



# 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.

Casey Gerber

\_\_\_\_\_  
Name of Individual Certifying this Document/Proposed Document

Director, Office of Juvenile Offender Review

\_\_\_\_\_  
Title


Casey Gerber

\_\_\_\_\_  
Signature

06/24/2019

\_\_\_\_\_  
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>WISCONSIN</b> <b>DEPARTMENT OF CORRECTIONS</b>  Division of Juvenile Corrections  Policy and Procedure</p>	EFFECTIVE DATE 2/1/2016	PAGE NUMBER 1 of 10
	MANUAL REFERENCE	<input checked="" type="checkbox"/> New <input type="checkbox"/> Revision
	DJC POLICY # 500.50.08	Original Date:
	ORIGINATED BY John D. Paquin, Administrator	
DISSEMINATION	X	Date Signed: 2/1/16
<input type="checkbox"/> All Staff <input type="checkbox"/> Institution <input type="checkbox"/> Field Offices <input type="checkbox"/> Supervisory Staff Only <input type="checkbox"/> Confidential-Security Related <input type="checkbox"/> Community Facilities <input checked="" type="checkbox"/> Health Records	PRIORITY <input checked="" type="checkbox"/> Policy/Directive Discuss at Staff Meeting <input type="checkbox"/> Information Read/Route/Post	
<b>SUBJECT: Access by Patients to their Health Care Records</b>		

**Purpose**

This policy is to ensure that the handling of protected health information is done consistently throughout the Department of Corrections.

**Policy**

Division of Juvenile Corrections shall permit patients to inspect and/or obtain copies of documents in their Department of Corrections Health Care Records in accordance with applicable policies and procedures, and Wisconsin and federal laws.

**References**

- Wisconsin Statutes s. 51.30 – State Alcohol, Drug Abuse, Developmental Disabilities and Mental Health Act; Records
- Wisconsin Statutes ss.146.81-.84 – Miscellaneous Health Provisions
- Wisconsin Statutes Ch. 980 – Sexually Violent Persons Commitment
- 42 C.F.R. Part 2 – Confidentiality of Alcohol and Drug Abuse Inmate patient Records
- 45 C.F.R. Part 164 – Health Insurance Portability and Accountability Act
- Executive Directive 71 – Language Assistance Policy and Implementation for Addressing the Needs of Offenders with Limited English Proficiency (LEP)
- DJC Policy 100.04.01 – Addressing Needs of Youth and/or Parents and Guardians with Limited English Proficiency
- DJC Policy 500.50.02 – Health Care Record Format, Content and Documentation
- DJC Policy 500.50.09 – Disclosure of Protected Health Information (PHI) with Patient Authorization and Court Orders
- DJC Policy 500.70.11 – Psychological Services Unit Record
- Attachment 1 – Example of Redacted Document
- Attachment 2 – Redacting Instructions

**Definitions, Acronyms and Forms**

Adult patient– An individual 18 years of age and older.

AODA – Alcohol and Other Drug Abuse

CFR – Code of Federal Regulations

Dental Service Request (DSR) – DOC-3392 form used by a patient to request an appointment with a dentist, health information, copies of documents, a record review, or a DOC form needed to exercise a legal right.

DOC – Department of Corrections

DOC-1163A – Authorization for Use and Disclosure of Protected Health Information (PHI)  
DOC-1490 – End of Confinement Review Board (ECRB) Case Review Summary and Disposition.  
DOC-2295 – Special Purpose Evaluation Report  
DOC-3021 – Progress Notes  
DOC-3021D – Psychology Progress Notes (Non-Contact)  
DOC-3035 B– Youth Request for Health Services  
DOC–3035D – Youth Request for Psychological Services  
DOC-3326 – Signature Verification  
DOC-3347 – Medical Appointments – Offsite  
DOC-3370 – Psychological Records (Copies) – Medical Chart (White Envelope – Male)  
DOC-3370B – Psychological Records (Copies) – Medical Chart (White Envelope – Female)  
DOC-3473 – Psychological Services Clinical Contact  
DOC-3484 – Request by Current Patient for Amendment/Correction of Protected Health Information (PHI)

DSU – Dental Services Unit

Institution – Juvenile Correctional Institution operated by DJC.

