

Attachment 1

The following selected portions of statutes and regulations are provided in the following order:

1. State statutes.
2. State regulations, in numerical order.
3. Federal regulations governing confidentiality of alcohol or other drug abuse (AODA) treatment records.
4. Federal Health Insurance Portability and Accountability Act (HIPAA) security and privacy regulations.

NOTE: These statutes and regulations are current as of June 1, 2007. Readers of this document may wish to verify that the language in the statutes and regulations has not changed.

46.21 (2m) (c) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7) and 253.07 (3) (c), a subunit of a county department of human services or tribal agency acting under this subsection may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of human services or tribal agency, with a resource center, a care management organization, or a family care district, with an elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person providing services to the client under a purchase of services contract with the county department of human services or tribal agency or with a resource center, a care management organization, or a family care district, if necessary to enable an employee or service provider to perform his or her duties, or to enable the county department of human services or tribal agency to coordinate the delivery of services to the client. An agency that releases information under this paragraph shall document that a request for information was received and what information was provided.

NOTE: Par. (c) is shown as affected by 2 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).

46.215 (1m) EXCHANGE OF INFORMATION; LONG-TERM CARE. Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of social services or tribal agency acting under this section may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of social services or tribal agency, with a resource center, a care management organization, or a family care district, with an elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person providing services to the client under a purchase of services contract with the county department of social services or tribal agency or with a resource center, a care management organization, or a family care district, if necessary to enable an employee or service provider to perform his or her duties, or to enable the county department of social services or tribal agency to coordinate the delivery of services to the client. An agency that releases information under this subsection shall document that a request for information was received and what information was provided.

NOTE: Sub. (1m) is shown as affected by 2 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).

46.22 (1) (dm) *Exchange of information; long-term care.* Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of social services or tribal agency acting under this subsection may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of social services or tribal agency, with a resource center, a care management organization, or a family care district, with an elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person providing services to the client under a purchase of services contract with the county department of social services or tribal agency or with a resource center, a care management organization, or a family care district, if necessary to enable an employee or service provider to perform his or her duties, or to enable the county department of social services or tribal agency to coordinate the delivery of services to the client. An agency that releases information under this paragraph shall document that a request for information was received and what information was provided.

NOTE: Par. (dm) is shown as affected by 2 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).

46.23 (3) (e) *Exchange of information; long-term care.* Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a subunit of a county department of human services or tribal agency acting under this section may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of human services or tribal agency, with a resource center, a care management organization, or a family care district, with an elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with a person providing services to the client under a purchase of services contract with the county department of human services or tribal agency or with a resource center, a care management organization, or a family care district, if necessary to enable an employee or service provider to perform his or her duties, or to enable the county department of human services or tribal agency to coordinate the delivery of services to the client. An agency that releases information under this paragraph shall document that a request for information was received and what information was provided.

NOTE: Par. (e) is shown as affected by 2 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).

46.283 (7) **CONFIDENTIALITY; EXCHANGE OF INFORMATION.** No record, as defined in s. 19.32 (2), of a resource center that contains personally identifiable information, as defined in s. 19.62 (5), concerning an individual who receives services from the resource center may be disclosed by the resource center without the individual's informed consent, except as follows:

(a) A resource center may provide information as required to comply with s. 16.009 (2) (p) or 49.45 (4) or as necessary for the department to administer the program under ss. 46.2805 to 46.2895.

(b) Notwithstanding ss. 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a resource center acting under this section may exchange confidential information about a client, as defined in s. 46.287 (1), without the informed consent of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.284 (7), 46.2895 (10), 51.42 (3) (e) or 51.437 (4r) (b) in the county of the resource center, if necessary to enable the resource center to perform its duties or to coordinate the delivery of services to the client.

46.284 (7) CONFIDENTIALITY; EXCHANGE OF INFORMATION. No record, as defined in s. 19.32 (2), of a care management organization that contains personally identifiable information, as defined in s. 19.62 (5), concerning an individual who receives services from the care management organization may be disclosed by the care management organization without the individual's informed consent, except as follows:

(a) A care management organization may provide information as required to comply with s. 16.009 (2) (p) or 49.45 (4) or as necessary for the department to administer the program under ss. 46.2805 to 46.2895.

(b) Notwithstanding ss. 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a care management organization acting under this section may exchange confidential information about a client, as defined in s. 46.287 (1), without the informed consent of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.283 (7), 46.2895 (10), 51.42 (3) (e) or 51.437 (4r) (b) in the county of the care management organization, if necessary to enable the care management organization to perform its duties or to coordinate the delivery of services to the client.

46.2895 (10) EXCHANGE OF INFORMATION. Notwithstanding sub. (9) and ss. 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a family care district acting under this section may exchange confidential information about a client, as defined in s. 46.287 (1), without the informed consent of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.283 (7), 46.284 (7), 51.42 (3) (e) or 51.437 (4r) (b) in the jurisdiction of the family care district, if necessary to enable the family care district to perform its duties or to coordinate the delivery of services to the client.

46.90 (4) REPORTING. (ab) The following persons shall file reports as specified in par. (ad):

1. An employee of any entity that is licensed, certified, or approved by or registered with the department.
3. A health care provider, as defined in s. 155.01 (7).
4. A social worker, professional counselor, or marriage and family therapist certified under ch. 457.

(ad) Except as provided in par. (ae), a person specified in par. (ab) who has seen an elder adult at risk in the course of the person's professional duties shall file a report with the county department, the elder-adult-at-risk agency, a state or local law enforcement agency, the department, or the board on aging and long-term care if the elder adult at risk has requested the person to make the report, or if the person has reasonable cause to believe that any of the following situations exist:

1. The elder adult at risk is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss and is unable to make an informed judgment about whether to report the risk.
2. An elder adult at risk other than the subject of the report is at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by a suspected perpetrator.

