



# WISCONSIN DEPARTMENT OF CORRECTIONS

Governor Tony Evers / Secretary Kevin A. Carr

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## GUIDANCE DOCUMENT CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections §227.10 and §227.11 of the Wisconsin Statutes.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

*James Greer*

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Name of Individual Certifying this Document/Proposed Document

*Director, Bureau of Health Services*

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Title


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Signature

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Date Signed

Department of Corrections – Wisconsin  
Office of the Secretary  
Wis. Stat. § 227.112(6)  
DOC-2910 (6/2019)

 <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> 500.70.09	<b>Page</b> 1 of 9
	<b>Original Effective Date:</b> 06/15/02	<b>New Effective Date:</b> 05/14/18
	<b>Supersedes:</b> 500.70.09	<b>Dated:</b> 04/17/12
	<b>Administrator's Approval:</b> Jim Schwochert, Administrator	
<b>Required Posting or Restricted:</b>		
<input type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted		
<b>Chapter:</b> 500 Health Services		
<b>Subject:</b> State Treatment Facility Transfers		

**POLICY**

The Division of Adult Institutions may transfer inmates to state treatment facilities when clinical circumstances require such transfer.

**REFERENCES**

Wisconsin Statutes Ch. 51 – State Alcohol, Drug Abuse, Developmental Disabilities and Mental Health Act

Wisconsin Administrative Code Ch. DOC 310 – Complaint Procedures

Wisconsin Administrative Code Ch. DOC 314 – Mental Health Treatment for Inmates

DAI Policy 500.70.08 – Wisconsin Resource Center Transfers

**DEFINITIONS, ACRONYMS AND FORMS**

Appropriate for Treatment – An inmate is appropriate for treatment if the inmate is mentally ill, drug dependent or developmentally disabled and fulfills any of the dangerousness criteria defined in Wisconsin Statutes s. 51.20(1)(a)2.

DAI – Division of Adult Institutions

DOC – Department of Corrections

DOC-16 – Voluntary Transfer of Offender to State Treatment Facility

Less Restrictive Forms of Treatment – The following forms of treatment are less restrictive than involuntary transfer to a state treatment facility:

- Mental health treatment within an institution, including individual and group psychotherapy, treatment with psychotropic medication and clinical observation status.
- Voluntary treatment with psychotropic medications.
- Transfer to a Special Handling Unit or a Special Management Unit.
- Transfer to a more suitable correctional institution.
- Outpatient treatment at WRC.
- Voluntary transfer to a state treatment facility.

ME-901 – Statement of Emergency Detention by Law Enforcement Officer

ME-934 – Petition for Examination of a State Prison Inmate

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Mental Illness – A substantial disorder of thought, mood, perception, orientation or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life, but does not include alcoholism.

Not Competent to Refuse Psychotropic Medication – An individual is not competent to refuse psychotropic medication if, as a result of developmental disability, degenerative brain disorder, serious and persistent mental illness, or other like incapacities, and after the advantages and disadvantages of and alternatives to accepting the particular psychotropic medication have been explained to an individual, one of the following is true:

- The individual is incapable of expressing an understanding of the advantages and disadvantages of accepting treatment and the alternatives to accepting treatment.
- The individual is substantially incapable of applying an understanding of the advantages, disadvantages, and alternatives to his or her condition in order to make an informed choice as to whether to accept or refuse psychotropic medication.

OLC – Office of Legal Counsel

OWO – Out Warden’s Order

Proper Subject for Treatment – An inmate is a proper subject for treatment if the administration of treatment techniques may control, improve, or cure a substantial disorder of thought, mood, perception, orientation or memory.

PSU – Psychological Services Unit

PSU Staff – Employees classified as Psychologist Supervisor, Psychologist-Licensed, Psychological Associate A or B, Crisis Intervention Worker, Psychological Services Assistant, Clinical Social Worker, or any other clinical classification that is directly supervised by Psychological Services.

