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HIPAA COLLABORATIVE OF WISCONSIN ~ LAW ENFORCEMENT GRID

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Definitions

“**Abuse**”, other than when used in referring to abuse of alcohol beverages or other drugs, means any of the following:

- (a) Physical injury inflicted on a child by other than accidental means.
- (am) When used in referring to an unborn child, serious physical harm inflicted on the unborn child, and the risk of serious physical harm to the child when born, caused by the habitual lack of self-control of the expectant mother of the unborn child in the use of alcohol beverages, controlled substances or controlled substance analogs, exhibited to a severe degree.
- (b) Sexual intercourse or sexual contact under Wis. Stat. § 940.225, 948.02, 948.025, or 948.085. [sexual assault; engaging in repeated acts of sexual assault of the same child; engaging in repeated acts of sexual assault of the same child; sexual assault of a child placed in substitute care].
- (c) A violation of Wis. Stat. § 948.05. [sexual exploitation of a child]
- (d) Permitting, allowing or encouraging a child to violate Wis. Stat. § 944.30(1m). [prostitution] (e) A violation of Wis. Stat. § 948.055. [causing a child to view or listen to sexual activity].
- (f) A violation of Wis. Stat. § 948.10. [exposing genitals or pubic area].
- (g) Manufacturing methamphetamine in violation with Wis. Stat. § 961.41(1)(e) under any of the following circumstances:
 1. With a child physically present during the manufacture.
 2. In a child’s home, on the premises of a child’s home, or in a motor vehicle located on the premises of a child’s home.
 3. Under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child.
- (gm) Emotional damage for which the child's parent, guardian or legal custodian has neglected, refused or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms.

“Law enforcement agency” means a governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority. Referenced in s. 51.30 (Wis. Stat. § 165.83(1)(b)).

“Law enforcement officer” means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce. (Wis. Stat. §165.85(2)(c) and (Wis. Stat. §175.46(1)(g)). **“Law enforcement officer”** includes a university policy officer, as defined in Wis. Stat. § 175.42(1)(b).

“Law enforcement officer” means any person who by virtue of the person's office or public employment is vested by law with the duty to maintain public order or to make arrests for crimes while acting within the scope of the person's authority. (Wis. Stat. § 967.02(5)).

“Law enforcement official” means an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by law to

- (1) Investigate or conduct an official inquiry into a potential violation of law; or
- (2) Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law. (45 CFR 164.501).

“Patient health care records” means all records related to the health of a patient prepared by or under the supervision of a health care provider, and all records made by an ambulance service provider as defined in Wis. Stat. § 256.01(3), and emergency medical technicians, as defined in Wis. Stat. § 256.01(5), or a first responder, as defined in Wis. Stat. § 256.01(9), in administering emergency care procedures to the handling and transporting sick, disabled, or injured individuals. **“Patient health care records”** includes billing statements and invoices for treatment or services provided by the health care provider and includes health summary forms prepared under Wis. Stat. § 302.388(2). **“Patient health care records”** does not include those records subject to Wis. Stat. § 51.30, reports collected under Wis. Stat. § 69.186, records of tests administered under Wis. Stat. § 252.15(5g) or (5j), 343.305, 938.296(4) or (5) or 968.38(4) or (5), records related to sales of pseudoephedrine products, as defined in in Wis. Stat. § 961.01(20c), that are maintained by pharmacies under Wis. Stat. § 961.235, fetal monitor tracings, as defined under Wis. Stat. § 146.817(1), or a pupil's physical health records maintained by a school under Wis. Stat. § 118.125. Health care provider includes nurses, physicians, practice groups, hospices, inpatient health care facilities, community-based residential facilities and rural medical centers. Refer to Wis. Stat. § 146.81(1) for extensive definition of health care provider. (Wis. Stat. §146.81(4)) *[appears as “(146.82) Patient Health Care Records” on grid]*

“Probation, extended supervision and parole agent” means [for purposes of Wis. Stat. s. 940.20] any person authorized by the department of corrections to exercise control over a probationer, parolee or person on extended supervision. (Wis. Stat. §940.20(2m)(a)2.).

“Treatment records” include the registration and all other records that are created in the course providing services to individuals who for mental illness, developmental disabilities, alcoholism, or drug dependence that are maintained by the department, by county departments under Wis. Stat. § 51.42 or 51.347 and their staffs; by treatment facilities; or by psychologists licensed under Wis. Stat. § 455.04(1) or licensed mental health professionals who are not affiliated with a county department or treatment facility. Treatment records do not include notes or records maintained for personal use by an individual providing treatment for the department, a county department under Wis. Stat. § 451.42 or 51.437, or a treatment facility, if the notes or records are not available to others. Wis. Stat. § 51.30(1)(b) *[appears as “(51.30) MH/AODA/DD Records” on grid]*

Encounters with Law Enforcement require verification of identity to disclose information.

HIPAA Reference

45 CFR §164.514 (h)(1) Standard: verification requirements. Prior to any disclosure permitted by this subpart, a covered entity must:

- (i) Except with respect to disclosures under § 164.510, verify the identity of a person requesting protected health information and the authority of any such person to have access to protected health information under this subpart, if the identity or any such authority of such person is not known to the covered entity; and
- (ii) Obtain any documentation, statements, or representations, whether oral or written, from the person requesting the protected health information when such documentation, statement, or representation is a condition of the disclosure under this subpart.

45 CFR §164.514(h)(2)(ii) Identity of public officials. A covered entity may rely, if such reliance is reasonable under the circumstances, on any of the following to verify identity when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:

- (A) If the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;
- (B) If the request is in writing, the request is on the appropriate government letterhead; or
- (C) If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official.

Table Column Definitions

- Reporting column addresses reporting the occurrence of the circumstance. Report does not equal disclosure of record.
- Disclosure column addresses the release of the individual’s record(s).

HIPAA Reference	State Law Reference	Reporting	Disclosure
Deaths			
<p>45 CFR §164.512(a)(1) <i>Standard: uses and disclosures required by law.</i> (1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.</p> <p>45 CFR §164.512(a)(2) A covered entity must meet the requirements described in paragraph (c), (e), or (f) of this section for uses or disclosures required by law.</p> <p>45 CFR §164.512(f)(1)(i) <i>Standard: disclosures for law enforcement purposes.</i> A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable. (1) Permitted disclosures: pursuant to process and as otherwise required by law. A covered entity may disclose protected health information: (i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section;</p> <p>45 CFR §164.512(g)(1) <i>Standard: uses and disclosures about decedents.</i> (1) <i>Coroners and medical examiners.</i> A covered entity may disclose protected health information to a coroner or medical</p>	<p>Wis. Stat. §979.01 Reporting deaths required; penalty; taking specimens by coroner or medical examiner. (1) All physicians, authorities of hospitals, sanatoriums, public and private institutions, convalescent homes, authorities of any institution of a like nature, and other persons having knowledge of the death of any person who has died under any of the following circumstances, shall immediately report the death to the sheriff, police chief, or medical examiner or coroner of the county where the death took place: (a) All deaths in which there are unexplained, unusual or suspicious circumstances. (b) All homicides. (c) All suicides. (d) All deaths following an abortion. (e) All deaths due to poisoning, whether homicidal, suicidal or accidental. (f) All deaths following accidents, whether the injury is or is not the primary cause of death. (g) When there was no physician, or accredited practitioner of a bona fide religious denomination relying upon prayer or spiritual means for healing in attendance within 30 days preceding death. (h) When a physician refuses to sign the death certificate. (i) When, after reasonable efforts, a physician cannot be obtained to sign the medical certification as required under §69.18(2)(b) or (c) within 6 days after the pronouncement of death or sooner under circumstances which the coroner or medical examiner determines to be an emergency.</p> <p>Wis. Stat. §146.82(2)(a)15 To the department</p>	<p><u>To Whom</u>—sheriff, police chief, or medical examiner or coroner of the county where the death took place</p> <p><u>Information to be Reported</u>— <i>Note:</i> Information disclosed is not defined in the statute. Reporting should include adequate information to identify the deceased such as the name, date of death, necessary identifiers (e.g., date of birth, gender, address) and circumstances of death as outlined in §979.01(1) (a) through (i). <i>Note:</i> Circumstances of the death may permit disclosures under other statutory authority (e.g. Child Abuse, Elder Abuse).</p>	<p><u>Medical examiner/coroner:</u> Coroners and medical examiners have access to records if completing a medical certificate or investigating all deaths in which there are unexplained, unusual or suspicious circumstances; all homicides; all suicides; all deaths following an abortion; all deaths due to poisoning, whether homicidal, suicidal or accidental; all deaths following accidents, whether the injury is or is not the primary cause of death; when there was no physician, or accredited practitioner of a bona fide religious denomination relying upon prayer or spiritual means for healing in attendance within 30 days preceding death; when a physician refuses to sign the death certificate; or when, after reasonable efforts, a physician cannot be obtained to sign the medical certification as required under §69.18(2)(b) or (c) within 6 days after the pronouncement of death or sooner under circumstances which the coroner or medical examiner determines to be an emergency.</p> <p><u>(Wis. Stat. §146.82) Patient Health Care Records:</u> A court order or authorization from authorized individual allows disclosure.</p> <p>If a legally authorized person designates a law enforcement person to gain access to the record, it will be necessary to verify the legal authority and the identity of the law enforcement person.</p> <p><u>To Whom/What:</u> Patient Health Care Records will be disclosed only when a sheriff, police department or district attorney is</p>

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<p>examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law. A covered entity that also performs the duties of a coroner or medical examiner may use protected health information for the purposes described in this paragraph.</p> <p>45 CFR §164.512(f) Standard: <i>disclosures for law enforcement purposes.</i> A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.</p> <p>(4) <i>Permitted disclosure: Decedents.</i> A covered entity may disclose protected health information about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the covered entity has a suspicion that such death may have resulted from criminal conduct.</p>	<p>under §48.60(5)(c), 50.02(5) or 51.03(2) or to a sheriff, police department or district attorney for purposes of investigation of a death reported under §48.60(5)(a), 50.035(5)(b), 50.04(2t)(b) or 51.64(2).</p> <p>Wis. Stat. §979.015 Subpoena for documents. Upon the request of the coroner, medical examiner or district attorney, a court shall issue a subpoena requiring the production of documents necessary for the determination of a decedent's cause of death. The documents may include the decedent's patient health care records and treatment records, as defined in §51.30 and 146.81(4). The documents shall be returnable to the officer named in the subpoena.</p> <p>Wis. Stat. §146.82(2)(a)18 Following the death of a patient, to a coroner, deputy coroner, medical examiner or medical examiner's assistant, for the purpose of completing a medical certificate under § 69.18(2) or investigating a death under § 979.01 or 979.10. The health care provider may release information by initiating contact with the office of the coroner or medical examiner without receiving a request for release of the information and shall release information upon receipt of an oral or written request for the information from the coroner, deputy coroner, medical examiner or medical examiner's assistant. The recipient of any information under this subdivision shall keep the information confidential except as necessary to comply with § 69.18, 979.01 or 979.10.</p> <p>Wis. Stat. §51.30(4)(b)23 To the department under §51.03(2) or to a sheriff, police department or district attorney for purposes of investigation of a death reported under §51.64(2)(a).</p> <p>DHS 92.03(4)(c) Disclosures required under federal or state laws involving the collection of death statistics and other</p>		<p>investigating a death reported under § 48.60(5)(a) [death of child in residential center], 50.035(5)(b) [death of resident of community-based residential facility], 50.04(2t)(b) [death of resident of nursing home], 51.64(2) [death of patient admitted or committed to a treatment facility].</p> <p><u>(Wis. Stat. §51.30) MH/AODA/DD Records</u> will be disclosed only when a sheriff, police department, or district attorney is investigating a death under § 51.64(2)(a) [Death of patient admitted or committed to a mental health/AODA/DD treatment facility].</p> <p>DHS 92.03(4)(c) Disclosures required under federal or state laws involving the collection of death statistics and other statistics may be made without consent.</p> <p><u>(Wis. Stat. §252.15) HIV Test Results</u> generally are disclosed only with court order or authorization. There are some exceptions in § 252.15(5g)(a) for persons providing emergency care, jailers, and inmate health care providers. Refer to HIPAACOW Wis. Stat. § 252 grid.</p>

HIPAA Reference	State Law Reference	Reporting	Disclosure
	<p>statistics may be made without consent.</p> <p>Wis. Stat. §252.15(3m)(d)11 To a coroner, medical examiner or an appointed assistant to a coroner or medical examiner, if one or more of the following applies:</p> <p>a. The coroner, medical examiner, or an appointed assistant is investigating the cause of death of the subject of the HIV test and possible HIV-infected status is relevant to the cause of death.</p> <p>b. The coroner, medical examiner or appointed assistant is investigating the cause of death of the subject of the HIV test and has contact with the body fluid of the subject of the HIV test that constitutes a significant exposure, if a physician, physician assistant, or advanced practice nurse prescriber, based on information provided to the physician, physician assistant, or advanced practice nurse prescriber, determines and certifies in writing that the coroner, medical examiner, or appointed assistant has had a contact that constitutes a significant exposure and if the certification accompanies the request for disclosure.</p>		
<p>Crimes on the Premises includes, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Crimes against life (<i>e.g.</i>, homicide), bodily security (<i>e.g.</i>, battery, sexual assault) and property (<i>e.g.</i>, theft). • Drug seeking behavior [<i>e.g.</i>, obtaining or attempting to obtain a prescription drug, or procure or attempt to procure the administration of a prescription drug by fraud, deceit, willful misrepresentation, forgery, alteration of a prescription, willful concealment of a material fact, or use of a false name or address contrary to Wis. Stat. §450.11(7)(a); obtaining or acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge contrary to Wis. Stat. §961.43(1)(a); practitioner self-prescription or use contrary to Wis. Stat. §961.38(5)] • Seeking excessive prescribed drugs [<i>for example</i>, multiple attempts to fill the same prescription is a crime when it involves fraud, misrepresentation or other actions violating Wis. Stat. §450.11(7)(a), 961.43(1)(a) or 961.38(5)]. • Drug seeking behavior or identity theft can be considered as occurring “on the premises” if a telephone call is received at the provider’s premises from someone seeking drugs or attempting other identity theft. • Identity theft, when misrepresentation of identity occurs on the premises [<i>e.g.</i>, misappropriation of personal identifying information or personal identification documents contrary to Wis. Stat. § 943.201, or fraudulent insurance/employee benefit claim contrary to Wis. Stat. §943.395; or unauthorized use of an entity’s identifying information or documents contrary to Wis. Stat. §943.203] • Other crimes (<i>e.g.</i>, drug possession, child neglect) 			
<p>45 CFR §164.512(f)(5) Permitted disclosure: crime on premises. A covered</p>	<p>Wis. Stat. §146.82(2)(a)5. In response to a written request by any federal or state governmental agency to perform a legally</p>	<p><u>Without Informed Consent</u></p> <p>If the crime occurs to a patient or employee,</p>	<p><u>(Wis. Stat. §146.82) Patient Health Care Records:</u></p> <p>In response to a written request by any</p>