(ae) A person specified in par. (ab) to whom any of the following applies is not required to file a report as provided in par. (ad):

1. If the person believes that filing a report would not be in the best interest of the elder adult at risk. If the person so believes, the person shall document the reasons for this belief in the case file that the person maintains on the elder adult at risk.
2. If a health care provider provides treatment by spiritual means through prayer for healing in lieu of medical care in accordance with his or her religious tradition and his or her communications with patients are required by his or her religious denomination to be held confidential.

(ar) Any person, including an attorney or a person working under the supervision of an attorney, may report to the county department, the elder-adult-at-risk agency, a state or local law enforcement agency, the department, or the board on aging and long-term care that he or she believes that abuse, financial exploitation, neglect, or self-neglect of an elder adult at risk has occurred if the person is aware of facts or circumstances that would lead a reasonable person to believe or suspect that abuse, financial exploitation, neglect, or self-neglect of an elder adult at risk has occurred. The person shall indicate the facts and circumstances of the situation as part of the report.

(b) 1. a. No person may discharge or otherwise retaliate or discriminate against any person for reporting in good faith under this subsection.

b. No person may discharge or otherwise retaliate or discriminate against any individual on whose behalf another person has reported in good faith under this subsection.

cm. Any discharge of a person or act of retaliation or discrimination that is taken against a person who makes a report under this subsection, within 120 days after the report is made, establishes a rebuttable presumption that the discharge or act is made in response to the report. This presumption may be rebutted by a preponderance of evidence that the discharge or act was not made in response to the report.

2. b. Any employee who is discharged or otherwise discriminated against may file a complaint with the department of workforce development under s. 106.54 (5).

c. Any person not described in subd. 2. b. who is retaliated or discriminated against in violation of subd. 1. a. or b. may commence an action in circuit court for damages incurred as a result of the violation.

(c) No person may be held civilly or criminally liable or be found guilty of unprofessional conduct for reporting in good faith under this subsection and within the scope of his or her authority, or for filing a report with an agency not listed in par. (ad) (intro.) or (ar) if the person had a good faith belief that the report was filed correctly with one of the listed agencies.

(d) If a report under par. (ad) or (ar) is made to a state official, the state official shall refer the report to the appropriate elder-adult-at-risk agency. The requirement under this paragraph does not apply to an employee of the board on aging and long-term care who determines that his or her referral would be in violation of 42 USC 3058g (d).

(e) Any person making a report under this subsection is presumed to have reported in good faith.

46.90 (6) RECORDS; CONFIDENTIALITY. (ac) In this subsection:

1. "Departmental report form" includes documentation of an elder-adult-at-risk agency's response to or investigation of a report made under sub. (5) and is the information required to be submitted to the department.

2. "Record" includes any document relating to the response, investigation, assessment, and disposition of a report made under this section.

(am) The elder-adult-at-risk agency shall prepare a departmental report form of its response under sub. (5) to a report of suspected abuse, financial exploitation, neglect, or self-neglect. If the elder-adult-at-risk agency refers the report to an investigative agency, the investigative agency shall advise the elder-adult-at-risk agency in writing of its response to the report. The elder-adult-at-risk agency shall maintain records of suspected abuse, financial exploitation, neglect, or self-neglect.

(b) Departmental report forms are confidential and may not be released by the elder-adult-at-risk agency or other investigative agency, except under the following circumstances:

1. To the elder adult at risk, any person named in a departmental report form who is suspected of abusing, neglecting, or financially exploiting an elder adult at risk, and the suspect's attorney. These persons may inspect the departmental report form, except that information identifying the person who initially reported the suspected abuse, financial exploitation, neglect, or self-neglect, or any other person whose safety might be endangered through disclosure, may not be released.

2. To the agency or other entity from which assistance is requested under sub. (5) (f). Information obtained under this subdivision shall remain confidential.

3. To an individual, organization, or agency designated by the department or as required by law for the purposes of management audits or program monitoring and evaluation. Information obtained under this subdivision shall remain confidential and may not be used in any way that discloses the names of or other identifying information about the individuals involved.

4. For purposes of research, if the research project has been approved by the department or the elder-adult-at-risk agency and the researcher has provided assurances that the information will be used only for the purposes for which it was provided to the researcher, the information will not be released to a person not connected with the study under consideration, and the final product of the research will not reveal information that may serve to identify the individuals involved. The information shall remain confidential. In approving the use of information under this subdivision, the department shall impose any additional safeguards needed to prevent unwarranted disclosure of information.

5. Under a lawful order of a court of record.

6. To any agency or individual that provides direct services under sub. (5m), including an attending physician for purposes of diagnosis and treatment, and within the department to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of individuals committed to or under the supervision of the department. Information obtained under this subdivision shall remain confidential.

7. To the guardian of the elder adult at risk or the guardian of any person named in a report who is suspected of abusing, neglecting, or financially exploiting an elder adult at risk. These persons may inspect the departmental report form, except that information identifying the person who initially reported the suspected abuse, financial exploitation, neglect, or self-neglect, or any other person whose safety might be endangered through disclosure, may not be released.

8. To law enforcement officials in accordance with the policy developed under sub. (3) (a).

9. To a federal agency, state governmental agency, agency of any other state, or local governmental unit in this state or any other state that has a need for a departmental report form in order to carry out its responsibility to protect elder adults at risk from abuse, financial exploitation, neglect, or self-neglect.

10. To the reporter who made a report in his or her professional capacity, regarding action to be taken to protect or provide services to the alleged victim of abuse, financial exploitation, neglect, or self-neglect.

