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Chapter 252

HIPAA Privacy Standards Matrix

**\*\*PHI = Protected health information**

Terms that have a definition included in this document have been put in italics. The definitions are available in the HIPAA COW Definitions document.

State of WI Statutory Ref/ Admin Code	State of WI Description	HIPAA Reference	HIPAA Description	Implementation/ Questions
252.01	Definitions.		No HIPAA implications.	
252.02	Powers and duties of department.		No HIPAA implications.	
252.03	Duties of local health officers.			
	(1) Every local health officer, upon the appearance of any communicable disease in his or her territory, shall immediately investigate all the circumstances and make a full report to the appropriate governing body and also to the department. The local health officer shall promptly take all measures necessary to prevent, suppress and control communicable diseases, and shall report to the appropriate governing body the progress of the communicable diseases and the measures <i>Used</i> against them, as needed to keep the appropriate governing body fully informed, or at such intervals as the secretary may direct. The local health officer may inspect schools and other public buildings within his or her jurisdiction as needed to determine whether the buildings are kept in a sanitary condition. (2) Local health officers may do what is reasonable and necessary for the prevention and suppression of disease; may forbid public gatherings when deemed necessary to control outbreaks or epidemics and shall advise the department of measures taken.	164.512(a)(1)  164.512(b)(1)(i)	(a) Standard: <i>Uses</i> and disclosures <i>Required by law</i> . (1) A covered entity may <i>Use</i> or disclose <i>Protected health information</i> to the extent that such <i>Use</i> or disclosure is <i>Required by law</i> and the <i>Use</i> or disclosure complies with and is limited to the relevant requirements of such law.  (b) Standard: <i>Uses</i> and disclosures for public health activities. (1) Permitted disclosures. A covered entity may disclose <i>Protected health information</i> for the public health activities and purposes described in this paragraph to: (i) A <i>Public health authority</i> that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health	Follow Both. Follow State specifics HIPAA allows.



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	<p>(3) Anyone having knowledge or reason to believe that any person has a communicable disease shall report the facts to the local health officer.</p> <p>(4) Reports under subs. (1) and (2) shall state so far as known the name, sex, age and residence of the person, the communicable disease and other facts the department or local health officer requires. Report forms may be furnished by the department and distributed by the local health officer.</p> <p>(5) All reports shall be made within 24 hours, unless otherwise specified by the department, by telephone, telegraph, mail or electronic means or by deposit at the office of the local health officer.</p> <p>(6) Any local health officer, upon receiving a report, shall <i>Use</i> a permanent record of the report to be made and upon demand of the department transmit the original or a copy to the department, together with other information the department requires. The department may store these records as paper or electronic records and shall treat them as patient health care records under ss. 146.81 to 146.835.</p> <p>(7) When an outbreak or epidemic occurs, the local health officer shall immediately report to the department, and shall at all times keep the department informed of the prevalence of the communicable diseases in the locality in the manner and with the facts the department requires.</p>		<p>this paragraph to:</p> <p>(i) A <i>Public health authority</i> that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a <i>Public health authority</i>, to an official of a foreign government agency that is acting in collaboration with a <i>Public health authority</i>;</p>	
252.05(8)	(8) The department shall print and distribute, without charge, to all local health departments and, upon request, to health care providers and facilities a chart that provides information about communicable diseases.		No HIPAA related provision.	
252.05(9)	(9) Any person licensed, permitted, registered or certified under ch. 441 or 448 shall <i>Use</i> ordinary skill in determining the presence of communicable diseases. If there is a dispute regarding disease determination, if the disease may have potential public health significance or if more extensive laboratory tests will aid in the investigation, the local health officer shall order the tests made by the state laboratory of hygiene or by a laboratory certified under 42 USC 263a.		No HIPAA related provision.	
	(11) If a violation of this section is reported to a district attorney by a local health officer or by the department, the district attorney shall forthwith prosecute the proper		No HIPAA related provision.	

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	action, and upon request of the department, the attorney general shall assist.			
252.06	Isolation and quarantine.			
252.06(1)	(1) The department or the local health officer acting on behalf of the department may require isolation of a patient or of an <i>Individual</i> under s. 252.041 (1) (b), quarantine of contacts, concurrent and terminal disinfection, or modified forms of these procedures as may be necessary and as are determined by the department by rule.		No HIPAA related provision.	
252.06 (3)	(3) If a local health officer suspects or is informed of the existence of any communicable disease, the officer shall at once investigate and make or <i>caUse</i> such examinations to be made as are necessary. The diagnostic report of a physician, the notification or confirmatory report of a parent or caretaker of the patient, or a reasonable belief in the existence of a communicable disease shall require the local health officer immediately to quarantine, isolate, require restrictions or take other communicable disease control measures in the manner, upon the persons and for the time specified in rules promulgated by the department. If the local health officer is not a physician, he or she shall consult a physician as speedily as possible where there is reasonable doubt or disagreement in diagnosis and where advice is needed. The local health officer shall investigate evasion of the laws and rules concerning communicable disease and shall act to protect the public.		No HIPAA related provision.	
252.06(4)	(4)(a) If deemed necessary by the department or a local health officer for a particular communicable disease, all persons except the local health officer, his or her representative, attending physicians and nurses, members of the clergy, the members of the immediate family and any other person having a special written permit from the local health officer are forbidden to be in direct contact with the patient. (b) If s. 250.042 (1) applies, all of the following apply: 1. No person, other than a person authorized by the <i>Public health authority</i> or agent of the <i>Public health authority</i> , may enter an isolation or quarantine premises. 2. A violation of subd. 1. is subject to a fine not to exceed \$10,000 or imprisonment not to exceed 9 months,		No HIPAA related provision.	

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	<p>or both.</p> <p>3. Any person, whether authorized under subd. 1. or not, who enters an isolation or quarantine premises may be subject to isolation or quarantine under this section.</p>			
252.06(5)	(5) The local health officer shall employ as many persons as are necessary to execute his or her orders and properly guard any place if quarantine or other restrictions on communicable disease are violated or intent to violate is manifested. These persons shall be sworn in as quarantine guards, shall have police powers, and may <i>Use</i> all necessary means to enforce the state laws for the prevention and control of communicable diseases, or the orders and rules of the department or any local health officer.	<p>160.103</p> <p>164.512(a)(1)</p> <p>164.512(b)(1) (i)</p>	<p>Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.</p> <p>(a) Standard: <i>Uses and disclosures Required by law.</i> (1) A covered entity may <i>Use</i> or disclose <i>Protected health information</i> to the extent that such <i>Use</i> or disclosure is <i>Required by law</i> and the <i>Use</i> or disclosure complies with and is limited to the relevant requirements of such law.</p> <p>(b) Standard: <i>Uses and disclosures for public health activities.</i> (1) Permitted disclosures. A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to: (i) A <i>Public health authority</i> that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a <i>Public health authority</i>, to an</p>	Follow Both. The presence of these persons and their access to PHI at a health care provider is also allowed by HIPAA. Those persons charged with guarding would be considered workforce if the employing department is considered a covered entity.

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			official of a foreign government agency that is acting in collaboration with a <i>Public health authority</i> ;	
252.06(6)	(6)(a) When the local health officer deems it necessary that a person be quarantined or otherwise restricted in a separate place, the officer shall remove the person, if it can be done without danger to the person's health, to this place. (b) When a person confined in a jail, state prison, mental health institute or other public place of detention has a disease which the local health officer or the director of health at the institution deems dangerous to the health of other residents or the neighborhood, the local health officer or the director of health at the institution shall order in writing the removal of the person to a hospital or other place of safety, there to be provided for and securely kept. Upon recovery the person shall be returned; and if the person was committed by a court or under process the removal order or a copy shall be returned by the local health officer to the committing court officer.	164.501  164.506(c)(2)	<i>Treatment</i> means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.  (c) Implementation specifications: <i>Treatment, Payment</i> , or health care operations. (2) A covered entity may disclose <i>Protected health information</i> for <i>Treatment</i> activities of a health care provider.	Follow Both. Both entities provide <i>Treatment</i> .
252.06(10)	(10)(a) Expenses for necessary medical care, food and other articles needed for the care of the infected person shall be charged against the person or whoever is liable for the person's support. (b) The county or municipality in which a person with a communicable disease resides is liable for the following costs accruing under this section, unless the costs are payable through 3rd-party liability or through any benefit system: 1. The expense of employing guards under sub. (5). 2. The expense of maintaining quarantine and enforcing isolation of the quarantined area. 3. The expense of conducting examinations and tests for disease carriers made under the direction of the local health officer. 4. The expense of care provided under par. (a) to any dependent person, as defined in s. 49.01 (2).		No HIPAA related provision.	
252.07	Tuberculosis.			

