receipt requested, bonded carrier (e.g., UPS, Federal Express), or hand delivered by DOC staff.
    - b. Do not send the HCR via inmate transport vehicles.
- B. For electronic records, the HSU or Infirmary shall:
1. Provide an electronic/paper copy of the most recent three months of the medical record to the Coroner and/or Medical Examiner upon receiving a request from either party. An electronic/paper copy of medical records that go beyond the three-month time frame may be provided when the Coroner or Medical Examiner specifically requests it.
  2. Complete a DOC-2309 when certified copies of medical records have been requested.
  3. If a law enforcement official states that s(he) will deliver the copy to the Medical Examiner and/or Coroner, HSU may place the copy in a sealed envelope addressed to the Medical Examiner and/or Coroner, and provide to a law enforcement official.
  4. The Health Information Supervisor shall respond to requests for additional records not covered above.
- C. In the event of a suicide or suspected suicide:
1. PSU staff shall provide a paper copy of the most recent six months of the HCR psychology record to the HSU or Infirmary for forwarding to the Coroner or Medical Examiner.
  2. The Corrections Program Supervisor or Corrections Unit Supervisor for SUD programming shall provide a paper copy of the most recent six months of the SUD record to the HSU or Infirmary for forwarding to the Coroner or Medical Examiner, if applicable.
- D. WRC/WWRC shall follow the procedures of its Committee on Resident Death.
1. WRC/WWRC may make copies of all or part of the DOC HCR prior to sending the entire original HCR to BHS-CO.



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2. WRC/WWRC shall forward the entire original DOC HCR to the BHS-CO Program Support Supervisor the business day following the death. This includes all components of the HCR maintained in the HSU, DSU and PSU.

#### **IX. Electronic Records Preservation Related to Inmate Patient Death For Inmate Suicides and Unanticipated Deaths**

- A. The Facility Litigation Coordinator/designee shall:
  1. Utilize the template example in the Attachment to this policy to request information from all facility staff via email to Include: the BHS Nursing Coordinator assigned to the facility, DOC OLC Office Manager and Civil Litigation Unit at DOJ Office of Assistant Attorney Generals in the carbon copy of the email.
  2. Gather and transfer to specified DAI electronic folder for storage of any electronic records relative to the deceased inmate, including documents, spreadsheets, video recordings, personal folders etc.
- B. OLC shall:
  1. Complete and submit a DOC-2119A when necessary to gather and retain all emails and related attachments.
  2. Save all related information.
  3. Work in conjunction with DOJ staff to ensure necessary records are preserved for each facility at which the inmate has resided.

#### **X. Mortality Review**

- A. Purpose:
  1. Review the circumstances surrounding the individual's death with an emphasis on the health care provided.
  2. Submit findings, and when appropriate, an action plan to the COIYD.
- B. Timelines
  1. For an anticipated death, convene within 20 working days of the inmate's death.
  2. For an unanticipated death, convene within 10 working days of the inmate's death.
- C. Composition of Mortality Review Team:
  1. Anticipated death reviews:
    - a. Warden/Superintendent from the facility at which the death occurred.
    - b. Security Representative.
    - c. Physician/Advanced Practice Nurse Prescriber/Physician's Assistant.
    - d. HSU Manager/designee.
    - e. BHS Nursing Coordinator.
    - f. PSU representative, if requested.
    - g. Others as deemed appropriate.
  2. Unanticipated death reviews:
    - a. All of the above members.