Guardian of the Person – An individual named in a court order to act on behalf of a patient found to be legally incompetent.

Health Care Agent – An individual named in a Power of Attorney for Health Care to act on behalf of a patient.

Health Care Record (HCR) – Official confidential DOC record created and maintained for each youth patient consisting of all or some of the following components: Medical Chart, Dental Services 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 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.

HIPAA – Health Information Portability and Accountability Act

HIPAA Compliance Officer – Employee designated by the Secretary of the DOC under 45 CFR Part 164 to oversee implementation of and compliance with DOC policies and procedures, and Wisconsin and federal laws pertaining to confidentiality of health care information.

HSU – Health Services Unit

Individually identifiable health information – Information that is a subset of health information, including demographic information collected from an individual, and: is created or received by a health care provider, health plan, employer, 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; and that identifies the individual; or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Patient – An individual who receives or has received health care services from a health care provider.

LEP Coordinator – Facility staff assigned to monitor compliance with LEP laws and policies, assist with provision of language assistance, and maintain records related to language assistance.

Medical Chart – Primary part of a HCR consisting of gray/green or orange/off white hard covers with metal prongs and a standard set of dividers.

Access by Patients to their Health Care Records	EFFECTIVE DATE 2/1/2016	PAGE NUMBER 3 of 10
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Medications Record – Blue envelope maintained in the HSU that documents administration of medications.

Off-Site Provider – Health provider in the community who does not provide services within a DOC facility.

Patient Request Folder – Manila folder in which forms completed by patients to communicate with HSUs are stored; formerly called the Health Service Request/Medication Refill Request Folder.

POC-038A – Notice to Youth – Health Care Record Review (poster)

POC-058 – Notice to Patients – Health Care Record Review Procedures

Prescribing practitioner – Physicians, nurse practitioners and physician assistants.

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.

PSU – Psychological Services Unit

Psychological Records – Copies – White envelope maintained in HSU that contains copies of designated records filed in the PSU Record.

Youth Patient – Individual under the age of 18 years, i.e., a minor, who receives health care in a DJC institution.

Youth Request for Health Services – DOC-3035A form used by a patient in a DJC institution to request an appointment with health services, health information, copies of documents, a record review, or a DOC form needed to exercise a legal right.

Youth Request for Psychological Service – DOC-3035D form used by a patient in a DJC institution to request an appointment with psychological services, for information, copies of documents, a record review, or a DOC form needed to exercise a legal right.

**Procedures**

**I. Authority To Request Record Review and/or Copies of Documents**

- A. Generally, a youth patient lacks legal authority to submit a request for a record review or to obtain copies of documents in the HCR because he/she is under the age of 18 years old. However, DJC should consult with the HIPAA Compliance Officer if the request relates to AODA information or HIV test results because patients under the age of 18 years have the right to access their information.
- B. A current adult patient may request for a record review and/or copies of documents.
- C. An authorized representative of a current patient may contact DJC by phone or in writing to initiate a request. See DJC Policy 500.50.09 for processing a request by an authorized representative.
- D. DJC shall refer a former patient, or authorized representative of a former patient, to Central Medical Records (males) or Inactive Women's Medical Records (females).

**II. General Guidelines**

- A. DJC shall provide current adult patients with access to their HCR under this policy, and in accordance with applicable Wisconsin and Federal laws.
- B. DJC shall provide current youth patients with access to only certain health information such as AODA information and HIV test results. Consult with HIPAA Compliance Officer.
- C. HSUs, DSUs and PSUs shall post in a visible location the POC-038A Notice to Youth – Health Care Record Review (poster) and POC-038AS (Spanish version) to notify patients of the procedures for requesting copies of documents and/or a record review of their HCR.
- D. HSUs, DSUs and PSUs shall follow Executive Directive 71 and DJC Policy 300.00.61 to accommodate patients who require language assistance.