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252.07(1g)	<p>(1g) In this section:</p> <p>(a) "Infectious tuberculosis" means tuberculosis disease of the respiratory tract, capable of producing infection or disease in others as demonstrated by the presence of acid-fast bacilli in the sputum or bronchial secretions or by chest radiograph and clinical findings.</p> <p>(b) "Isolate" means a population of mycobacterium tuberculosis bacteria that has been obtained in pure culture medium.</p> <p>(c) "Isolation" means the separation from other persons of a person with infectious tuberculosis in a place and under conditions that prevent the transmission of the infection.</p> <p>(d) "Suspect tuberculosis" means an illness marked by symptoms and laboratory tests that may be indicative of tuberculosis, such as a prolonged cough, prolonged fever, hemoptysis, compatible roentgenographic findings or other appropriate medical imaging findings.</p>		No HIPAA related provision.	
252.07(1m)	(1m) Infectious tuberculosis and suspect tuberculosis are subject to the reporting requirements specified in s. 252.05. Any laboratory that receives a specimen for tuberculosis testing shall report all positive results obtained by any appropriate procedure, including a procedure performed by an out-of-state laboratory, to the local health officer and to the department.	<p>164.512(a)(1)</p> <p>164.512(b)(1)(i)</p>	<p>(a) Standard: <i>Uses and disclosures Required by law.</i> (1) A covered entity may <i>Use</i> or disclose <i>Protected health information</i> to the extent that such <i>Use</i> or disclosure is <i>Required by law</i> and the <i>Use</i> or disclosure complies with and is limited to the relevant requirements of such law.</p> <p>(b) Standard: <i>Uses and disclosures for public health activities.</i> (1) Permitted disclosures. A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to:</p> <p>(i) A <i>Public health authority</i> that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or</p>	Refer to 252.05(2)

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		164.512(b)(1) (iv)	<p>death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a <i>Public health authority</i>, to an official of a foreign government agency that is acting in collaboration with a <i>Public health authority</i>;</p> <p>(iv) A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the covered entity or <i>Public health authority</i> is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation;</p>	
252.07(1p)	(1p) Any laboratory that performs primary culture for mycobacteria shall also perform organism identification for mycobacterium tuberculosis complex using an approved rapid testing procedure specified by the department by rule.		No HIPAA related provision.	
252.07(1t)	(1t) Any laboratory that identifies mycobacterium tuberculosis shall ensure that antimicrobial drug susceptibility tests are performed on the initial isolate. The laboratory shall report the results of these tests to the local health officer and the department.		No HIPAA related provision.	
252.07(2)	The department shall identify groups at risk for contracting or transmitting mycobacterium tuberculosis and shall recommend the protocol for screening members of those groups.		No HIPAA related provision.	
252.07(5)	(5) Upon report of any person under sub. (1m) or (1t), the local health officer shall at once investigate and make and enforce the necessary orders. If any person does not voluntarily comply with any order made by the local health officer with respect to that person, the local health officer or the department may order a medical evaluation, directly observed therapy or home isolation of that person.	164.512(a)(1)	(a) Standard: <i>Uses and disclosures Required by law.</i> (1) A covered entity may <i>Use</i> or disclose <i>Protected health information</i> to the extent that such <i>Use</i> or disclosure is <i>Required by law</i> and the <i>Use</i> or disclosure complies with and is limited to the relevant requirements of such law.	Follow Both.

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		164.512(b)(1)(i)	(b) Standard: <i>Uses</i> and disclosures for public health activities. (1) Permitted disclosures. A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to: (i) A <i>Public health authority</i> that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a <i>Public health authority</i> , to an official of a foreign government agency that is acting in collaboration with a <i>Public health authority</i> ;	
252.07(8)	(8)(a) The department or a local health officer may order the confinement to a facility of an <i>Individual</i> who has a confirmed diagnosis of infectious tuberculosis or suspect tuberculosis if all of the following conditions are met: 1. The department or local health officer notifies a court in writing of the confinement. 2. The department or local health officer provides to the court a written statement from a physician that the <i>Individual</i> has infectious tuberculosis or suspect tuberculosis. 3. The department or local health officer provides to the court evidence that the <i>Individual</i> has <i>refUsed</i> to follow a prescribed <i>Treatment</i> regimen or, in the case of an <i>Individual</i> with suspect tuberculosis, has <i>refUsed</i> to undergo a medical examination to confirm whether the <i>Individual</i> has infectious tuberculosis. 4. In the case of an <i>Individual</i> with a confirmed diagnosis		No HIPAA related provision.	

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	<p>of infectious tuberculosis, the department or local health officer determines that the <i>Individual</i> poses an imminent and substantial threat to himself or herself or to the public health. The department or local health officer shall provide to the court a written statement of that determination.</p> <p>(b) If the department or local health officer orders the confinement of an <i>Individual</i> under this subsection, a law enforcement officer, or other person authorized by the local public health officer, shall transport the <i>Individual</i>, if necessary, to a facility that the department or local health officer determines will meet the <i>Individual's</i> need for medical evaluation, isolation and <i>Treatment</i>.</p> <p>(c) No <i>Individual</i> may be confined under this subsection for more than 72 hours, excluding Saturdays, Sundays and legal holidays, without a court hearing under sub. (9) to determine whether the confinement should continue.</p>			
252.07(9)	<p>(9) (a) The department or a local health officer may petition any court for a hearing to determine whether an <i>Individual</i> with infectious or suspect tuberculosis should be confined for longer than 72 hours in a facility where proper care and <i>Treatment</i> will be provided and spread of the disease will be prevented. The department or local health officer shall include in the petition documentation that demonstrates all of the following:</p> <ol style="list-style-type: none"> <li>1. That the <i>Individual</i> named in the petition has infectious tuberculosis; that the <i>Individual</i> has noninfectious tuberculosis but is at high risk of developing infectious tuberculosis; or that the <i>Individual</i> has suspect tuberculosis.</li> <li>2. That the <i>Individual</i> has failed to comply with the prescribed <i>Treatment</i> regimen or with any rules promulgated by the department under sub. (11); or that the disease is resistant to the medication prescribed to the <i>Individual</i>.</li> <li>3. That all other reasonable means of achieving voluntary compliance with <i>Treatment</i> have been exhausted and no less restrictive alternative exists; or that no other medication to treat the resistant disease is available.</li> <li>4. That the <i>Individual</i> poses an imminent and substantial threat to himself or herself or to the public health.</li> </ol>	<p>164.512(a)(1)</p> <p>164.512(b)(1) (i)</p>	<p>(a) Standard: <i>Uses</i> and disclosures <i>Required by law</i>. (1) A covered entity may <i>Use</i> or disclose <i>Protected health information</i> to the extent that such <i>Use</i> or disclosure is <i>Required by law</i> and the <i>Use</i> or disclosure complies with and is limited to the relevant requirements of such law.</p> <p>(b) Standard: <i>Uses</i> and disclosures for public health activities. (1) Permitted disclosures. A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to: (i) A <i>Public health authority</i> that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or</p>	

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	<p>(b) The department or local health officer shall give the <i>Individual</i> written notice of a hearing at least 48 hours before a scheduled hearing is to be held. Notice of the hearing shall include all of the following information:</p> <ol style="list-style-type: none"> <li>1. The date, time and place of the hearing.</li> <li>2. The grounds, and underlying facts, upon which confinement of the <i>Individual</i> is being sought.</li> <li>3. An explanation of the <i>Individual's</i> rights specified under par. (d).</li> <li>4. The proposed actions to be taken and the reasons for each action.</li> </ol> <p>(c) If the court orders confinement of an <i>Individual</i> under this subsection, the <i>Individual</i> shall remain confined until the department or local health officer, with the concurrence of a treating physician, determines that <i>Treatment</i> is complete or that the <i>Individual</i> is no longer a substantial threat to himself or herself or to the public health. If the <i>Individual</i> is to be confined for more than 6 months, the court shall review the confinement every 6 months.</p> <p>(d) An <i>Individual</i> who is the subject of a petition for a hearing under this subsection has the right to appear at the hearing, the right to present evidence and cross-examine witnesses and the right to be represented by adversary counsel. At the time of the filing of the petition the court shall assure that the <i>Individual</i> who is the subject of the petition is represented by adversary counsel. If the <i>Individual</i> claims or appears to be indigent, the court shall refer the <i>Individual</i> to the authority for indigency determinations specified under s. 977.07 (1). If the <i>Individual</i> is a child, the court shall refer that child to the state public defender who shall appoint counsel for the child without a determination of indigency, as provided in s. 48.23 (4). Unless good <i>caUse</i> is shown, a hearing under this subsection may be conducted by telephone or live audiovisual means, if available.</p> <p>(e) An order issued by the court under this subsection may be appealed as a matter of right. An appeal shall be heard within 30 days after the appeal is filed. An appeal does not stay the order.</p>	164.512(e)(1)(i)	<p>death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a <i>Public health authority</i>, to an official of a foreign government agency that is acting in collaboration with a <i>Public health authority</i>;</p> <p>(e) Standard: Disclosures for judicial and administrative proceedings.  (1) Permitted disclosures. A covered entity may disclose <i>Protected health information</i> in the course of any judicial or administrative proceeding:  (i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the <i>Protected health information</i> expressly authorized by such order;</p>	
252.07(10)	(10) Inpatient care for isolated pulmonary tuberculosis		No HIPAA related provision.	

