

DATA

John Kelson -

over view of data collected

local govt typically

Health, Support living

3 types

Confidential -

client base
epidemiological

Direct + tangible - vital records

Open records - aggregate information

~~Facility based~~ - Nursing homes data
- Casualty info (open)

aggregated info (open records) to see how
programs are working

Info not sold except 153

153 chapter Hospitals + Ambulatory info
is sold to help run program

* is info sent out small enough

Talked about policies regarding release
and protections on this

Recent security problems - not intentional
they have determined. (2 times)

DWD + DOR has the authority to request
information

Privacy policy statements - please
review



State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Leean, Secretary

September 28, 1999

The Honorable Jon Erpenbach
Wisconsin State Senate
P.O. Box 7882
Madison, WI 53707-7882

OCT 01 1999

Dear Senator Erpenbach:

During my testimony before the Committee on Privacy, Electronic Commerce and Financial Institutions, you requested copies of any departmental confidentiality agreements that employees are asked to sign as a condition of employment in the Department of Health and Family Services.

Copies of these agreements are attached. As a matter of convenience, they are listed as follows:

- Departmental Code of Ethics
- Division of Health Care Financing Policy on Confidentiality
- Data Use Agreement, Patient-Level Data Files
- AIDS/HIV Program Confidentiality Statement
- WIC Program – General Administration: Confidentiality
- Confidentiality of Survey Schedule Information
- Exam Security Agreement
- For People with Broad Access to Information Technology

In addition, both statutes and administrative rules govern DHFS activities and explicitly protect the confidentiality of records in a number of areas. A list of protections is as follows:

State Statutes

- s. 48.78 Children's Code: Confidentiality of Records
- s. 48.93 Adoption Records Closed
- s. 49.83 Limitation on giving information (re: relief funded by social services)
- s. 51.30(4)(a) Confidentiality of records (Mental Health Act)
- s. 146.82 Confidentiality of Patient Health Care Records
- s. 153.50 Protection of Patient Confidentiality (Health Care Information)
- s. 252.15 Confidentiality of HIV Testing and Records
- s. 255.04(3) Confidentiality of Cancer reporting

Administrative Code

- HSS 92, Confidentiality of Treatment Records
- HFS 108.01, General Administration [of Medicaid]: Safeguarded Information

Thank you for the opportunity to share this listing of confidentiality protections. I am interested in any comments you have with regard to our efforts to safeguard personal information.

Sincerely,

John Kiesow
Executive Assistant

CODE OF ETHICS

Concern expressed by the public on the actions and behavior of all public employes and questionable instances of outside employment by some Department employes have created the need for a departmental Code of Ethics.

Standards of ethical conduct for Department employes, as set forth in the Code and elsewhere, need to distinguish between those minor and inconsequential conflicts which are unavoidable in a free society and those conflicts which are substantial and material.

The Code of Ethics is written to provide employes with the information that will enable them to avoid conflict of interest situations. Employee compliance with the Code of Ethics will also assure the public trust placed with the department.

Employes must notify their supervisor in writing of any circumstances which could cause a conflict of interest situation. It shall be evidence of intent to comply with the Code of Ethics when an employe seeks advice and abides by that advice.

"Administrator" means the Administrator, Division of Merit Recruitment and Selection, Department of Employment Relations.

"Secretary" means the Secretary of the Department of Health and Family Services.

"Appointing authority" means the Secretary, division administrators, institution superintendents who are delegated the power of appointment to or removal from subordinate positions in their respective employing units.

"Employee" means any person who receives remuneration for services rendered to the state under an employer-employee relationship in the classified service or in the unclassified service of the State of Wisconsin except state public officials and employes subject to Chapter 19 (Subchapter III), Wisconsin Statutes, officials and employes of the judicial branch, and the University of Wisconsin system unclassified personnel.

"Immediate family" means (a) an employe's spouse; and (b) an employe's relatives by blood, marriage, or adoption, and any other person who directly or indirectly receives more than one-half of their support from the employe, or from whom the employe directly or indirectly receives more than one-half of his or her support.

Standards of Ethical Conduct General Statement

Definitions

CODE OF ETHICS

Definitions (Cont.)

"Outside Employment" includes any work in which the employe enters into an employe-employer relationship with an employer other than the Department or performs work for gain other than for the Department on an independent basis which could commonly be considered as "another job," such as professional consultation that is offered for remuneration.

"Anything of Value" means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the state, fees, honorariums and expenses which are permitted under this chapter, political contributions which are reported under Chapter 11, Wisconsin Statutes, or hospitality extended for a purpose unrelated to state business by a person other than an organization.

"Hospitality" includes, but is not limited to, meals, beverages, and lodging which a host other than an organization offers a guest on premises owned or occupied by the host or his or her immediate family as the host's principal or seasonal residence. Hospitality is unrelated to state business if, after consideration of the circumstances, a reasonable person would conclude that it is probable that the hospitality would be extended if the guest or member of the guest's immediate family was not a state employe.

"Organization" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, trust or any other legal entity other than an individual or body politic which engages either in nonprofit or profit-making activities.

"Associated" when used with reference to an organization, includes any organization in which an employe or a member of the employe's immediate family is a director, officer or trustee or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10 percent of the outstanding equity.

"State property" includes, but is not limited to, facilities, vehicles, supplies, equipment, stenographic assistance and reproduction services.

Conflicts of Interest

The State must, by necessity, specifically prohibit those activities that will cause a conflict of interest to the employer or to the State of Wisconsin. A conflict of interest on the part of an employe exists whenever:

CODE OF ETHICS

- The employe's action or failure to act propitiously could reasonably be expected to directly or indirectly produce or assist in producing a private benefit for the employe or the employe's immediate family or an organization with which the employe is associated; or
- The matter is one in which the employe in his or her private capacity; or a member of the employe's immediate family; or an organization, as defined earlier, with which the employe is associated, has a substantial interest.

**Conflicts
of Interest
(Cont.)**

The Code of Ethics provides that employes may engage in outside employment as long as it does not interfere with the full performance of their job duties or present a conflict of interest. Employes must obtain a decision from their appointing authority via their immediate supervisor as to whether or not the outside employment is a conflict of interest prior to acceptance of the employment.

**Outside
Employment**

Any employe who undertakes outside employment without prior conflict of interest determination or continues pre-existing employment after being informed that such employment is a conflict of interest in the Department's judgment may be subject to discipline and/or criminal penalties. Failure of an employe to obtain a determination of potential conflict of interest prior to accepting employment may also be cause for disciplinary action, regardless of whether or not such employment is determined to pose a conflict.

Each Division in DHFS has developed guidelines for employes and supervisors identifying specific job situations that always constitute a conflict of interest. In addition to these specific guidelines employes should avoid outside employment related to their regular state duties. Employes of the Department occupying a position involving the exercise of discretion with respect to the development or implementation of policy or exercising regulatory authority will not be permitted to hold employment with any business with which the Department contracts, purchases or funds services and/or materials that will or may be affected by employes exercising that discretion.

CODE OF ETHICS

Outside Employment (Cont.)

NOTE: Employees should also be aware that under the provisions of Wisconsin Statutes 16.417(2) no full-time employe who earns an annual salary in excess of the current salary for the Office of Legislator may hold any other position from which he or she receives income from the state exceeding \$12,000 per year (e.g., University of Wisconsin). A reduction in salary or termination is required if the limitation is exceeded.

Employees must obtain a conflict of interest decision on outside employment by completing the "Outside and Other State Employment/Conflict of Interest Determination" request form (DMS-64 Rev 11/95). The form should be submitted in triplicate to the employes supervisor who will review the information and forward it through normal channels to the division administrator. The division administrator will review the information supplied, and return the request to the employe with a decision.

If the employe disagrees with the division administrator's decision, he/she may request higher level management review. The division administrator will discuss the issue with the Secretary's Office. They may then decide to seek an opinion on the issue from the Administrator of the Division of Merit Recruitment and Selection.

SPECIAL NOTE: According to the Wisconsin Supreme Court Rules of Conduct for Attorneys Rule 20:1.7:

"(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client unless:

(1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

(2) each client consents in writing after consultation."

Amended by S. Ct. order dated November 21, 1991.

Voluntary Activities

Those activities performed by an employe which involve serving as an officer or member of the board of a social, fraternal, or religious organization for which the employe receives no compensation or anything of value, and where the organization is not affected by exercise of the employe's discretion in development or implementation of policy and/or regulatory authority, are not covered by the Code of Ethics.