- E. When a patient lacks sufficient reading ability to review the HCR, staff shall contact the facility education staff to inquire about the patient's reading level. Consult with the HIPAA Compliance Officer for guidance, as needed.
- F. HIPAA regulations require that a covered entity must act upon the request for copies or a record review no later than 30 calendar days after receipt of the request which means that HSUs, DSUs and PSUs shall complete requests for copies and record reviews within 30 calendar days, unless the HIPAA Compliance Officer grants a request by a HSU, DSU or PSU for an extension due to extenuating circumstances.
- G. Prior to a record review or the copying of documents, HSU, DSU or PSU shall page through the relevant part of or entire HCR to determine if it includes any documents that pertain to the incorrect patient, and immediately remove and file the misfiled document in the appropriate HCR. It is a reportable HIPAA breach if a patient accesses in any way a document pertaining to another patient.

### III. Requests by Patients for Copies of Documents

- A. An adult patient who wants copies of documents shall complete a DOC-3035A, DOC-3392 or DOC-3035D to request copies by specifically describing as much of the following as possible: type of document(s), title of document(s), author if known, and the date(s).
- B. DJC shall consult with HIPAA Compliance Officer regarding a request by a youth patient.
- C. Facilities shall not require a record review for a patient to obtain a copy of documents when a patient clearly describes the record(s) the patient wants copied.
- D. Staff triaging the requests shall complete the bottom portion of the form submitted by the patient to acknowledge receipt of the request for copies and return the copy to the patient, and forward the request to the staff responsible for making copies.
- E. Designated staff shall keep a log of the names/DOC numbers, dates of requests and dates copies are provided to track the timeliness of responses. HSUs, DSUs and PSUs shall also enter the required information into the BHS HIPAA Compliance and Review portion of SharePoint.
- F. When health staff cannot easily determine which records the patient is requesting, staff shall contact the patient stating that the request cannot be processed as written, and that a record review will be scheduled within 30 days. See Section III below.
- G. When the request for copies is clear, staff shall check the Medical Chart – Consents/Refusals Section, Dental Record – Consents/Authorizations/DJC Documents Section, or the PSU Record – Legal Documents/ Consents/Outside Records Section for a valid DOC-1163A, and, if none is found, send a DOC-1163A to the patient.
  - 1. Prior to sending a DOC-1163A to the patient, enter the following information in the first section of the form:
    - a. Disclosing entity: Lincoln Hills School or Copper Lake School
    - b. Address & Telephone Number
    - c. Fax number: Not required.
  - 2. Enter the patient's name and facility information in the "subject of the PHI" and "recipient" sections of the form.
  - 3. Staff shall suggest to the patient that "end of DJC commitment" be entered as the effective expiration date, so that a new form need not be obtained each time the patient wants copies. Authorization expires in one year if no event or date is entered.

4. A patient may not use a DOC-1163A to authorize another patient in a DJC institution to receive copies from his/her HCR.
- H. Patients may not obtain a copy of the following records for security or confidentiality reasons:
1. DOC-3347 – Medical Appointments – Off-Site: filed in Medical Chart.
  2. DOC-3326 – Signature Verification: filed in the Medical Chart.
  3. Documents filed in the PSU Record, Restricted Section, in accordance with DJC Policy 500.70.11, including but not limited to the following:
    - a. Victim statements.
    - b. Copyrighted documents whether or not the patient's name appears on the document; e.g., psychological testing instruments.
    - c. Pre-sentence Investigation Reports.
    - d. Non-redacted copies of documents in PSU Record that include information from the Presentence Investigation Report. Patients may obtain a copy of the redacted documents.
      - i. References to Presentence Investigation Report may be found in documents such as the DOC-2295 – Special Purpose Evaluation Report; DOC-1490 – End of Confinement Review Board (ECRB) Case Review Summary and Disposition; and DOC-3473 – Psychological Services Clinical Contact.
      - ii. See Attachment 1 – Document With Redacted PSI Report Information, and Attachment 2 – Redacting Instructions.
- I. Request for copies from Patient Request Folder
1. When a patient wants to review the contents of the Patient Request Folder that have been removed and scanned into Electronic Content Management database, a search must be done in that database.
  2. HSUs should contact Health Information Supervisor/HIPAA Compliance Officer for information about obtaining access to the database, and Central Medical Records for instructions for doing searches.
- J. Request for copy of computer disk
- A. When a patient requests a copy of a computer disk containing medical images filed in the Medical Chart, do the following:
    1. Advise the patient that for security and technological reasons, the DOC does not make copies of disks.
    2. Print images from disk, when possible, and charge copying fee per page of images.
  - B. Inform the patient that images on the disk may be viewed in the presence of a provider when youth patient submits a DOC-3035A making that request.
- K. Request for off-site billing/payment information
1. When a patient requests billing/payment information and/or diagnostic/treatment codes for an off-site appointment, advise patient to complete a DOC-1163A including the date of service and off-site provider; e.g., Waupun Memorial Hospital, April 14, 2014, and send it to the Health Information Supervisor/HIPAA Compliance Officer.
  2. Forty-five to 60 days after the date of service, off-site information will be retrieved and forwarded to the Health Services Manager.