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<p>entity may disclose to a law enforcement official protected health information that the covered entity believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the covered entity.</p> <p>45 CFR §164.512 (j) Standard: <i>Uses and disclosures to avert a serious threat to health or safety.</i> (1) <i>Permitted disclosures.</i> A covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure:</p> <p>(i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and (B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or</p> <p>(ii) Is necessary for law enforcement authorities to identify or apprehend an individual:</p> <p>(A) Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or</p> <p>(B) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in § 164.501.</p> <p>(2) Use or disclosure not permitted. A use or disclosure pursuant to paragraph (j)(1)(ii)(A) of this section may not be made if the information described in paragraph (j)(1)(ii)(A) of this section is learned by the covered entity:</p> <p>(i) In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure under paragraph (j)(1)(ii)(A) of this section, or counseling or therapy; or</p> <p>(ii) Through a request by the individual to initiate or to be referred for the treatment,</p>	<p>authorized function, including but not limited to management audits, financial audits, program monitoring and evaluation, facility licensure or certification or individual licensure or certification. The private pay patient, except if a resident of a nursing home, may deny access granted under this subdivision by annually submitting to a health care provider, other than a nursing home, a signed, written request on a form provided by the department. The provider, if a hospital, shall submit a copy of the signed form to the patient’s physician.</p> <p>Wis. Stat. §51.30(4)(b)19. To state and local law enforcement agencies for the purpose of reporting an apparent crime committed on the premises of an inpatient treatment facility or nursing home, if the facility or home has treatment records subject to this section, or observed by staff or agents of any such facility or nursing home. Information released under this subdivision is limited to identifying information that may be released under subd.16. and information related to the apparent crime.</p> <p>Wis. Stat. §51.30(4)(b)16. If authorized by the secretary or his or her designee, to a law enforcement agency upon request if the individual was admitted under ch. 971 or 975 or transferred under §51.35(3) or 51.37. Information released under this subdivision is limited to the individual's name and other identifying information, including photographs and fingerprints, the branch of the court that committed the individual, the crime that the individual is charged with, found not guilty of by reason of mental disease or defect or convicted of, whether or not the individual is or has been authorized to leave the grounds of the institution and information as to the individual's whereabouts during any time period. In this subdivision “law enforcement agency” has the meaning provided in §165.83(1)(b).</p> <p>Wis. Stat. §450.11(7)(a) No person may obtain</p>	<p>the patient or employee are encouraged to report the crime.</p> <p><u>(Wis. Stat. §146.82) Patient Health Care Records:</u> To Whom—federal, state or local law enforcement agency regarding an apparent crime.</p> <p>Information to be Reported—The information should generally be limited to the individual's name and other circumstantial information, not including any records related to the health of a patient prepared by or under the supervision of a health care provider. The fact that a crime occurred on premises is, in itself, not considered patient health care record information under Wisconsin statute. It is unclear whether §146.82 would prohibit release of the name of the patient in conjunction with the report of the crime. Consult legal counsel.</p> <p><u>(Wis. Stat. §51.30) MH/AODA/DD Records:</u> To Whom—state or local law enforcement agency regarding an apparent crime.</p> <p>Information to be Reported—The information is limited to the individual’s name and other identifying information, which should include adequate information to identify the individual (date of birth, gender, address) and information related to the apparent crime. Consistent with 42 CFR §2.12(c)(5).</p>	<p>federal or state governmental agency to perform a legally authorized function.</p> <p>An authorization or court order is necessary for any other request.</p> <p><u>(Wis. Stat. §51.30) MH/AODA/DD Records:</u> Person committed not guilty by reason of mental disease or defect or under sex crimes law, juvenile transferred from secure correctional facility, or person criminally committed.</p> <p><u>To Whom</u>—Law enforcement agency upon request, if authorized by DHS secretary or designee.</p> <p><u>Information to be Disclosed</u>—Name and other identifying information (including photographs and fingerprints), branch of court that committed the person, crime that the person is charged with, found not guilty by reason of mental disease or defect, or convicted of; and whether or not the person is or has been authorized to leave the grounds of the institution and the person’s whereabouts during any time period.</p> <p>Unless there is another exception under Wis. Stat. § 51.30 that allows the disclosure of the records, an authorization or court order will be needed to disclose the records.</p>

HIPAA Reference	State Law Reference	Reporting	Disclosure
<p>counseling, or therapy described in paragraph (j)(2)(i) of this section.</p> <p>(3) Limit on information that may be disclosed. A disclosure made pursuant to paragraph (j)(1)(ii)(A) of this section shall contain only the statement described in paragraph (j)(1)(ii)(A) of this section and the protected health information described in paragraph (f)(2)(i) of this section.</p> <p>(4) Presumption of good faith belief. A covered entity that uses or discloses protected health information pursuant to paragraph (j)(1) of this section is presumed to have acted in good faith with regard to a belief described in paragraph (j)(1)(i) or (ii) of this section, if the belief is based upon the covered entity's actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.</p>	<p>or attempt to obtain a prescription drug, or procure or attempt to procure the administration of a prescription drug, by fraud, deceit or willful misrepresentation or by forgery or alteration of a prescription order; or by willful concealment of a material fact; or by use of a false name or address.</p> <p>(b) Information communicated to a physician, a physician assistant, or advance practice nurse prescriber in an effort to procure unlawfully a prescription drug or the administration of a prescription drug is not a privileged communication.</p> <p>Wis. Stat. §940.34(2)(a) Any person who knows that a crime is being committed and that a victim is exposed to bodily harm shall summon law enforcement officers or other assistance or shall provide assistance to the victim.</p> <p>(d) A person need not comply with this subsection if any of the following apply:</p> <ol style="list-style-type: none"> 1. Compliance would place him or her in danger. 2. Compliance would interfere with duties the person owes to others. 3. In the circumstances described under par. (a), assistance is being summoned or provided by others. 4. In the circumstances described under par. (b) or (c), the crime or alleged crime has been reported to an appropriate law enforcement agency by others. 		

Jail/Correctional Facility Disclosures/Requesting Information After Discharge

<p>164.512(k)(5) Correctional institutions and other law enforcement custodial situations.</p> <p>(i) Permitted disclosures. A covered entity may disclose to a correctional institution or law enforcement official having lawful custody of an inmate or other <i>individual</i> protected health information about such inmate or <i>individual</i>, if the correctional institution or such law enforcement represents that such protected health information is necessary for: (A) The provision of health care to such</p>	<p>Wis. Stat. §146.82(2)(a)21 To a prisoner's health care provider, the medical staff of a prison or jail in which the prisoner is confined, the receiving institution intake staff at a prison or jail to which a prisoner is being transferred or a person designated by a jailer to maintain prisoner medical records, if the disclosure is made with respect to a prisoner's patient health care records under §302.388 or to the department of corrections if the disclosure is made with respect to a prisoner's patient health care records under § 302.388(4) [contemplates health summary information on</p>		<p>(Wis. Stat. §146.82)Patient Health Care <u>Records:</u> Disclose the information to a health care provider at the jail for treatment purposes.</p> <p>Disclosing for intake and record maintenance is limited to health care summary information and a description of the follow-up care and treatment the prisoner requires.</p> <p>(Wis. Stat. §51.30) <u>MH/AODA/DD Records:</u> For an inmate transferred from</p>
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HIPAA Reference	State Law Reference	Reporting	Disclosure
<p>individuals; (B) The health and safety of such individual or other inmates: (C) The health and safety of the officers or employees of or others at the correctional institution;</p> <p>(D) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another law enforcement on correctional premises or the administration and maintenance of the safety, security and good order of the correctional institution; (E) Law enforcement on the premises of the correctional institution; and (F) The administration and maintenance of the safety, security and good order of the correctional institution.</p>	<p>a standardized form for prisoners].</p> <p>Wis. Stat. §51.30(4)(b)10 [Inmate transferred from correctional facility to inpatient or outpatient treatment program and back to correctional facility]: To a correctional facility or to a probation, extended supervision and parole agent who is responsible for the supervision of an individual who is receiving inpatient or outpatient evaluation or treatment under this chapter in a program that is operated by, or is under contract with, the department or a county department under §51.42 or 51.437, or in a treatment facility, as a condition of the probation, extended supervision and parole supervision plan, or whenever such an individual is transferred from a state or local correctional facility to such a treatment program and is then transferred back to the correctional facility. Every probationer, parolee or person on extended supervision who receives evaluation or treatment under this chapter shall be notified of the provisions of this subdivision by the individual's probation, extended supervision and parole agent. Release of records under this subdivision is limited to:</p> <ol style="list-style-type: none"> a. The report of an evaluation which is provided pursuant to the written probation, extended supervision and parole supervision plan. b. The discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment which is provided as part of the probation, extended supervision and parole supervision plan. c. When an individual is transferred from a treatment facility back to a correctional facility, the information provided under subd.10.d. d. Any information necessary to establish, or to implement changes in, the individual's treatment plan or the level and kind of supervision on probation, extended supervision or parole, as determined by the director of the facility or the treatment director. In 		<p>correctional facility to inpatient or outpatient treatment program and back to correctional facility:</p> <p><u>Who:</u> Corrections clinical staff.</p> <p><u>What:</u> Any information necessary to establish, or to implement changes in, the individual's treatment plan as determined by the director of the facility or the treatment director.</p> <p>For an inmate transferred or discharged from a treatment facility:</p> <p><u>Who:</u> Correctional officer of the department of corrections who has custody of or is responsible for the supervision of the inmate.</p> <p><u>What:</u> Notice of the subject inmate's change in status.</p>

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	<p>cases involving a person transferred back to a correctional facility, disclosure shall be made to clinical staff only. In cases involving a person on probation, extended supervision or parole, disclosure shall be made to a probation, extended supervision and parole agent only. The department shall promulgate rules governing the release of records under this subdivision.</p> <p>Wis. Stat. §51.30(4)(b)12 [Individual who is under the custody of or is the responsibility of the department of corrections who is transferred or discharged from a treatment program:] To a correctional officer of the department of corrections who has custody of or is responsible for the supervision of an individual who is transferred or discharged from a treatment facility. Records released under this subdivision are limited to notice of the subject individual's change in status.</p> <p>DHS 92.04(10) Persons Under the Responsibility or Supervision of a Correctional Facility or Probation and Parole Agency.</p> <p>(a) Information from treatment records may be released to probation and parole agencies and correctional facilities only as authorized under §51.30(4)(b)10 Stats., 42 CFR §2.31 and 2.35 and this subsection.</p> <p>(b) In addition to the probation and parole agent, only the following persons may have access to information from treatment records:</p> <ol style="list-style-type: none"> 1. The probation and parole agent's supervisor; 2. The patient's social worker, the social worker's supervisor and their superiors; and 3. Consultants or employees of the division of corrections who have clinical assignments regarding the patients. <p>(c) When a patient is transferred back from a treatment facility to a correctional facility the confidential information disclosed to the correctional facility shall be restricted to</p>		

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	<p>information authorized under § 51.30(4)(b)9., Stats.</p> <p>(d) When a patient is under supervision of a probation and parole agent the confidential information disclosed to the agent shall be restricted to information authorized under § 51.30(4)(b)10., Stats.</p> <p>(e) Every person receiving evaluation or treatment under ch. 51, Stats., as a condition of probation or parole shall be notified of the provisions of this subsection by the person’s probation and parole agent prior to receiving treatment.</p>		
Probation and Parole			
<p>45 CFR §164.512(k)(5) <i>Correctional institutions and other law enforcement custodial situations.</i> A covered entity may disclose to a correctional institution or law enforcement official having lawful custody of an inmate or other individual protected health information about such inmate or individual, if the correctional institution or such law enforcement official represents that such protected health information is necessary for:</p> <ul style="list-style-type: none"> (A) The provision of health care to such individuals; (B) The health and or safety of such individual or other inmates; (C) The health and safety of the officers or employees of or others at the correctional institution; (D) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another; (E) Law enforcement on the premises of the correctional institution; and (F) The administration and maintenance of the safety, security, and good order of the correctional institution. 	<p>Wis. Stat. §51.30(4)(b)10 To a correctional facility or to a probation, extended supervision and parole agent who is responsible for the supervision of an individual who is receiving inpatient or outpatient evaluation or treatment under this chapter in a program that is operated by, or is under contract with, the department or a county department under §51.42 or 51.437, or in a treatment facility, as a condition of the probation, extended supervision and parole supervision plan, or whenever such an individual is transferred from a state or local correctional facility to such a treatment program and is then transferred back to the correctional facility. Every probationer, parolee or person on extended supervision who receives evaluation or treatment under this chapter shall be notified of the provisions of this subdivision by the individual’s probation, extended supervision and parole agent. Release of records under this subdivision is limited to:</p> <ul style="list-style-type: none"> a. The report of an evaluation which is provided pursuant to the written probation, extended supervision and parole supervision plan. b. The discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment which is provided as part of the probation, extended supervision and parole supervision plan. 		<p>(Wis. Stat. §146.82)Patient Health Care Records Disclosure of the patient record requires authorization or court order. There is no exception for disclosure under Wis. Ch. 146.</p> <p>(Wis. Stat. §51.30) MH/AODA/DD Records:</p> <p>Who: Responsible probation, extended supervision or parole agent.</p> <p>What: Report of an evaluation, that is provided pursuant to the written probation, extended supervision and parole supervision plan; discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment which is provided as part of the probation, extended supervision and parole supervision plan; any information necessary to establish, or to implement changes in, the individual’s treatment plan or the level and kind of supervision on probation, extended supervision or parole, as determined by the director of the facility or the treatment director.</p>