Employees are responsible for assuring that they will not place themselves in a conflict of interest situation prior to accepting appointments as officers or board members of social, fraternal or charitable and/or religious organizations.

CODE OF ETHICS _____

An employe should consult with his/her supervisor if there are questions as to whether or not such service may be a conflict of interest.

No employe may solicit or accept from any person or organization directly or indirectly, money or anything of value if it could reasonably be expected to influence such employe's official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of such employe.

No employe who is assigned or acts as an official representative of the state in the presentation of papers, talks, demonstrations or making appearances shall solicit or accept fees, honoraria or reimbursement of expenses for personal gain. Any fees, honoraria, or reimbursement of expenses offered in connection therewith shall be paid to the department. Employes are to direct the person or organization making such an offer to make such payments directly to the Wisconsin Department of Health and Family Services. In order to be reimbursed by the state for expenses, the appropriate travel approval must have been obtained prior to incurring the expenses.

Fees and honoraria paid for papers, talks, demonstrations or appearances made by an employe on the employe's own time and not directly part of the employe's official duties, shall not be a violation of this rule. Employes shall obtain a written conflict of interest decision on Form DMS-64 prior to accepting fees and honoraria for papers, talks, demonstrations, or appearances to insure no conflict of interest exists.

No employe may intentionally use or disclose information gained in the course of or by reason of the employe's official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family, or for any other person or organization, if the information has not been communicated to the public or is not public information. However, no retaliation may be taken against an employe for the lawful disclosure of information which the employe reasonably believes evidences:

- A violation of any law, rule, or regulation, or

**Voluntary
Activities
(Cont.)**

**Acceptance of
Gifts, Favors
or Other
Remunerations**

**Disclosure of
Information**

CODE OF ETHICS

Disclosure of Information (Cont.)

- Mismanagement, a gross waste of funds, an abuse of authority, enforcement of unreasonable departmental work rules, or a substantial and specific danger to public health or safety.

Use of State Property and Time

No DHFS employes shall use or allow the use of state time or property, including property leased by the state, for personal or private activities, except for any use which serves the Department.

No DHFS employe may use his or her public position to influence or gain financial or other benefits, advantages or privileges for the private benefit of the employe, the employe's immediate family or an organization with which the employe is associated.

- Any salary or other compensation received by the employe from this state for his or her services does not constitute "financial gain" as the term is used in this rule.
- Use of state telephones for essential personal local calls does not constitute "benefit" as the term is used in this rule. (Please refer to "Use of State Telephone for Personal Business" section of the employe handbook.)

Use of DHFS Information Systems Resources

The use of DHFS information system resources on state or personal time for non-work related activities is prohibited, and may be a violation of the code of ethics in accordance with the above section on "Use of State Property and Time". **Information system resources** include all computer hardware, software, and services provided by DHFS to support the employe in accomplishing assigned work, duties and responsibilities. **Computer services** include access to networks such as the Internet, the World Wide Web, Badgernet, and other systems such as E-Mail.

Employes may not access the Internet or other such systems through state provided gateways to conduct personal or private business. **Personal or private business** includes any activity for which remuneration is received from parties other than the State; sending E-Mail messages that are not related to State business; accessing information or using the State's computing resources for non-work related activities (outside interest, hobbies, games); or using the State's computers to store information which is not related to State business. (Also refer to the "Use of Department Computers" and "Computer Systems & Network Access" sections of the Employe Handbook.)

DHFS reserves the right to enter, search and monitor the computer files, Internet usage, E-mail, or voice mail of any employe without advance notice, for any business purpose. This includes, but is not limited to, investigating theft, disclosure of confidential business or proprietary information, personal or private use of information system resources and computer services, conflict of interest, or monitoring work flow or productivity.

CODE OF ETHICS

No employe shall effectively recommend or decide to hire or promote another person who is a member of the employe's immediate family, unless that person has been certified from an open or promotional competitive register.

Nepotism

No employe shall give preferential or favored treatment in the supervision or management of another employe who is a member of his or her immediate family.

Nothing in this section prohibits an employe from making decisions concerning pay, related benefits or reimbursement of actual and necessary expenses when the action does not result in preferential or favored treatment of a member of the employe's immediate family.

Papers, articles, books, research studies and other products of value that are produced by an employe through state employment or through the use of state resources or the work of other state employes shall not be used to obtain financial gain or anything of value for the employe and/or the employe's immediate family.

Articles, Books, Research Studies, and Other Products of Value

No employe, member of their immediate family, nor any organization with which the employe or a member of their immediate family owns or controls at least 10 percent of the outstanding equity, voting rights, or outstanding indebtedness may enter into any contract or lease involving payment or payments of more than \$3,000 within a 12-month period, in whole or in part derived from state funds unless the employe has first made written disclosure of the nature and extent of such relationship or interest to the appointing authority and obtained the appointing authority's written approval.

Personal and Business Relationships

Any complaint alleging violation of the Department Code of Ethics may be filed with the Secretary for investigation and response. Upon receipt of a complaint, the Secretary will forward the matter to the appropriate division administrator.

Complaint Procedure

The division administrator will conduct an investigation into the matter. Based upon the weight of evidence, a statement of findings and the evidence gathered will be submitted to the Secretary with a recommendation as to the appropriate disposition of the matter.

CODE OF ETHICS

Complaint Procedure (Cont.)

If after reviewing the evidence and findings of the division administrator's investigation, the Secretary believes probable cause exists for the allegations of the complaint, the employe will be notified in writing of the findings by the division administrator and, when warranted, of any disciplinary action to be taken.

If, after reviewing the division administrator's findings and recommendations, the Secretary concurs that no misconduct constituting a violation of the Code exists, the employe and the party who made the complaint will be notified in writing of such determination by the division administrator.

This special addendum is primarily intended for persons in positions charged with regulatory, investigative, hearing examiner, legal, security, and other sensitive responsibilities.

Because ethical considerations are extremely important for these highly visible and sensitive positions, performance must be such that the persons affected and the general public can be confident that responsibilities are exercised in a manner that is fair, impartial, thorough, and above reproach.

In order to make clear the Department's expectations for persons serving in these positions, the following guidelines with examples are provided. They are representative of situations in which special care must be taken to avoid jeopardizing public confidence; in these and comparable situations, appropriate professional judgment is always in order.

Special Guideline #1: Employes shall not solicit or accept anything of value from any person or enterprise that may be construed as influencing the employe's actions or judgment in official business matters.

- Employes shall not accept remuneration for job-related services provided to clients, providers, residents, etc.
- Employes shall not accept additional employment in any capacity from persons or enterprises they serve, supervise or regulate.
- Employes shall not accept gifts or favors (including meals and food) provided by persons they serve or supervise. This is not intended to preclude an employe from sharing nominal items such as a cup of coffee during business meetings or while visiting a supervised facility.

Special Addendum for Regulatory, Investigative, Hearing Examiner, Legal, Security and Other Sensitive Positions

CODE OF ETHICS

Special Guideline #2: Employees shall not conduct business activity away from appropriate business or duty station locations unless previously authorized to do so.

- Business shall not be conducted in restaurants, in the privately owned residence or conveyance of the person served, or in any location where a public observer might reasonably conclude that undue influence was being exercised. This is not intended to preclude official visits to foster homes, group homes, or similar locations.
- Employees who regulate, investigate, provide hearings, or provide security shall not take their meals or associate socially with affected persons regardless of the employer of the affected person.

Special Guideline #3: Employees having access to products, services or by-products of state government industrial, business or agricultural operations shall not receive or divert to private use such products, services or by-products without payment and advance approval by the appointing authority or his/her designee.

Special Guideline #4: Transportation to or from hearings, site surveys, etc., must be in accordance with Department guidelines.

- Hearing examiners shall not travel with witnesses or attorneys representing either party unless prior approval is obtained from the Secretary or his/her designee.
- Hearing examiners shall not share offices with Department staff having program responsibilities subject to a hearing process.

Special Guideline #5: Communication with employees by clients, providers, attorneys or other individuals representing these persons shall be documented in writing and a memorandum placed in the file.