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	patients, and inpatient care exceeding 30 days for other pulmonary tuberculosis patients, who are not eligible for federal Medicare benefits, for medical assistance under subch. IV of ch. 49 or for health care services funded by a relief block grant under subch. II of ch. 49 may be reimbursed if provided by a facility contracted by the department. If the patient has private health insurance, the state shall pay the difference between health insurance <i>Payments</i> and total charges.			
252.07(11)	(11) The department may promulgate any rules necessary for the administration and enforcement of this section, including, if necessary to prevent or control the transmission of mycobacterium tuberculosis, rules that require screening of members of specific groups that are at risk for contracting or transmitting mycobacterium tuberculosis.		No HIPAA related provision.	
252.10	Public health dispensaries.			If it is determined that the dispensary is a CE, the dispensary will need to abide by HIPAA and State. If a CE is involved in a joint venture, party relationships under HIPAA will need to be defined [OCHA, BAA, ACE].
252.11	Sexually transmitted disease.			
252.11(1)	(1) In this section, "sexually transmitted disease" means syphilis, gonorrhea, chlamydia and other diseases the department includes by rule.		No HIPAA related provision.	
252.11(1m)	(1m) A physician or other health care professional called to attend a person infected with any form of sexually transmitted disease, as specified in rules promulgated by the department, shall report the disease to the local health officer and to the department in the manner directed by the department in writing on forms furnished by the department. A physician may treat a minor infected with a sexually transmitted disease or examine and diagnose a minor for the presence of such a disease without obtaining the consent of the minor's parents or guardian. The physician shall incur no civil liability solely by reason of the lack of consent of the minor's parents or guardian.	164.512(a)(1)  164.512(b)(1)(i)	(a) Standard: <i>Uses</i> and disclosures <i>Required by law</i> . (1) A covered entity may <i>Use</i> or disclose <i>Protected health information</i> to the extent that such <i>Use</i> or disclosure is <i>Required by law</i> and the <i>Use</i> or disclosure complies with and is limited to the relevant requirements of such law.  (b) Standard: <i>Uses</i> and disclosures for public health activities. (1) Permitted disclosures. A covered entity may disclose protected health information for the public	Follow Both. Follow State specifics. HIPAA allows the disclosures.

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			health activities and purposes described in this paragraph to: (i) A <i>Public health authority</i> that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a <i>Public health authority</i> , to an official of a foreign government agency that is acting in collaboration with a <i>Public health authority</i> ;	
252.11(2)	(2) An officer of the department or a local health officer having knowledge of any reported or reasonably suspected case or contact of a sexually transmitted disease for which no appropriate <i>Treatment</i> is being administered, or of an actual contact of a reported case or potential contact of a reasonably suspected case, shall investigate or caUse the case or contact to be investigated as necessary. If, following a request of an officer of the department or a local health officer, a person reasonably suspected of being infected with a sexually transmitted disease refUses or neglects examination by a physician or <i>Treatment</i> , an officer of the department or a local health officer may proceed to have the person committed under sub. (5) to an institution or system of care for examination, <i>Treatment</i> or observation.		No HIPAA related provision.	
252.11(4)	(4) If a person infected with a sexually transmitted disease ceases or refUses <i>Treatment</i> before reaching what in the physician's opinion is the noncommunicable stage, the physician shall notify the department. The department shall without delay take the necessary steps to have the person committed for <i>Treatment</i> or observation under sub. (5), or shall notify the local health officer to take these steps.	164.512(a)(1)	(a) Standard: <i>Uses</i> and disclosures <i>Required by law</i> . (1) A covered entity may <i>Use</i> or disclose <i>Protected health information</i> to the extent that such <i>Use</i> or disclosure is <i>Required by law</i> and the <i>Use</i> or disclosure complies with and is limited to the relevant requirements of such law.	Follow Both. Follow State specifics. HIPAA allows the disclosures.

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252.11(5)	(5) Any court of record may commit a person infected with a sexually transmitted disease to any institution or may require the person to undergo a system of care for examination, <i>Treatment</i> or observation if the person ceases or <i>refUses</i> examination, <i>Treatment</i> or observation under the supervision of a physician. The court shall summon the person to appear on a date at least 48 hours, but not more than 96 hours, after service if an officer of the department or a local health officer petitions the court and states the facts authorizing commitment. If the person fails to appear or fails to accept commitment without reasonable <i>caUse</i> , the court may cite the person for contempt. The court may issue a warrant and may direct the sheriff, any constable or any police officer of the county immediately to arrest the person and bring the person to court if the court finds that a summons will be ineffectual. The court shall hear the matter of commitment summarily. Commitment under this subsection continues until the disease is no longer communicable or until other provisions are made for <i>Treatments</i> that satisfy the department. The certificate of the petitioning officer is prima facie evidence that the disease is no longer communicable or that satisfactory provisions for <i>Treatment</i> have been made.		No HIPAA related provision.	
252.11(5m)	(5m) A health care professional, as defined in s. 968.38 (1) (a), acting under an order of a court under s. 938.296 (4) or (5) or 968.38 (4) or (5) may, without first obtaining informed consent to the testing, subject an <i>Individual</i> to a test or a series of tests to ascertain whether that <i>Individual</i> is infected with a sexually transmitted disease. No sample <i>Used</i> for performance of a test under this subsection may disclose the name of the test subject.	164.512(e)(1) (i)  164.514(a)	(e) Standard: Disclosures for judicial and administrative proceedings. (1) Permitted disclosures. A covered entity may disclose <i>Protected health information</i> in the course of any judicial or administrative proceeding: (i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order;  a) Standard: de-identification of <i>Protected health information</i> . Health information that does not	Follow Both. State specifically prohibits disclosure of the name.



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			<p>expressly authorized by such order; or</p> <p>(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:</p> <p>(A) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the <i>Individual</i> who is the subject of the <i>Protected health information</i> that has been requested has been given notice of the request; or</p> <p>(B) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iv) of this section, from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of paragraph (e)(1)(v) of this section.</p>	
252.11(9)	(9) The department shall prepare for free distribution upon request to state residents, information and instructions concerning sexually transmitted diseases.		No HIPAA related provision.	
252.11(10)	(10) The state laboratory of hygiene shall examine specimens for the diagnosis of sexually transmitted diseases for any physician or local health officer in the state, and shall report the positive results of the examinations to the local health officer and to the department. All laboratories performing tests for sexually transmitted diseases shall report all positive results to the local health officer and to the department, with the name of the physician to whom reported.	<p>164.512(a)(1)</p> <p>164.512(b)(1)(i)</p>	<p>(a) Standard: <i>Uses and disclosures Required by law.</i> (1) A covered entity may <i>Use</i> or disclose <i>Protected health information</i> to the extent that such <i>Use</i> or disclosure is <i>Required by law</i> and the <i>Use</i> or disclosure complies with and is limited to the relevant requirements of such law.</p> <p>(b) Standard: <i>Uses and disclosures for public health activities.</i></p>	Follow Both. HIPAA and State allow the disclosures.

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			(1) Permitted disclosures. A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to: (i) A <i>Public health authority</i> that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a <i>Public health authority</i> , to an official of a foreign government agency that is acting in collaboration with a <i>Public health authority</i> ;	
252.11(11)	(11) In each county with an incidence of gonorrhea, antibiotic resistant gonorrhea, chlamydia or syphilis that exceeds the statewide average, a program to diagnose and treat sexually transmitted diseases at no cost to the patient is required. The county board of supervisors is responsible for ensuring that the program exists, but is required to establish its own program only if no other public or private program is operating. The department shall compile statistics indicating the incidence of gonorrhea, antibiotic resistant gonorrhea, chlamydia and syphilis for each county in the state.		No HIPAA related provision.	If the program is considered a CE, the information would be protected under HIPAA.
252.11 - ANNOT.	Cross Reference: See also ch. HFS 145, Wis. adm. code.			
252.12	HIV and related infections, including hepatitis C virus infections; services and prevention.		No HIPAA related provision.	
252.12(1)	(1) Definitions (c) "Nonprofit corporation" means a nonstock corporation organized under ch. 181 that is a nonprofit corporation, as defined in s. 181.0103 (17). (d) "Organization" means a nonprofit corporation or a	160.103	Covered entity means: (1) A health plan. (2) A health care clearinghouse. (3) A health care provider who transmits any health information in	If the entity is a CE, apply HIPAA.