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	<p>c. Any information necessary to establish, or to implement changes in, the individual's treatment plan or the level and kind of supervision on probation, extended supervision or parole, as determined by the director of the facility or the treatment director. In cases involving a person transferred back to a correctional facility, disclosure shall be made to clinical staff only. In cases involving a person on probation, extended supervision or parole, disclosure shall be made to a probation, extended supervision and parole agent only. The department shall promulgate rules governing the release of records under this subdivision.</p> <p>Wis. Admin. Code DHS 92.04(10) Persons Under the Responsibility or Supervision of a Correctional Facility or Probation and Parole Agency.</p> <p>(a) Information from treatment records may be released to probation and parole agencies and correctional facilities only as authorized under Wis. Stat. §51.30(4)(b)10 Stats., 42 CFR §2.31 and 2.35 and this subsection.</p> <p>(b) In addition to the probation and parole agent, only the following persons may have access to information from treatment records:</p> <ol style="list-style-type: none"> 1. The probation and parole agent's supervisor; 2. The patient's social worker, the social worker's supervisor and their superiors; and 3. Consultants or employees of the division of corrections who have clinical assignments regarding the patients. <p>(c) When a patient is transferred back from a treatment facility to a correctional facility the confidential information disclosed to the correctional facility shall be restricted to information authorized under Wis. Stat. §51.30(4)(b)9., Stats</p> <p>(d) When a patient is under supervision of a probation and parole agent the confidential information disclosed to the agent shall be</p>		

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	restricted to information authorized under § 51.30(4)(b)10., Stats. (e) Every person receiving evaluation or treatment under ch.51,Stats., as a condition of probation or parole shall be notified of the provisions of this subsection by the person's probation and parole agent prior to receiving treatment.		

Wounds and Burns Reporting

<p>45 CFR §164.512(a)(2) A covered entity must meet the requirements described in paragraph (c), (e), or (f) of this section for uses or disclosures required by law.</p> <p>45 CFR §164.512(c)(1)(iii) (c) <i>Standard: Disclosures about victims of abuse, neglect or domestic violence.</i></p> <p>(1) <i>Permitted disclosures.</i> Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence: . . . (iii) To the extent the disclosure is expressly authorized by statute or regulation and:</p> <p>(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or</p> <p>(B) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree</p>	<p>Wis. Stat. §255.40 Reporting of wounds and burn injuries. (1) In this section:</p> <p>(a) “Crime” has the meaning specified in §949.01(1) [“Crime” means an act committed in this state which would constitute a crime as defined in §939.12 if committed by a competent adult who has no legal defense for the act.]</p> <p>(b) “Inpatient health care facility” has the meaning specified in §50.135(1).</p> <p>(2) (a) Any person licensed, certified or registered by the state under ch. 441, 448 or 455 who treats a patient suffering from any of the following shall report in accordance with (b):</p> <ol style="list-style-type: none"> 1. A gunshot wound. 2. Any wound other than a gunshot wound if the person has reasonable cause to believe that the wound occurred as a result of a crime. 3. Second-degree or 3rd-degree burns to at least 5% of the patient's body or, due to the inhalation of superheated air, swelling of the patient's larynx or a burn to the patient's upper respiratory tract, if the person has reasonable cause to believe that the burn occurred as a result of a crime. <p>(b) For any mandatory report under par. (a), the person shall report the patient's name and the type of wound or burn injury involved as soon as reasonably possible to the local police department or county sheriff's office for the area where the treatment is rendered.</p> <p>(c) Any such person who intentionally fails to report as required under this subsection may be required to forfeit not more than \$500.</p> <p>(3) Any person reporting in good faith under</p>	<p><u>What should be Reported:</u> All Gunshot Wounds, Other Wounds Reasonably Believed to be a Result of a Crime, or Second or Third Degree Burns (see Wis. Stat. §255.40) Reasonably Believed to be a Result of a Crime—Reporting is required as soon as reasonably possible. HIPAA and State allow disclosure. State law says name and type of wound must be reported. State law does not address what else must be reported, but presumably, allows disclosure of sufficient information to identify patient. HIPAA allows broad disclosure of PHI; scope of state law disclosure does not include entire patient health care record. Follow State.</p> <p>The Wisconsin reporting requirement of wounds and burn injuries does not apply when patient accompanied by law enforcement, wound or injury previously reported or gunshot wound appears to be more than 30 days old.</p> <p><u>Reporting To Whom</u>—Local police department or county sheriff's office for the area where the treatment is rendered.</p> <p><u>Who is Required to Report</u>—Any person licensed, certified, or registered by the state under ch. 441, 448, or 455. (Licensed nurse, registered nurse, nurse-midwife, physician, physician assistant, physical therapist, physical therapist assistant, podiatrist, dietitians, athletic trainers, occupational therapist, respiratory care practitioner, psychologist).</p>	<p>Disclosure of the patient record requires authorization or court order. There may be a separate exception under law, allowing further disclosure of the patient health care record. Refer to Appendix A for Chapter 51.30 exceptions.</p> <p>If a gunshot wound results in death, refer to Death section above.</p>
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<p>to the disclosure).</p> <p>45 CFR §164.512(f) Standard: <i>disclosures for law enforcement purposes.</i> A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable. (1) Permitted disclosures: pursuant to process and as otherwise required by law. A covered entity may disclose protected health information:</p> <p>(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section.</p>	<p>subd.(2), and any inpatient health care facility that employs the person who reports, are immune from all civil and criminal liability that may result because of the report. In any proceeding, the good faith of any person reporting under this section shall be presumed.</p> <p>(4) The reporting requirement under sub. (2) does not apply under any of the following circumstances:</p> <p>(a) The patient is accompanied by a law enforcement officer at the time treatment is rendered.</p> <p>(b) The patient's name and type of wound or burn injury have been previously reported under sub. (2).</p> <p>(c) The wound is a gunshot wound and appears to have occurred at least 30 days prior to the time of treatment.</p>		
Perpetrator of a Crime			
<p>45 CFR §164.512(f) Standard: <i>Disclosures for law enforcement purposes.</i> A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.</p> <p>(1) <i>Permitted disclosures:</i> pursuant to process and as otherwise required by law. A covered entity may disclose protected health information:</p> <p>(ii) In compliance with and as limited by the relevant requirements of: . . .</p> <p>C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:</p> <p>(1) The information sought is relevant and material to a legitimate law enforcement inquiry;</p> <p>(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the</p>	<p>State Law does not provide statutory exception for disclosure. However, there may be a relevant statutory reporting requirement.</p>	<p>There is no general reporting obligation.</p> <p>In the event a provider has a reasonable cause to believe that a wound or burn occurred as the result of a crime, the provider will report under Wounds and Burns reporting.</p>	<p>Authorization or Court Order is required.</p>

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<p>information is sought; and (3) De-identified information could not reasonably be used.</p>			
Abuse – Child			
<p>45 CFR §164.512(a)(1) Standard: uses and disclosures required by law. (1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.</p> <p>45 CFR §164.512(b)(1)(ii) Standard: uses and disclosures for public health activities. (1) Permitted disclosures. A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to: (ii) A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;</p> <p>45 CFR §164.512(f)(1)(ii)(C) (1) Permitted disclosures: pursuant to process and as otherwise required by law. A covered entity may disclose protected health information: . . . (ii) In compliance with and as limited by the relevant requirements of: . . . (C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that: (1) The information sought is relevant and material to a legitimate law enforcement inquiry; (2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and (3) De-identified information could not</p>	<p>Wis. Stat. §48.981 (2) Persons Required to Report: (a) [group home, as described in § 48.625(1m)] Any of the following persons who has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under sub. (2m), report as provided in sub. (3):</p> <ol style="list-style-type: none"> 1. A physician. 2. A coroner. 3. A medical examiner. 4. A nurse. 5. A dentist. 6. A chiropractor. 7. An optometrist. 8. An acupuncturist. 9. A medical or mental health professional not otherwise specified in this paragraph. 10. A social worker. 11. A marriage and family therapist. 12. A professional counselor. 13. A public assistance worker, including a financial and employment planner, as defined in §49.141 (1)(d). 14. A schoolteacher. 15. A school administrator. 16. A school counselor. 16m. A school employee not otherwise specified in this paragraph. 17. A mediator under §767.11. 18. A child-care worker in a child care center, group home, or residential care center for children and youth. 19. A child care provider. 20. An alcohol or other drug abuse counselor. 21. A member of the treatment staff 	<p>Mandatory for the individuals outlined in Wis. Stat. §48.981(2)(a) and 48.981(2m)(d) <u>To Whom</u>—sheriff or city, village, or town police department, the social services or human services department, the department or a licensed child welfare agency under contract with DHS.</p> <p><u>Information to be Reported</u>—Facts and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur.</p> <p>Standard is whether prudent person would have reasonable cause to suspect child abuse under totality of facts and circumstances. Independent investigation is not required before a mandated report may be required.</p> <p><u>(Wis. Stat. §146.82) Patient Health Care Records:</u> Health care provider may disclose “information” by initiating contact with the county department, sheriff, police, or district attorney without receiving a request for the information.</p> <p><u>Information Disclosed</u>—Information presumably includes sufficient data to allow commencement of an investigation.</p>	<p><u>(Wis. Stat. §146.82) Patient Health Care Records:</u> To a county department, a sheriff or police department or a district attorney for purposes of investigation of threatened or suspected child abuse or neglect or suspected unborn child abuse or for purposes of prosecution of alleged child abuse or neglect, if the person conducting the investigation or prosecution identifies the subject of the record by name.</p> <p><u>Information Disclosed</u>— Requested patient health care record of any individual named.</p> <p><u>(Wis. Stat. §51.30) MH/AODA/DD Records: To Whom</u>—Sheriff or police department for the purposes of investigation of threatened or suspected child abuse or neglect or suspected unborn child abuse</p> <p><u>Information Disclosed</u>—Treatment record of an individual. Consistent with 42 CFR §2.12(c)(6)</p>

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<p>reasonably be used.</p>	<p>employed by or working under contract with a county department under §46.23, 51.42, or 51.437 or a residential care center for children and youth.</p> <p>22. A physical therapist.</p> <p>22m. A physical therapist assistant</p> <p>23. An occupational therapist.</p> <p>24. A dietician.</p> <p>25. A speech-language pathologist.</p> <p>26. An audiologist.</p> <p>27. An emergency medical technician.</p> <p>28. A first responder.</p> <p>29. A police or law enforcement officer.</p> <p>(b) A court-appointed special advocate who has reasonable cause to suspect that a child seen in the course of activities under §48.236(3) has been abused or neglected or who has reason to believe that a child seen in the course of those activities has been threatened with abuse and neglect and that abuse or neglect of the child will occur shall, except as provided in sub. (2m and 2r), report as provided in sub.(3) . . .</p> <p>(c) Any person not otherwise specified par. (a) or (b), or (bm), including an attorney, who has reason to suspect that a child has been abused or neglected or who has reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may report as provided in sub. (3).</p> <p>(d) Any person, including an attorney, who has reason to suspect that an unborn child has been abused or who has reason to believe that an unborn child is at substantial risk of abuse may report as provided in sub. (3).</p> <p>(e) No person making a report under this subsection may be discharged from employment for so doing.</p> <p>Wis. Stat. §48.981(2m)(d) Any person described under par. (c)1. or 4. shall report as required under sub. (2) if he or she has reason to suspect any of the following:</p> <ol style="list-style-type: none"> 1. That the sexual intercourse or sexual contact occurred or is likely to occur with a caregiver. 2. That the child suffered or suffers from a 		

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	<p>mental illness or mental deficiency that rendered or renders the child temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions.</p> <p>3. That the child, because of his or her age or immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or sexual contact.</p> <p>4. That the child was unconscious at the time of the act or for any other reason was physically unable to communicate unwillingness to engage in sexual intercourse or sexual contact.</p> <p>5. That another participant in the sexual contact or sexual intercourse was or is exploiting the child.</p> <p>Wis. Stat. §48.981(3)(a)1. A person required to report under sub. (2) shall immediately inform, by telephone or personally, the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department or the sheriff or city, village, or town police department of the facts and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur.</p> <p>Wis. Stat. §48.981(2m)(e) In addition to the reporting requirements under par. (d), a person described under par. (c)1. Or 4, shall report as required under sub. (2) if he or she has any reasonable doubt as to the voluntariness of the child's participation in the sexual contact or sexual intercourse.</p> <p>Wis. Stat. §48.981(2r) Exception to reporting requirement: person delegated parental powers. A person delegated care and custody of a child under §48.979 is not required to report as provided in sub. (3) any suspected or threatened abuse or neglect of the child as required under sub. (2) (a), (b), or (bm) or (2m) (d) or (e). Such a person who has reason to suspect that the child has been</p>		