**L. Failure to meet 30 calendar day timeline**

1. When staff processing the request realize that copies will not be provided to the patient within 30 calendar days of the request, he or she shall email the Health HIPAA Compliance Officer and provide clear explanation for the delay.
2. HIPAA Compliance Officer shall decide whether to grant a 30 day extension.
3. When an extension is granted, the HSU, DSU, or PSU shall notify the patient in writing of the date the copies shall be provided to the patient and reason for the extension.
4. When an extension is not granted, the copies shall be provided to the patient immediately.
5. Requests for extensions shall be documented in the BHS HIPAA Compliance and Review portion of SharePoint.

**M. Provide Copies to Patient**

1. Give the copies to the patient personally.
2. In the alternative, send via institution mail:
  - a. Label the envelope as being from HSU, DSU and PSU.
  - b. Write on the outside of the envelope: "Open and inspect in presence of patient", so that youth counselors, or other staff, do not view the contents outside the presence of the patient.
  - c. Write the correct first and last name of the patient, DOC number and housing unit on the envelope. It is a reportable HIPAA breach if the copies are provided to the wrong patient.

**N. Reporting a Breach**

1. If a patient reports receiving a copy of a document about another patient, retrieve the document as soon as possible, but no later than 24 hours after learning of the breach.
2. Notify the HIPAA Compliance Officer of the breach by completing the DOC-2718 which includes the following information:
  - a. Name and DOC number of the patient who viewed the document,
  - b. Name and DOC number of the patient whose document was found misfiled,
  - c. A description of the document.
  - d. Date/time and circumstances of the incident.
3. If the patient whose document was given to the wrong patient is at the facility, file document in the correct location in the HCR.
4. If patient whose document was given to the wrong patient is not at the facility, determine location in Locator/WICS, and forward document to location of the HCR.

**IV. Processing Requests by Patients to Review/Inspect Their HCRs**

- A. Federal and Wisconsin health records laws do not authorize limitations on the frequency with which a patient may inspect his/her records.
  1. DJC shall not establish a policy that limit reviews: e.g., policy shall not state that reviews may only be every six months.
  2. When a patient requests reviews so frequently that responding to the request interferes with the ability to process requests from other patients in a timely manner, contact the

Access by Patients to their Health Care Records	EFFECTIVE DATE 2/1/2016	PAGE NUMBER 7 of 10
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Health Information Supervisor/HIPAA Compliance Officer, and provide detailed information about the frequency of the requests.