**Special
Addendum for
Regulatory,
Investigative,
Hearing
Examiner, Legal,
Security and
Other Sensitive
Positions
(Cont.)**

EMPLOYEE SIGNATURE SHEET

DEPARTMENT OF HEALTH AND FAMILY SERVICES EMPLOYEE HANDBOOK

I acknowledge that I have received the Department of Health and Family Services Employee Handbook. I further acknowledge that:

_____ I am aware that the Handbook contains, and that I have the responsibility to read, the section on the Department's Work Rules which provides guidelines on the personal conduct of employees.

_____ I am aware that the Handbook contains, and that I have the responsibility to read, the Department's Code of Ethics which sets policy and procedures for administering the Code of Ethics within the Department of Health and Family Services.

Employee's Name (Please Print)

Employee's Signature

Date

Employee's Classification

Employee's Division or Institution

PLEASE SIGN AND RETURN THIS SHEET TO YOUR SUPERVISOR.

YOUR SUPERVISOR WILL FORWARD YOUR SIGNED SHEET TO YOUR PERSONNEL OFFICE FOR PLACEMENT IN YOUR PERSONNEL FILE.



DIVISION OF HEALTH CARE FINANCING

Tommy G. Thompson
Governor

1 WEST WILSON STREET
P.O. BOX 309
MADISON WI 53701-0309

Joe Leean
Secretary

State of Wisconsin
Department of Health and Family Services

(608) 266-8922
FAX: (608) 266-1096
www.dhfs.state.wi.us

MEMORANDUM

DATE: August 30, 1999

TO: All Division Staff
All Division Subcontractors

FROM: Peggy L. Bartels, Administrator
Division of Health Care Financing

SUBJECT: Policy on Confidentiality

Below is the policy statement used by the Division of Health Care Financing. Please familiarize yourself with this policy.

I. Policy

The Division of Health Care Financing employes and agents must daily make decisions as to whether recipient data may be released to persons requesting information. These data may pertain to a wide-range of sensitive matters, including eligibility records, personal data such as addresses, and benefit payments. Employes must make good faith judgments, based on the more specific criteria set forth below, whether or not to release the information requested. The purpose of this policy is to delineate requirements on the confidentiality of recipient data. Provider information should be handled with discretion, but is generally public information not covered by these safeguards.

A. Authority:

HFS 108.01, Wis. Adm. Code, defines recipient confidentiality requirements specifically:

HFS 108.01 Safeguarded information.

- (1) Except for purposes directly related to direct program administration, the department may not use or disclose any information concerning past or present applicants and recipients of Medicaid.

- (2) In this section, direct program administration means:
 - (a) Determining initial eligibility of the applicant and continuing eligibility of the recipient;
 - (b) Determining appropriate services to be covered;
 - (c) Providing services for recipients;
 - (d) Processing provider claims for reimbursement;
 - (e) Auditing provider claims for reimbursement;
 - (f) Investigating or prosecuting criminal or civil proceedings conducted in connection with program administration;
 - (g) Seeking third-party payment for services provided to a recipient; and
 - (h) Other activities determined by the department to be necessary for proper and efficient administration of Medicaid.
- (3) The department shall request the attorney general to institute appropriate action when necessary to enforce provisions of this section.
- (4) Safeguarded information concerning an individual applicant or recipient shall include, but not be limited to:
 - (a) Name and address;
 - (b) Social data, including but not limited to:
 1. Marital status;
 2. Age;
 3. Race;
 4. Names and Medicaid numbers of family members;
 5. Paternity status of children; and
 6. Unique identifying characteristics;
 - (c) Economic data, including but not limited to:
 1. Assets;
 2. Amount of assistance received;
 3. Amount of medical expenses incurred;
 4. Sources of payment or support;
 5. Past or present employment;
 6. Income, regardless of source;

7. Social security number; and
 8. Income expense deductions;
- (d) Agency evaluation information, including but not limited to:
1. Verification of client information; and
 2. Identify of verification sources; and
- (e) Medical data, including but not limited to:
1. Past history and medical record content;
 2. Diagnosis;
 3. Drugs prescribed;
 4. Course of treatment prescribed; and
 5. Name of provider.
- (5) For purposes of direct program administration, the department may permit disclosure to, or use of safeguarded information by, legally qualified persons or agency representatives outside the department. Governmental authorities, the courts, and law enforcement officers are persons outside the Department who shall comply with sub. (6).
- (6) Persons or agency representatives outside the department to whom the department may disclose or permit use of safeguarded information shall meet the following qualifications:
- (a) The purpose for use or disclosure shall involve direct program administration; and
 - (b) The person or the person's agency shall be bound by law or other legally enforceable obligation to observe confidentiality standards comparable to those observed by the department.
- (7) Unless it is related to direct program administration, the department shall respond to a subpoena for a case record or for agency representative testimony regarding an applicant or recipient as follows:
- (a) The department shall provide the court and all parties to the proceeding with a copy of this section;
 - (b) The department shall request that the attorney general intervene in the proceeding in a manner which will give effect to this section; and

- (c) The department shall notify in writing applicants or recipients affected by a subpoena for safeguarded information.
- (8) The department shall publicize this section as follows:
 - (a) Publication in the Wisconsin administrative code;
 - (b) Incorporation by reference in certification procedures for all providers; and
 - (c) Incorporation in information provided to recipients regarding their rights and responsibilities.
- (9) The secretary or a designee shall determine the appropriate application of this section to circumstances not covered expressly by this section. Use or disclosure not expressly provided for in this section may not occur prior to this determination.

B. Release of Recipient and Benefit information:

- 1. Division staff who are authorized to access the information may release recipient data to the recipient or if it is for the purpose of direct program administration to:
 - a. A duly authorized representative, with written authorization given by the recipient to access those records.
 - b. A duly authorized representative when the circumstances demonstrate that a relative, interpreter or advocate is acting on the express request of a recipient. This includes: legislators and their assistants when inquiring about and on behalf of a specific constituent; and advocates/interpreters when the recipient is present and requesting assistance.
 - c. The parent or guardian of a minor or adult who has been declared legally incompetent. Family planning and abortion information on individuals should not be shared without consulting with legal counsel.
 - d. A person or agency or person outside the Department who is legally bound to observe our confidentiality standards. Providers and certifying agencies are legally bound and others may be bound by law or contract.

Release of recipient information for purposes other than program administration, such as identification of AIDS patients for public health agencies or lists of pregnant women and children for WIC agencies, is not allowable.

2. A supervisor may release benefit information to a government investigation authority in accordance with HFS 108.1(6) and (7).
3. Recipients and attorneys requesting specific benefits payment information should be directed to submit a written request to the TPL unit for possible casualty recovery.

II. Identifying Requestor of Information

- A. All individuals requesting information must be properly identified. Do not give out information until you are satisfied that the request is proper. Ask persons appearing in office requesting information for identification such as a driver's license or other picture ID. Ask telephone requestors questions to identify the caller.

Identifiers include, but are not limited, to the following:

1. Social Security number.
2. Address to which Medicaid cards are being sent.
3. Claimant phone number as shown on the record.
4. Birth date.
5. Date of Service.

Use enough identifiers so you are reasonably satisfied that the person making the inquiry is the claimant.

- B. A Duly authorized representative does not include a spouse or family member unless the claimant has authorized, in writing, release of file information to that person or is physically present during a conversation. However, it may be appropriate to discuss circumstances in which inquiries are based upon information already in the possession of a spouse, parent or advocate. For example: Information may be discussed with a spouse if the spouse seeks clarification of information already available to him or her.

- C. If the inquiry is by a legislator or legislative assistant on behalf of and about a specific constituent for the purpose of program administration advise that person of the confidentiality of Medicaid records and that with the release of the information the requestor assumes responsibility for appropriate confidentiality. Assure yourself that the individual making the inquiry is, in fact, a legislator or legislative assistant.

III. Disposal of Written Materials

Computer printouts, including screen prints, which contain recipient identifying information should not be recycled. Any materials with confidential recipient information must be disposed of in a burn box which will be maintained by each Bureau/Section. When filled, this box is to be taped shut, marked burn and maintained in a secure location. Call the Division Forms and Records person for a messenger to dispose of these materials. Recipient correspondence should be marked confidential when it is sent to the Records Center.

IV. Work Rule Violations

Unauthorized release or use of information is a violation of work rules and could result in disciplinary action. When in doubt, inform the requestor that you must obtain approval before releasing the information.