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- b. PSU Representative (if death is by suicide).
  - c. BHS Director.
  - d. BHS Nursing Director.
  - e. BHS Medical Director.
  - f. BHS Mental Health Director, Psychiatry Director and Psychology Director (for suicides, and other deaths as deemed appropriate).
  - g. DAI Assistant Administrator or DOC Security Chief (as determined by the DAI Administrator).
- D. The BHS Medical Director shall make the determination of whether the death is anticipated or unanticipated.
- E. Each division responsible for the custody of inmates/youths shall promulgate internal management procedures establishing the makeup and responsibilities of the mortality review teams.
- F. For anticipated deaths, the Mortality Review Team shall address:
1. Adequacy of health care practices.
  2. Clinical judgment.
  3. Utilization of expertise.
  4. Staff training.
  5. Staffing issues.
  6. Presence and appropriateness of facility policies and procedures.
  7. Implementation of facility policies and procedure.
  8. Notification and involvement of appropriate family members.
  9. Notification of external agencies.
  10. Other issues as deemed appropriate.
- G. For unanticipated deaths, the Mortality Review Team shall additionally address:
1. Chronology of events leading up to the death to identify potential areas of improvement for medical care, mental health care, and/or applicable policies and procedures.
  2. A security review of the circumstances surrounding the death to assess emergency response and identify areas where facility operations, policies and procedures can be improved.
  3. In cases of suicide, an inquiry into the psychological factors that led up to and may have contributed to an individual's death.
- H. When the death involves an inmate recently transferred from another DOC facility, the facility that transferred the inmate shall assist the facility at which the death occurred to conduct the mortality review.
- I. When appropriate, the following relevant information shall be reviewed:
1. Electronic HCR and any relevant components of the historical paper HCR.
  2. Preliminary autopsy reports.
  3. DOC-2466s/2466Bs.

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4. Videos/photographs/security camera footage.
  5. Investigations (internal and external).
  6. Communications to include (i.e. letters, electronic messages, phone calls).
  7. Law enforcement reports.
  8. DOC policies and facility procedures, when relevant.
  9. Any other information as deemed necessary.
- J. During the facility review, areas of improvement related to the death shall be identified and entered on the DOC-3356/3356E and may be facility-specific or system-wide and may relate to health care, security operations or facility procedures.
- K. The facility shall send the documents identified below to the BHS-CO Program Support Supervisor for use by the COIYD within 10 working days of completion of the team's review to include:
1. Final signed version DOC-3356/DOC-3356E and supporting documents.
  2. Pertinent facility procedures.
  3. Facility DOC-2466s.
  4. Autopsy preliminary report, when available.
- L. Within 10 working days of the review, the BHS-CO Program Support Supervisor shall send the DOC-3356/DOC-3356E to the DOC Secretary and the Division Administrator.
- M. Facilities shall implement and monitor recommended corrective actions identified on the DOC-3356/DOC-3356E through the facility's CQI program for systemic issues under DAI Policy 500.10.27, and by the patient safety program for staff related issues under DAI Policy 500.10.33. When appropriate, direct health care providers shall be informed of the findings of the review and recommended corrective actions.
- N. Following a death of an inmate at WRC/WWRC, that facility shall follow the DHS Committee on Resident Deaths procedures, and forward documents resulting from that review to the BHS-CO Program Support Supervisor.
- XI. Investigation of Deaths of DOC Inmates at County Jails**
- A. DAI and BHS shall work collaboratively with the Office of Detention Facilities to facilitate the sharing of information for a thorough and complete death review for a DOC inmate at a Wisconsin County Jail.
- B. The Office of Detention Facility Specialist responsible for the County Jail shall conduct the death review and the final report shall be shared with DAI and BHS.

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**Administrator's Approval:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
Makda Fessahaye, Administrator

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Wisconsin Correctional Center System		
<b>Original Effective Date:</b> 12/01/77	<b>DAI Policy Number:</b> 300.00.09	<b>Page</b> 13 of 13
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<b>Chapter:</b> 300 Administrative		
<b>Subject:</b> Death of an Inmate		
<b>Will Implement</b> <input type="checkbox"/> As written <input checked="" type="checkbox"/> With below procedures for facility implementation		
<b>Warden's/Center Superintendent's Approval:</b> /s/ Quala Champagne		

**FACILITY PROCEDURE**

The Superintendent is responsible for contacting the Person In Our Care's next of kin regarding the disbursement of personal property and funds. Information received will be shared with the WCCS Business Office.