State Treatment Facility – Any of the mental health institutes operated by the Department of Health Services for the purpose of providing diagnosis, care, or treatment for mental or emotional disturbance. These include Mendota Mental Health Institute and Winnebago Mental Health Institute.

WRC – Wisconsin Resource Center

## **PROCEDURE**

### **I. Identification and Assessment**

- A. DAI staff shall refer inmates who appear to have deteriorating mental illness or evidence a risk of physical harm to self or others to PSU staff.
- B. PSU staff shall review the referral, provide assessment and treatment services as appropriate, and determine which of the following courses of action is most appropriate:

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1. Voluntary outpatient mental health treatment at a correctional institution.
  2. Transfer to WRC. WRC transfers are described in DAI Policy 500.70.08.
  3. Voluntary admission to a state treatment facility. Voluntary transfers are described in Section II of this policy.
  4. Emergency detention at a state treatment facility per Wisconsin Statutes s. 51.37(5)(b). Emergency detentions are described in Section III of this policy.
  5. Involuntary treatment on an outpatient basis in a correctional institution.
  6. Involuntary commitment at a state treatment facility per Wisconsin Statutes s. 51.20. Involuntary commitments are described in Section IV of this policy.
- C. If PSU staff determines that WRC services are not appropriate or available, and that an assessment for transfer to a state treatment facility is necessary, the Psychologist Supervisor shall assign a Psychologist-Licensed for the evaluation. If appropriate, the Psychiatry Director may assign a Psychiatrist to conduct an evaluation.
- D. The Psychologist-Licensed shall discuss the evaluation results with the inmate, including the treatment needs and services available. The correctional institution shall give the inmate an opportunity to consent to voluntary treatment, including voluntary placement in a state treatment facility or voluntary treatment with psychotropic medication.
- E. The assessing Psychologist-Licensed, and Psychiatrist if assigned, shall write a report that addresses whether the inmate is:
1. Mentally ill, drug dependent or developmentally disabled.
  2. A proper subject for treatment.
  3. In need of involuntary commitment or a transfer to a state treatment facility, considering what less restrictive forms of treatment are available and appropriate.
  4. Appropriate for treatment, and if so, identification of the specific conduct that constitutes the danger.
  5. Consenting to transfer to a state treatment facility or treatment with psychotropic medication.
  6. Competent to refuse psychotropic medication or other treatment.
- F. If transfer to a state treatment facility is recommended, PSU staff shall forward the Psychologist-Licensed report to the Warden/Superintendent. If a Psychiatric report was also written, HSU staff shall forward that report to the Warden/Superintendent.
- G. Prior to transfer to a state treatment facility, HSU staff shall assess the inmate for medical stability and ensure that the inmate is medically appropriate for transfer.
- H. All state treatment facility transfers shall be designated OWO status.

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## II. Voluntary Transfer

- A. If the decision is to pursue treatment at a state treatment facility and the inmate consents to treatment, the Psychologist-Licensed or Psychiatrist shall contact a state treatment facility to request the transfer.
- B. PSU staff shall have the inmate sign DOC-16, unless the inmate is incompetent or incapacitated.
- C. If the state treatment facility agrees to the voluntary transfer, institution security staff shall arrange for the transfer of the inmate and the transfer and/or storage of his/her property.
- D. Prior to voluntary transfer, a Psychologist-Licensed or Psychiatrist shall inform the inmate about all of the following:
  1. His or her mental health treatment needs.
  2. Available mental health services, including those on a voluntary basis in correctional facilities and in state treatment facilities.
  3. His or her patient rights under Wisconsin Statutes Ch. 51, including all rights under s. 51.61 if an inpatient.
  4. His or her retention of status as an inmate.