Unauthorized browsing of recipient data is also a violation of work rules and could result in disciplinary action, even if the information is not shared with anyone. Data is to be accessed only for work-related purposes.

Questions about release of information are to be directed to me in writing. The Administrator or Deputy Administrator should be informed immediately about any possible violation of this policy by an employe or contractor of the Division.

Supervisors must obtain a signature from all new staff as part of their routine orientation. All current Division staff should sign below and return the signed acknowledgment page to their supervisors within one week. The acknowledgments will then be placed in the individual's personnel file.

All Division subcontractors must also abide by these requirements.

All Division Staff
All Division Subcontractors
August 30, 1999
Page 7

ACKNOWLEDGMENT:

I have read and understand the above Policy on Confidentiality.

EMPLOYEE NAME: _____
Print

EMPLOYEE NAME: _____
Signature _____ Date

SUPERVISOR: _____
Signature _____ Date

BUREAU: _____

PLB:dd
DO08088.ES/PERM

Data Use Agreement Patient-Level Data Files

For office use only

Patient Confidentiality

Chapter 153, Wisconsin Statutes, requires the Department of Health and Family Services to protect the identity of all patients represented in data collected under this chapter. Any effort to determine the identity of any person or to use the data for any purpose other than analysis and aggregate statistical reporting violates Chapter 153, Wisconsin Statutes, and the conditions of this data use agreement. The Bureau of Health Information omits from the dataset all direct personal identifiers, as well as characteristics that might lead to the identification of persons. By virtue of this agreement, the undersigned agrees that no attempts to identify particular persons will be made and that, in any event, such information would never be released or published.

Civil Liability

Any person violating patient confidentiality provisions under section 153.50, Wisconsin Statutes, or administrative rules promulgated under section 153.75 (1) (a), Wisconsin Statutes, is liable to the patient for actual damages and costs, plus exemplary damages of up to \$1,000 for a negligent violation and up to \$5,000 for an intentional violation.

Penalties

Whoever intentionally violates data release provisions under section 153.45 (5), Wisconsin Statutes, patient confidentiality provisions under section 153.50, Wisconsin Statutes, or administrative rules promulgated under section 153.75 (1) (a), Wisconsin Statutes, may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

The undersigned assures the following with respect to Bureau of Health Information datasets:

- I will require others under my direct supervision who use the data in the organization specified below to sign this agreement, and I will keep those signed agreements and make them available to the Bureau of Health Information upon request.
- I will not release or permit others to release any data that identifies persons, directly or indirectly.
- I will not release or permit others to release the datasets or any part of them to any person who is not under my direct supervision, except with the approval of the Bureau of Health Information.
- I will not attempt to link or permit others to attempt to link the patient-level records of persons in this dataset with personally identifiable records from any other source.
- I will not attempt to use or permit others to attempt to use the datasets to learn the identity of any person represented in any dataset.
- I will make no statement or permit others to make statements indicating or suggesting that interpretations drawn are those of the data sources or the Bureau of Health Information and its staff.
- I will acknowledge in all reports based on these data that the data source is the Bureau of Health Information, Division of Health Care Financing, Department of Health and Family Services, State of Wisconsin.
- In consideration of any data received, I also agree and promise that if any data that identifies a physician is rereleased, the physician's written comments to the Bureau of Health Information shall be appended to the data.

**Data Use Agreement
Patient-Level Data Files**

Please return to:

Health Care Provider Data Section
Bureau of Health Information
Division of Health Care Financing
State of Wisconsin
P.O. Box 7984
Madison, WI 53707-7984
(608) 266-7568

My signature indicates my agreement to comply with the above-stated requirements and Wisconsin Statutes.

Signed _____

Print or Type Name _____

Title _____

Organization/Affiliation _____

Address _____

City _____

State _____

ZIP Code _____

Phone _____

E-mail _____

Fax _____

Shipment of the data product will be made only to the person who signs this data use agreement.

Notarization

Subscribed and sworn to before me this

_____ day of _____, 19____

Notary Public

My commission expires on _____

(notary seal)

CONFIDENTIALITY STATEMENT

It is the responsibility of employees, students and contract service agencies to protect confidential information concerning patients and clients. Confidential information includes medical, financial and other personal information about patients or clients. Wisconsin statutes protect the privacy of such information and mandate that health care providers and state agencies ensure that all such information is handled in a confidential manner to prevent disclosure to unauthorized individuals. Persons who violate these statutes may be subject to civil liability and criminal penalty as defined in the statute.

A Department of Health and Family Services work rule prohibits improper disclosure of confidential information. Individuals violating this work rule may be subject to disciplinary action up to and including discharge.

Computerized patient/client files are to be treated in the same confidential manner as a written patient or client record and accessed only as necessary to fulfill job requirements or as allowed by policy.

I understand my responsibilities in treating patient and client information as confidential and will not divulge information in any form to anyone without appropriate authorization. I understand that if I breach any confidence I could be subject to legal action. I certify by my signature that I have participated in the orientation and training session concerning the privacy and confidentiality considerations of patient and client information and have received a copy of the *Program Guidelines on Confidentiality and the Release of AIDS/HIV Patient/Client Data*.

Name (print)

Signature

Title/status

Date



Part B (starting on pg. 2) applies most directly to data release

Administration
Effective Date: 6/1/96
Issue Date: 5/13/96

10 ADMINISTRATION
10.41 Confidentiality

POLICY: WIC participant information is confidential and may be disclosed to others only as allowed by Federal WIC Regulations, USDA policy, and, in some more restrictive situations, such as Wisconsin Statutes.

PROCEDURE:

A. PARTICIPANT REVIEW OF THEIR OWN FILES

1. WIC participants and parents, legal guardians, or legal custodians of minor WIC participants usually have access to their own or their infant/child's records. They may:
 - a) inspect the WIC applicant/participant file during regular WIC office hours
 - b) receive a copy of the file
 - c) request that a copy of the records be sent to another health care provider (verbally or in writing)
2. In most instances, rights available under Wisconsin law are such that the participant and their legally authorized representatives can obtain access to other materials in the file, such as documentation of income provided by third parties or any information which serves as a staff assessment of the participant's condition or behavior. However, if the document contains information obtained under a pledge of confidentiality, or if disclosure of the document would jeopardize an investigation, seek legal advice to determine whether to withhold the staff assessment or third party record.
3. When the participant is an adolescent minor, the authority of the parent, guardian, or legal custodian to obtain access to records of the participant becomes more complicated. If the minor is married, the Wisconsin Statutes declare that the minor is emancipated. The married minor has control over access to her records. However, if the minor is unmarried, things are less clear. If the participant is an unmarried minor who is capable of understanding the act of consent and its consequences (e.g., a mature pregnant adolescent), and if the minor consents to the access by the parent, guardian, or legal custodian, the access can occur. If the unmarried minor opposes the access but the parent, guardian, or legal



custodian still requests access, seek legal advice to determine whether record access must be allowed.

4. In cases of divorce, regardless of who has custody, both parents have the same access to an unmarried minor WIC participant's file unless the court custody order specifies otherwise. See C. RELEASE WITH INFORMED WRITTEN CONSENT.

