



# 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

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Name of Individual Certifying this Document/Proposed Document

Director, Office of Juvenile Offender Review

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Title

Casey Gerber

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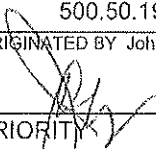
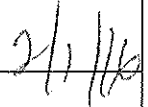
Signature

06/24/2019

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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>WISCONSIN</b> <b>DEPARTMENT OF CORRECTIONS</b>  Division of Juvenile Corrections  <b>Policy and Procedure</b></p>	EFFECTIVE DATE 2/1/2016	PAGE NUMBER 1 of 4
	MANUAL REFERENCE	<input checked="" type="checkbox"/> New <input type="checkbox"/> Revision
	D.J.C. POLICY # 500.50.19	Original Date:
	ORIGINATED BY John D. Paquin, Administrator X 	Date Signed: 
DISSEMINATION <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: Protected Health Information Requests from Off-Site Providers</b>		

**Purpose**

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

**Policy**

The Division of Juvenile Corrections health care staff shall request protected health information from off-site health care providers in accordance with applicable federal and 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. 146.81-84 – Health Care Records
- Wisconsin Statutes s. 252.15 – Restrictions on Use of an HIV Test
- DJC 500.50.09– Disclosure of Protected Health Information with Patient Authorization and Court Orders.
- DJC 500.50.10 Disclosure of Protected Health Information without Patient Authorization

**Definitions, Acronyms and Forms**

- AODA – Alcohol and other drug abuse
- Authorized representative – Individual with legal authority to act upon behalf of a youth, 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.
- CFR – Code of Federal Regulations
- DJC – Division of Juvenile Corrections
- DSU – Dental Services Unit
- DOC – Department of Corrections
- DOC-1163A – Authorization for Use and Disclosure of Protected Health Information
- DOC-3335 – Request for Protected Health Information (PHI) for Ongoing Treatment
- Health Care Provider – Health professionals listed in Wisconsin Statutes s. 146.81.

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.

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Health Services Unit (HSU) – Includes the physicians, dentists, nurses and support staff who provide health care services to a youth.

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 a youth.

### Procedures

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

- A. For purposes of providing ongoing treatment, DOC health care providers may request PHI from an off-site health provider created as a result of an off-site visit during a stay in a DJC institution or created prior to placement at a DJC institution.
- B. DOC health care providers may request and receive from an off-site health care provider PHI regarding a medical condition (physical health condition), for the purpose of providing ongoing treatment without a signed authorization from the youth or authorized representative.
- C. DOC health care providers may request and receive from an off-site health care provider the following limited mental health and developmental disability information for the purpose of providing ongoing treatment without a signed authorization from the youth or authorized representative. See Section II of this policy to request information not listed below.
  1. Name
  2. Address
  3. Date of birth
  4. Name of provider
  5. Date of services provided
  6. Medications
  7. Allergies
  8. Diagnosis
  9. Diagnostic test results (clinical testing of biological parameters; not psychological/neuropsychological testing)
  10. Symptoms
  11. Other relevant demographic information necessary for current treatment of individual
- D. If an off-site health care provider does not automatically disclose PHI to DOC health care providers following an off-site visit, or does not respond to a verbal request by a DOC health care provider for PHI, the HSU or PSU shall obtain from myDOC a DOC-3335 – Request for Protected Health Information for Ongoing Treatment.
  1. Complete DOC-3335 being sure to describe the PHI being requested in specific terms.
  2. Note that the DOC-3335 describes the limited mental health information that may be requested without an authorization.

3. Be clear on the DOC-3335 that a DOC health care provider is requesting the PHI by identifying the health care provider, and the HSU, DSU or PSU: e.g., Dr. Sarah Jones, Health Services Unit, Copper Lake School.
  4. Forward DOC-3335 to the off-site provider via mail or fax.
- E. An off-site health care provider may require a signed authorization, even though HIPAA regulations and Wisconsin laws permit the provider to disclose PHI to another health care provider without an 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, DJC 500.50.09, **Attachment 3 – Individuals With Right To Access And Authorize Disclosure Of Health Information**, which describes who has authority to sign an authorization for specific types of PHI.
  3. Health staff obtaining the signature should answer questions about the form to ensure that the person signing understands what is being signed.
  4. Health staff should forward the signed form to the off-site health care provider via mail or fax.

## II. Requesting Certain Mental Health and Developmental Disability PHI from an Off-Site Health Care Provider for Ongoing Treatment

- A. As listed above under Section I.C., DOC health care providers' staff may request and receive limited mental health and developmental disability information from an off-site health care provider in order to provide ongoing treatment without a signed authorization from the youth or representative.
- B. When a DOC health care provider wishes to obtain information beyond that permitted without an authorization, such as narrative reports written by a psychologist or psychiatrist, HSU or PSU shall obtain from myDOC a DOC-1163A – Authorization for Use and Disclosure of Protected Health Information. Note that a provider may require that DJC complete their form.
- C. Health staff obtaining the signature should answer questions about the form to ensure that person signing the form understands what is being signed.
- D. Health staff should forward the signed form to the off-site health care provider via mail or fax.

## III. Requesting AODA Information for Ongoing Treatment

- A. Federal regulations at 42 C.F.R. Part 2 govern records relating to alcohol and other drug abuse diagnosis and treatment. 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 person receiving AODA services, or person authorized to act on behalf of that person, except to medical personnel in a medical emergency.
  1. A youth aged 12 and older who receives AODA treatment has authority to sign a DOC-1163A, to authorize DJC to obtain AODA records. See Attachment which describes who has authority to disclose AODA information.
  2. Health staff should answer questions about the form to ensure that the person signing the form understands what is being signed.

3. Forward the signed form to the off-site health care provider via mail or fax.
4. Consult HIPAA Compliance Officer as needed.

**IV. Requesting PHI Following Death for Purpose of Health Care Operations**

- A. Under Wisconsin Statutes Ch. 146 and HIPAA regulations, a health care provider such as a hospital may disclose PHI about medical care 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. Upon death of a youth, the original Health Care Record is moved to Bureau of Health Services in Central Office. The DJC institution retains copies of the most recent months of records to conduct the facility level death investigation.
- C. If the death occurred at an off-site location and the off-site health provider does not automatically forward the records to the DJC institution, consult with HIPAA Compliance Officer regarding the procedure to obtain health records from an off-site provider when the provider.

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

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

Mary Muse, MS, RN 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: 500.50.19	Supersedes Policy Number:
Subject: Protected Health Information Requests from Off-Site Providers	
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:	