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	public agency which proposes to provide services to <i>Individuals</i> with acquired immunodeficiency syndrome. (e) "Public agency" means a county, city, village, town or school district or an agency of this state or of a county, city, village, town or school district.		electronic form in connection with a transaction covered by this subchapter.	
252.12(2)(a)	Distribution of funds.		Does not apply to <i>Use</i> or disclosure of PHI.	If the entity distributing funds is considered a CE, HIPAA would apply.
252.12(2)(c)	HIV prevention grants.		Does not apply to <i>Use</i> or disclosure of PHI.	
252.12(3)	(3) Confidentiality of information. The results of any test performed under sub. (2) (a) 5. are confidential and may be disclosed only to the <i>Individual</i> who receives a test or to other persons with the informed consent of the test subject. Information other than that released to the test subject, if released under sub. (2) (a) 5., may not identify the test subject.			Any <i>Use</i> or disclosure see 252.15(2)(a)
252.13	Blood tests for HIV		No HIPAA implications.	
252.14	Discrimination related to acquired immunodeficiency syndrome.		No HIPAA related provision.	This Section refers to someone who may already have access; and if further disclosure is necessary to carry out responsibilities, refer to 252.15.
252.15	Restrictions on <i>Use</i> of a test for HIV. (1) Definitions. In this section: (ab) "Affected person" means an emergency medical technician, first responder, fire fighter, peace officer, correctional officer, person who is employed at a secured correctional facility, as defined in s. 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p), state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, health care provider, employee of a health care provider or staff member of a state crime laboratory. (ad) "Correctional officer" has the meaning given in s. 301.28 (1). (af) "Emergency medical technician" has the meaning given in s. 146.50 (1) (e). (aj) "Fire fighter" has the meaning given in s. 102.475 (8) (b). (am) "Health care professional" means a physician who is		No HIPAA related provision.	

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	<p>licensed under ch. 448 or a registered nurse or licensed practical nurse who is licensed under ch. 441.</p> <p>(ar) "Health care provider" means any of the following:</p> <ol style="list-style-type: none"> <li>1. A person or entity that is specified in s. 146.81 (1), but does not include a massage therapist or bodyworker issued a certificate under ch. 460.</li> <li>2. A home health agency.</li> <li>3. An employee of the Mendota Mental Health Institute or the Winnebago Mental Health Institute.</li> </ol> <p>(cm) "Home health agency" has the meaning given in s. 50.49 (1) (a).</p> <p>(d) "Informed consent for testing or disclosure" means consent in writing on an informed consent for testing or disclosure form by a person to the administration of a test to him or her for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV or to the disclosure to another specified person of the results of a test administered to the person consenting.</p> <p>(e) "Informed consent for testing or disclosure form" means a printed document on which a person may signify his or her informed consent for testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV or authorize the disclosure of any test results obtained.</p> <p>(eg) "Relative" means a spouse, parent, grandparent, stepparent, brother, sister, first cousin, nephew or niece; or uncle or aunt within the 3rd degree of kinship as computed under s. 990.001 (16). This relationship may be by blood, marriage or adoption.</p> <p>(em) "Significantly exposed" means sustained a contact which carries a potential for a transmission of HIV, by one or more of the following:</p> <ol style="list-style-type: none"> <li>1. Transmission, into a body orifice or onto mucous membrane, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other body fluid that is visibly contaminated with blood.</li> <li>2. Exchange, during the accidental or intentional infliction of a penetrating wound, including a needle puncture, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other</li> </ol>	<p>160.103</p> <p>164.508(a)(1)</p> <p>164.508(b)(1)</p>	<p>Health care provider means a provider of services (as defined in section 1861(u) of the Act, 42 U.S.C. 1395x(u)), a provider of medical or health services (as defined in section 1861(s) of the Act, 42 U.S.C. 1395x(s)), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.</p> <p>Sec. 164.508 <i>Uses</i> and disclosures for which an authorization is required.</p> <p>(a) Standard: authorizations for <i>Uses</i> and disclosures.--(1) Authorization required: general rule. Except as otherwise permitted or required by this subchapter, a covered entity may not <i>Use</i> or disclose <i>Protected health information</i> without an authorization that is valid under this section. When a covered entity obtains or receives a valid authorization for its <i>Use</i> or disclosure of protected health information, such <i>Use</i> or disclosure must be consistent with such authorization.</p> <p>Implementation specifications: general requirements.--(1) Valid authorizations. (i) A valid authorization is a document that meets the requirements in paragraphs (a)(3)(ii), (c)(1), and (c)(2) of this section, as applicable.</p>	<p>Follow HIPAA. No preemptive effect. HIPAA broadens the definition of health care provider by including anyone who "bills" or receives <i>Payment</i> for health care provider services.</p> <p>Note: When interfacing state and federal law, someone who qualifies as a covered entity under federal law may not meet the definition of health care provider under state law.</p> <p>Follow Both. The HIPAA authorization and 252 informed consent are similar for disclosure. The comparison is only with HIPAA disclosure.</p> <p>Note: State informed consent includes consent to test.</p>

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	<p>body fluid that is visibly contaminated with blood.</p> <p>3. Exchange, into an eye, an open wound, an oozing lesion, or where a significant breakdown in the epidermal barrier has occurred, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other body fluid that is visibly contaminated with blood.</p> <p>6. Other routes of exposure, defined as significant in rules promulgated by the department. The department in promulgating the rules shall consider all potential routes of transmission of HIV identified by the centers for disease control of the federal public health service.</p> <p>(fm) "Universal precautions" means measures that a health care provider, an employee of a health care provider or other <i>Individual</i> takes in accordance with recommendations of the federal centers for disease control for the health care provider, employee or other <i>Individual</i> for prevention of HIV transmission in health-care settings.</p>		(ii) A valid authorization may contain elements or information in addition to the elements required by this section, provided that such additional elements or information are not inconsistent with the elements required by this section.	
252.15(2)(a)	<p>(2) Informed consent for testing or disclosure.</p> <p>(a) No health care provider, blood bank, blood center or plasma center may subject a person to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV unless the subject of the test first provides informed consent for testing or disclosure as specified under par. (b), except that consent to testing is not required for any of the following:</p> <p>1. Except as provided in subd. 1g., a health care provider who procures, processes, distributes or <i>Uses</i> a human body part or human tissue donated as specified under s. 157.06 (6) (a) or (b) shall, without obtaining consent to the testing, test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV in order to assure medical acceptability of the gift for the purpose intended. The health care provider shall <i>Use</i> as a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV a test or series of tests that the state epidemiologist finds medically significant and sufficiently reliable to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. If the validated test result of the donor from the test or series of tests performed is positive, the human body part or</p>		No HIPAA related provision.	

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	<p>human tissue donated for <i>Use</i> or proposed for donation may not be <i>Used</i>.</p> <p>1g. If a medical emergency, as determined by the attending physician of a potential donee and including a threat to the preservation of life of the potential donee, exists under which a human body part or human tissue that has been subjected to testing under subd. 1. is unavailable, the requirement of subd. 1. does not apply.</p>			
	<p>2. The department, a laboratory certified under 42 USC 263a or a health care provider, blood bank, blood center or plasma center may, for the purpose of <i>Research</i> and without first obtaining written consent to the testing, subject any body fluids or tissues to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the <i>Researcher</i>.</p>		No HIPAA related provision.	
252.15(2)(a)	<p>3. The medical director of a center for the developmentally disabled, as defined in s. 51.01 (3), or a mental health institute, as defined in s. 51.01 (12), may, without obtaining consent to the testing, subject a resident or patient of the center or institute to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV if he or she determines that the conduct of the resident or patient poses a significant risk of transmitting HIV to another resident or patient of the center or institute.</p>		No HIPAA related provision.	
252.15(2)(a)	<p>4. A health care provider may subject an <i>Individual</i> to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, without obtaining consent to the testing from the <i>Individual</i>, if all of the following</p> <p>a. The <i>Individual</i> has been adjudicated incompetent under ch. 880, is under 14 years of age or is unable to give consent because he or she is unable to communicate due to a medical condition.</p> <p>b. The health care provider obtains consent for the testing from the <i>Individual's</i> guardian, if the <i>Individual</i> is adjudicated incompetent under ch. 880; from the <i>Individual's</i> parent or guardian, if the <i>Individual</i> is under 14 years of age; or from the <i>Individual's</i> closest living</p>		No HIPAA related provision.	