B. RELEASE OF WIC APPLICANT/PARTICIPANT INFORMATION WITHOUT INFORMED CONSENT. Release of WIC applicant/participant information, whether observed or obtained, without informed consent is limited to:

1. Persons directly connected with the administration or enforcement of the program, including persons investigating or prosecuting violations in the WIC Program under Federal, State, or local authority. "Persons directly connected with the administration... of the program..." includes WIC staff and managers and administrators who are responsible for the ongoing conduct of program operations. It does not include, for example, personnel in the Department of Health and Social Services or local agency who do not have ongoing involvement in the operation or management of the program. Thus, this provision excludes operational personnel who do not certify or serve WIC applicants/participants and administrators who do not directly supervise WIC staff.
2. WIC volunteers may be considered to be directly connected to the administration of the program. Volunteers (including but not limited to students, researchers, and Quality Assurance committees) who are given access to client information must be trained on the specific confidentiality requirements governing the WIC Program and must sign statements that they will keep information confidential.
3. Public health and welfare programs with which the WIC Program has agreements or memoranda of understanding (MOU) for release of WIC applicant/participant information for the purpose of establishing their eligibility for those programs' services and conducting outreach. See also part C.2. for situations under which a written release is required regardless of whether or not there is an MOU or agreement. (Agreements or contracts involve money; MOUs do not include money.)
 - a) The Programs with which the WIC Program, at the state or local level, may develop MOUs/agreements are:
 - (1) Administered by the Bureau of Public Health:



-
- (a) Immunization Program
 - (b) Maternal and Child Health Block Grants
 - (c) Birth to Three Program
 - (d) Congenital Disorders Program
 - (e) Family Planning Program
 - (f) Lead Program
 - (g) Children with Special Health Care Needs
 - (h) Prenatal and Pediatric Nutrition Surveillance Systems
- (2) Administered by the Bureau of Health Care Financing: Medical Assistance (e.g., Healthy Start, HealthCheck, Prenatal Care Coordination)
- (3) Administered by the Division of Economic Support:
- (a) AFDC
 - (b) Food Stamps
- (4) Administered by the Division of Health: Center for Health Statistics
- (5) Administered by the University of Wisconsin - Extension:
- (a) Extension Food and Nutrition Education Program (EFNEP)
 - (b) Other food programs and grants
- (6) Other:
- (a) Head Start (Note: because there is no state Head Start office, MOUs must be developed locally.)
 - (b) Well-Child Care Programs conducted in local health departments
 - (c) Generalized Public Health Nursing Programs
- b) Local WIC Projects may enter into written agreements/MOUs with the programs listed above at the local level for the purpose of establishing applicant/participant eligibility for services and conducting outreach. Agreements/MOUs may not be made with umbrella agencies which would make information indiscriminately available to a wide variety of personnel and programs.



Agreements/MOUs with each agency or program must specify:

- (1) what program(s) will have access to the information and specifically what information is to be disclosed
- (2) the purposes for which the information will be used
- (3) the receiving agency/program's assurance that it will not, in turn, disclose this information to other providers/programs/agencies except to the extent the additional disclosure is for the purpose of accomplishing the eligibility or outreach services specified in the MOU, and then only to the extent such additional disclosure is allowed by the laws applicable to those services
- (4) if appropriate, the time period for which the agreement/MOU is effective or that it is to be reviewed/renewed
- (5) (as applicable) a statement that written consent is required for disclosure of treatment for mental illness, developmental disabilities, and alcoholism or drug abuse; and, regarding HIV infection test results, as required by S.252.15 Wis. Stats. (See C.3. of this policy).
- (6) (optional) a statement that a state agreement/MOU with the same program/agency will supersede the local agreement/MOU

Added

2 separate lists for State and Local

- c) All local agreements/MOUs must comply with each program's confidentiality requirements (per federal statutes and regulations, Instructions, policies; and state statutes and rules). It is the local agency's responsibility to assure compliance with other programs' confidentiality provisions; review by legal counsel may be needed. WIC agreements/MOUs must be approved by the Regional Office Nutrition Consultant prior to implementation (see the Attachment, "WIC Confidentiality Checklist").
- d) WIC applicants/participants must be informed that information may be disclosed prior to disclosing it.
 - (1) As of 9/94, the Rights and Responsibilities on the ID card includes the following statement: "Information may be provided to other health or welfare services for determining eligibility for those services and conducting outreach."



- (2) WIC projects must maintain an up-to-date list of all programs to which information may be disclosed (per agreements/MOUs) and present it upon the applicant/participant's request (see the Attachments, "Listing of State Agreements/Memoranda of Understanding for Disclosing WIC Information" and "Listing of Local Agreements/Memoranda of Understanding for Disclosing WIC Information"). The State List will be maintained by the State WIC Office, and the Local List should be completed and maintained by the local project. It is recommended that the lists be presented at all certifications.
- e) Unless an agreement/MOU specifies otherwise, applicants and participants do not have the option of declining to permit such information disclosure if they wish to participate in the WIC program. However, if an applicant/participant strongly objects to disclosure, project staff should attempt to accommodate the request unless it would mean falsifying data entered into the file (including DAISy) or if there are no established procedures to prevent unwanted disclosure. If the right to refuse disclosure is offered, a release form must be used (see C. RELEASE WITH INFORMED CONSENT section). In these cases, assure that information is not mistakenly disclosed (including through DAISy or other reports).
- Added*
4. Federal or state government agency staff performing audits, program monitorings or evaluations, or other legal authorized functions, all of which must be related to the WIC Program. An example is monitoring visits by Central Office WIC staff or Regional Office Nutrition Consultants. Private, city, or county auditors may also have access to WIC participant files for WIC audit purposes.
5. County departments of social services, county departments of human services, a sheriff or police department, or a district attorney, for the investigation of threatened or suspected child abuse or neglect involving a particular child or children. If a child's or abuser's name is unknown to the investigator at the time of the investigator's request for records, the investigator must provide the WIC Program with other identifying information sufficient for the WIC Program to determine which person's records are in question. Section 48.981 of the Wisconsin Statutes requires certain professionals to report child abuse or neglect concerning children they have seen in the course of their professional duties and to cooperate in such investigations whether or not the initial report of abuse or neglect came from the professional. Among the categories of professionals obligated are physicians, nurses, all other medical



professionals, mental health professionals, social workers, public assistance workers, therapists, and (effective July 1, 1995) certified dietitians. Others may also report suspected or threatened child abuse or neglect.

6. Law enforcement agencies or prosecutors for purposes of investigating or prosecuting fraud or other crimes concerning the WIC Program. In some situations the reason for the request could be clearly unrelated to WIC fraud/crimes (e.g., a police officer wants to see if WIC has the current address of a traffic offender) and thus, the request must be denied. Other cases may be very clearly related (e.g., income falsification during application for WIC). If there is any question, contact the Compliance Manager in the Vendor Unit.
7. In the case of a search warrant, project staff should request that the person serving the warrant wait while the project calls its attorney for advice. If the person serving the warrant refuses to wait, project staff should carefully review the search warrant and provide only the specific information or records requested in the search warrant, and no other information or records. If not notified previously, the project's attorney should be notified immediately after the disclosure has occurred. In order to defend the WIC project in the event a legal action is filed against the WIC project by a person whose information or records were the subject of the search warrant, WIC staff should retain a copy of the search warrant for their files as evidence of the reason for the disclosure.
8. A subpoena is not the same thing as a court order. It does not represent a court's ruling that information must be released without consent. If a subpoena is served upon them, State or local agencies in consultation with their legal counsel must make a determination of whether to comply with the subpoena and release the information as requested or attempt to quash the subpoena.

C. RELEASE WITH INFORMED WRITTEN CONSENT

1. Written informed consent is required for the release of information to other programs, organizations, and individuals not covered above. For example:
 - a) sending hematocrit/hemoglobin test results or other information to a private physician or other health care provider not covered by agreements/MOUs



- b) releasing information to agency nurses who do not work directly with the WIC Project for programs/services not covered by agreements/MOUs
 - c) releasing information to an attorney or private investigator hired by the participant (or a minor participant's parent or guardian)
 - d) disclosing information to human service providers not covered by agreements/MOUs, except for child abuse and neglect investigation purposes; and
 - e) releasing information that identifies them as a WIC participant except as covered by agreements/MOUs
 - f) disclosing alcohol and drug information obtained using screening/assessment techniques beyond the mandates of Public Law 100-690
 - g) publishing names or printing pictures of participants in a WIC newsletter
2. Informed written consent of the client or person legally authorized to give consent on behalf of the client shall be obtained prior to disclosure of treatment for mental illness, developmental disabilities, and alcoholism or drug abuse. Obtained information shall not be redisclosed to a third party (i.e., agency) without written consent. When in doubt about disclosing information, it is highly advisable that professionals use their judgment and secure a written consent prior to disclosure of sensitive information.
- Added { 3. Disclosure of HIV infection is a sensitive issue. In general, HIV infection test results may be disclosed to another health care provider without written consent as long as it is pertinent to care of that individual.
4. Signatures: The written informed consent may be signed by the participant (if an adult or married minor); the parent, legal guardian, or legal custodian of an unmarried minor who is deemed incapable of giving consent; or the unmarried minor if she is deemed capable of giving consent. See also section D. FOSTER PARENTS AND FOSTER CHILDREN.
5. The consent must include:
- a) name of participant whose information is being disclosed