(bd) If a person requesting a departmental report form is not one of the persons or entities specified in par. (b), the elder-adult-at-risk agency may release information indicating only whether or not a report was received and whether or not statutory responsibility was fulfilled.

(br) Notwithstanding par. (b) 1. to 10., an elder-adult-at-risk agency or an investigative agency may not release departmental report forms under this section if any of the following applies:

1. The elder-adult-at-risk agency determines that the release would be contrary to the best interests of the elder adult at risk who is the subject of the departmental report form or of another person residing with the subject of the departmental report form, or the release is likely to cause mental, emotional, or physical harm to the subject of the departmental report form or to any other individual.

2. The district attorney determines that disclosure of the information would jeopardize any ongoing or future criminal investigation or prosecution or would jeopardize a defendant's right to a fair trial.

3. The elder-adult-at-risk agency determines that disclosure would jeopardize ongoing or future civil investigations or proceedings or would jeopardize the fairness of such a legal proceeding.

(bt) Subject to pars. (b), (bd), (br), (bv), and (bw), records under this subsection are confidential and may not be released by the elder-adult-at-risk agency or other investigative agency, except under the following circumstances, upon request:

1. To the elder adult at risk who is the alleged victim named in the record.

2. To the legal guardian, conservator, or other legal representative of the elder adult at risk who is the alleged victim named in the record, if the legal guardian, conservator, or other legal representative of the alleged victim is not the alleged perpetrator of the abuse, financial exploitation, or neglect.

3. To law enforcement officials and agencies in accordance with the policy developed under sub. (3) (a) or with investigations conducted under sub. (5), or a district attorney, for purposes of investigation or prosecution.

4. To the department, under s. 51.03 (2), or for death investigations under s. 50.04 (2t) or 50.035 (5); or to a sheriff, police department, or district attorney for death investigations under s. 51.64 (2) (a).

5. To an employee of a county department under s. 51.42 or 51.437 that is providing services either to the elder adult at risk who is the alleged victim named in the record or to the alleged perpetrator of abuse, to determine whether the alleged victim should be transferred to a less restrictive or more appropriate treatment modality or facility.

6. To a court, tribal court, or state governmental agency for a proceeding relating to the licensure or regulation of an individual or entity regulated or licensed by the state governmental agency, that was an alleged perpetrator of abuse, financial exploitation, or neglect.

7. To the department, for management, audit, program monitoring, evaluation, billing, or collection purposes.

8. To the attorney or guardian ad litem for the elder adult at risk who is the alleged victim named in the record, to assist in preparing for any proceeding under ch. 48, 51, 55, 813, 880, 971, or 975 [ch. 48, 51, 54, 55, 813, 971, or 975] pertaining to the alleged victim. **NOTE: The bracketed language indicates the correct cross-reference.**

9. To a coroner, medical examiner, pathologist, or other physician investigating the cause of death of an elder adult at risk that is unexplained or unusual or is associated with unexplained or suspicious circumstances.

10. To staff members of the protection and advocacy agency designated under s. 51.62 and the board on aging and long-term care under s. 16.009.

11. To an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of abuse, neglect, or financial exploitation of an elder adult at risk.

12. To a grand jury, if it determines that access to specified records is necessary for the conduct of its official business.

13. Under a lawful order of a court of record.

(bv) The identity of a person making a report of alleged abuse, neglect, self-neglect, or financial exploitation shall be deleted from any record prior to its release under par. (bt) or from any departmental report form prior to its release under par. (b). The identity of any reporter may only be released with the written consent of the reporter or under a lawful order of a court of record.

(bw) A person to whom a departmental report form or a record is disclosed under this subsection may not further disclose it, except to the persons and for the purposes specified in this subsection.

(by) A custodian of records or departmental report forms incurs no civil or criminal liability under this subsection and may not be found guilty of unprofessional conduct for the release or nonrelease of records or departmental report forms in accordance with this subsection while acting in good faith and within the scope of his or her authority.

(d) Any person who requests or obtains confidential information under this subsection under false pretenses may be fined not more than \$500 or imprisoned not more than one year in the county jail or both.

(e) Any employee who violates this subsection may be subject to discharge or suspension without pay.

51.01(19) "Treatment facility" means any publicly or privately operated facility or unit thereof providing treatment of alcoholic, drug dependent, mentally ill or developmentally disabled persons, including but not limited to inpatient and outpatient treatment programs, community support programs and rehabilitation programs.

51.30 Records.

(1) (ag) "Health care provider" has the meaning given in s. 146.81 (1).

(b) "Treatment records" include the registration and all other records that are created in the course of providing services to individuals for mental illness, developmental disabilities, alcoholism, or drug dependence and that are maintained by the department, by county departments under s. 51.42 or 51.437 and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by an individual providing treatment services for the department, a county department under s. 51.42 or 51.437, or a treatment facility, if the notes or records are not available to others.

(4) ACCESS TO REGISTRATION AND TREATMENT RECORDS. (a) *Confidentiality of records.* Except as otherwise provided in this chapter and ss. 118.125 (4), 610.70 (3) and (5), 905.03 and 905.04, all treatment records shall remain confidential and are privileged to the subject individual. Such records may be released only to the persons designated in this chapter or ss. 118.125 (4), 610.70 (3) and (5), 905.03 and 905.04, or to other designated persons with the informed written consent of the subject individual as provided in this section. This restriction applies to elected officials and to members of boards appointed under s. 51.42 (4) (a) or 51.437 (7) (a).