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	<p>abused or neglected or who has reason to believe that the child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may report as provided in sub. (3).</p> <p>Wis. Stat. §146.82(2)(a)11 To an agency, as defined in §48.981(a)(ag), a sheriff or police department, or a district attorney for purposes of investigation of threatened or suspected child abuse or neglect or suspected unborn child abuse or for purposes of prosecution of alleged child abuse or neglect, if the person conducting the investigation or prosecution identifies the subject of the record by name. The healthcare provider may release information by initiating contact with an agency, sheriff or police department, or district attorney without receiving a request for release of information. A person to whom a report or record is disclosed under this subdivision may not further disclose the report or record, except to the persons, for the purposes, and under the conditions specified in §48.981(7).</p> <p>Wis. Stat. §51.30(4)(b)17 To the county agency designated under §46.90(2) or other investigating agency under §46.90 for the purposes of §46.90(4)(a) and (5), to the county department, as defined in § 48.02(2g), or the sheriff or police department for the purposes of §48.981(2) and (3) or to the county protective services agency designated under §55.02 for purposes of §55.043. The treatment record holder may release treatment record information by initiating contact with the county protective services agency or county department, as defined in § 48.02(2g), without first receiving a request for release of the treatment record from the county protective services agency or county department.</p>		
Abuse – Elder			
<p>45 CFR §164.512(c) Standard: disclosures about victims of abuse, neglect or domestic violence.</p>	<p>46.90(1)(a) “Abuse” means any of the following: 1. Physical abuse</p>	<p>State allows permissive reporting. HIPAA requires specific procedures to be followed for reporting. Refer to</p>	<p><u>(Wis. Stat. §146.82) Patient Health Care Records:</u> To the county agency or other investigating</p>

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<p>(1) Permitted disclosures. Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:</p> <p>(i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;</p> <p>(ii) If the individual agrees to the disclosure; or</p> <p>(iii) To the extent the disclosure is expressly authorized by statute or regulation and:</p> <p>(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or</p> <p>(B) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.</p> <p>(2) Informing the individual. A covered entity that makes a disclosure permitted by paragraph (c)(1) of this section must promptly inform the individual that such a report has been or will be made, except if:</p> <p>(i) The covered entity, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or</p> <p>(ii) The covered entity would be informing</p>	<p>2. Emotional abuse</p> <p>3. Sexual abuse</p> <p>4. Treatment without consent</p> <p>5. Unreasonable confinement or restraint</p> <p>Wis Stat. §46.90(1)(br) “Elder adult at risk” means any person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.</p> <p>Wis. Stat. §55.01(1e) “Adult at risk” means any adult who has a physical or mental condition that substantially impairs his or her ability to care of his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.</p> <p>Wis. Stat. §46.90(4) [Elder Abuse] Reporting.</p> <p>(ab) The following persons shall file reports as specified in par. (ad).</p> <p>1. An employee of an entity that is licensed, certified, or approved by or registered with the department.</p> <p>3. A health care provider, as defined in §155.01(7).</p> <p>4. A social worker, professional counselor, or marriage and family therapist certified under ch. 457.</p> <p>(ad) Except as provided in par. (ae), a person specified in par. (ab) who has seen an elder adult at risk in the course of the person’s professional duties shall file a report with the county department, the elder-adult-at-risk agency, a state or local law enforcement agency, the department, or the board on aging serious bodily harm, death, sexual assault, or significant proper loss and is unable to make any of the following situations exits:</p> <p>1. the elder adult at risk is at imminent risk of and long-term care if the elder adult at risk has requested the person to make the report, or if the person has reasonable cause to believe that an informed judgment about whether to report the risk.</p> <p>2. An elder adult at risk other than the subject</p>	<p>45 CFR §164.512(c).</p> <p><u>(Wis. Stat. §146.82) Patient Health Care Records:</u> Health care provider may disclose “information” by initiating contact with the county agency or county protective services agency without receiving a request for the information.</p> <p><u>Information Disclosed</u>— Information presumably includes sufficient data to allow commencement of an investigation.</p>	<p>agency for purposes of investigation of threatened or suspected elder abuse or neglect if the person conducting the investigation or prosecution identifies the subject of the record by name.</p> <p><u>Information Disclosed</u>— Requested patient health care record of any individual named.</p> <p><u>(Wis. Stat. §51.30) MH/AODA/DD Records: To Whom</u>—County agency or other investigating agency for the purposes of investigation of threatened or suspected elder abuse or neglect.</p> <p><u>Information Disclosed</u>—Treatment record of an individual.</p>

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<p>a personal representative, and the covered entity reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.</p> <p>45 CFR §164.512(f)(1)(ii)(C) (1) Permitted disclosures: pursuant to process and as otherwise required by law. A covered entity may disclose protected health information: . . . (ii) In compliance with and as limited by the relevant requirements: (A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer; (B) A grand jury subpoena; or (C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that: (1) The information sought is relevant and material to a legitimate law enforcement inquiry; (2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and (3) De-identified information could not reasonably be used. 45 CFR §164.512(j) Standard: uses and disclosures to avert a serious threat to health or safety. (1) Permitted disclosures. A covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure: (i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and (B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or</p>	<p>of the report is at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by a suspected perpetrator. (ae) A person specified in par. (ab) to whom any of the following applies is not required to file a report as provided in par. (ad): 1. If the person believes that filing a report would not be in the best interest of the elder adult at risk. If the person so believes, the person shall document the reasons for this belief in the case file that the person maintains on the elder adult at risk. 2. If a health care provider provides treatment by spiritual means through prayer for healing in lieu of medical care in accordance with his or her religious tradition and his or her communications with patients are required by his or her religious denomination to be held confidential. (ar) Any person, including an attorney or a person working under the supervision of an attorney, may report to the county department, the elder-adult-at-risk agency, a state or local law enforcement agency, the department, or the board on aging and long-term care that he or she believes that abuse, financial exploitation, neglect, or self-neglect of an elder adult at risk has occurred if the person is aware of facts or circumstances that would lead to a reasonable person to believe or suspect that abuse, financial exploitation, neglect, or self-neglect of an elder adult at risk has occurred. The person shall indicate the facts and circumstances of the situation as part of the report. (b)1.a. No person may discharge or otherwise retaliate or discriminate against any person for reporting in good faith under this subsection. (b)1.b. No person may discharge or otherwise retaliate or discriminate against any individual on whose behalf another person has reported in good faith under this subsection. (c) No person may be held civilly or criminally liable or be found guilty of unprofessional conduct for reporting in good faith under this subsection and within the scope of his or her authority, for filing a report with an agency not listed in par. (ad)</p>		

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<p>(ii) Is necessary for law enforcement authorities to identify or apprehend an individual:</p> <p>(A) Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or</p> <p>(B) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in §164.501.</p> <p>(2) Use or disclosure not permitted. A use or disclosure pursuant to paragraph (j)(1)(ii)(A) of this section may not be made if the information described in paragraph (j)(1)(ii)(A) of this section is learned by the covered entity:</p> <p>(i) In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure under paragraph (j)(1)(ii)(A) of this section, or counseling or therapy; or</p> <p>(ii) Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy described in paragraph (j)(2)(i) of this section.</p> <p>(3) Limit on information that may be disclosed. A disclosure made pursuant to paragraph (j)(1)(ii)(A) of this section shall contain only the statement described in paragraph (j)(1)(ii)(A) of this section and the protected health information described in paragraph (f)(2)(i) of this section.</p> <p>(4) Presumption of good faith belief. A covered entity that uses or discloses protected health information pursuant to paragraph (j)(1) of this section is presumed to have acted in good faith with regard to a belief described in paragraph (j)(1)(i) or (ii) of this section, if the belief is based upon the covered entity's actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.</p>	<p>(intro) or (ar) if the person had a good faith belief that the report was filed correctly with one of the listed agencies.</p> <p>Wis. Stat. §146.82(2)(a)(7) To an elder-adult-at-risk agency designated under §46.90(2) or other investigating agency under § 46.90 for purposes of §46.90(4)(a) and (5) or to the county protective services agency designated under §55.02 for purposes of §55.043. The health care provider may release information by initiating contact with the county agency or county protective services agency without receiving a request for release of the information from the county agency or county protective services agency. [Note: §46.90—Elder abuse reporting system; §55.02—Protective Services; §55.043—County Protective Services agency]</p> <p>Wis. Stat. §51.30(4)(b)17 To the elder-at-risk agency designated under § 46.90(2) or other investigating agency under §46.90 for the purposes of §46.90(4) and (5), to an agency, as defined in §48.981(1)(ag), or a sheriff or policy department for the purposes of §48.981(2) and (3), or to an adult-at-risk agency as designated under §55.043(1d) for purposes of §55.043. The treatment record holder may release information by initiating contact with the elder-adult-at-risk agency, agency, as defined in §48.981(1)(ag), sheriff or policy department, or or adult-at-risk agency, without first receiving a request for release of information of the treatment record.</p> <p>Wis. Admin. Code DHS §13.05(3) [Reporting] (3) ENTITY'S RESPONSIBILITY TO REPORT ALLEGATIONS. (a) <i>Entity's duty to report to the department.</i> Except as provided under pars. (b) and (c), an entity shall report to the department any allegation of an act, omission or course of conduct described in this chapter as client abuse or neglect or misappropriation of client property committed by any person employed by or under contract with the entity if the person is under the control of the entity. The entity shall submit its report on a form provided</p>		

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	<p>by the department within 7 calendar days from the date the entity knew or should have known about the misconduct. The report shall contain whatever information the department requires.</p> <p>Note: For copies of the report form, write or phone the Caregiver Registry and Investigation Section, Bureau of Quality Assurance, 2917 International Lane, Suite 300, Madison, Wisconsin 53704; 608-243-2019. Return completed reports to the same address.</p> <p><i>(b) Entity's duty to report to the department of safety and professional services.</i> In addition to the reporting requirement under par. (c), an entity shall report to the department of safety and professional services any allegation of misconduct committed by any person employed by or under contract with the entity, if the person holds a credential from the department of safety and professional services that is related to the person's employment at, or contract with, the entity. The entity's report shall be made within 7 calendar days from the date the entity knew or should have known about the misconduct.</p> <p>Note: Send this report to the Department of Safety and Professional Services, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935.</p> <p><i>(c) Entity's duty to report child abuse or neglect to county authorities.</i> In accordance with s. 48.981, Stats., an entity shall immediately report, by telephone or personally, to the county department of social services or human services or the sheriff or city, village or town police department the facts and circumstances contributing to a suspicion that child abuse or neglect has occurred or to a belief that it will occur. In addition, the entity shall notify the department in writing or by phone within 7 calendar days that the report has been made.</p> <p>Note: For notification to the Department that the report has been made, write Caregiver Registry and Investigation Section, Bureau of Quality Assurance, 2917 International Lane, Suite 300, Madison, Wisconsin 53704; or phone 608-243-2019.</p> <p><i>(d) Entity's duty to notify subject of the report.</i> An entity shall notify the subject of a report under par. (a), (b) or (c) that an allegation of</p>		

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	<p>abuse or neglect of a client or is appropriation of a client's property has been made and that the report is being forwarded to the appropriate authority. Notice to the subject of the report shall be given as soon as practicable, but within 7 calendar days of the entity's reporting to the appropriate authority.</p> <p><i>(e) Penalty for failure to report incidents of caregiver misconduct.</i></p> <p>An entity that intentionally fails to report an allegation of misconduct under this subsection by any person employed by or under contract with the entity may be required to forfeit not more than \$1,000 and may be subject to any of the following sanctions:</p> <ol style="list-style-type: none"> 1. Submission by the entity of a plan of correction for approval by the department, and implementation of the plan of correction. 2. Implementation by the entity of a department-imposed plan of correction. 3. Any regulatory limitations or conditions, as appropriate, imposed by the department on the entity. 4. Suspension or revocation of licensure, certification or other approval for a period of not more than 5 years. 5. Notification in a local newspaper of the act and, if applicable, any forfeiture imposed. 		
Sexual Assault			
<p>45 CFR §164.512(f)(3) Permitted disclosure: victims of a crime. Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures that are subject to paragraph (b) or (c) of this section, if:</p> <p>(i) The individual agrees to the disclosure; or</p> <p>(ii) The covered entity is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:</p> <p>(A) The law enforcement official</p>		<p>There is no general sexual assault reporting obligation.</p> <p>Mandatory reporting obligations arise under state child abuse and neglect laws and under the statute requiring reports of wounds and injuries. Elder abuse reporting statute allows permissive reporting.</p> <p>For minors, <i>see</i> Child Abuse section. For elder abuse, <i>see</i> Elder Abuse section.</p> <p>For all others, <i>see</i> Wounds and Burns Reporting section or Misconduct of Caregivers section.</p>	<p>For minors, see Child Abuse section.</p> <p>For elder abuse, see Elder Abuse section.</p> <p>For all others, see Wounds and Burns Reporting section.</p> <p>Unless there is patient authorization or court order, disclosure is not otherwise permitted.</p>

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<p>represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;</p> <p>(B) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and</p> <p>(C) The disclosure is in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.</p> <p>45 CFR §164.512(c) Standard: <i>disclosures about victims of abuse, neglect or domestic violence.</i></p> <p>(1) Permitted disclosures. Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:</p> <p>(i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;</p> <p>(ii) If the individual agrees to the disclosure; or</p> <p>(iii) To the extent the disclosure is expressly authorized by statute or regulation and:</p> <p>(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or</p> <p>(B) If the individual is unable to agree because of incapacity, a law enforcement</p>			

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<p>or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.</p> <p>(2) Informing the individual. A covered entity that makes a disclosure permitted by paragraph (c)(1) of this section must promptly inform the individual that such a report has been or will be made, except if:</p> <p>(i) The covered entity, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or</p> <p>(ii) The covered entity would be informing a personal representative, and the covered entity reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.</p>			

Requests for Information for Identifying and Locating a Missing Person, Suspect, Fugitive, Material Witness, Etc.