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	relative or another with whom the <i>Individual</i> has a meaningful social and emotional relationship if the <i>Individual</i> is not a minor nor adjudicated incompetent.			
252.15(2)(a)	6. A health care professional acting under an order of the court under subd. 7. or s. 938.296 (4) or (5) or 968.38 (4) or (5) may, without first obtaining consent to the testing, subject an <i>Individual</i> to a test or a series of tests to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. No sample <i>Used</i> for laboratory test purposes under this subdivision may disclose the name of the test subject, and, notwithstanding sub. (4) (c), the test results may not be made part of the <i>Individual's</i> permanent medical record.			Follow State. The <i>Use</i> of the information is more restrictive than HIPAA.
	7. a. If all of the conditions under subd. 7. ai. to c. are met, an emergency medical technician, first responder, fire fighter, peace officer, correctional officer, person who is employed at a secured correctional facility, as defined in s. 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p), state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper who, during the course of providing care or services to an <i>Individual</i> ; or a peace officer, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper who, while searching or arresting an <i>Individual</i> or while controlling or transferring an <i>Individual</i> in custody; or a health care provider or an employee of a health care provider who, during the course of providing care or <i>Treatment</i> to an <i>Individual</i> or handling or processing specimens of body fluids or tissues of an <i>Individual</i> ; or a staff member of a state crime laboratory who, during the course of handling or processing specimens of body fluids or tissues of an <i>Individual</i> ; is significantly exposed to the <i>Individual</i> may subject the <i>Individual's</i> blood to a test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and may receive disclosure of the results.	164.512(b) (iv)  164.512(f)          164.512(k) (5)	(iv) A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the covered entity or <i>Public health authority</i> is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation.  (f) Standard: Disclosures for law enforcement purposes. A covered entity may disclose <i>Protected health information</i> for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.  (5) Correctional institutions and other law enforcement custodial situations. (i) Permitted disclosures. A covered entity may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other <i>Individual Protected health</i>	Follow Both. HIPAA and State allow access.

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			<p><i>information</i> about such inmate or <i>Individual</i>, if the correctional institution or such law enforcement official represents that such <i>Protected health information</i> is necessary for:</p> <p>(A) The provision of health care to such <i>Individuals</i>;</p> <p>(B) The health and safety of such <i>Individual</i> or other inmates;</p> <p>(C) The health and safety of the officers or employees of or others at the correctional institution;</p> <p>(D) The health and safety of such <i>Individuals</i> and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;</p> <p>(E) Law enforcement on the premises of the correctional institution; and</p> <p>(F) The administration and maintenance of the safety, security, and good order of the correctional institution.</p> <p>(ii) Permitted <i>Uses</i>. A covered entity that is a correctional institution may <i>Use Protected health information of Individuals</i> who are inmates for any purpose for which such <i>Protected health information</i> may be disclosed.</p> <p>(iii) No application after release. For the purposes of this provision, an <i>Individual</i> is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.</p> <p>(j) Standard: <i>Uses</i> and disclosures to</p>	

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		164.512(j)(1)	<p>avert a serious threat to health or safety. (1) Permitted disclosures. A covered entity may, consistent with applicable law and standards of ethical conduct, <i>Use</i> or disclose <i>Protected health information</i>, if the covered entity, in good faith, believes the <i>Use</i> or disclosure:</p> <p>(i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and  (B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or</p> <p>ii) Is necessary for law enforcement authorities to identify or apprehend an <i>Individual</i>:</p> <p>(A) <i>BecaUse</i> of a statement by an <i>Individual</i> admitting participation in a violent crime that the covered entity reasonably believes may have <i>caUsed</i> serious physical harm to the victim; or  (B) Where it appears from all the circumstances that the <i>Individual</i> has escaped from a correctional institution or from lawful custody, as those terms are defined in Sec. 164.501.</p>	
	ai. The affected person <i>Uses</i> universal precautions, if any, against significant exposure, and was using universal precautions at the time that he or she was significantly exposed, except in those emergency circumstances in which the time necessary for <i>Use</i> of the universal precautions would endanger the life of the <i>Individual</i> .		No HIPAA related provision.	
252.15	ak. A physician, based on information provided to the physician, determines and certifies in writing that the affected person has been significantly exposed. The		No HIPAA related provision.	

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	certification shall accompany the request for testing and disclosure. If the affected person who is significantly exposed is a physician, he or she may not make this determination or certification. The information that is provided to a physician to document the occurrence of a significant exposure and the physician's certification that an affected person has been significantly exposed, under this subd. 7. ak., shall be provided on a report form that is developed by the department of commerce under s. 101.02 (19) (a) or on a report form that the department of commerce determines, under s. 101.02 (19) (b), is substantially equivalent to the report form that is developed under s. 101.02 (19) (a).			
	am. The affected person submits to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, as soon as feasible or within a time period established by the department after consulting guidelines of the centers for disease control of the federal public health service, whichever is earlier.		No HIPAA related provision.	
	ap. Except as provided in subd. 7. av. to c., the test is performed on blood that is drawn for a purpose other than testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.		No HIPAA related provision.	
	ar. The <i>Individual</i> , if capable of consenting, has been given an opportunity to be tested with his or her consent and has not consented.		No HIPAA related provision.	
252.15	at. The <i>Individual</i> has been informed that his or her blood may be tested for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV; that the test results may be disclosed to no one, including that <i>Individual</i> , without his or her consent, except to the person who is certified to have been significantly exposed; that, if the person knows the identity of the <i>Individual</i> , he or she may not disclose the identity to any other person except for the purpose of having the test or series of tests performed; and that a record may be kept of the test results only if the record does not reveal the <i>Individual's</i> identity.	164.512(j)(1)	(j) Standard: <i>Uses</i> and disclosures to avert a serious threat to health or safety. (1) Permitted disclosures. A covered entity may, consistent with applicable law and standards of ethical conduct, <i>Use</i> or disclose <i>Protected health information</i> , if the covered entity, in good faith, believes the <i>Use</i> or disclosure: (i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and	Follow Both. Both allow disclosure. However, State limits recipients. The test result is not maintained in an identified manner; therefore, the rest result is not considered part of the designated record set. HIPAA's <i>Individual</i> rights do not apply.

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			(B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or ii) Is necessary for law enforcement authorities to identify or apprehend an <i>Individual</i> : (A) Because of a statement by an <i>Individual</i> admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or (B) Where it appears from all the circumstances that the <i>Individual</i> has escaped from a correctional institution or from lawful custody, as those terms are defined in Sec. 164.501.	
	av. If blood that is specified in subd. 7. ap. is unavailable, the person who is certified under subd. 7. ak. to have been significantly exposed may request the district attorney to apply to the circuit court for his or her county to order the <i>Individual</i> to submit to a test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and to disclose the results to that person. The person who is certified under subd. 7. ak. to have been significantly exposed shall accompany the request with the certification under subd. 7. ak.			Follow Both. Both allow disclosure under court order.
	b. Upon receipt of a request and certification under the requirements of this subdivision, a district attorney shall, as soon as possible so as to enable the court to provide timely notice, apply to the circuit court for his or her county to order the <i>Individual</i> to submit to a test or a series of tests as specified in subd. 7. a., administered by a health care professional, and to disclose the results of the test or tests as specified in subd. 7. c.		No HIPAA related provision.	
252.15(2)(a)	c. The court shall set a time for a hearing on the matter under subd. 7. a. within 20 days after receipt of a request under subd. 7. b. The court shall give the district attorney and the <i>Individual</i> from whom a test is sought notice of the	164.524	(1) Right of access. Except as otherwise provided in paragraph (a)(2) or (a)(3) of this section, an <i>Individual</i> has a right of access to	Follow HIPAA. HIPAA provides <i>Individual</i> right to access. When court order received restricting access to <i>Individual</i> , covered entity should ask