(b) *Access without informed written consent.* Notwithstanding par. (a), treatment records of an individual may be released without informed written consent in the following circumstances, except as restricted under par. (c):

5. To qualified staff members of the department, to the director of the county department under s. 51.42 or 51.437 which is responsible for serving a subject individual or to qualified staff members designated by the director as is necessary to determine progress and adequacy of treatment, to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility or for the purposes of s. 51.14. Such information shall remain confidential. The department and county departments under s. 51.42 or 51.437 shall develop procedures to assure the confidentiality of such information.

6. Within the treatment facility where the subject individual is receiving treatment confidential information may be disclosed to individuals employed, individuals serving in bona fide training programs or individuals participating in supervised volunteer programs, at the facility when and to the extent that performance of their duties requires that they have access to such information.

8. For treatment of the individual in a medical emergency, to a health care provider who is otherwise unable to obtain the individual's informed consent because of the individual's condition or the nature of the medical emergency. Disclosure under this subdivision shall be limited to that part of the records necessary to meet the medical emergency.

8g. To health care providers in a related health care entity, or to any person acting under the supervision of such a health care provider who is involved with an individual's care, if necessary for the current treatment of the individual. Information that may be released under this subdivision is limited to the individual's name, address, and date of birth; the name of the individual's mental health treatment provider; the date of mental health service provided; the individual's medications, allergies, and diagnosis; and other relevant demographic information necessary for the current treatment of the individual. In this subdivision, "related health care entity" means one of the following:

a. An entity that is within a clinically integrated care setting in which individuals typically receive health care from more than one health care provider.

b. An organized system of health care in which the health care providers hold themselves out to the public as participating in a joint arrangement and jointly participate in activities.

17. To the elder-adult-at-risk agency designated under s. 46.90 (2) or other investigating agency under s. 46.90 for the purposes of s. 46.90 (4) and (5), to the county department as defined in s. 48.02 (2g) or the sheriff or police department for the purposes of s. 48.981 (2) and (3), or to the adult-at-risk agency designated under s. 55.02 [s. 55.043 (1d)] for purposes of s. 55.043. The treatment record holder may release treatment record information by initiating contact with the elder-adult-at-risk agency, adult-at-risk agency, or county department, as defined in s. 48.02 (2g), without first receiving a request for release of the treatment record from the elder-adult-at-risk agency, adult-at-risk agency, or county department.

(c) *Limitation on release of alcohol and drug treatment records.* Notwithstanding par. (b), whenever federal law or applicable federal regulations restrict, or as a condition to receipt of federal aids require that this state restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency in a program or facility to a greater extent than permitted under this section, the department may by rule restrict the release of such information as may be necessary to comply with federal law and regulations. Rules promulgated under this paragraph shall supersede this section with respect to alcoholism and drug dependency treatment records in those situations in which they apply.

(g) *Applicability.* Paragraphs (a), (b), (c), (dm) and (e) apply to all treatment records, including those on which written, drawn, printed, spoken, visual, electromagnetic or digital information is recorded or preserved, regardless of physical form or characteristics.

55.043(1m) REPORTING. (a) The following persons shall file reports as specified in par. (b):

1. An employee of any entity that is licensed, certified, or approved by or registered with the department.

3. A health care provider, as defined in s. 155.01 (7).

4. A social worker, professional counselor, or marriage and family therapist certified under ch. 457.

(b) Except as provided in par. (be), a person specified in par. (a) who has seen an adult at risk in the course of the person's professional duties shall file a report with the county department, the adult-at-risk agency, a state or local law enforcement agency, the department, or the board on aging and long-term care if the adult at risk has requested the person to make the report, or if the person has reasonable cause to believe that any of the following situations exist:

1. The adult at risk is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss and is unable to make an informed judgment about whether to report the risk.

2. An adult at risk other than the subject of the report is at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by a suspected perpetrator.

(be) A person specified in par. (a) to whom any of the following applies is not required to file a report as provided in par. (b):

1. If the person believes that filing a report would not be in the best interest of the adult at risk. If the person so believes, the person shall document the reasons for this belief in the case file that the person maintains on the adult at risk.

2. If a health care provider provides treatment by spiritual means through prayer for healing in lieu of medical care in accordance with his or her religious tradition and his or her communications with patients are required by his or her religious denomination to be held confidential.

(br) Any person, including an attorney or a person working under the supervision of an attorney, may report to the county department, adult-at-risk agency, a state or local law enforcement agency, the department, or the board on aging and long-term care that he or she believes that abuse, financial exploitation, neglect, or self-neglect of an adult at risk has occurred if the person is aware of facts or circumstances that would lead a reasonable person to believe or suspect that abuse, financial exploitation, neglect, or self-neglect of an adult at risk has occurred. The person shall indicate the facts and circumstances of the situation as part of the report.

(c) 1. a. No person may discharge or otherwise retaliate or discriminate against any person for reporting in good faith under this subsection.

b. No person may discharge or otherwise retaliate or discriminate against any individual on whose behalf another person has reported in good faith under this subsection.

d. Any discharge of a person or act of retaliation or discrimination that is taken against a person who makes a report under this subsection, within 120 days after the report is made, establishes a rebuttable presumption that the discharge or act is made in response to the report. This presumption may be rebutted by a preponderance of evidence that the discharge or act was not made in response to the report.

2. b. Any employee of an employer who is discharged or otherwise discriminated against may file a complaint with the department of workforce development under s. 106.54 (5).

c. Any person not described in subd. 2. b. who is retaliated or discriminated against in violation of subd. 1. a. or b. may commence an action in circuit court for damages incurred as a result of the violation.

(d) No person may be held civilly or criminally liable or be found guilty of unprofessional conduct for reporting in good faith under this subsection, or for filing a report with an agency not listed in par. (b) (intro.) or (br) if the person had a good faith belief that the report was filed correctly with one of the listed agencies.