- B. A patient shall complete a DOC-3035A, DOC-3392 or DOC-3035D to request an appointment to review all or a portion of his/her HCR.
- C. Staff triaging the requests shall complete the bottom portion of the form acknowledging receipt of the record review request and return the copy to the patient. Staff shall then forward the request to the staff responsible for scheduling the record review.
  - 1. Designated staff shall keep a log of the patient names/DOC numbers, dates of receipt of the requests, and dates of the record reviews in order to track that reviews are being done in a timely manner.
  - 2. Information shall also be entered into BHS HIPAA Compliance and Review portion of SharePoint.
- D. Staff shall notify patients of the date and time of record review appointments per facility policy.
- E. Failure to meet 30 calendar days timeline
  - 1. Staff shall email the Health Information Supervisor/HIPAA Compliance Officer if the appointment cannot be scheduled within 30 calendar days of the request and provide an explanation for the delay.
  - 2. Health Information Supervisor/HIPAA Compliance Officer shall decide whether to grant a 30 day extension.
  - 3. When an extension is granted, the HSU, DSU, or PSU shall notify the patient of the date of the record review and reason for the extension.
  - 4. When an extension is not granted, the record review shall be scheduled immediately.
  - 5. Requests for extensions shall be documented in the BHS HIPAA Compliance and Review portion of Share Point.
- F. When a patient states the review needs to be scheduled in fewer than 30 calendar days for legal reasons and the patient makes the request a reasonable number of days (10 or more calendar days) prior to the review date requested, the request shall be honored only if the patient provides written documentation showing the legal need.
- G. Check the Medical Chart – Consents/Refusals Section, Dental Record – Consents/Authorizations/DJC Documents Section, or the PSU Record – Legal Documents/Consents/Outside Records Section for a valid DOC-1163A, and, if none is found, send a DOC-1163A to the patient. See III.G. above.
- H. A facility may request, but not require, the patient sign the DOC-1163A prior to the day of the appointment. The appointment may not be delayed because the DOC-1163A has not been signed before the day of the appointment.

**IV. Review of HCR**

- A. HSU: patients doing a review based upon a HSR may review their Medical Chart, Patient Request Folder and Medications Record (blue envelope).
  - 1. Staff shall remove from the Medical Chart, for security reasons, a DOC-3347 – Medical Appointments – Off-Site, that contains information regarding one or more future appointments at an off-site location or any other documents that may reveal any future offsite appointments.
  - 2. Staff shall remove from the Chart, the DOC-3370/3370B– Psychological Records (Copies) – Medical Chart (White Envelope – Male/Female) which contains copies of



documents from the PSU Record. Advise documents created by non-DOC health providers may remain in the HCR for review by the patient even if marked with "do not release", or similar phrase. The "do not release", or similar phrase, does not apply to a record review by the subject of the document.

3. Patients may review the DOC-3326 – Signature Verification sheets, but may not obtain a copy due to identify theft concerns.
- B. DSU: patients doing a review based upon a DSR may review their Dental Record.
- C. PSU: patients doing a record review based upon a PSR may review their PSU Record.
1. Prior to the review, staff shall remove the documents from the Restricted Access section of a PSU Record, in accordance with DAI Policy 500.70.11, including but not limited to:
    - a. Victim statements.
    - b. Copyrighted documents whether or not the patient's name appears on the document; e.g., psychological testing instruments.
    - c. Pre-sentence Investigation Reports.
    - d. Non-redacted documents that include information from the Presentence Investigation Report.
      - i. References to Presentence Investigation Report may be found in documents such as the DOC-2295 – Special Purpose Evaluation Report; DOC-1490 – End of Confinement Review Board (ECRB) Case Review Summary and Disposition; and DOC-3473 – Psychological Services Clinical Contact.
      - ii. See Attachment 1 – Example of Redacted Document and Attachment 2 – Redacting Instructions.
  2. Staff may remove from the PSU Record copies of the Psychiatric Reports and advise the patient to submit a HSR to request a record review of the Medical Chart which contains the complete set of original Psychiatric Reports.
  3. Documents created by non-DOC health providers may remain in the PSU Record for review by the patient even if marked with "do not release", or some similar phrase. The "do not release", or similar phrase, does not apply to a record review by the subject of the document.
- D. Supervision of Record Review
1. Provide the patient with access to a POC-0058 by giving the patient his/her own copy, posting it in the record review area, or placing it in a sheet protector for review.
  2. Supervise the review to prevent alteration, destruction or removal of documents or any part of the HCR, and to protect the privacy of the patient.
  3. Provide the patient with a method to indicate the copies desired, if any, such as paper clips or post-it notes/flags.
  4. Provide the patient with a method for taking notes including paper and a pencil or red pen. Do not allow a patient to have any writing instrument, except for the one provided by the HSU, DSU or PSU.
  5. A red pen insert, or other way of taking notes, shall be provided if a regular pen is not permitted for security reasons.
  6. At the end of the review appointment, retrieve the writing instrument from the patient.
  7. Patient may take with him/her handwritten notes, unless prohibited for security reasons.