- b) name of agency being authorized to make the disclosure
 - c) purpose of disclosure
 - d) type of information to be disclosed
 - e) individual, agency, or organization to which disclosure may be made
 - f) signature of participant or other person giving consent
 - g) date on which consent is signed
 - h) time period during which consent is effective (no later than the next certification)
 - i) if the consent is for a disclosure desired by the WIC program or entity having an agreement/MOU with the WIC program, a statement that failure to sign in no way jeopardizes WIC program eligibility or participation. (However, if the consent is for a disclosure requested by the participant or person authorized to consent for the participant, and is desired by the participant or authorized person for reasons unrelated to any activity involving WIC or agreement/MOU activities, the statement is not required.)
6. Consent forms must not be mentioned to the participant/guardian until after the certification process is completed and the applicant has been informed of the WIC eligibility determination. This helps to assure the applicant/participant that failure to sign does not jeopardize participation in the WIC Program.
 7. Applicants/participants must not be asked to sign general release forms which give the Project unlimited authority to release information, or which take the place of agreements with health and welfare organizations.
 8. The written informed consent must be maintained in the participant's file. The person giving consent may have a copy upon request.
- D. FOSTER PARENTS AND FOSTER CHILDREN:** Foster parents do not have complete authority over a foster child. Although the foster parent may sign that he or she has read the Rights and Responsibilities for WIC certification purposes, the authority of a foster parent to sign a written consent



for release of the child's information will depend upon the circumstances involving the child, including the nature of any court proceedings or voluntary placement.

1. Determine who can consent to disclosures of information concerning a foster child by asking the foster parent.
 - a) If the foster parent is sure about their rights to consent to disclose information and knows how these rights were obtained, document this, and allow the foster parent to sign a release.
 - b) If the foster parent is unsure, check with the case worker/agency who supervises the child's placement in the foster home to determine who can consent to disclosures of information concerning the child.
2. If a birth parent wants access to the foster child's information:
 - a) If a birth parent's rights have been entirely terminated by the court, the birth parent no longer has the status of "parent" and loses all right of access to information which would ordinarily be accessible to a parent.
 - b) If there has not been a complete termination of parental rights, the rights of the parent may have been restricted by a court order.
3. A court also has authority to order that the name and address of the foster parents be withheld from the child's parent or guardian. A foster parent must be asked whether the child's parent or parents have had parental rights terminated and whether there is a court order preventing release of the foster parent's name and address to a parent or guardian, or otherwise restricting disclosure of the child's records to the parent.
 - a) If there has been a termination of parental rights, or if the court has issued an order restricting access to information:
 - (1) write "confidential" on the outside of the participant file, or otherwise flag the file as a reminder that there is a special restriction on access to information
 - (2) in the participant file, indicate the nature of the restriction. If there has been a termination of parental rights, indicate that, and withhold all information about the child from the terminated parent(s). If there has been a court order prohibiting release of foster parent name and address to a



parent or guardian, or if there is some other court order limiting information access by the parent, indicate what restriction exists, and

(3) in DAISy, enter wording in the comment section, such as "confidential: foster parent names and address are restricted" or "confidential: birth parent access is restricted." Also, if any DAISy reports print names of both the child and the foster or birth parent, consider entering NONE instead of the birth or foster parent name.

b) If a court order requires some information to be withheld from a guardian or from a parent whose rights have not been entirely terminated, but other information is allowed to be disclosed to the parent or guardian:

- (1) a request by the restricted parent or guardian to see the child's file must be handled in such a way that information prohibited from disclosure is not legible when the records are reviewed by the restricted person.
- (2) It may be necessary to make a copy, eliminate the protected information on the copy with a black marker or white-out, and then make another copy of the record so that the protected information cannot be read.

E. **RELEASE OF ANONYMOUS INFORMATION:** Information may be released in a way that protects the identity of the individuals. Requests for data in aggregate or summary form may be granted as long as the released information excludes any items that identify program participants or applicants.

F. **MAILINGS/TELEPHONE MESSAGES:** The potential of mailings or telephone calls to compromise a WIC applicant's/participant's confidentiality must be assessed. In order to avoid or minimize confidentiality concerns, the project should have a written procedure pertaining to how applicants/participants are informed that they may get a mailing or telephone call, e.g.:

1. Applicants/participants may be informed at the time they contact the WIC clinic and/or prior to application that reminder postcards will be sent to them. They should be given the opportunity to designate whether or not they want this reminder.



2. Applicant/participants may be informed that a telephone call will be made, and confirm the phone number where they can be reached and any special instructions for leaving messages with others at the number or on an answering machine. It may be preferable to remind a client of their appointment at the "health department" instead of "WIC appointment."
3. If an applicant/participant calls the WIC office and leaves a message to call him/her at a particular number, no violation of WIC confidentiality occurs when the telephone call is returned.
4. At a minimum, document in participant's files and any other pertinent lists/files (e.g., computer listings) those that indicate that it is not acceptable to send reminders, etc.

G. STORAGE OF PARTICIPANT FILES

1. Participants' files must be maintained in locked files and/or in rooms which can be locked and are secure from unauthorized entry.
2. When files are used during certification clinics or at draft issuance, files must be handled in ways to maintain participant confidentiality, e.g., so that participants cannot read another person's file.
3. Files must not be taken home or to other places except as required for travel to clinics or draft issuance sites. During such travel, files should be transported in a way to maintain confidentiality (e.g., in a locked trunk).

- H. OTHER situations in which confidentiality policies apply include, but are not limited to, integrated client files, integrated/linked computer systems, and joint program application forms. For more information, see FNS Instruction 800-1.

ATTACHMENTS

WIC Confidentiality Checklist
Listing of State Agreements/Memoranda of Understanding for Disclosing Information
Listing of Local Agreements/Memoranda of Understanding for Disclosing Information
FNS Instruction 800-1 re: Confidentiality

for local WIC Project use

Agreement for Use of WIC Participant Information for Research (5/98)

Researcher name and position: _____

Affiliation: _____

Telephone/e-mail: _____

Summary of Proposed Study/Research

Summarize the purpose of the study (include information/data to be collected, rationale, references/justification as needed, and anticipated uses of the data).

Summarize the process (include how information/data will be obtained, timeline, etc.)

Assurances

1. The researcher(s) involved in this Project will keep identifying participant information confidential. No identifying (or potentially identifying) information will be released in any way. (The purpose is to assure compliance with Federal WIC Regulations and Instructions/Policies, which may supersede State of Wisconsin confidentiality statutes.)

2. All materials that go to or are used with participants (e.g., letters, surveys, lists of questions for telephone surveys, etc.) will be reviewed and approved by the _____ WIC Project prior to implementation. (The purpose is to assure confidentiality and appropriateness for a lower income, low literacy, multi-cultural population.)

3. Procedures for informing appropriate WIC staff (e.g., local WIC staff, DOH Regional Office Nutrition Consultants, State WIC Office) of the study or research will be identified and implemented. (The purpose is to assure that staff who may get questions from participants or local WIC staff are aware of the study, its purpose, etc.)

4. All final drafts of reports, articles, etc. for publication and/or dissemination will be reviewed and approved by the _____ WIC Project. (The purpose is to assure accuracy of information pertaining to WIC, not study design, etc.)

5. The _____ WIC Project will provide timely review of materials and expertise pertaining to the best methods to reach/contact the WIC population.

6. Data files, completed participant surveys, etc. will not be shared with other programs or agencies and will be returned to the _____ WIC Project or destroyed at the conclusion of the research project.

Signatures

Researcher(s)/Date: _____

Supervisor/Date: _____

WIC Project Director/Date: _____



Tommy G. Thompson
Governor



State of Wisconsin

Department of Health and Family Services

DIVISION OF SUPPORTIVE LIVING

BUREAU OF QUALITY ASSURANCE
1 WEST WILSON STREET
P.O. BOX 309
MADISON WI 53701-0309

Joe Leean
Secretary

The Bureau of Quality Assurance takes very seriously the responsibility of maintaining the confidentiality of a survey and therefore requires any person(s) who have access to survey schedule information, to sign the following statement:

I have read Skilled/Nursing Facility "Announced Survey" Investigations, manual code, 2540, and understand the consequences of revealing a survey date.

Full Signature: _____

Print Name: _____

Date: _____

EXAM SECURITY AGREEMENT - STAFF

I, _____, am an employe of the State of Wisconsin,
(print or type full name)

(name of department or agency)

(work location)

In the course of my work assignments, I have access to confidential examination information including, but not limited to, examination questions, answers to examination questions, scoring guides and benchmarks for scoring responses to examination questions, examination plans, examination development resource materials and verbal information on the content or planned content of civil service examinations.