(e) If a report under par. (b) or (br) is made to a state official, the state official shall refer the report to the appropriate adult-at-risk agency. The requirement under this paragraph does not apply to an employee of the board on aging and long-term care who determines that his or her referral would be in violation of 42 USC 3058g (d).

(f) Any person making a report under this subsection is presumed to have reported in good faith.

(6) RECORDS; CONFIDENTIALITY. (a) In this subsection:

1. "Departmental report form" includes documentation of an adult-at-risk agency's response to or investigation of a report made under sub. (1r) and is the information required to be submitted to the department.

2. "Record" includes any document relating to the response, investigation, assessment, and disposition of a report made under sub. (1r).

(am) The adult-at-risk agency shall prepare a departmental report form on its response under sub. (1r) to a report of suspected abuse, financial exploitation, neglect, or self-neglect. If the adult-at-risk agency refers the report to an investigative agency, the investigative agency shall advise the adult-at-risk agency in writing of its response to the report. The adult-at-risk agency shall maintain records of suspected abuse, financial exploitation, neglect, or self-neglect.

(b) Departmental report forms are confidential and may not be released by the adult-at-risk agency or other investigative agency, except under the following circumstances:

1. To the adult at risk, any person named in a departmental report form who is suspected of abusing, neglecting, or financially exploiting an adult-at-risk, and the suspect's attorney. These persons may inspect the departmental report form, except that information identifying the person who initially reported the suspected abuse, financial exploitation, neglect, or self-neglect, or any other person whose safety might be endangered through disclosure, may not be released.

2. To the agency or other entity contacted under sub. (2) (b). Information obtained under this subdivision shall remain confidential.

3. To an individual, organization, or agency designated by the department or as required by law for the purposes of management audits or program monitoring and evaluation. Information obtained under this subdivision shall remain confidential and may not be used in any way that discloses the names of or other identifying information about the individuals involved.

4. For purposes of research, if the research project has been approved by the department or the adult-at-risk agency and the researcher has provided assurances that the information will be used only for the purposes for which it was provided to the researcher, the information will not be released to a person not connected with the study under consideration, and the final product of the research will not reveal information that may serve to identify the individuals involved. The information shall remain confidential. In approving the use of information under this subdivision, the department shall impose any additional safeguards needed to prevent unwarranted disclosure of information.

5. Under lawful order of a court of record.

6. To any agency or individual that provides direct services under sub. (4), including an attending physician for purposes of diagnosis, examination, and treatment, and within the department to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of individuals committed to or under the supervision of the department. Information obtained under this subdivision shall remain confidential.

7. To the guardian of the adult at risk or the guardian of any person named in a report who is suspected of abusing, neglecting, or financially exploiting an adult at risk. These persons may inspect the departmental report form, except that information identifying the person who initially reported the suspected abuse, financial exploitation, neglect, or self-neglect, or any other person whose safety might be endangered through disclosure, may not be released.

8. To law enforcement officials in accordance with the policy developed under sub. (1g) (a).

9. To a federal agency, state governmental agency, agency of any other state, or local unit of government in this state or any other state that has a need for a departmental report form in order to carry out its responsibility to protect adults at risk from abuse, financial exploitation, neglect, or self-neglect.

10. To the reporter who made a report in his or her professional capacity, regarding action taken to protect or provide services to the alleged victim of abuse, financial exploitation, neglect, or self-neglect.

(bd) If a person requesting a departmental report form is not one of the persons or entities specified in par. (b), the adult-at-risk agency may release information indicating only whether or not a report was received and whether or not statutory responsibility was fulfilled.

(br) Notwithstanding par. (b) 1. to 10., an adult-at-risk agency or an investigative agency may not release departmental report forms under this section, if any of the following applies:

1. The adult-at-risk agency determines that release would be contrary to the best interests of the adult at risk who is the subject of the departmental report form or of a minor residing with the subject of the departmental report form, or the release is likely to cause mental, emotional, or physical harm to the subject of the departmental report form or to any other individual.

2. The district attorney determines that disclosure of the information would jeopardize any ongoing or future criminal investigation or prosecution or would jeopardize a defendant's right to a fair trial.

3. The adult-at-risk agency determines that disclosure would jeopardize ongoing or future civil investigations or proceedings or would jeopardize the fairness of such a legal proceeding.

(bt) Subject to pars. (b), (bd), (br), (bv) and (bw), records under this subsection are confidential and may not be released by the adult-at-risk agency or other investigative agency, except under the following circumstances, upon request:

1. To the adult at risk who is the alleged victim named in the record.

2. To the legal guardian, conservator, or other legal representative of the adult at risk who is the alleged victim named in the record, if the legal guardian, conservator, or other legal representative of the alleged victim is not the alleged perpetrator of the abuse, financial exploitation, or neglect.

3. To law enforcement officials and agencies in accordance with the policy developed under sub. (1g) (a) or with investigations conducted under sub. (1r), or a district attorney, for purposes of investigation or prosecution.

4. To the department, under s. 51.03 (2), or for death investigations under s. 50.04 (2t) or 50.035 (5); or to a sheriff, police department, or district attorney for death investigations under s. 51.64 (2) (a).

5. To an employee of the county department under s. 51.42 or 51.437 that is providing services to an adult at risk who is the alleged victim named in the record, or to the alleged perpetrator of abuse, to determine whether the alleged victim should be transferred to a less restrictive or more appropriate treatment modality or facility.

6. To a court, tribal court, or state governmental agency for a proceeding relating to the licensure or regulation of an individual or entity regulated or licensed by the state governmental agency, that was an alleged perpetrator of abuse, financial exploitation, or neglect.