<p>45 CFR §164.510(a) <i>Standard: use & disclosure for facility directories.</i></p> <p>(1) <i>Permitted uses and disclosure.</i> Except when an objection is expressed in accordance with paragraphs (a)(2) or (3) of this section, a covered health care provider may:</p> <p>(i) Use the following protected health information to maintain a directory of individuals in its facility:</p> <p>(A) The individual's name;</p> <p>(B) The individual's location in the covered health care provider's facility;</p> <p>(C) The individual's condition described in general terms that does not communicate specific medical information about the individual; and</p> <p>(D) The individual's religious affiliation;</p>	<p>Wis. Stat. §146.81(4) “Patient health care records” means all records related to the health of a patient prepared by or under the supervision of a health care provider; and all records made by an ambulance service provider, as defined in §256.01(3), and emergency medical technician, as defined in §256.01(5), or first responder, as defined in §256.01(9), in the administering emergency care procedures to and handling the transporting sick, disabled, or injured individuals. “Patient health care records” includes billing statements and invoices for treatment or services provided by a health care provider and includes health summary forms prepared under §302.388(2). “Patient health care records” does not those records subject to §51.30, reports collected under §69.186,</p>	<p><u>(Wis. Stat. §146.82) Patient Health Care Records:</u> Disclosure regarding presence and demographic information is permissible.</p> <p><u>(Wis. Stat. §51.30) MH/AODA/DD Records:</u> Reporting generally requires patient authorization. Reporting of information both necessary to assist in apprehension of a treatment facility patient and permissible under 45 CFR. §164.512(f)(2) is permitted to any person if:</p> <p>(1) the patient was admitted to the treatment facility under §971.14 (incompetent for criminal proceedings), §971.17 (not guilty by reasons of mental disease or mental defect), or §980.06 (sexually violent person/sex predator commitment) of the Wisconsin</p>	<p><u>(Wis. Stat. §146.82) Patient Health Care Records:</u> Disclosure regarding presence and demographic information is permissible. Follow facility directory policy.</p> <p><u>(Wis. Stat. §51.30) MH/AODA/DD Records:</u> Disclosure generally requires patient authorization. Disclosure of information both necessary to assist in apprehension of a treatment facility patient and permissible under 45 C.F.R. §164.512(f)(2) is permitted to any person if:</p> <p>(1) the patient was admitted to the treatment facility under §971.14 (incompetent for criminal proceedings), §971.17 (not guilty by reasons of mental disease or mental defect), or §980.06</p>
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<p>and (ii) Disclose for directory purposes such information: (A) To members of the clergy; or (B) Except for religious affiliation, to other persons who ask for the individual by name. (2) <i>Opportunity to object.</i> A covered health care provider must inform an individual of the protected health information that it may include in a directory and the persons to whom it may disclose such information (including disclosures to clergy of information regarding religious affiliation) and provide the individual with the opportunity to restrict or prohibit some or all of the uses or disclosures permitted by paragraph (a)(1) of this section.</p> <p>164.512(f)(2) <i>Permitted disclosures: limited information for identification and location purposes.</i> Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that: (i) The covered entity may disclose only the following information: (A) Name and address; (B) Date and place of birth; (C) Social security number; (D) ABO blood type and rh factor; (E) Type of injury; (F) Date and time of treatment; (G) Date and time of death, if applicable; and (H) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos. (ii) Except as permitted by paragraph</p>	<p>records of tests administered under §252.15(5g) or (5j), 343.305, 938.296(4), or (5) or 968.38(4) or (5), records related to sales of pseudoephedrine products, as defined in §961.01(20c), that are maintained by pharmacies under §961.235, fetal monitor tracings, as defined under §146.817 (1), or a pupil's physical health records maintained by a school under §118.125.</p> <p>51.30(1)(am) "Registration records" include all the records of the department, county departments under §51.42 or 51.437, treatment facilities, and other persons providing services to the department, county departments or facilities that are created in the course of providing services to individuals for mental illness, developmental disabilities, alcoholism or drug dependence.</p> <p>51.30(b) "Treatment records" include the registration and all other records that are created in the course of providing services to individuals for mental illness, developmental disabilities, alcoholism, or drug dependence that are maintained by the department; by county departments under §51.42 or 51.347</p> <p>51.30(4)(b)12m. To any person if the patient and their staffs; by treatment facilities; or by psychologists licensed under §455.04(1) or licensed mental health providers who are not affiliated with a county department or treatment facility. Treatment records do not include notes or records maintained for personal use by an individual providing treatment services for the department, a county department under §51.42 or 51.437, or a treatment facility, if notes or records are not available to others.</p> <p>Wis. Stat. §51.30(4)(b)12. To a correctional officer of the department of corrections who has custody of or is responsible for the supervision of an individual who is transferred or discharged from a treatment facility. Records released under this subdivision are limited to notice of the subject individual's change in status.</p>	<p>Statutes, Chapter 975 (former sex crimes commitment) of the Wisconsin Statutes, or was transferred to the treatment facility under §51.35(3) (transfer from secure juvenile facilities) or §51.37 (criminal commitments) of the Wisconsin Statutes; and (2) the patient is on unauthorized absence from the treatment facility.</p> <p>Reporting to a law enforcement officer of whether or not an individual is a patient at the inpatient facility is permissible if the officer is seeking to determine whether the individual is on unauthorized leave from the facility. "Inpatient facility," for these purposes, means a public or private hospital or unit of a hospital which has as its primary purpose the diagnosis, treatment and rehabilitation of mental illness, developmental disability, alcoholism or drug abuse and which provides 24-hour care.</p>	<p>(sexually violent person/sex predator commitment) of the Wisconsin Statutes, Chapter 975 (former sex crimes commitment) of the Wisconsin Statutes, or was transferred to the treatment facility under §51.35(3) (transfer from secure juvenile facilities) or §51.37 (criminal commitments) of the Wisconsin Statutes; and (2) the patient is on unauthorized absence from the treatment facility.</p> <p>Disclosure to a law enforcement officer of whether or not an individual is a patient at the inpatient facility is permissible if the officer is seeking to determine whether the individual is on unauthorized leave from the facility. "Inpatient facility," for these purposes, means a public or private hospital or unit of a hospital which has as its primary purpose the diagnosis, treatment and rehabilitation of mental illness, developmental disability, alcoholism or drug abuse and which provides 24-hour care.</p>

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<p>(f)(2)(i) of this section, the covered entity may not disclose for the purposes of identification or location under paragraph (f)(2) of this section any protected health information related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.</p>	<p>Wis. Stat. §51.30(4)(b)12m. To any person if the patient was admitted under §971.14, 971.17, or 980.06, or ch 975 or transferred under §51.35(3) or 51.37 and is on unauthorized absence from a treatment facility. Information released under this subdivision is limited to information that would assist in the apprehension of the patient. [Note: §971.14—Competency Proceedings; 971.17—Commitment of persons found not guilty by reason of mental disease or mental defect; 980.06—Sexually Violent Person Civil Commitments; 975—Sex Crimes Law]</p>		
Requesting Notification of Discharge Date Prior to Discharge			
<p>45 CFR §164.512(f)(2) Permitted disclosures: <i>limited information for identification and location purposes.</i> Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:</p> <p>(i) The covered entity may disclose only the following information:</p> <p>(A) Name and address; (B) Date and place of birth; (C) Social security number; (D) ABO blood type and rh factor; (E) Type of injury; (F) Date and time of treatment; (G) Date and time of death, if applicable; and (H) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.</p> <p>(ii) Except as permitted by paragraph (f)(2)(i) of this section, the covered entity may not disclose for the purposes of identification or location under paragraph (f)(2) of this section any protected health information related to the individual's</p>	<p>Wis. Stat. §146.81(4) “Patient health care records” means all records related to the health of a patient prepared by or under the supervision of a health care provider; and all records made by an ambulance service provider, as defined in §256.01(3), and emergency medical technician, as defined in §256.01(5), or first responder, as defined in §256.01(9), in the administering emergency care procedures to and handling the transporting sick, disabled, or injured individuals. “Patient health care records” includes billing statements and invoices for treatment or services provided by a health care provider and includes health summary forms prepared under §302.388(2). “Patient health care records” does not those records subject to §51.30, reports collected under §69.186, records of tests administered under §252.15(5g) or (5j), 343.305, 938.296(4), or (5) or 968.38(4) or (5), records related to sales of pseudoephedrine products, as defined in §961.01(20c), that are maintained by pharmacies under §961.235, fetal monitor tracings, as defined under §146.817 (1), or a pupil’s physical health records maintained by a school under §118.125.</p> <p>51.30(1)(am) “Registration records” include all the records of the department, county departments under §51.42 or 51.437, treatment facilities, and other persons</p>		<p><u>(Wis. Stat. §146.82) Patient Health Care Records:</u> It is unclear if date of discharge constitutes a patient health care record under Wisconsin law. If it is a patient health care record, disclosure is prohibited. Consult legal counsel.</p> <p><u>(Wis. Stat. §51.30) MH/AODA/DD Records:</u> Disclosure requires patient authorization.</p>

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<p>DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.</p> <p>If the conditions of §164.512 are met then §164.510 is not applicable.</p>	<p>providing services to the department, county departments or facilities that are created in the course of providing services to individuals for mental illness, developmental disabilities, alcoholism or drug dependence.</p> <p>51.30(b) “Treatment records” include the registration and all other records that are created in the course of providing services to individuals for mental illness, developmental disabilities, alcoholism, or drug dependence that are maintained by the department; by county departments under §51.42 or 51.347 and their staffs; by treatment facilities; or by psychologists licensed under §455.04(1) or licensed mental health providers who are not affiliated with a county department or treatment facility. Treatment records do not include notes or records maintained for personal use by an individual providing treatment services for the department, a county department under §51.42 or 51.437, or a treatment facility, if notes or records are not available to others.</p>		
Victims of Crime			
		Refer to subsection that applies.	Authorization or court order is required.
Weapons on the Premises			
	<p>Wis. Stat. §939.22(10) “Dangerous weapon” means any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any ligature or other instrumentality used on the throat, neck, nose, or mouth of another person to impede, partially or completely, breathing or circulation of blood; any electric weapon, as defined in §941.295(4), or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.</p>	Refer to Crimes on the Premises or Dangerous Patient or Visitor	
Dangerous Patient or Visitor			
<p>45 CFR §164.512(j) <i>Standard: uses and disclosures to avert a serious threat to health or safety. (1) Permitted disclosures.</i> A covered entity may, consistent with</p>	<p>No Wisconsin statutory exception. In 1988, the Wisconsin Supreme Court, in the case <i>Schuster v. Altenberg</i>, 144 Wis.2d 223 (1988), held that a common law exception to</p>	<p>Neither HIPAA nor state laws protect visitors. There is no PHI therefore limitations to reporting do not exist.</p>	<p>Disclosure of records requires authorization or court order or other statutory exception to law enforcement. HIPAA does not protect visitors. There is no PHI; therefore</p>

HIPAA Reference	State Law Reference	Reporting	Disclosure
<p>applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure:</p> <p>(i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and (B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or (ii) Is necessary for law enforcement authorities to identify or apprehend an individual:</p> <p>(A) Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or (B) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in §164.501.</p> <p>(2) <i>Use or disclosure not permitted.</i> A use or disclosure pursuant to paragraph (j)(1)(ii)(A) of this section may not be made if the information described in paragraph (j)(1)(ii)(A) of this section is learned by the covered entity:</p> <p>(i) In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure under paragraph (j)(1)(ii)(A) of this section, or counseling or therapy; or (ii) Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy described in paragraph (j)(2)(i) of this section.</p> <p>(3) <i>Limit on information that may be disclosed.</i> A disclosure made pursuant to paragraph (j)(1)(ii)(A) of this section shall contain only the statement described in paragraph (j)(1)(ii)(A) of this section and the protected health information described in paragraph (f)(2)(i) of this section.</p> <p>(4) <i>Presumption of good faith belief.</i> A covered entity that uses or discloses protected health information pursuant to</p>	<p>physician-patient privilege exists where disclosure is necessary to protect the patient or the community from “imminent and substantial” danger. This “duty to warn” exception to the physician-patient privilege was upheld in <i>State v. Agacki</i>, 226 Wis. 2d 349 (1999)</p> <p>Wis. Stat. §146.82(3) Reports made without informed consent. (a) Notwithstanding sub.(1), a physician, physician assistant, as defined in §441.16(2) who treats a patient whose physical or mental condition in the physician’s, physician assistant’s, or advanced practice nurse prescriber’s judgment affects the patient’s ability to exercise reasonable and ordinary control over a motor vehicle may report the patient’s name and other information relevant to the condition to the department of transportation without the informed consent of the patient.</p> <p>(b) Notwithstanding sub.(1), an optometrist who examines a patient whose vision in the optometrist’s judgment affects the patient’s ability to exercise reasonable and ordinary control over a motor vehicle may report the patient’s name and other information relevant to the condition to the department of transportation without the informed consent of the patient.</p> <p>Wis. Stat. §146.82(2)(a)5 In response to a written request by any federal or state governmental agency to perform a legally authorized function, including but not limited to management audits, financial audits, program monitoring and evaluation, facility licensure or certification or individual licensure or certification. The private pay patient, except if a resident of a nursing home, may deny access granted under this subdivision by annually submitting to a health care provider, other than a nursing home, a signed, written request on a form provided by the department. The provider, if a hospital, shall submit a copy of the signed form to the patient’s physician.</p>	<p><u>Patient Information:</u> Reporting is allowed if <i>Schuster</i> standard is met: danger to patient or other person(s), who need not be specifically identified, is reasonably foreseeable by a health practitioner who is exercising the degree of care and skill exercised by an average practitioner of that type acting in same or similar circumstances.</p> <p><i>Schuster</i> does not require identified threat to a specific person.</p> <p>Providers may release to law enforcement the information necessary to trigger a §51.15 emergency detention provided the <i>Schuster</i> standard is met (<i>i.e.</i> danger to self or others).</p> <p>May report what is reasonably necessary under the circumstances to protect the person or the community. For example, patient departing facility driving under influence.</p> <p>Minimum Necessary Standard may be applicable to the information that may be disclosed to Law Enforcement to substantiate the circumstances of dangerousness. <i>Schuster v. Altenberg</i>, 144 Wis. 2d 223 (1988).</p>	<p>limitations to disclosure do not exist.</p>

