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To: Adult Family Homes AFH
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Facilities Serving People with Developmentally Disabled FDD
Nursing Homes NH
Residential Care Apartment Complexes RCAC

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**Using Social Media Platforms, such as Twitter, Facebook, MySpace and LinkedIn,
in DQA Regulated Facilities**

This memorandum provides guidance to providers on the fast-changing landscape of the internet and the impact of using social networking and social media as a communications tool. We use the internet to access and share information and we also use it as a way to communicate with co-workers and others.

However, if internet communications contain resident/patient-specific information, such as medical appointments, medication changes or changes in medical status, the privacy of that information is in jeopardy. The release of confidential and sensitive information may have legal consequences including State or federal violations of resident rights, violations of HIPAA (Health Insurance Portability and Accountability Act), criminal charges, or civil lawsuit for the failure to protect an individual's privacy.

Background:

Social media has become more than just a way for people to maintain contact with friends. It is a convenient tool that enables people to easily and instantly share information with friends and co-workers. Problems arise because social media content, including personal or private information, can be easily shared, rapidly disseminated, and readily accessed by others.

Resident and Patient Rights:

Wisconsin state statutes and administrative rules for all regulated healthcare providers consistently address each resident's and patient's right to privacy concerning health care, treatment, and confidentiality. Furthermore, the failure to protect a resident or patient's privacy and confidential information may form the basis for criminal or civil liability. See Wisconsin Statutes 942.08, 942.09 and 995.50.

All entities have an obligation to protect the rights of their clients, patients or residents. For more information regarding resident rights, fair treatment, privacy and confidentiality, access the Department's website at http://dhs.wisconsin.gov/rl_DSL/index.htm.

HIPAA Protections:

All entities have a duty under the Health Insurance Portability and Accountability Act (HIPAA) of 1996 to protect Individually Identifiable Health Information (IIHI). Healthcare entities that violate HIPAA can face penalties, including fines and/or imprisonment for knowingly misusing Individually Identifiable Health Information. See the US Department of Health and Human Services website at: <http://www.hhs.gov/ocr/privacy/index.html>

Conclusion:

Social networking platforms and related communication technologies, such as texting, create significant risks to the personal privacy residents/patients and to the confidentiality of health care information. Each entity has a legal responsibility to protect resident/patient privacy and the confidentiality of health care information. It is recommended that entities develop a social media policy to provide guidance to employees about the appropriate use of social media in a health or residential care facility. Facility policies should prohibit staff from discussing resident/patient information on blogs, social media, or other internet platforms. In addition, health or residential care facilities must provide staff with ongoing training resident rights and in HIPAA privacy and security.