7. To the department, for management, audit, program monitoring, evaluation, billing, or collection purposes.

8. To the attorney or guardian ad litem for the adult at risk who is the alleged victim named in the record, to assist in preparing for any proceeding under ch. 48, 51, 55, 813, 880, 971, or 975 [ch. 48, 51, 54, 55, 813, 971, or 975] pertaining to the alleged victim. **NOTE: The correct cross-reference is shown in brackets. Corrective legislation is pending.**

9. To a coroner, medical examiner, pathologist, or other physician investigating the cause of death of an adult at risk that is unexplained or unusual or is associated with unexplained or suspicious circumstances.

10. To staff members of the protection and advocacy agency designated under s. 51.62 and the board on aging and long-term care under s. 16.009.

11. To an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of abuse, neglect, or financial exploitation of an adult at risk.

12. To a grand jury, if it determines that access to specified records is necessary for the conduct of its official business.

13. Under a lawful order of a court of record.

(bv) The identity of a person making a report of alleged abuse, neglect, self-neglect, or financial exploitation shall be deleted from any record prior to its release under par. (bt) or from any departmental report form prior to its release under par. (b). The identity of any reporter may only be released with the written consent of the reporter or under a lawful order of a court of record.

(bw) A person to whom a departmental report form or a record is disclosed under this subsection may not further disclose it, except to the persons and for the purposes specified in this subsection.

(by) A custodian of records or departmental report forms incurs no civil or criminal liability under this subsection and may not be found guilty of unprofessional conduct for the release or nonrelease of records or departmental report forms in accordance with this subsection while acting in good faith and within the scope of his or her authority.

146.82 Confidentiality of patient health care records.

(1) CONFIDENTIALITY. All patient health care records shall remain confidential. Patient health care records may be released only to the persons designated in this section or to other persons with the informed consent of the patient or of a person authorized by the patient. This subsection does not prohibit reports made in compliance with s. 146.995, 253.12 (2) or 979.01 or testimony authorized under s. 905.04 (4) (h).

(2) ACCESS WITHOUT INFORMED CONSENT. (a) Notwithstanding sub. (1), patient health care records shall be released upon request without informed consent in the following circumstances:

2. To the extent that performance of their duties requires access to the records, to a health care provider or any person acting under the supervision of a health care provider or to a person licensed under s. 146.50, including medical staff members, employees or persons serving in training programs or participating in volunteer programs and affiliated with the health care provider, if any of the following is applicable:

- a. The person is rendering assistance to the patient.
- b. The person is being consulted regarding the health of the patient.
- c. The life or health of the patient appears to be in danger and the information contained in the patient health care records may aid the person in rendering assistance.
- d. The person prepares or stores records, for the purposes of the preparation or storage of those records.

5. In response to a written request by any federal or state governmental agency to perform a legally authorized function, including but not limited to management audits, financial audits, program monitoring and evaluation, facility licensure or certification or individual licensure or certification. The private pay patient, except if a resident of a nursing home, may deny access granted under this subdivision by annually submitting to a health care provider, other than a nursing home, a signed, written request on a form provided by the department. The provider, if a hospital, shall submit a copy of the signed form to the patient's physician.

7. To a county agency designated under s. 46.90 (2) or other investigating agency under s. 46.90 for purposes of s. 46.90 (4) (a) and (5) or to the county protective services agency designated under s. 55.02 for purposes of s. 55.043. The health care provider may release information by initiating contact with the county agency or county protective services agency without receiving a request for release of the information from the county agency or county protective services agency.

(b) Except as provided in s. 610.70 (3) and (5), unless authorized by a court of record, the recipient of any information under par. (a) shall keep the information confidential and may not disclose identifying information about the patient whose patient health care records are released.

(d) For each release of patient health care records under this subsection, the health care provider shall record the name of the person or agency to which the records were released, the date and time of the release and the identification of the records released.

HFS 92.02 (16) “Treatment records” has the meaning designated in s. 51.30 (1) (b), Stats., namely, all records concerning individuals who are receiving or who at any time have received services for mental illness, developmental disabilities, alcoholism, or drug dependence which are maintained by the department, by boards and their staffs, and by treatment facilities. “Treatment records” include written, computer, electronic and microform records, but do not include notes or records maintained for personal use by an individual providing treatment services for the department, a board, or a treatment facility if the notes or records are not available to others.

HFS 92.03 General requirements. (1) TREATMENT RECORDS.

(a) All treatment records or spoken information which in any way identifies a patient are considered confidential and privileged to the subject individual.

(f) No personally identifiable information contained in treatment records may be released in any manner, including oral disclosure, except as authorized under s. 51.30, Stats., this chapter or as otherwise provided by law.

(g) Whenever requirements of federal law regarding alcoholism and drug dependence services in 42 CFR Part 2 require restrictions on the disclosure of treatment records greater than the restrictions required by this section, the federal requirements shall be observed.

(h) No personally identifiable information in treatment records may be re–released by a recipient of the treatment record unless re–release is specifically authorized by informed consent of the subject individual, by this chapter or as otherwise required by law.

(i) Any disclosure or re–release, except oral disclosure, of confidential information shall be accompanied by a written statement which states that the information is confidential and disclosure without patient consent or statutory authorization is prohibited by law.

(n) Whenever information from treatment records is disclosed, that information shall be limited to include only the information necessary to fulfill the request.

(p) The conditions set forth in this section shall be broadly and liberally interpreted in favor of confidentiality to cover a record in question.

HFS 92.04 Disclosure without informed consent.

(5) PROGRESS DETERMINATION AND ADEQUACY OF TREATMENT.