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<p>paragraph (j)(1) of this section is presumed to have acted in good faith with regard to a belief described in paragraph (j)(1)(i) or (ii) of this section, if the belief is based upon the covered entity's actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.</p>	<p>51.15 (1) Basis for detention.</p> <p>(ar) A law enforcement officer or other person authorized to take a child into custody under ch. 48 or to take a juvenile into custody under ch. 938 may take an individual into custody if the officer or person has cause to believe that the individual is mentally ill, is drug dependent, or is developmentally disabled, and that the individual evidences any of the following:</p> <ol style="list-style-type: none"> 1. A substantial probability of physical harm to himself or herself as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm. 2. A substantial probability of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior on his or her part, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt or threat to do serious physical harm on his or her part. 3. A substantial probability of physical impairment or injury to himself or herself due to impaired judgment, as manifested by evidence of a recent act or omission. The probability of physical impairment or injury is not substantial under this subdivision if reasonable provision for the individual's protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services or, in the case of a minor, if the individual is appropriate for services or placement under §48.13(4) or (11) or 938.13(4). Food, shelter or other care provided to an individual who is substantially incapable of obtaining the care for himself or herself, by any person other than a treatment facility, does not constitute reasonable provision for the individual's protection available in the community under this subdivision. 4. Behavior manifested by a recent act or omission that, due to mental illness or drug dependency, he or she is unable to satisfy basic needs for nourishment, medical care, 		

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	<p>shelter or safety without prompt and adequate treatment so that a substantial probability exists that death, serious physical injury, serious physical debilitation or serious physical disease will imminently ensue unless the individual receives prompt and adequate treatment for this mental illness or drug dependency. No substantial probability of harm under this subdivision exists if reasonable provision for the individual's treatment and protection is available in the community and there is a reasonable probability that the individual will avail himself or herself of these services, if the individual can receive protective placement under §55.06 or, in the case of a minor, if the individual is appropriate for services or placement under §48.13(4) or (11) or 938.13(4). The individual's status as a minor does not automatically establish a substantial probability of death, serious physical injury, serious physical debilitation or serious disease under this subdivision. Food, shelter or other care provided to an individual who is substantially incapable of providing the care for himself or herself, by any person other than a treatment facility, does not constitute reasonable provision for the individual's treatment or protection available in the community under this subdivision.</p> <p>(b) The officer's or other person's belief shall be based on any of the following:</p> <ol style="list-style-type: none"> 1. A specific recent overt act or attempt or threat to act or omission by the individual which is observed by the officer or person. 2. A specific recent overt act or attempt or threat to act or omission by the individual which is reliably reported to the officer or person by any other person, including any probation, extended supervision and parole agent authorized by the department of corrections to exercise control and supervision over a probationer, parolee or person on extended supervision. 		
Accidents			
45 CFR §164.512(a)(1) <i>Standard: uses and disclosures</i>	Wis. Stat. §30.67(2) Duty to Report [Boating Accident Reporting]	No mandatory or permissive accident reporting for health care providers is required;	Disclosure of records requires authorization or court order or other statutory exception to law

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<p><i>required by law.</i></p> <p>(1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.</p>	<p>(a) If a boating accident results in death or injury to any person, the disappearance of any person from a boat under circumstances indicating death or injury, or property damage, every operator of a boat involved in an accident shall, without delay and by the quickest means available, give notice of the accident to a conservation warden or local law enforcement officer and shall file a written report with the department on the form prescribed by it. The department shall promulgate rules necessary to keep accident reporting requirements in conformity with rules adopted by the U.S. coast guard.</p> <p>(b) If the operator of a boat is physically incapable of making the report required by this subsection and there was another occupant in the boat at the time of the accident capable of making the report the other occupant shall make such report.</p> <p>Wis. Stat. §29.341(1) [Hunting Accident Reporting.] Any person who, while hunting any wild animal or bird, discharges a firearm or arrow, and by that discharge injures or kills another person, shall immediately give his or her name and address to the injured person, render assistance to the injured person and obtain immediate medical or hospital care for the injured person, and immediately report the injury or death to the sheriff or police of the locality in which the shooting took place.</p> <p>Wis. Stat. §255.40 Reporting of wounds and burn injuries.</p> <p>(1) In this section:</p> <p>(a) “Crime” has the meaning specified in §949.01(1) [“Crime” means an act committed in this state which would constitute a crime as defined in §939.12 if committed by a competent adult who has no legal defense for the act.] (b) “Inpatient health care facility” has the meaning specified in §50.135(1).</p> <p>(2)</p> <p>(a) Any person licensed, certified or registered by the state under ch. 441, 448 or 455 who treats a patient suffering from any of</p>	<p>therefore, another law has to apply for provider to disclose to law enforcement (<i>e.g.</i> death, suspicious wound)</p> <p>If the provider has a reasonable cause to believe that the injuries occurred as a result of a crime (§949.01(1)), <i>see</i> Wounds and Burns reporting.</p> <p>If injuries are not related to a crime, an authorization from patient or court order is necessary.</p> <p>Refer to Dangerous Patient if applicable.</p>	<p>enforcement.</p> <p>Regarding release of accident victim names, see section Requests for Information for Identifying and Locating a Missing Person, Suspect, Fugitive, Material Witness, Etc.</p>

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	<p>the following shall report in accordance with (b):</p> <ol style="list-style-type: none"> 1. A gunshot wound. 2. Any wound other than a gunshot wound if the person has reasonable cause to believe that the wound occurred as a result of a crime. 3. Second-degree or 3rd-degree burns to at least 5% of the patient's body or, due to the inhalation of superheated air, swelling of the patient's larynx or a burn to the patient's upper respiratory tract, if the person has reasonable cause to believe that the burn occurred as a result of a crime. <p>(b) For any mandatory report under par. (a) the person shall report the patient's name and the type of wound or burn injury involved as soon as reasonably possible to the local police department or county sheriff's office for the area where the treatment is rendered.</p> <p>(c) Any such person who intentionally fails to report as required under this subsection may be required to forfeit not more than \$500.</p> <p>(3) Any person reporting in good faith under subd.(2), and any inpatient health care facility that employs the person who reports, are immune from all civil and criminal liability that may result because of the report. In any proceeding, the good faith of any person reporting under this section shall be presumed. (4) The reporting requirement under sub.(2) does not apply under any of the following circumstances:</p> <ol style="list-style-type: none"> (a) The patient is accompanied by a law enforcement officer at the time treatment is rendered. (b) The patient's name and type of wound or burn injury have been previously reported under sub. (2). (c) The wound is a gunshot wound and appears to have occurred at least 30 days prior to the time of treatment. 		
Blood Draw			
<p>45 CFR §164.512(f)(1)(i) Standard: <i>disclosures for law enforcement purposes.</i> A covered entity may disclose protected health information for a law enforcement purpose to a law</p>	<p>23.33(4p) All-terrain vehicle 30.684 Boats & watercraft 350.104 Snowmobiles</p> <p>343.305(3) Requested or Required</p>		<p><u>Legal Blood Draw:</u> If blood or other samples are taken in accordance with Wis. Stat. § 343.305, including 343.305(5), 350.104 [snowmobiling], and 30.684 [boating], regardless of a</p>

HIPAA Reference	State Law Reference	Reporting	Disclosure
<p>enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.</p> <p>(1) <i>Permitted disclosures:</i> pursuant to process and as otherwise required by law. A covered entity may disclose protected health information:</p> <p>(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or</p> <p>(ii) In compliance with and as limited by the relevant requirements of:</p> <p>(A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;</p> <p>(B) A grand jury subpoena; or</p> <p>(C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:</p> <p>(1) The information sought is relevant and material to a legitimate law enforcement inquiry;</p> <p>(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and</p> <p>(3) De-identified information could not reasonably be used.</p>	<p>(a) Upon arrest of a person for violation of §346.63(1), (2m) or (5) or a local ordinance in conformity therewith, or for a violation of §346.63(2) or (6) or 940.25 or §940.09 where the offense involved the use of a vehicle, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample.</p> <p>(am) Prior to arrest, a law enforcement officer may request the person to provide one or more samples of his or her breath, blood or urine for the purpose specified under sub. (2) whenever a law enforcement officer detects any presence of alcohol, a controlled substance, a controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person is violating or has violated §346.63(7). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. For the purposes of this paragraph, “law enforcement officer” includes inspectors in the performance of duties under §10.07(3).</p> <p>2. If a person is the operator of a vehicle that is involved in an accident that causes the death of or great bodily harm to any person and the law enforcement officer has reason to believe that the person violated any state or local traffic law, the officer may request the operator to provide one or more samples of his or her breath, blood, or urine for the purpose specified under sub. (2). Compliance with a request for one type of sample does not bar a subsequent request for a different type of sample. A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subdivision and one or more samples specified in par (a) or am) may be administered to the person. If a person refuses to take a test under this subdivision, he or she may be arrested under par. (a).</p>		<p>health care provider being responsible for drawing the blood or other sample, doing so is at the behest of the police and the health care provider is not acting in a patient-physician or patient-nurse relationship. Moreover, blood itself or other material sampled is not PHI. There are no state law or HIPAA obstructions to the police taking the blood and submitting it for testing at the state laboratory facilities, as is usually done. If the testing was completed at the hospital lab, then disclosure would be permitted.</p> <p><u>Blood Draw for Clinical Purposes:</u> Blood drawn for clinical purposes, whether or not a blood alcohol test was performed, cannot be so released. If a blood alcohol level was done for clinical purposes, it is PHI and cannot be released to the police or otherwise without an authorization or court order. Similarly, presumably blood obtained for clinical purposes cannot be released to the police for testing without an authorization or court order.</p> <p><u>Scenarios:</u> Patient presents to ER not in police custody and exhibits symptoms of intoxication, workup includes BAL and police officer arrives later asking for test result. An authorization is required for disclosure.</p> <p>Patient presents in police custody, or police arrive later, and police officer requests draw under §343 or 30.684 or 305 and the hospital lab processes the test, the test result may be released without authorization.</p>

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	<p>(b) A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subsection, and if a law enforcement officer has probable cause to believe that the person has violated §346.63(1), (2m) or (5) or a local ordinance in conformity therewith, or §346.63(2) or (6) or 940.25, or §940.09 where the offense involved the use of a vehicle, or detects any presence of alcohol, controlled substance, controlled substance analog or other drug, or a combination thereof, on a person driving or operating or on duty time with respect to a commercial motor vehicle or has reason to believe the person has violated §346.63(7), one or more samples specified in par. (a) or (am) may be administered to the person.</p> <p>(c) This section does not limit the right of a law enforcement officer to obtain evidence by any other lawful means.</p> <p>343.305(5) If the person submits to a test under this section, the officer shall direct the administering of the test. A blood test is subject to par. (b). The person who submits to the test is permitted, upon his or her request, the alternative test provided by the agency under sub. (2) or, at his or her own expense, reasonable opportunity to have any qualified person of his or her own choosing administer a chemical test for the purpose specified under sub. (2). If the person has not been requested to provide a sample for a test under sub. (3) (a), (am) or (ar), the person may request a breath test to be administered by the agency or, at his or her own expense, reasonable opportunity to have any qualified person administer any test specified under sub. (3) (a), (am) or (ar).</p> <p>The failure or inability of a person to obtain a test at his or her own expense does not preclude the admission of evidence of the results of a test administered under sub. (3) (a), (am) or (ar). If a person requests the agency to administer a breath test and if the agency is unable to perform that test, the</p>		

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	<p>person may request the agency to perform a test under (3) (a), (am) or (ar) that it is able to perform. The agency shall comply with a request made in accordance with this paragraph.</p> <p>(b) Blood may be withdrawn from the person arrested for violation of ss. 353.63(1), (2), (2m), (5) or (6) or 940.25, or §940.09 where the offense involved the use of a vehicle, or a local ordinance in conformity with §346.63(1), (2m) or (5) or as provided in sub.(3) (am) or (b) to determine the presence or quantity of alcohol, a controlled substance, a controlled substance analog or any other drug, or any combination of alcohol, controlled substance, controlled substance analog and any other drug in the blood only by a physician, registered nurse, medical technologist, physician assistant, phlebotomist, or other medical professional who is authorized to draw blood, or person acting under the direction of a physician. (c) A person acting under par. (b), the employer of any such person and any hospital where blood is withdrawn by any such person have immunity from civil or criminal liability under §895.53.</p>		