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	<p>hearing at least 72 hours prior to the hearing. The <i>Individual</i> may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable <i>caUse</i> to believe that the <i>Individual</i> has significantly exposed the affected person, the court shall, except as provided in subd. 7. d., order the <i>Individual</i> to submit to a test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. The court shall require the health care professional who performs the test or series of tests to refrain from disclosing the test results to the <i>Individual</i> and to disclose the test results to the affected person and his or her health care professional. No sample <i>Used</i> for laboratory test purposes under this subd. 7. c. may disclose the name of the test subject.</p>		<p>inspect and obtain a copy of PHI about the <i>Individual</i> in a designated record set, for as long as the PHI is maintained in the designated record set, except for:</p> <ul style="list-style-type: none"> <li>(i) <i>Psychotherapy notes</i>;</li> <li>(ii) Information compiled in reasonable anticipation of, or for <i>Use</i> in, a civil, criminal, or administrative action or proceeding; and</li> <li>(iii) PHI that is: <ul style="list-style-type: none"> <li>(A) subject to CLIA</li> <li>(B) Except from CLIA pursuant to 42 CFR 493.3(a)(2)</li> </ul> </li> </ul> <p>(2) Unreviewable grounds for denial  (3) Reviewable grounds for denial  (4) Review of a denial of access</p>	<p>court for further guidance and cite 164.524.</p>
	<p>d. The court is not required to order the <i>Individual</i> to submit to a test under subd. 7. c. if the court finds substantial reason relating to the life or health of the <i>Individual</i> not to do so and states the reason on the record.</p>			<p>This provision addresses court proceedings.</p>
	<p>7m. The test results of an <i>Individual</i> under subd. 7. may be disclosed only to the <i>Individual</i>, if he or she so consents, to anyone authorized by the <i>Individual</i> and to the affected person who was certified to have been significantly exposed. A record may be retained of the test results only if the record does not reveal the <i>Individual's</i> identity. If the affected person knows the identity of the <i>Individual</i> whose blood was tested, he or she may not disclose the identity to any other person except for the purpose of having the test or series of tests performed.</p>	<p>164.502(a) (1)(iv)</p> <p>164.512(j)(1)</p>	<p><i>Uses</i> and disclosures of <i>Protected health information</i>:</p> <p>(a) Standard. A covered entity may not <i>Use</i> or disclose protected health information, except as permitted or required by this subpart or by subpart C of part 160 of this subchapter.</p> <p>(1) Permitted <i>Uses</i> and disclosures. A covered entity is permitted to <i>Use</i> or disclose <i>Protected health information</i> as follows:</p> <p>(iv) Pursuant to and in compliance with a valid authorization under Sec. 164.508;</p> <p>(j) Standard: <i>Uses</i> and disclosures to avert a serious threat to health or safety. (1) Permitted</p>	<p>Follow Both. Both allow disclosure. However, State limits recipients. Authorization must meet State and HIPAA requirements. The test result is not maintained in an identified manner; therefore, the rest result is not considered part of the designated record set. HIPAA's <i>Individual</i> rights do not apply.</p>

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			<p>disclosures. A covered entity may, consistent with applicable law and standards of ethical conduct, <i>Use</i> or disclose <i>Protected health information</i>, if the covered entity, in good faith, believes the <i>Use</i> or disclosure:</p> <p>(i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and  (B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or</p> <p>ii) Is necessary for law enforcement authorities to identify or apprehend an <i>Individual</i>:</p> <p>(A) Because of a statement by an <i>Individual</i> admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or  (B) Where it appears from all the circumstances that the <i>Individual</i> has escaped from a correctional institution or from lawful custody, as those terms are defined in Sec. 164.501.</p>	
252.15(2)(am)	1. A health care provider who procures, processes, distributes or <i>Uses</i> human sperm donated as specified under s. 157.06 (6) (a) or (b) shall, prior to the distribution or <i>Use</i> and with informed consent under the requirements of par. (b), test the proposed donor for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV in order to assure medical acceptability of the gift for the purpose intended. The health care provider shall <i>Use</i> as a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV a test or series of tests that the state epidemiologist finds		No HIPAA related provision.	

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	<p>medically significant and sufficiently reliable under s. 252.13 (1r) to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. The health care provider shall test the donor initially and, if the initial test result is negative, shall perform a 2nd test on a date that is not less than 180 days from the date of the procurement of the sperm. No person may <i>Use</i> the donated sperm until the health care provider has obtained the results of the 2nd test. If any validated test result of the donor for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV is positive, the sperm donated for <i>Use</i> may not be <i>Used</i> and, if donated, shall be destroyed.</p> <p>2. A health care provider who procures, processes, distributes or <i>Uses</i> human ova donated as specified under s. 157.06 (6) (a) or (b) shall, prior to the distribution or <i>Use</i> and with informed consent under the requirements of par. (b), test the proposed donor for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV in order to assure medical acceptability of the gift for the purpose intended.</p>			
252.15(2)(b)	<p>The health care provider, blood bank, blood center or plasma center that subjects a person to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV under pars. (a) and (am) shall, in instances under those paragraphs in which consent is required, provide the potential test subject with an informed consent form for testing or disclosure that shall contain the following information and on the form shall obtain the potential test subject's signature or may, if the potential test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), instead obtain the signature of the health care agent:</p> <p>1. The name of the potential test subject who is giving consent and whose test results may be disclosed and, if the potential test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), the name of the health care agent.</p> <p>2. A statement of explanation to the potential test subject</p>	<p>164.508(a) (1)</p> <p>164.508(c)(1)</p>	<p>(a) Standard: Authorizations for <i>Uses</i> and disclosures. (1) Authorization required: General rule. Except as otherwise permitted or required by this subchapter, a covered entity may not <i>Use</i> or disclose PHI without an authorization that is valid under this section. When a covered entity obtains or receives a valid authorization for its <i>Use</i> or disclosure of PHI, such <i>Use</i> or disclosure must be consistent with such authorization.</p> <p>(c) Implementation specifications: Core elements and requirements. (1) Core elements. A valid authorization under this section must contain at least the</p>	<p>Follow Both. For disclosure, the HIPAA authorization and the 252 authorization are similar. They are not in conflict. Follow both to assure compliance.</p> <p>The HIPAA authorization is more specific and would preempt state requirements for an informed consent when a HIPAA authorization is required for non-TPO functions. However state requirements for an informed consent would apply when a state informed consent is required and a HIPAA authorization is not required.</p> <p>Note: At a minimum for disclosure the form must meet HIPAA and 252 requirements.</p>

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	<p>that the test results may be disclosed as specified under sub. (5) (a) and either a listing that duplicates the persons or circumstances specified under sub. (5) (a) 2. to 19. or a statement that the listing is available upon request.</p> <p>3. Spaces specifically designated for the following purposes:</p> <p>a. The signature of the potential test subject or, if the potential test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), of the health care agent, providing informed consent for the testing and the date on which the consent is signed.</p> <p>b. The name of a person to whom the potential test subject or, if the potential test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), the health care agent, authorizes that disclosure of test results be made, if any, the date on which the consent to disclosure is signed, and the time period during which the consent to disclosure is effective.</p>	164.508(c)(2)	<p>following elements:</p> <p>(i) A description of the information to be <i>Used</i> or disclosed that identifies the information in a specific or meaningful fashion.</p> <p>(ii) The name or other specific identification of the person(s), or class of persons authorized to make the requested <i>Use</i> or disclosure.</p> <p>(iii) The name or other specific identification of the person(s), or class of persons, to whom the covered entity may make the requested <i>Use</i> or disclosure.</p> <p>(iv) A description of each purpose of the requested <i>Use</i> or disclosure. The statement “at the request of the <i>Individual</i>” is a sufficient description of the purpose when an <i>Individual</i> initiates the authorization and does not, or elects not to, provide a statement of the purpose.</p> <p>(v) An expiration date or an expiration event that relates to the <i>Individual</i> or the purpose of the <i>Use</i> or disclosure. The statement “end of the <i>Research</i> study,” “none,” or similar language is sufficient if the authorization is for a <i>Use</i> or disclosure of PHI for <i>Research</i>, including the creation and maintenance of a <i>Research</i> database or <i>Research</i> repository.</p> <p>(vi) Signature of the <i>Individual</i> and date. If the authorization is signed by a personal representative of the <i>Individual</i>, a description of such representative’s authority to act for the <i>Individual</i> must also be provided.</p> <p>(2) Required Statements. In addition</p>	<p>Note: A form combining the requirements for the HIPAA authorization and a WI informed consent as delineated in 146.81, 51.30, 252.15 and HFS 92 (depending on which laws apply to the provider records) could be developed and <i>Used</i> as a combined form except for <i>Psychotherapy notes</i>.</p>

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			<p>to the core elements, the authorization must contain statements adequate to place the <i>Individual</i> on notice of all of the following:</p> <p>(i) The <i>Individual's</i> right to revoke the authorization in writing, and either:</p> <p>(A) The exceptions to the right to revoke and a description of how the <i>Individual</i> may revoke the authorization; or</p> <p>(B) To the extent that the information in paragraph (c)(2)(i)(A) of this section is included in the notice required by 164.520, a reference to the covered entity's notice.</p> <p>(ii) The ability or inability to condition <i>Treatment, Payment, enrollment or eligibility for benefits</i> on the authorization, by stating either:</p> <p>(A) The CE may not condition <i>Treatment, Payment, enrollment or eligibility for benefits</i> on whether the <i>Individual</i> signs the authorization when the prohibition on conditioning of authorizations in par. (b)(4) of this section applies; or</p> <p>(B) The consequences to the <i>Individual</i> of a refusal to sign the authorization when, in accordance with par. (b)(4) of this section, the CE can condition <i>Treatment, enrollment in the health plan, or eligibility for benefits</i> on failure to obtain such authorization.</p> <p>(iii) The potential for information to be disclosed pursuant to the authorization to be subject to</p>	