I understand that the above-listed documents and information, as well as other information to which I have access, is special or confidential information within the meaning of § 230.43, Stats., and that disclosing information to unauthorized persons is a violation of § 230.43, Stats. This violation is a misdemeanor punishable by a fine of not less than \$50 nor more than \$1,000 or by imprisonment for not more than one year in the county jail or both.

I also recognize my continuing obligation to exercise all reasonable precautions to preserve the security of examination materials in my custody and to comply with the meaning and intent of § 230.16 (10), Stats.

By signing below, I acknowledge that failure to adhere to the requirements set forth in this statement would be a violation both to the public trust and as a condition of my continued employment with the State of Wisconsin.

Signed	Date
_____	_____
Witnessed	Date
_____	_____

NOTE: The employe should keep a copy of this signed document. The original will be sent to:

DER/MRS
Exam Administration Unit
P.O. Box 7855
137 East Wilson Street
Madison, WI 53707-7855

CONFIDENTIALITY STATEMENT
(FOR PEOPLE WITH BROAD ACCESS TO INFORMATION TECHNOLOGY)

Introduction

Persons who must have special computer and network access privileges in order to complete their job duties have the capability to access data and information beyond what individual Security Officers have authorized. These persons must acknowledge, in writing, their responsibility to abide by the policies stated on this form.

The Department's computer network and information systems contain privileged and confidential information. State and Federal laws impose constraints for handling and disclosing certain types of information, such as information related to child abuse, receipt of mental health or substance abuse treatment, date and time of unannounced skilled nursing facility survey, etc. Violations of these laws may subject the Department to legal liability and/or difficulty in obtaining the cooperation of other agencies or individuals. As well, individuals who violate these laws may be subject to legal liability. Employers may require persons who have authorized access to confidential information systems to sign a confidentiality or nondisclosure statement as a condition of access. However, it is not practical for privileged computer persons to sign all such documents. Moreover, when in the course of executing their duties they come in contact with information, they may not know whether it is confidential, or the constraints for handling and disclosing it. This can be confusing to employees, and also to managers who would need to inform employees about many different and complex laws on confidentiality, with numerous variations. Therefore, for ease of understanding and implementation, all information on the Department's computers and computer networks must be considered confidential in nature, and treated accordingly.

Security Policy

I understand that all data, information, electronic communication and network traffic on the Department's networks is the sole property of the Department of Health and Family Services. I further understand that in the course of performing my responsibilities I may come in contact with information that is confidential to the Department, clients, counties, or other parties. Copying, transferring, discussing, disclosing or otherwise using the information (directly or indirectly from the computer system, or from discussions related thereto) without permission may be a violation of state or federal laws. This applies during work time; it also applies outside of work, such as at social or family functions. I must presume that the content of all network traffic, data and information for which I have not been expressly authorized access is highly confidential. I will employ security safeguards to protect the Department's information assets, including but not limited to, the following:

1. I will safeguard the Department's information against unlawful disclosure and intentional or accidental destruction or alteration irrespective of the media on which it resides;
2. I will not disclose or misuse system access keys including, without limitation, login IDs and passwords;
3. I will not disseminate telephone numbers and remote access procedures except on a need-to-know basis; and,
4. I will safeguard network servers and computer equipment from physical abuse and unauthorized use.

Conditions of Use

1. I acknowledge that I have the responsibility to comply with the Department's security policies (i.e., the Department of Health and Family Services Information Technology Policy, Procedures and Standards Manual), including that mentioned above, and to employ sound security practices in carrying out my job duties.
2. My User ID/password is the equivalent of my signature. I am the only person authorized to use my User ID/password.
3. I will safeguard and will not disclose my password or any other authorization I have that allows me to access the DHFS computer network.
4. It is my responsibility to log out of the network. I will not leave unattended a computer terminal to which I logged on without first securing my network session.
5. I will not access information that I have no job related need to know or to access.
6. I will not in any way disclose, copy, release, alter, or destroy any information except as properly authorized within the scope of my employment.
7. I will safeguard confidential information.
Confidential information includes but is not limited to:
 - Information required by law to be kept confidential.
 - Information concerning the security aspects of the network.
 - Privileged information concerning the methods for gaining access to the network.
 - The data within the computer network.
8. I understand that if I breach any security policies I could be subject to disciplinary and/or legal action.
9. I will use my network access privileges only for the purposes for which they were intended.

My signature below indicates my responsibility to comply with all of the requirements set forth in this confidentiality statement and is a condition of being granted network access privileges. I further acknowledge that failure to adhere to these requirements could result in disciplinary action and removal of my network access privileges.

SIGNATURE - Employee	Date Signed	Name - Print or Type
Job Title/Position		Division/Bureau

Insurance Commissioner

Eileen Mallow
Clare Stapleton Concord

- Complaints
 - Companies
 - Agents
- (Confidential)
- * medical info / complaint
 - Correspondence etc. public except
 - * for confidential data
 - * little confidential info except for health info.
 - * Open complaint files not considered open record.

- * Fees to cover costs of labor + copies \$50,000.00 each year
- Businesses make request (policy info)

Agents - charge \$75 for file - they have set amount (not statute)
- public requests to see if someone licensed (1-800)

Who has access to medical records - examiners only - when employee starts employment are required to sign policies statement.

Agents data has social security # to help find agents who may be breaking the law. (share w/ law enforcement)

Company info tell insurance

- date of license
- name + address
- fax
- financial information of company

All open records ↑

(examinations are not open records)

How long are complaints kept?

- once closed kept on site 1 year
- records center 5 years

Insurance Funds - also collect information

- Local Govt Insurance Funds
- State Life Ins Fund - rates



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tommy G. Thompson
Governor

Connie L. O'Connell
Commissioner

September 8, 1999

121 East Wilson Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: information@oci.state.wi.us
http://badger.state.wi.us/agencies/oci/oci_home.htm

Testimony to The Senate Privacy, Electronic Commerce and Financial Institutions Committee September 8, 1999

Thank you for the opportunity to speak to your committee regarding the data collection activities of the Office of the Commissioner of Insurance (OCI). On behalf of Insurance Commissioner Connie O'Connell, I am Clare Stapleton-Concord, administrator of OCI's Division of Administrative Services.

The Office of the Commissioner of Insurance was created by the legislature in 1870 and vested with broad powers to ensure that the insurance industry meets the insurance needs of Wisconsin citizens responsibly and adequately. The fair, effective, and timely regulation of the insurance industry, offer OCI its challenge in meeting its public mission of leading the way in informing and protecting the public and responding to their insurance needs.

The information we are providing relates to three primary areas in which OCI collects data: complaints received by the agency, licensing of insurance agents, and licensing and monitoring of insurance company activities. In each of these areas most of the information OCI collects is public. As such it is available to anyone who requests the information. Costs involved in photocopying or making electronic copies of lists are charged to the requestor. These charges are set, consistent with the statute, at levels which permits only cost recovery. The monies received are placed in OCI's revenue account and do not increase expenditure authority.

Insurance Complaints:

Information collected about insurance complaints includes; the complaint files, general correspondence, legal files, and administrative actions.

Ensuring privacy of complaints is fairly straightforward. Closed complaint and legal files are considered public information. Before the public can view a "closed" complaint or legal file, it must be sent to either a complaints or legal staff person to remove "confidential" information [such as individual medical information]. This information is placed in a manila envelope marked with the complaint/legal file number on it and remains separated from the file until the requestor is finished with the file. The envelope is then placed back in the file. Open complaints or legal investigations are not considered an open record.

Costs of providing information about complaints is equally straightforward: If members of the public request photocopies of materials the price of the photocopies is charged to the requestor.

Agents:

Information is collected with regard to all agents who are licensed through OCI to sell a variety of types of insurance. Information collected about each agent includes date of birth, date of license, administrative actions etc., lines of insurance they are licensed to sell, e.g. homeowners, auto, health, and companies for which they are listed to sell insurance products.