## III. Emergency Detention

- A. If there is cause to believe an inmate is mentally ill and exhibits conduct that constitutes a danger of physical harm to self or others, a Psychiatrist or Psychologist-Licensed shall determine the need for emergency detention.
- B. In cases wherein a Psychiatrist or Psychologist-Licensed has not evaluated the inmate, but there is cause to believe the inmate is mentally ill and exhibits conduct that constitutes a danger of physical harm to self or others, the Warden or Superintendent shall determine the need for emergency detention.
- C. If the decision is to pursue an emergency detention under Wisconsin Statutes s. 51.37(5)(b), the Warden/Superintendent/designee shall perform the following:
  1. Execute ME-901 which includes the following:
    - a. The basis for believing the inmate is mentally ill, drug dependent or developmentally disabled and is a proper subject for treatment.
    - b. Description of specific behaviors or conditions that are the basis for a determination of dangerousness.
    - c. The names of persons observing or reporting the behaviors or conditions.
  2. Attach necessary supporting documents and a copy of Wisconsin Statutes s. 51.37(5)(b) to the statement of emergency detention.
  3. Arrange an emergency transfer of the inmate to a state treatment facility.
  4. Deliver the ME-901 and supporting documents to the receiving state treatment facility.

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#### **IV. Petition for Involuntary Transfer to a State Treatment Facility**

- A. Before filing a commitment petition for involuntary commitment for mental health care (ME-934), a Psychologist-Licensed or Psychiatrist shall inform the inmate about all of the following:
1. His or her mental health treatment needs.
  2. Available mental health services, including those on a voluntary basis in correctional facilities and in state treatment facilities.
  3. His or her patient rights under Wisconsin Statutes Ch. 51, including all rights under s. 51.61 if an inpatient.
  4. His or her retention of status as an inmate.
- B. To pursue an involuntary commitment under Wisconsin Statutes s. 51.20, PSU staff shall complete the following:
1. Request the corporation counsel in the county where the inmate is located to file an involuntary commitment petition.
  2. Inform the OLC of the need for involuntary commitment if corporation counsel fails, refuses, or is otherwise unable to file the petition.
  3. Provide corporation counsel or OLC with a signed affidavit that alleges or states all of the following:
    - a. The inmate is mentally ill, a proper subject for treatment and in need of treatment.
    - b. The inmate is not competent to refuse psychotropic medication or treatment.
    - c. Appropriate less restrictive forms of treatment have been attempted with the inmate and have been unsuccessful.
    - d. A description of the less restrictive forms of treatment that were attempted.
    - e. The inmate has been informed of, and has had an opportunity to discuss with a Psychiatrist or Psychologist-Licensed, his or her treatment needs, available mental health services in a correctional institution and in a state treatment facility and his or her rights under Wisconsin Statutes Ch. 51.
    - f. A statement of one of the following:
      - The inmate needs inpatient treatment at a state treatment facility because appropriate treatment is not available in a correctional facility, including WRC.
      - The inmate's treatment needs can be met on an outpatient basis in a correctional facility or WRC.
  4. Provide corporation counsel or OLC with the following:
    - a. Other relevant clinical reports.
    - b. Any other information requested by corporation counsel or OLC.
- C. In addition to Section IV.B., if the decision is to pursue an involuntary commitment under Wisconsin Statutes s. 51.20(1)(ar), PSU staff shall also:
1. Arrange for a Psychiatrist or Psychologist-Licensed from a state treatment facility to evaluate the inmate and attest to one of the following:

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- a. The inmate needs inpatient treatment at a state treatment facility because appropriate treatment is not available in the prison.
    - b. The inmate's treatment needs can be met on an outpatient basis in the prison.
  2. Forward to OLC a copy of the statement from the Psychiatrist or Psychologist-Licensed of the state treatment facility.
- D. In the event county corporation counsel fails, refuses, or is otherwise unable to perform duties under Wisconsin Statutes Ch. 51, OLC shall complete the legal process, including the following:
1. Obtain all necessary information to complete and file the petition.
  2. File the petition and other necessary legal documents.
  3. Provide the Warden/Superintendent with the notice of hearing.
  4. Perform all legal aspects related to the involuntary commitment of the inmate.
  5. Represent the DOC at all hearings.
- E. Institution staff shall:
1. Ensure the inmate has access to his or her attorney.
  2. Arrange transportation of the inmate to all hearings.
  3. Provide the inmate a copy of the notice of hearing and rights.
  4. Have the notice of hearing and rights read to the inmate.
  5. Provide the OLC with the names and addresses of the inmate's spouse/domestic partner, adult children, parents or guardian, custodian, brothers and sisters.
- F. If the inmate is involuntarily committed by the court following the final hearing, and the court orders placement in a state treatment facility, the correctional institution shall arrange for transfer to the state treatment facility.
- V. Extension of Involuntary Commitment for Inmates Being Treated in a DAI Facility**
- A. DAI may petition a court for an extension of commitment of an inmate who has been the subject of involuntary commitment.
  - B. A Psychiatrist or Psychologist-Licensed shall complete an evaluation no later than 60 calendar days prior to the expiration of the commitment and shall inform the Warden/Superintendent of whether the inmate needs an extension of involuntary commitment.
  - C. If the inmate is in need of extension of involuntary commitment, PSU shall notify the corporation counsel in the county of the committing court at least 35 calendar days prior to the expiration of the period of commitment.
  - D. Before filing a commitment extension petition, a Psychiatrist or Psychologist-Licensed shall, in a manner reasonably calculated to best enable the inmate to understand, discuss with the inmate the items listed in Section II.E.

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- E. If corporation counsel fails, refuses, or is otherwise unable to file a petition for extension of involuntary commitment, PSU shall inform OLC of the need to extend the involuntary commitment.
1. OLC shall obtain all necessary information to complete the same tasks as outlined in Section IV.D.
  2. OLC shall file the petition with the court at least 21 calendar days prior to the expiration of the period of involuntary commitment.
  3. OLC shall provide the Warden/Superintendent, and other staff as needed, with the notice of hearing.
- F. PSU shall provide corporation counsel or OLC all of the following:
1. A signed affidavit that alleges or states all of the following:
    - a. The inmate is mentally ill.
    - b. There is a substantial likelihood the inmate would be a proper subject of treatment if treatment were withdrawn.
    - c. The inmate is appropriate for treatment.
    - d. The inmate is not competent to refuse psychotropic medication.
    - e. Appropriate less restrictive forms of treatment have been attempted with the inmate and have been unsuccessful.
    - f. A description of the less restrictive forms of treatment that were attempted.
    - g. The inmate has been informed of, and has had an opportunity to discuss with a Psychiatrist or Psychologist-Licensed, his or her treatment needs, available mental health services in a correctional institution and in a state treatment facility, and his or her rights under Wisconsin Administrative Code Ch. DOC 310 for outpatients and Wisconsin Statutes s. 51.61 or inpatients.
    - h. A statement of one of the following:
      - i. The inmate needs inpatient treatment at a state treatment facility because appropriate treatment is not available in a correctional facility.
      - ii. The inmate's treatment needs can be met on an outpatient basis in a correctional facility.
  2. Other relevant clinical reports as necessary.
  3. All other appropriate information requested by corporation counsel or OLC.
- G. Institution staff shall:
1. Ensure the inmate has access to his or her attorney.
  2. Arrange transportation of the inmate to all hearings.
  3. Provide the inmate a copy of the notice of hearing and rights.
  4. Have the notice of hearing and rights read to the inmate.
  5. Provide the OLC with the names and addresses of the inmate's spouse/domestic partner, adult children, parents or guardian, custodian, brothers and sisters.



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6. If the court extends the commitment of the inmate and orders placement in a state treatment facility, the correctional institution shall arrange for transfer to a state treatment facility.

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

\_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
Paul Bekx, Medical Director

\_\_\_\_\_ **Date Signed:** \_\_\_\_\_  
Dr. Kevin Kallas, Mental Health 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>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