(a) Treatment records may be made accessible to department and board staff to determine progress and adequacy of treatment or to determine whether a person should be transferred, discharged or released, but only as authorized under s. 51.30 (4) (b) 5., Stats., and this subsection.

(6) WITHIN THE TREATMENT FACILITY. (a) Treatment records maintained in the facility or as computerized records by the provider of data–processing services to the facility may be made available to treatment staff within the facility only as authorized under s. 51.30 (4) (b) 6., Stats., and this subsection.

(b) Confidential information may be released to students or volunteers only if supervised by staff of the facility.

(c) Treatment records may be taken from the facility only by staff directly involved in the patient’s treatment, or as required by law.

(8) MEDICAL EMERGENCY. Treatment records may be released to a physician or designee for a medical emergency only as authorized under s. 51.30 (4) (b) 8., Stats.

(13) BETWEEN A SOCIAL SERVICES DEPARTMENT AND A 51 BOARD. (a) Limited confidential information may be released between a social service department and a 51–board, but only as authorized under s. 51.30 (4) (b) 15., Stats.

(b) Limited confidential information regarding alcohol and drug abuse patients may be released between a social services department and a 51-board only with the patient's informed consent as authorized under 42 CFR 2.31 and with a qualified service agreement under 42 CFR 2.11 (n) and (p).

(14) BETWEEN SUB-UNITS OF A HUMAN SERVICES DEPARTMENT AND BETWEEN THE HUMAN SERVICES DEPARTMENT AND CONTRACTED SERVICE PROVIDERS. Confidential information may be exchanged between sub-units of a human services department, which is the administrative staff of a board organized under s. 46.23, Stats., and between the human services department and service providers under contract to the human services department, as authorized under s. 46.23 (3) (e), Stats.

42 CFR 2.11

Program means:

(a) An individual or entity (other than a general medical care facility) who holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment; or

(b) An identified unit within a general medical facility which holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment; or

(c) Medical personnel or other staff in a general medical care facility whose primary function is the provision of alcohol or drug abuse diagnosis, treatment or referral for treatment and who are identified as such providers. (See § 2.12(e)(1) for examples.)

Qualified service organization means a person which:

(a) Provides services to a program, such as data processing, bill collecting, dosage preparation, laboratory analyses, or legal, medical, accounting, or other professional services, or services to prevent or treat child abuse or neglect, including training on nutrition and child care and individual and group therapy, and

(b) Has entered into a written agreement with a program under which that person:

(1) Acknowledges that in receiving, storing, processing or otherwise dealing with any patient records from the programs, it is fully bound by these regulations; and

(2) If necessary, will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by these regulations.

42 CFR 2.12 Applicability.

(a) *General*—(1) *Restrictions on disclosure.* The restrictions on disclosure in these regulations apply to any information, whether or not recorded, which:

(i) Would identify a patient as an alcohol or drug abuser either directly, by reference to other publicly available information, or through verification of such an identification by another person; and

(ii) Is drug abuse information obtained by a federally assisted drug abuse program after March 20, 1972, or is alcohol abuse information obtained by a federally assisted alcohol abuse program after May 13, 1974 (or if obtained before the pertinent date, is maintained by a federally assisted alcohol or drug abuse program after that date as part of an ongoing treatment episode which extends past that date) for the purpose of treating alcohol or drug abuse, making a diagnosis for that treatment, or making a referral for that treatment.

(c) *Exceptions*—

(3) *Communication within a program or between a program and an entity having direct administrative control over that program.* The restrictions on disclosure in these regulations do not apply to communications of information between or among personnel having a need for the information in connection with their duties that arise out of the provision of diagnosis, treatment, or referral for treatment of alcohol or drug abuse if the communications are

(i) Within a program or

(ii) Between a program and an entity that has direct administrative control over the program.

(4) *Qualified Service Organizations.* The restrictions on disclosure in these regulations do not apply to communications between a program and a qualified service organization of information needed by the organization to provide services to the program.

(6) *Reports of suspected child abuse and neglect.* The restrictions on disclosure and use in these regulations do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State or local authorities. However, the restrictions continue to apply to the original alcohol or drug abuse patient records maintained by the program including their disclosure and use for civil or criminal proceedings which may arise out of the report of suspected child abuse and neglect.

(d) (2) *Restrictions on disclosures—Third party payers, administrative entities, and others.* The restrictions on disclosure in these regulations apply to:

(i) Third party payers with regard to records disclosed to them by federally assisted alcohol or drug abuse programs;

(ii) Entities having direct administrative control over programs with regard to information communicated to them by the program under § 2.12(c)(3); and

(iii) Persons who receive patient records directly from a federally assisted alcohol or drug abuse program and who are notified of the restrictions on redisclosure of the records in accordance with § 2.32 of these regulations.

42 CFR 2.13 Confidentiality restrictions.

(a) *General.* The patient records to which these regulations apply may be disclosed or used only as permitted by these regulations and may not otherwise be disclosed or used in any civil, criminal, administrative, or legislative proceedings conducted by any Federal, State, or local authority. Any disclosure made under these regulations must be limited to that information which is necessary to carry out the purpose of the disclosure.

42 CFR 2.20 Relationship to State laws. The statutes authorizing these regulations (42 U.S.C. 290ee–3 and 42 U.S.C. 290dd–3) do not preempt the field of law which they cover to the exclusion of all State laws in that field. If a disclosure permitted under these regulations is prohibited under State law, neither these regulations nor the authorizing statutes may be construed to authorize any violation of that State law. However, no State law may either authorize or compel any disclosure prohibited by these regulations.