Apart from agents and companies verifying license status, most of the requests for information about agents come from the general public. Very frequently the request comes by phone and most often involves license status etc. This information, which is public record, is delivered directly to the caller. OCI also provides lists of agent information. These lists contain the information most often requested by the public with regard to agents. The following data items are supplied: name, address, type of insurance an agent can sell, and company they can write for. These lists can be generated by groups of companies, types of insurance, zip code, or for all licensed agents.

Ensuring privacy of most agent data is not necessary since it is a matter of public record. Our database does contain agent social security numbers, however this is never supplied in lists. OCI uses the social security number to protect Wisconsin residents from insurance agents who have been cited for violations in other states and rogue agents who move from state to state, taking advantage of unsuspecting individuals. When we consult with law enforcement agencies, other licensing bodies and regulatory agencies regarding individuals who have requested agent licenses, a social security number is often needed to verify identification. In investigating license applications, we routinely check a national data base that provides information regarding administrative actions taken by other states. In order to have access to the data base, we must use a social security number, as well as share information we have collected with other state regulators.

Costs of providing information about agents is again simple cost recovery. OCI supplies the lists on diskettes, paper or tape according to the requestors choice. Generation of each list is charged at \$75.

Company:

Data collected about insurance companies includes details of dates of licensure, annual financial statements, policy forms, policy rates, and other financial documents.

Ensuring privacy of company information is not an issue since it is all public record. However, workpapers from financial and market conduct examinations are confidential and are not a public record. Persons are free to peruse the financial statements of companies and policy information.

Costs of providing information from paper materials is dealt with as a simple cost recovery. If members of the public request photocopies of materials the price of the photocopies is charged to the requestor. Sometime there are queries about information in the OCI database. Simple queries of which there are 15-20 per year are provided free. More complex requests which require analyst time and programming are usually charged about \$100 [we may only get one of these a year].

Other Questions and Issues

OCI provides a range of publications to assist the public and others with insurance matters. For an individual requesting publications the first one of each title is free, then a charge of \$1 is made for each. Requestors of multiple copies are advised that each publication is available on OCI's Web site and can be downloaded and duplicated. This usually saves the requestor a considerable amount.

OCI also administers the Local Government Property Insurance Fund, Patients Compensation Fund and the State Life Insurance Fund. In the interest of brevity, I will provide an overview of the data collected by the funds. I have also attached a summary of the information collected for each program.

In order to administer these funds OCI collects appropriate underwriting and loss data typical for a commercial insurance company. Because the Local Government Property Insurance Fund covers other governmental entities, much of this information is subject to the open records law. With respect to the Patients Compensation Fund, this information is public except for confidential information related to claims. Typical requests the PCF may receive include information regarding primary carriers, a provider's fund status and a listing of providers participating in the fund. The State Life Insurance Fund provides coverage for private citizens. Therefore, no policyholder information is available to the public. The only sharing of information is with a professional reinsurance company that reviews the application and medical reports to determine insurability.

We do not sell any of the data we collect for the Funds. However we assess charges or fees to cover the cost of reproducing or retrieving this information based on established OCI policies.

Thank you for the opportunity to provide information regarding OCI's data collection activities to your committee. I would be happy to answer any questions you may have.

Local Government Property Insurance Fund (Fund)

The purpose of the Fund is to make reasonably priced property insurance available for tax-supported local government property such as government buildings, schools, libraries, and motor vehicles. The Fund provides policy and claim service to the policyholders in carrying out that purpose.

To achieve its purpose the Fund collects underwriting information typical for a commercial insurance company. For example, the Fund uses underwriting forms to collect building information such as the specific location of the risk, the construction classification, floor area, and the year built. It also collects information on other features such as heating, air conditioning, the existence of a basement, a sprinkler system (fire protection), automated intrusion alarms, elevators, and vacancy or occupancy codes. The Fund also collects data as it relates to other types of property it insures including information on vehicles, property in the open, contractor's equipment, computer and phone systems and other personal property.

To adjust and settle losses the Fund collects loss information via a loss reporting form. This information includes the name and address of the policyholder, the policy number, the date of the loss, kind of loss (fire, lightning, wind, theft, etc.) location of loss, estimated amount of the loss, description of the loss and damage, and name of person filing the report.

Not all of this data is recorded electronically. Some is retained in manual files. If desired, a comprehensive listing of all the underwriting and loss data elements being collected by the Fund including the actual reporting forms can be provided to the Committee.

While the Commissioner's Annual Report contains an article on the Local Government Property Insurance Fund summarizing operational and financial matters, from time to time the Fund does receive external requests for specific policyholder information. The privacy of this information, since it relates to local governmental units and not private citizens, is typically not a problem. Nor does the Fund sell any of the data it collects. The Fund may, however, assess charges or fees to parties requesting the information, to cover the cost of reproducing or retrieving this information. The Commissioner's Office has established policies that cover photocopying fees that can be provided if needed.

Finally, since the purpose of the Fund is to offer reasonably priced property insurance to tax-supported local government units it is not likely that another state agency might also be collecting similar information that could be shared with the Fund. Therefore, the Fund must collect this information to achieve its purpose.

Patients Compensation Fund

The Patients Compensation Fund's data is subject to the open records law. The Fund collects the following information:

- Names and Addresses of Health Care providers licensed in Wisconsin
- Primary Carrier Information
- Account payment history
- Claims Data

This information is public information except for the confidential information related to claims.

The Fund receives requests for information regarding primary carriers, a provider's fund status and claims information. This information is provided free of charge. The requests are often made by telephone on an individual provider basis.

Occasionally we receive requests for claims reports and a listing of all providers participating in the Fund. Such requests are required to be in writing. In the case of a request for a listing of all providers, the person making the request is required to send in diskettes and the information will be downloaded from our database. As in the case of individual requests, there is no charge for the information.

State Life Insurance Fund

The State Life Insurance Fund collects confidential data on the application for life insurance. Social security numbers (of the insured and owner) and medical information on the applicant is obtained through the application process. The applicant provides the Fund with an authorization to request further medical information from their medical provider, as necessary, in order to complete the policy underwriting. All of the individual policyholder information is confidential. The only sharing of information is with a professional Reinsurance Company that reviews the application and medical reports to determine insurability and rate determination. The policyholder files are maintained in a separate room within the Fund area that is secured nightly.

No policyholder information is made available to the public. The social security number of the policyholders is captured on the policy administration system. This is required in order to provide IRS-1099 forms for the respective individuals at tax time. No medical information is on the policy administration system at this time. When imaging of the individual policyholder files is initiated, the policy administration system then will contain all of the confidential information found in the policy file.

Access to the policy administration system is restricted to State Life Fund staff and their contractors. Contractors accessing the system include an actuary, the software vendor, in-house IT staff, and the Legislative Audit Bureau during an audit period.

The Office of the Commissioner of Insurance (OCI) was created by the legislature in 1870 and vested with broad powers to ensure that the insurance industry meets the insurance needs of Wisconsin citizens responsibly and adequately.

The importance of fair, effective, and timely regulation of the insurance industry, as well as continuing efforts toward health care reforms offer OCI a special challenge in meeting its public mission of leading the way in informing and protecting the public and responding to their insurance needs.

The major functions of the office include:

Reviewing insurance policies that are sold in Wisconsin to determine if they meet the requirements of Wisconsin's laws.

Conducting financial examinations of domestic and foreign insurers to assure compliance with Wisconsin regulations and rules.

Monitoring the financial status of licensed companies and applicant companies to provide early warning of financial difficulty.

Issuing licenses to companies, agents, brokers, surplus lines brokers, managing general agents, reinsurance brokers and managers, and organizations including employee benefit plan administrators.

Examining and analyzing rates filed by insurance companies to determine if they are excessive, inadequate, or unfairly discriminatory.

Investigating and processing consumer complaints against agents and insurance companies and attempting to bring the matter to a fair and reasonable conclusion.

Researching special insurance problems through data collection and analysis and publishing conclusions and recommendations in special reports.

Developing legislation and promulgating administrative rules that ensure a strong insurance market through proactive policy and skillful enforcement.

Investigating and pursuing administrative actions against agents and insurers who violate Wisconsin insurance laws and regulations. Penalties include suspension or revocation of licenses and fines.

Conducting a comprehensive program of consumer education and public information to educate consumers about insurance through public speaking and distribution of information booklets and comparison guides.

Operating a state life insurance fund, a property fund for the property owned by local units of government, and a patients compensation fund insuring health care providers for medical malpractice, and a health insurance plan for high risk individuals.