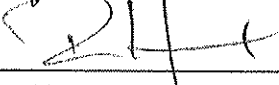
Access by Patients to their Health Care Records	EFFECTIVE DATE 2/1/2016	PAGE NUMBER 9 of 10
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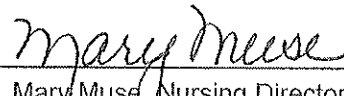
- E. Advise the patient to complete an HSR, DSR or PSR if questions arise about the content of documents being inspected, so that a health provider may respond to the questions.
- F. Advise the patient to complete a DOC-3484, if the patient believes a document contains inaccurate information.
- G. May permit more than 30 minutes when staff is available.
- H. May permit more than one patient to do a review at the same time if seating can be arranged in a manner that provides privacy to each patient and staff can adequately monitor all patients completing reviews. Close supervision is extremely important.
- I. End the record review immediately, complete a DJC Incident Report and document in the Medical Chart, Progress Notes Section, or on a DOC-3021D in the PSU Record, when a patient attempts in any way to damage any part of the HCR, or if a patient behaves inappropriately in any manner by words or actions. Request assistance from a Youth Counselor, as needed, for the safety of the employee, and to protect the integrity of the HCR. Record information about inappropriate behavior in the BHS HIPAA Compliance and Review portion of SharePoint.
- J. Schedule an additional appointment if the patient cannot complete the review in the routine 30 minutes permitted for a review.
  - 1. HSU, DSU or PSU shall make reasonable efforts to schedule the follow-up appointment within 30 days of the original request.
  - 2. Contact the Health Information Supervisor/ HIPAA Compliance Officer if follow-up appointment cannot be scheduled within 30 days of request.
- K. The DOC has no obligation to obtain for the patient copies of records from an off-site appointment that have not been received by the DOC. Advise patient to contact the off-site provider to obtain copies.
- L. Reporting a Breach
  - 1. If a patient reports finding a document about another patient during a record review, remove the document immediately.
  - 2. Notify the HIPAA Compliance Officer of the breach via email including:
    - a. Name and DOC number of the patient who viewed the document,
    - b. Name and DOC number of the patient whose document was found misfiled.
    - c. Description of the document.
    - d. Date/time and circumstances of the incident.
  - 3. If the patient whose document was misfiled is at the facility, file the document in the correct HCR.
  - 4. If patient whose document was misfiled is not at the facility, determine location in Locator/WICS and forward document to location of the HCR.
- V. **Documentation of Record Reviews**
  - A. On the DOC-1163A, or on a sheet attached to the form, document the information described below.
    - 1. Brief description of record inspected or copies provided; e.g., PSU Record or volume 3 of the Medical Chart.
    - 2. Date and time of inspection of record.
    - 3. Enter initials of employee, date and time.

Access by Patients to their Health Care Records	EFFECTIVE DATE 2/1/2016	PAGE NUMBER 10 of 10
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B. File the DOC-1163A in the Medical Chart – Consents/Refusals Section, PSU Record – Legal Documents/Consents/Outside Records Section, or Dental Record – Consents/Authorizations/DJC Documents Section.

Bureau of Health Services:  Date Signed: 2-5-16  
James Greer, Director

 Date Signed: 2/5/16  
Ryan Holzmacher, MD, Medical Director

 Date Signed: 2/8/16  
Mary Muse, Nursing Director

cc: Office of the Secretary  
DJC Leadership Team

Division of Juvenile Corrections Facility/Region Implementation Procedure	
Facility/Region:	
DJC Policy Number: 500.50.08	Supersedes Policy Number:
Subject: Access by Patients to their Health Care Records	
New Effective Date: 2/1/2016	Original Effective Date:
Will Implement: <input type="checkbox"/> As Written <input type="checkbox"/> With following procedures for facility implementation	
Superintendent's/Regional Chief's Approval:	