42 CFR 2.32 Prohibition on redisclosure. *Notice to accompany disclosure.* Each disclosure made with the patient's written consent must be accompanied by the following written statement:

This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

42 CFR 2.51 Medical emergencies.

(a) *General Rule.* Under the procedures required by paragraph (c) of this section, patient identifying information may be disclosed to medical personnel who have a need for information about a patient for the purpose of treating a condition which poses an immediate threat to the health of any individual and which requires immediate medical intervention.

(b) *Special Rule.* Patient identifying information may be disclosed to medical personnel of the Food and Drug Administration (FDA) who assert a reason to believe that the health of any individual may be threatened by an error in the manufacture, labeling, or sale of a product under FDA jurisdiction, and that the information will be used for the exclusive purpose of notifying patients or their physicians of potential dangers.

(c) *Procedures.* Immediately following disclosure, the program shall document the disclosure in the patient's records, setting forth in writing:

- (1) The name of the medical personnel to whom disclosure was made and their affiliation with any health care facility;
- (2) The name of the individual making the disclosure;
- (3) The date and time of the disclosure; and
- (4) The nature of the emergency (or error, if the report was to FDA).

45 CFR 164.506 Uses and disclosures to carry out treatment, payment, or health care operations.

(a) *Standard: Permitted uses and disclosures.* Except with respect to uses or disclosures that require an authorization under § 164.508(a)(2) and (3), a covered entity may use or disclose protected health information for treatment, payment, or health care operations as set forth in paragraph (c) of this section, provided that such use or disclosure is consistent with other applicable requirements of this subpart.

(c) *Implementation specifications: Treatment, payment, or health care operations.*

(1) A covered entity may use or disclose protected health information for its own treatment, payment, or health care operations.

(2) A covered entity may disclose protected health information for treatment activities of a health care provider.

45 CFR 164.512 Uses and disclosures for which an authorization or opportunity to agree or object is not required.

A covered entity may use or disclose protected health information without the written authorization of the individual, as described in §164.508, or the opportunity for the individual to agree or object as described in §164.510, in the situations covered by this section, subject to the applicable requirements of this section. When the covered entity is required by this section to inform the individual of, or when the individual may agree to, a use or disclosure permitted by this section, the covered entity's information and the individual's agreement may be given orally.

(a) *Standard: Uses and disclosures required by law.*

(1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

(2) A covered entity must meet the requirements described in paragraph (c), (e), or (f) of this section for uses or disclosures required by law.

(c) *Standard: Disclosures about victims of abuse, neglect or domestic violence*

(1) *Permitted disclosures.* Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:

(i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;

(ii) If the individual agrees to the disclosure; or

(iii) To the extent the disclosure is expressly authorized by statute or regulation and:

(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or

(B) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

(2) *Informing the individual.* A covered entity that makes a disclosure permitted by paragraph (c)(1) of this section must promptly inform the individual that such a report has been or will be made, except if:

(i) The covered entity, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or

(ii) The covered entity would be informing a personal representative, and the covered entity reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

45 CFR 164.514(d)(1) Standard: minimum necessary requirements. In order to comply with § 164.502(b) and this section, a covered entity must meet the requirements of paragraphs (d)(2) through (d)(5) of this section with respect to a request for, or the use and disclosure of, protected health information.

(2) *Implementation specifications: minimum necessary uses of protected health information.*

(i) A covered entity must identify:

(A) Those persons or classes of persons, as appropriate, in its workforce who need access to protected health information to carry out their duties; and

(B) For each such person or class of persons, the category or categories of protected health information to which access is needed and any conditions appropriate to such access.

(ii) A covered entity must make reasonable efforts to limit the access of such persons or classes identified in paragraph (d)(2)(i)(A) of this section to protected health information consistent with paragraph (d)(2)(i)(B) of this section.

(3) *Implementation specification: minimum necessary disclosures of protected health information.*

(i) For any type of disclosure that it makes on a routine and recurring basis, a covered entity must implement policies and procedures (which may be standard protocols) that limit the protected health information disclosed to the amount reasonably necessary to achieve the purpose of the disclosure.

(ii) For all other disclosures, a covered entity must:

(A) Develop criteria designed to limit the protected health information disclosed to the information reasonably necessary to accomplish the purpose for which disclosure is sought; and

(B) Review requests for disclosure on an individual basis in accordance with such criteria.

(iii) A covered entity may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when:

(A) Making disclosures to public officials that are permitted under § 164.512, if the public official represents that the information requested is the minimum necessary for the stated purpose(s);

(B) The information is requested by another covered entity;

(C) The information is requested by a professional who is a member of its workforce or is a business associate of the covered entity for the purpose of providing professional services to the covered entity, if the professional represents that the information requested is the minimum necessary for the stated purpose(s); or

(D) Documentation or representations that comply with the applicable requirements of § 164.512(i) have been provided by a person requesting the information for research purposes.

(4) *Implementation specifications: minimum necessary requests for protected health information.*

(i) A covered entity must limit any request for protected health information to that which is reasonably necessary to accomplish the purpose for which the request is made, when requesting such information from other covered entities.

(ii) For a request that is made on a routine and recurring basis, a covered entity must implement policies and procedures (which may be standard protocols) that limit the protected health information requested to the amount reasonably necessary to accomplish the purpose for which the request is made.

(iii) For all other requests, a covered entity must:

(A) Develop criteria designed to limit the request for protected health information to the information reasonably necessary to accomplish the purpose for which the request is made; and

(B) Review requests for disclosure on an individual basis in accordance with such criteria.

(5) *Implementation specification: other content requirement.* For all uses, disclosures, or requests to which the requirements in paragraph (d) of this section apply, a covered entity may not use, disclose or request an entire medical record, except when the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.