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		164.508(c)(3) 164.508(c)(4)	redisclosure by the recipient and no longer be protected by this rule. (3) Plain language requirement. The authorization must be written in plain language. (4) Copy to the <i>Individual</i> . If a CE seeks an authorization from an <i>Individual</i> , the CE must provide the <i>Individual</i> with a copy of the signed authorization.	
252.15(2)(bm)	The health care provider that subjects a person to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV under par. (a) 3. shall provide the test subject and the test subject's guardian, if the test subject is incompetent under ch. 880, with all of the following information: 1. A statement of explanation concerning the test that was performed, the date of performance of the test and the test results. 2. A statement of explanation that the test results may be disclosed as specified under sub. (5) (a) and either a listing that duplicates the persons or circumstances specified under sub. (5) (a) 2. to 18. or a statement that the listing is available upon request.	164.512(a)(1)	(a) Standard: <i>Uses and disclosures Required by law</i> . (1) A covered entity may <i>Use</i> or disclose <i>Protected health information</i> to the extent that such <i>Use</i> or disclosure is <i>Required by law</i> and the <i>Use</i> or disclosure complies with and is limited to the relevant requirements of such law.	Follow Both. State directs the recipient of information and type of information to disclose.
252.15(3)	Written consent to disclosure. A person who receives a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV under sub. (2) (b) or, if the person has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), the health care agent may authorize in writing a health care provider, blood bank, blood center or plasma center to disclose the person's test results to anyone at any time subsequent to providing informed consent for disclosure under sub. (2) (b) and a record of this consent shall be maintained by the health care provider, blood bank, blood center or plasma center so authorized.	164.502(a)(1)(iv)  164.530(j)(1)	(a) Standard. A covered entity may not <i>Use</i> or disclose <i>Protected health information</i> , except as permitted or required by this subpart or by subpart C of part 160 of this subchapter. (1) Permitted <i>Uses</i> and disclosures. A covered entity is permitted to <i>Use</i> or disclose <i>Protected health information</i> as follows: (iv) Pursuant to and in compliance with a valid authorization under Sec. 164.508;  (1) Standard: Documentation. A covered entity must: (i) Maintain the policies and	Follow Both. Both allow disclosure subsequent to testing as authorized by patient or their representative. Both require authorization to be maintained.

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			<p>procedures provided for in paragraph (i) of this section in written or electronic form;</p> <p>(ii) If a communication is required by this subpart to be in writing, maintain such writing, or an electronic copy, as documentation; and</p> <p>(iii) If an action, activity, or designation is required by this subpart to be documented, maintain a written or electronic record of such action, activity, or designation.</p> <p>(2) Implementation specification: Retention period. A covered entity must retain the documentation required by paragraph (j)(1) of this section for six years from the date of its creation or the date when it last was in effect, whichever is later.</p>	
252.15(4)	<p>Record maintenance. A health care provider, blood bank, blood center or plasma center that obtains from a person a specimen of body fluids or tissues for the purpose of testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV shall:</p> <p>(a) Obtain from the subject informed consent for testing or disclosure, as provided under sub. (2).</p> <p>(b) Maintain a record of the consent received under par. (a).</p> <p>( c ) Maintain a record of the test results obtained. A record that is made under the circumstances described in sub. (2) (a) 7m. may not reveal the identity of the test subject.</p>	164.530(j)	<p>(1) Standard: Documentation. A covered entity must:</p> <p>(i) Maintain the policies and procedures provided for in paragraph (i) of this section in written or electronic form;</p> <p>(ii) If a communication is required by this subpart to be in writing, maintain such writing, or an electronic copy, as documentation; and</p> <p>(iii) If an action, activity, or designation is required by this subpart to be documented, maintain a written or electronic record of such action, activity, or designation.</p> <p>(2) Implementation specification: Retention period. A covered entity must retain the documentation required by paragraph (j)(1) of this section for six years from the date of</p>	Follow Both. Both require retention of authorization. HIPAA requires retention for six years. Apply State record retention guidelines but not less than six years.

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			its creation or the date when it last was in effect, whichever is later.	
252.15(5)(a)	Confidentiality of test.			
	(a) An <i>Individual</i> who is the subject of a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV or the <i>Individual's</i> health care agent, if the <i>Individual</i> has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), may disclose the results of the <i>Individual's</i> test to anyone. A person who is neither the <i>Individual</i> nor the <i>Individual's</i> health care agent may not, unless he or she is specifically authorized by the <i>Individual</i> to do so, disclose the <i>Individual's</i> test results except to the following persons or under the following circumstances:	164.502(a)(1)(iv)  164.502(g)(1)	(a) Standard. A covered entity may not <i>Use</i> or disclose <i>Protected health information</i> , except as permitted or required by this subpart or by subpart C of part 160 of this subchapter. (1) Permitted <i>Uses</i> and disclosures. A covered entity is permitted to <i>Use</i> or disclose <i>Protected health information</i> as follows: (iv) Pursuant to and in compliance with a valid authorization under Sec. 164.508;  Standard: Personal representatives. As specified in this paragraph, a covered entity must, except as provided in paragraphs (g)(3) and (g)(5) of this section, treat a personal representative as the <i>Individual</i> for purposes of this subchapter.	Follow Both. Both empower the <i>Individual</i> to authorize disclosure.
	1. To the subject of the test and, if the test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), the health care agent.	164.524(a)(1)	(1) Right of access. Except as otherwise provided in paragraph (a)(2) or (a)(3) of this section, an <i>Individual</i> has a right of access to inspect and obtain a copy of PHI about the <i>Individual</i> in a designated record set, for as long as the PHI is maintained in the designated record set, except for: (i) <i>Psychotherapy notes</i> ; (ii) Information compiled in reasonable anticipation of, or for <i>Use</i> in, a civil, criminal, or administrative action or proceeding; and	Follow State, which provides greater right. HIPAA and 252 are similar. State has less restriction(s) on access--disregard reviewable/unreviewable denial and written request.

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			(iii) PHI that is: (A) subject to CLIA (B) Except from CLIA pursuant to 42 CFR 493.3(a)(2)	
252.15(5)(a)	2. To a health care provider who provides care to the test subject, including those instances in which a health care provider provides emergency care to the subject.	164.501	<i>Treatment</i> is defined as the provision, coordination or management of health care related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party, consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.	Follow Both. HIPAA and State allow release to health care provider. Note: Refer to 252.14 for health care provider.
252.15(5)(a)	3. To an agent or employee of a health care provider under subd. 2. who prepares or stores patient health care records, as defined in s. 146.81 (4), for the purposes of preparation or storage of those records; provides patient care; or handles or processes specimens of body fluids or tissues.	164.506(c)(1)  164.506(c)(2)  164.506(c)(4)	(c) Implementation specifications: <i>Treatment</i> , <i>Payment</i> , or health care operations. (1) A covered entity may <i>Use</i> or disclose <i>Protected health information</i> for its own <i>Treatment</i> , <i>Payment</i> , or <i>Health Care Operations</i> .  A covered entity may disclose PHI for <i>Treatment</i> activities of a health care provider.  A covered entity may <i>Use</i> or disclose PHI to another covered entity for <i>Health Care Operations</i> activities of the entity that receives the information, if each entity either has or had a relationship with the <i>Individual</i> who is the subject of the PHI being requested. The PHI pertains to such relationship, and the disclosure is for a purpose listed in paragraph (1) or (2) of the definition of <i>Health Care Operations</i> or for the	Follow Both, as the two laws are consistent and both allow release in the circumstances contemplated by this exception. Apply minimum necessary except for <i>Treatment</i> .