Reporting Crime in Emergency

<p>45 CFR §164.512(c) Standard: <i>disclosures about victims of abuse, neglect or domestic violence.</i> (1) <i>Permitted disclosures.</i> Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence: (i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;</p>	<p>Wis. Stat. §265.15(12)(a)(b) (12) Confidentiality of records. (a) All records made by an ambulance service provider, an emergency medical technician or a first responder in administering emergency care procedures to and handling and transporting sick, disabled or injured individuals shall be maintained as confidential patient health care records subject to s. 252.15 (3m), (6), (8) and (9), if applicable. Nothing in this paragraph or ss. 146.81 to 146.84 permits disclosure to an ambulance service provider, an emergency medical technician or a first responder under s. 252.15 (3m), except under s. 252.15 (3m) (e). (b) Notwithstanding s. 146.82, an ambulance service provider, who is an authority, as defined in s. 19.32 (1), may make available, to any requester, information contained on a</p>	<p>If the circumstances of the crime meet the reporting requirements under Wounds and Burns Reporting, Crime on the Premises, Child Abuse or Elder Abuse, reporting will be allowed or required.</p>	<p>For abuse, neglect or domestic violence of the individual in need of health care, see Wounds and Burns Reporting, Child Abuse or Elder Abuse.</p> <p>In addition, upon request an ambulance provider who is an “authority” as defined in §19.32(1)[for purposes of the Wisconsin public records law], may disclose the information specified in Wis. Stat. §146.50(12)(b) if HIPAA provides an exemption for disclosure such as §164.512(c) for victims of abuse, neglect or domestic violence or 45 CFR §164.512(f)(6) for reporting crimes in emergencies (disclosure necessary to alert law enforcement to the commission and nature of a crime; the location of the crime or the victim(s); and the identity, description, and location of the perpetrator).</p>
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<p>(ii) If the individual agrees to the disclosure; or</p> <p>(iii) To the extent the disclosure is expressly authorized by statute or regulation and:</p> <p>(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or</p> <p>(B) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.</p> <p>(2) <i>Informing the individual.</i> A covered entity that makes a disclosure permitted by paragraph (c)(1) of this section must promptly inform the individual that such a report has been or will be made, except if:</p> <p>(i) The covered entity, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or</p> <p>(ii) The covered entity would be informing a personal representative, and the covered entity reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.</p> <p>45 CFR §164.512(f)(6) Permitted disclosure: reporting crime in emergencies.</p> <p>(i) A covered health care provider providing emergency health care in response to a medical emergency, other than such emergency on the premises of the covered health care provider, may</p>	<p>record of an ambulance run which identifies the ambulance service provider and emergency medical technicians involved; date of the call; dispatch and response times of the ambulance; reason for the dispatch; location to which the ambulance was dispatched; destination, if any, to which the patient was transported by ambulance; and name, age and gender of the patient. No information disclosed under this paragraph may contain details of the medical history, condition or emergency treatment of any patient.</p> <p>No information disclosed under this paragraph may contain details of the medical history, condition or emergency Treatment of any patient.</p> <p>[Note: Wis. Stat. §19.32(1)—"Authority" means any of the following having custody of a record: a state or local office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; a governmental or quasi- governmental corporation except for the Bradley center sports and entertainment corporation; a special purpose district,; any court of law; the assembly or senate; a nonprofit corporation which receives more than 50% of its funds from a county or a municipality, as defined in §59.001(3), and which provides services related to public health or safety to the county or municipality; a university police department under §175.42; or a formally constituted subunit of any of the foregoing.]</p>		

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<p>disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:</p> <p>(A) The commission and nature of a crime; (B) The location of such crime or of the victim(s) of such crime; and (C) The identity, description, and location of the perpetrator of such crime.</p> <p>(ii) If a covered health care provider believes that the medical emergency described in paragraph (f)(6)(i) of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, paragraph (f)(6)(i) of this section does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to paragraph (c) of this section.</p>			
Missing Person			
		Refer to Requests Regarding Missing Person, Suspect, Fugitive, Material Witness etc.	
Drug-Seeking Individuals			
		Refer to Crimes on the Premises	
Animal Bites			
		<p>In general, animal bites are reportable to the public health department rather than to law enforcement. Wis. Stat. § 250.04(3)(b)3. and 252.03(2); Wis. Admin. Code DHS §145.05(1) and (2). In some counties, however, the health department may have delegated the responsibility for receiving these reports to local law enforcement agencies. When this is the case, the provider should obtain clarification (documentation) from the local Public Health Department that the reporting responsibility has been delegated to the local law enforcement agency. Once the documentation is received, it is permissible to report animal bites directly to law enforcement. In some counties, there may be an ordinance that requires anyone with knowledge of an animal bite to report to law enforcement. If such an ordinance exists, reporting to law enforcement is permissible. Providers should consult their legal counsel if</p>	<p>Disclosure of records to law enforcement agencies requires an authorization or court order.</p>

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		assistance is needed to determine whether such an ordinance exists. See Appendix B for Department of Health and Family Services letter.	
Identity Theft			
		Refer to Crime on Premises.	Seek legal counsel. Covered entity should have a written procedure.
Emergency Detentions			
		See Dangerous Patient/Visitor	
Misconduct—Caregiver			
<p>45 CFR §164.512(f)(1)(i) Standard: disclosures for law enforcement purposes. A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.</p> <p>(1) <i>Permitted disclosures: pursuant to process and as otherwise required by law.</i> A covered entity may disclose protected health information:</p> <p>(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section;</p> <p>45 CFR §164.512(c)(1) Standard: disclosures about victims of abuse, neglect or domestic violence.</p> <p>(1) <i>Permitted disclosures.</i> Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:</p> <p>(i) To the extent the disclosure is required by law and the disclosure complies with</p>	<p>146.82(2)(a)5 In response to a written request by any federal or state governmental agency to perform a legally authorized function, including but not limited to management audits, financial audits, program monitoring and evaluation, facility licensure or certification or <i>individual</i> licensure or certification. The private pay patient, except if a resident of a nursing home, may deny access granted under this subdivision by annually submitting to a health care provider, other than a nursing home, a signed, written request on a form provided by the department. The provider, if a hospital, shall submit a copy of the signed form to the patient’s physician.</p> <p>DHS 13.03(1)(a) “Abuse” means any of the following:</p> <p>1. An act or repeated acts by a caregiver or nonclient resident, including but not limited to restraint, isolation or confinement, that, when contrary to the entity’s policies and procedures, not a part of the client’s treatment plan and done intentionally to cause harm, does any of the following:</p> <p>a. Causes or could reasonably be expected to cause pain or injury to a client or the death of a client, and the act does not constitute self-defense as defined in §939.48.</p> <p>b. Substantially disregards a client’s rights under ch. 50 or 51, Stats., or a caregiver’s duties and obligations to a client.</p> <p>c. Causes or could reasonably be expected to cause mental or emotional damage to a client, including harm to the client’s psychological or</p>	<p><i>To Whom</i>—The Wisconsin Department of Health Services Bureau of Quality Assurance; The Department of Safety and Professional Services.</p> <p>In the case of child abuse or neglect, to county authorities (County Department of Social or Human Services or the sheriff or city, village. or town police department)</p> <p><i>Information to be Reported</i>—Any allegation of action or inaction constituting abuse, neglect or misappropriation of patient property committed by an employee or contractor with the covered entity if that person is under the entity’s control.</p> <p><u>When to Report</u>—Within 7 calendar days from the date the entity knew or should have known about the misconduct</p> <p><u>Who can Report Misconduct</u>—Any individual to the Department of Health and Family Services</p>	<p>Records disclosure to federal and state agencies performing legally authorized functions, without authorization or court order, is provided by Wis. Stat. §146.82(2)(a)(5).</p> <p>The Caregiver Misconduct Law applies to any facility, agency, organization or service that is licensed, approved, certified by, or registered with DHS.</p> <p>Covered entities need not report incidents where the investigation reveals that the effect on the patient is minor, even if the entity cannot rule out the possibility that the incident meets the definition of misconduct. A minor effect on a patient is one that causes no apparent physical, emotional or mental pain or suffering to a patient. Examples: missing candy, mild profanities not directed to a patient.</p> <p>Follow the state regulation and disclose any allegation of abuse, neglect or misappropriation of patient property within 7 calendar days of when it was or should have been discovered unless it is minor or upon investigation, it is clear that the incident did not occur. In these instances, document the investigation. The reporting form may be obtained at: www.dhs.wisconsin.gov – Forms F62520</p>

HIPAA Reference	State Law Reference	Reporting	Disclosure
<p>and is limited to the relevant requirements of such law;</p> <p>(ii) If the individual agrees to the disclosure; or</p> <p>(iii) To the extent the disclosure is expressly authorized by statute or regulation and:</p> <p>(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or</p> <p>(B) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.</p> <p>45 CFR §164.512(d)(1) <i>Standard: uses and disclosures for health oversight activities. (l) Permitted disclosures.</i> A covered entity may disclose protected health information to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:</p> <p>(i) The health care system;</p> <p>(ii) Government benefit programs for which health information is relevant to beneficiary eligibility;</p> <p>(iii) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or</p> <p>(iv) Entities subject to civil rights laws for which health information is necessary for</p>	<p>intellectual functioning that is exhibited by anxiety, depression, withdrawal, regression, outward aggressive behavior, agitation, or a fear of harm or death, or a combination of these behaviors. This subdivision does not apply to permissible restraint, isolation, or confinement implemented by order of a court or as permitted by statute.</p> <p>2. An act or acts of sexual intercourse or sexual contact under §940.225, Stats. by a caregiver and involving a client.</p> <p>3. The forcible administration of medication to or the performance of psychosurgery, electroconvulsive therapy or experimental research on a client with the knowledge that no lawful authority exists for the administration or performance.</p> <p>4. A course of conduct or repeated acts by a caregiver which serve no legitimate purpose and which, when done with intent to harass, intimidate, humiliate, threaten or frighten a client, causes or could reasonably be expected to cause the client to be harassed, intimidated, humiliated, threatened or frightened.</p> <p>DHS 13.03(1)(b) “Abuse” does not include an act or acts of mere inefficiency, unsatisfactory conduct or failure in good performance as the result of inability, incapacity, inadvertency, or ordinary negligence in isolated instances, or good faith errors in judgment or discretion.</p> <p>DHS 13.03(3)(a) “Caregiver” means a person who is all of the following:</p> <p>1. A person who has received regulatory approval from an agency or is employed by or under contract with an entity.</p> <p>2. A person who has access to the entity’s clients.</p> <p>3. A person who is under the entity’s control.</p> <p>DHS 13.03(3)(b) “Caregiver” does not include any of the following:</p> <p>1. A person who performs solely clerical, administrative, maintenance, or other support functions for the entity and is not expected to have regular, direct contact with clients or the personal property of clients.</p> <p>2. A person who is employed by or under</p>		

HIPAA Reference	State Law Reference	Reporting	Disclosure
<p>determining compliance</p> <p>45 CFR §164.512(a)(1) Standard: <i>uses and disclosures required by law.</i></p> <p>(1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.</p>	<p>contract with an entity to provide infrequent or occasional services, such as delivering items to the facility, equipment maintenance, grounds keeping, construction or other similar services that are not directly related to the care of a client.</p> <p>DHS 13.03(12) “Misappropriation of property” means any of the following:</p> <p>a. The intentional taking, carrying away, using, transferring, concealing or retaining possession of a client’s movable property without the client’s consent and with the intent to deprive the client of possession of the property.</p> <p>b. Obtaining property of a client by intentionally deceiving the client with a false representation which is known to be false, made with the intent to defraud, and which does defraud the person to whom it is made. In this paragraph, “false representation” includes a promise made with the intent not to perform it if it is a part of false and fraudulent scheme.</p> <p>c. By virtue of his or her office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally using, transferring, concealing, or retaining possession of the money, security, instrument, paper or writing without the owner’s consent, contrary to his or her authority, and with the intent to convert it to his or her own use or to the use of any other person except the owner.</p> <p>d. Intentionally using or attempting to use personal identifying information as defined in §943.201(1)(b), Stats., or an individual’s birth certificate or financial transaction card as defined in §943.41(1)(em), Stats., to obtain credit, money, goods, services or anything else of value without the authorization or consent of the individual and by representing that he or she is the individual or is acting with the authorization or consent of the individual.</p> <p>e. Violating §943.38, Stats., involving the property of a client, or §943.41, Stats., involving fraudulent use of the client’s financial transaction card.</p>		

HIPAA Reference	State Law Reference	Reporting	Disclosure
	<p>DHS 13.03(14)(a) “Neglect” means an intentional omission or intentional course of conduct by a caregiver or nonclient resident, including but not limited to restraint, isolation, or confinement, that is contrary to the entity’s policies and procedures, is not part of the client’s treatment plan and, through substantial carelessness or negligence, does any of the following:</p> <ol style="list-style-type: none"> 1. Causes or could reasonably be expected to cause pain or injury to a client or the death of a client. 2. Substantially disregards a client’s rights under either ch. 50 or 51, Stats. or a caregiver’s duties and obligations to a client. 3. Causes or could reasonably be expected to cause mental or emotional damage to a client, including harm to the client’s psychological or intellectual functioning that is exhibited by anxiety, depression, withdrawal, regression, outward behavior, agitation, fear or harm or death, or a combination of these behaviors. <p>This paragraph does not apply to permissible restraint, isolation or confinement implemented by order of a court or as permitted by statute.</p> <p>DHS 13.03(14)(b) “Neglect” does not include an act or acts of mere inefficiency, unsatisfactory conduct or failure in good performance as the result of inability, incapacity, inadvertency, or ordinary negligence in isolated instances, or good faith errors in judgment or discretion.</p> <p>DHS 13.05(2) Entity’s Responsibility to Protect Clients. Upon learning of an incident of alleged misconduct, an entity shall take whatever steps are necessary to ensure that clients are protected from subsequent episodes of misconduct while a determination on the matter is pending.</p> <p>DHS 13.05(3) Entity’s Responsibility to Report Allegations</p> <p>(a) <i>Entity's duty to report to the department.</i> Except as provided under pars. (b) and (c), an entity shall report to the department any allegation of an act, omission or course of</p>		

HIPAA Reference	State Law Reference	Reporting	Disclosure
	<p>conduct described in this chapter as client abuse or neglect or misappropriation of client property committed by any person employed by or under contract with the entity if the person is under the control of the entity. The entity shall submit its report on a form provided by the department within 7 calendar days from the date the entity knew or should have known about the misconduct. The report shall contain whatever information the department requires.</p> <p>(b) <i>Entity's duty to report to the department of regulation and licensing.</i> In addition to the reporting requirement under par. (c), an entity shall report to the department of regulation and licensing any allegation of misconduct committed by any person employed by or under contract with the entity, if the person holds a credential from the department of regulation and licensing that is related to the person's employment at, or contract with, the entity. The entity's report shall be made within 7 calendar days from the date the entity knew or should have known about the misconduct.</p> <p>(c) <i>Entity's duty to report child abuse or neglect to county authorities.</i> In accordance with s. 48.981, Stats., an entity shall immediately report, by telephone or personally, to the county department of social services or human services or the sheriff or city, village or town police department the facts and circumstances contributing to a suspicion that child abuse or neglect has occurred or to a belief that it will occur. In addition, the entity shall notify the department in writing or by phone within 7 calendar days that the report has been made.</p> <p>(d) <i>Entity's duty to notify subject of the report.</i> An entity shall notify the subject of a report under par. (a), (b), or (c) that an allegation of abuse or neglect of a client or misappropriation of a client's property has been made and that the report is being forwarded to the appropriate authority. Notice to the subject of the report shall be given as soon as practicable, but within 7 calendar days of the entity's reporting to the appropriate authority.</p>		

HIPAA Reference	State Law Reference	Reporting	Disclosure
	<p>(e) <i>Penalty for failure to report incidents of caregiver misconduct.</i> An entity that intentionally fails to report an allegation of misconduct under this subsection by any person employed by or under contract with the entity may be required to forfeit not more than \$1,000 and may be subject to any of the following sanctions:</p> <ol style="list-style-type: none"> 1. Submission by the entity of a plan of correction for approval by the department, and implementation of the plan of correction. 2. Implementation by the entity of a department-imposed plan of correction. 3. Any regulatory limitations or conditions, as appropriate, imposed by the department on the entity. 4. Suspension or revocation of licensure, certification or other approval for a period of not more than 5 years. 5. Notification in a local newspaper of the act and, if applicable, any forfeiture imposed. <p>DHS 13.05(4) Reports Submitted to the Department by Other Persons.</p> <p>(a) If any individual believes that a person employed by or under contract with an entity has abused or neglected a client or misappropriated a client's property, the individual may report this to the department. The report may be made by phone or in writing on a form provided by the department.</p>		
Misconduct—Psychotherapist			
<p>45 CFR §164.512(a)(1) Standard: uses and disclosures required by law. (1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.</p> <p>45 CFR §164.512(d)(1) Standard: Uses and disclosures for health oversight activities. (1) <i>Permitted disclosures.</i> A covered entity may disclose protected health information</p>	<p>940.22(3) Reports of Sexual Contact. (a) If a therapist has reasonable cause to suspect that a patient or client he or she has seen in the course of professional duties is a victim of sexual contact by another therapist or a person who holds himself or herself out to be a therapist in violation of sub. (2), as soon thereafter as practicable the therapist shall ask the patient or client if he or she wants the therapist to make a report under this subsection. The therapist shall explain that the report need not identify the patient or client as the victim. If the patient or client wants the therapist to make the report, the patient or client shall provide the</p>	<p>Follow State as outlined in Wis. Stat. §940.22(3)(c) for the information to be reported.</p>	<p>Further information/records disclosed need authorization and/or court order.</p>

HIPAA Reference	State Law Reference	Reporting	Disclosure
<p>to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:</p> <ul style="list-style-type: none"> (i) The health care system; (ii) Government benefit programs for which information is relevant to beneficiary eligibility; (iii) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or (iv) Entities subject to civil rights laws for which health information is necessary for determining compliance. 	<p>therapist with a written consent to the report and shall specify whether the patient's or client's identity will be included in the report.</p> <p>(b) Within 30 days after a patient or client consents under par. (a) to a report, the therapist shall report the suspicion to:</p> <ol style="list-style-type: none"> 1. The department, if the reporter believes the subject of the report is licensed by the state. The department shall promptly communicate the information to the appropriate examining board or affiliated credentialing board. 2. The district attorney for the county in which the sexual contact is likely, in the opinion of the reporter, to have occurred, if subd. 1. Is not applicable. <p>(c) A report under this subsection shall contain only information that is necessary to identify the reporter and subject and to express the suspicion that sexual contact has occurred in violation of sub. (2). The report shall not contain information as to the identity of the alleged victim of sexual contact unless the patient or client requests under par. (a) that this information be included.</p> <p>(d) Whoever intentionally violates this subsection by failing to report as required under pars. (a) to (c) is guilty of a Class A misdemeanor.</p>		

Version History:**Current Version:** 12/17/15

Reviewed by:	Content Changed:
HIPAA-COW Privacy/Law Enforcement Review Task Group <ul style="list-style-type: none"> • Nadya Aswad, JD, CIPP/US, CIPP/E, PwC, Madison • Heather Fields, JD, Reinhart Boerner Van Deuren s.c Milwaukee • Mary Langer, Three Pillars Senior Living Communities, Dousman • Dawn Paulson, MJ, RHIA, UW Health, Madison • Betty Rockendorf, MS, RHIA, Ministry Door County Medical Center, Sturgeon Bay • Bethany Seeboth, JD, Froedtert Health, Menomonee Falls • Sue Sullivan, RN, BSN, MSN, Vernon Memorial Healthcare, Viroqua • Steven Warren, MS, CPHIMS, Marshfield Clinic, Marshfield 	Original Grid was updated with Wisconsin regulatory changes and HIPAA/HITECH/Omnibus changes since 2005.

Previous Version: 6/20/05

Prepared by:
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APPENDIX A

EXCEPTIONS FOR DISCLOSURE TO LAW ENFORCEMENT: CHAPTER 51

- Unless a separate exception exists under law, disclosure of the patient health care or treatment records requires authorization or court order. Under Wis. Stat. § 51.30(4)(b)8m and (1) Wis. Stat. § 971.17(2)(e), a court-appointed examiner evaluating the status of a criminal defendant pleading not guilty by reason of mental disease or defect has the right of access to the defendant's past and present mental health treatment records and patient health care records; (2) Wis. Stat. §§ 980.03(4) and 980.08(3), an examiner retained or appointed for purposes of proceedings involving commitment of sexually violent persons, has the right of access to a defendant's past and present mental health treatment records and patient health care records.
- Under Wis. Stat. § 51.30(4)(b)9, mental health treatment records may be released without consent to a facility receiving a person involuntarily committed under Chapter 51 (mental health), Chapter 971 (criminal pretrial commitment) or under Chapter 975 (sex crimes law) or upon transfer of such a committed person from one facility to another. The statute limits records to be released to: such treatment records as are required by law; a record or summary of all somatic treatments; and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment provided and recommendation for further treatment, but may not include the patient's complete treatment record.
- Under Wis. Stat. § 51.30 (4)(b)(10) treatment records may be released to correctional facilities, probation, extended supervision and parole agents responsible for supervision of a person receiving inpatient or outpatient evaluation or treatment under Chapter 51 in a program, by, or under contract with, the Department of Health and Family Services or a county department under Wis. Stat. §§ 51.42 or 51.437 or, in treatment facility as a condition of probation, extended supervision or parole, or when the individual is transferred from a state or local correctional facility to a treatment program and then transferred back to the correctional facility. This statute limits records to be released to: the report of an evaluation provided pursuant to the written probation, extended supervision and parole supervision plan; the discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment which is provided as part of the probation, extended supervision and parole supervision plan; any information necessary to establish or implement changes in the individual's treatment plan or the level and kind of supervision on probation, extended supervision or parole, as determined by the director of the facility or the treatment director. In cases involving a person transferred from a treatment facility back to a correctional facility, disclosure may be made to clinical staff only. In cases involving a person on probation, extended supervision or parole, disclosure may be made to a probation, extended supervision and parole agent only.
- Under Wis. Stat. § 51.30(4)(b)10m, agencies having the authority or duty to release or discharge a person who may meet the criteria for commitment as a sexually violent person (Chapter 980) may release documentation (including treatment records) of any treatment the person has undergone and the person's adjustment to any institutional placement.
- Under Wis. Stat. § 51.30(4)(b)11, treatment records may be released to an individual's counsel or guardian ad litem and the county corporation counsel at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals or other actions relating to detention, admission, commitment or patients' rights under Chapter 51 (Mental Health), Chapter 48 (Children's Code), Chapter 971 (Criminal Procedure and Proceedings Before Trial) or Chapter 975 (Sex Crimes Law).
- Under Wis. Stat. § 51.30(4)(b)11m, treatment records may be released to the guardian ad litem of an unborn child to prepare for proceedings under a Wis. Stat. § 48.133 giving courts exclusive jurisdiction of an unborn child alleged to be in need of protection or services that can be ordered by the court under circumstances when there has been a determination that the expectant mother habitually lacks self control in the use of alcohol beverages, controlled substances or controlled substances analogs.
- Under Wis. Stat. § 51.30(4)(b)12, treatment records limited to a notice of an individual's change in status may be released to a correctional officer of the Department of Corrections who has custody of or is responsible for the supervision of an individual who is transferred or discharged from a treatment facility.

- Under Wis. Stat. § 51.30(4)(b)12m, the following records may be released: Treatment records limited to information that will assist in apprehension of a patient on unauthorized absence from a treatment facility if the patient was admitted under statutory provisions dealing with a criminal defendant's competency (971.14), committed after having been found not guilty by reason of mental disease or defect (971.17), committed as a sexually violent person (980.06) or under the sex crimes law (Chapter 975), or transferred to a treatment facility as part of a commitment proceeding.
- Under Wis. Stat. § 51.30(4)(b)16, if the Department of Health and Family Services so authorizes, treatment records may be released to a law enforcement agency upon request if the subject individual was admitted under Chapter 971 or 975, or transferred to treatment facilities under Wis. Stat. §§ 51.35(3) or 51.37. Information released under this subsection is limited to: The patient's name and other identifying information (including photographs and fingerprints); the branch of the court that committed the individual; the crime that the individual is charged with, found not guilty of by reason of mental disease or defect or convicted of; whether the individual is or has been authorized to leave the grounds of the institution; and information regarding the individual's whereabouts during any time period.
- Under Wis. Stat. § 51.30(4)(b)17, treatment records may be released to: County agencies or other investigating agencies for purposes of reporting elder abuse; county departments or sheriff police departments for purposes of reporting child abuse or neglect; and to the Milwaukee County Protective Service Agency for purposes of investigating misappropriation of property or neglect or abuse of a vulnerable adult.
- Under Wis. Stat. § 51.30(4)(b)19, treatment records may be released to state and local law enforcement agencies for the purpose of reporting an apparent crime committed on the premises of an inpatient treatment facility or nursing home. Information released under this subsection is limited to identifying information designated under Wis. Stat. § 51.30(4)(b)16 (see above).
- Under Wis. Stat. § 51.30(4)(b)23, treatment records may be released to the Department of Health and Family Services, to a sheriff, police department or district attorney for purposes of investigation of a death reported under Wis. Stat. § 51.64(2)(a).
- Under Wis. Stat. § 51.30(4)(b)24, treatment records may be released to the Department of Corrections for the purposes of obtaining information concerning a person required to register under the sex offender registration statute (Wis. Stat. § 301.45).
- Under Wis. Stat. § 51.30(4)(b)26, treatment records may be released to the Department of Corrections or to a sheriff to determine if an incarcerated person is complying with the assessment or the driver safety plan ordered under the statute dealing with suspension and revocation of driving permits (Wis. Stat. § 343.30(1g)(c)).



APPENDIX B

DIVISION OF PUBLIC HEALTH

1 WEST WILSON STREET
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MADISON WI 53701-2659

Jim Doyle
Governor

Helene Nelson
Secretary

State of Wisconsin
Department of Health and Family Services

608-266-1251
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DATE: June 23, 2004
TO: Local Health Department Directors and Staff, DPH Regional Office Directors
FROM: Herb Bostrom, Director, Bureau of Communicable Disease and Preparedness
RE: Reporting of Animal Bites

It has come to my attention that some health care providers have become reluctant to refer animal bites for follow up to local health departments (LHD) because of confidentiality concerns. The new privacy standards that are a part of the Health Insurance Portability and Accountability Act (HIPAA) may be contributing to this raised the level of concern. Clinicians who treat animal bites may perceive themselves in a bind – in order to make a rational decision about the need for post exposure rabies prophylaxis, the bite must typically be referred to the LHD so that the biting animal can be quarantined or tested for rabies. However, some providers believe (sometimes on the advice of their attorneys) that confidentiality concerns prohibit them from doing so.

Although animal bites are not among the conditions that are specifically listed as notifiable in administrative code, there are no prohibitions against clinicians reporting animal bites to local public health officials or to the Department of Health and Family Services. And HIPAA does not change the obligations of health care providers to report communicable diseases and other events of public health interest to local or state health departments. In fact the privacy rules expressly permit disclosures of public health interest, without prior consent of patients, to public health agencies so that public health activities such as disease control and prevention can continue.

Health care providers may report individually identifiable health data to local and state health departments without obtaining consent from their patients. The requirements of Chapter 252 of the Wisconsin State Statutes are not affected by the federal privacy rules. The following references are pertinent:

- Wisconsin Statute 250.04(3)(b)3: The department may conduct investigations, studies, experiments and research pertaining to any public health problems which are a cause or potential cause of morbidity or mortality and methods for the prevention or amelioration of those public health problems. It may conduct the investigations, studies, experiments and research independently or by contract or in cooperation with any public or private agency, organization or person including any political subdivision of the state.
- Wisconsin Statute 252.03(2): Local health officers may do what is reasonable and necessary for the prevention and suppression of disease; may forbid public gatherings when deemed necessary to control outbreaks or epidemics and shall advise the department of measures taken.

- Wisconsin Administrative Code HFS 145.05 (1): The local health officer shall use all reasonable means to confirm in a timely manner any case or suspected case of a communicable disease and shall ascertain so far as possible all sources of infection and exposures to the infection.
- Wisconsin Administrative Code HFS 145.05 (2): Local health officers shall follow the methods of control set out in section 9 under each communicable disease listed in
...Control of Communicable Diseases Manual...

The Control of Communicable Diseases Manual states for rabies under section 9A.3.:
“Detain and clinically observe for 10 days any health appearing dog or cat known to have bitten a person...”

- HIPAA Privacy Rule - Part 164 (45 CFR 164.512): Part (b) of this section identifies to whom and for what purposes covered entities may disclose information. Relative to public health activities it states, “A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to:

- (i) A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions;”

- Administrative Simplification Provision 6 of HIPAA: “Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.”

While, it is probably not necessary to share this information with all your area health care providers, those that have concerns about reporting bites should be advised that they can continue to report and provide necessary patient information regarding animal bites to public health authorities. The Division of Public Health and local health departments will in turn maintain the privacy of all patient information.

Please contact Jim Kazmierczak (608-266-2154) or Gwen Borlaug (608-267-7711) in the Bureau of Communicable Diseases if you have questions or comments. Your cooperation is greatly appreciated.