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			purpose of health care fraud and abuse detection or compliance.	
	4. To a blood bank, blood center or plasma center that subjects a person to a test under sub. (2) (a), for any of the following purposes: a. Determining the medical acceptability of blood or plasma secured from the test subject. b. Notifying the test subject of the test results. c. Investigating HIV infections in blood or plasma.	164.506(c)(2) 164.506(c)(4)	See above.	Follow both, as the two laws are consistent and both allow release in the circumstances contemplated by this exception. Apply minimum necessary except for <i>Treatment</i> .
	5. To a health care provider who procures, processes, distributes or <i>Uses</i> a human body part donated as specified under s. 157.06 (6) (a) or (b), for the purpose of assuring medical acceptability of the gift for the purpose intended.	164.512(h)	<i>Uses</i> and disclosures for cadaveric organ, eye or tissue donation purposes. A CE may <i>Use</i> or disclose PHI to organ procurement organizations or other entities engaged in the procurement, banking or transplantation of cadaveric organs, eyes or tissue for the purpose of facilitating organ, eye or tissue donation or transplantation.	Follow Both. State limits the recipient. Refer to 252.14.
	6. To the state epidemiologist or his or her designee, for the purpose of providing epidemiologic surveillance or investigation or control of communicable disease.	164.512(b)(1) (i)	(b) Standard: <i>Uses</i> and disclosures for public health activities. (1) Permitted disclosures. A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to: (i) A <i>Public health authority</i> that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a <i>Public health authority</i> , to an official of a foreign government	Follow both, as the two laws are consistent and both allow release in the circumstances contemplated by this exception. Apply minimum necessary unless disclosure is mandated by another State law.

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			agency that is acting in collaboration with a <i>Public health authority</i> ;	
	7. To a funeral director, as defined under s. 445.01 (5) or to other persons who prepare the body of a decedent for burial or other disposition or to a person who performs an autopsy or assists in performing an autopsy.	164.512(g)	<p>g) Standard: <i>Uses</i> and disclosures about decedents. (1) Coroners and medical examiners. A covered entity may disclose <i>Protected health information</i> to a coroner or medical examiner for the purpose of identifying a deceased person, determining a <i>caUse</i> of death, or other duties as authorized by law. A covered entity that also performs the duties of a coroner or medical examiner may <i>Use</i> protected health information for the purposes described in this paragraph.</p> <p>(2) Funeral directors. A covered entity may disclose protected health information to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If necessary for funeral directors carry out their duties, the covered entity may disclose the <i>Protected health information</i> prior to, and in reasonable anticipation of, the <i>Individual's</i> death.</p>	Follow both, as the two laws are consistent and both allow release in the circumstances contemplated by this exception. Apply minimum necessary unless disclosure is mandated by another State law.
	8. To health care facility staff committees or accreditation or health care services review organizations for the purposes of conducting program monitoring and evaluation and health care services reviews.	164.501  164.502(a)	<p><i>Health Care Operations</i> include conducting quality assessment and improvement activities, reviewing the competence or qualification of health care professionals and evaluating practitioner and provider performance health plan performance, accreditation, underwriting, conducting or arranging for medical review and auditing functions, etc.</p> <p>CEs are permitted to <i>Use</i> or disclose</p>	<p>Follow both, as the two laws are consistent and both allow release in the circumstances contemplated by this exception. Apply minimum necessary unless disclosure is mandated by another State law.</p> <p>One point that is unclear under state law is whether disclosure of <i>identifiable records</i> to another health care facility's staff committee is permitted for such topics as physician</p>

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		164.506(c)(4)	<p>PHI for TPO without authorization.</p> <p>A covered entity may <i>Use</i> or disclose PHI to another covered entity for <i>Health Care Operations</i> activities of the entity that receives the information, if each entity either has or had a relationship with the <i>Individual</i> who is the subject of the PHI being requested. The PHI pertains to such relationship, and the disclosure is for a purpose listed in paragraph (1) or (2) of the definition of <i>Health Care Operations</i> or for the purpose of health care fraud and <i>abUse</i> detection or compliance.</p>	<p>peer review, infection control, etc.[See 146.38(1m) and (3)]. If such disclosure is not permitted under state law, state law would be more stringent and would control in this regard. If such disclosure is permitted under state law, HIPAA would require the disclosures to meet the requirements set forth in 164.506(c)(4)[the receiving entity has a relationship with the <i>Individual</i>, the PHI pertains to that relationship, and the disclosure is for the purposes listed in paragraphs (1) or (2) of the definition of <i>Health Care Operations</i> or is for the purpose of health care fraud and <i>abUse</i> detection or compliance].</p>
	<p>9. Under a lawful order of a court of record except as provided under s. 901.05 901.05—Admissibility of certain test results.</p>	164.512(e)	<p>(e) Standard: Disclosures for judicial and administrative proceedings.</p> <p>(1) Permitted disclosures. A covered entity may disclose <i>Protected health information</i> in the course of any judicial or administrative proceeding:</p> <p>(i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the <i>Protected health information</i> expressly authorized by such order; or</p> <p>Summary of 164.512: A CE may disclose PHI in the course of any judicial or administrative proceeding in response to a court order or administrative order provided that the disclosure is only as expressly authorized in the order. A CE may also disclose PHI in response to a subpoena, discovery request, or</p>	<p>Both laws allow disclosure under court order.</p> <p>A subpoena is a court order only if signed by a judge. A subpoena without a court order is sufficient under HIPAA but insufficient under Wisconsin law (except as contemplated in Wis. Stats. 908.03(6m)(c), dealing with legal actions) to compel disclosure. Similarly, an administrative order is sufficient under HIPAA, but insufficient under Wisconsin law to compel disclosure.</p>

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			other lawful process, even without a court or administrative order, if the entity receives assurances from the requester that reasonable efforts have been made to give notice to the <i>Individual</i> or the CE receives assurances from the requester that reasonable efforts have been made to secure a protective order	
252.15(5)(a)	10. To a person who conducts <i>Research</i> , for the purpose of <i>Research</i> , if the <i>Researcher</i> : a. Is affiliated with a health care provider under subd. 3. b. Has obtained permission to perform the <i>Research</i> from an institutional review board. c. Provides written assurance to the person disclosing the test results that <i>Use</i> of the information requested is only for the purpose under which it is provided to the <i>Researcher</i> , the information will not be released to a person not connected with the study, and the final <i>Research</i> product will not reveal information that may identify the test subject unless the <i>Researcher</i> has first received informed consent for disclosure from the test subject.	164.512(i)	CE may <i>Use</i> or disclose PHI for <i>Research</i> only if certain difficult obstacles are overcome, including approval by an IRB or a privacy board of an altered authorization or waiver of an authorization, various representations from the <i>Researcher</i> , including that no PHI will be removed from the CE, etc. <i>Research</i> under HIPAA as it stands would be extremely difficult.	Follow Both. State limits those who can do <i>Research</i> on HIV records to agents or employees of a health care provider who provides care to the test subject. Health care provider is defined in 252.14. Follow HIPAA with regard to the process because <i>Use</i> HIPAA sets up more barriers to access.
	11. To a person, including a person exempted from civil liability under the conditions specified under s. 895.48, who renders to the victim of an emergency or accident emergency care during the course of which the emergency caregiver is significantly exposed to the emergency or accident victim, if a physician, based on information provided to the physician, determines and certifies in writing that the emergency caregiver has been significantly exposed and if the certification accompanies the request for disclosure.	164.512(j)(1)(i)	j) Standard: <i>Uses</i> and disclosures to avert a serious threat to health or safety. (1) Permitted disclosures. A covered entity may, consistent with applicable law and standards of ethical conduct, <i>Use</i> or disclose <i>Protected health information</i> , if the covered entity, in good faith, believes the <i>Use</i> or disclosure: (i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and (B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat;	Follow both, as the two laws are consistent and both allow release in the circumstances contemplated by this exception. Apply minimum necessary.

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	<p>12. To a coroner, medical examiner or an appointed assistant to a coroner or medical examiner, if one or more of the following conditions exist:</p> <p>a. The possible HIV-infected status is relevant to the <i>caUse</i> of death of a person whose death is under direct investigation by the coroner, medical examiner or appointed assistant.</p> <p>b. The coroner, medical examiner or appointed assistant is significantly exposed to a person whose death is under direct investigation by the coroner, medical examiner or appointed assistant, if a physician, based on information provided to the physician, determines and certifies in writing that the coroner, medical examiner or appointed assistant has been significantly exposed and if the certification accompanies the request for disclosure.</p>	164.512(g)(1)	<p><i>Uses</i> and disclosures about decedents. A CE may disclose PHI to coroners or medical examiners for the purpose of identifying a deceased person, determining a <i>caUse</i> of death, or other duties as authorized by law.</p>	Follow both. Both allow disclosure to coroner or medical examiner for the circumstances contemplated by this exception.
252.15(5)(a)	<p>13. To a sheriff, jailer or keeper of a prison, jail or ho<i>Use</i> of correction or a person designated with custodial authority by the sheriff, jailer or keeper, for whom disclosure is necessitated in order to permit the assigning of a private cell to a prisoner who has a positive test result.</p>	164.512(k)(5)(i)	<p>Correctional institutions and other law enforcement custodial situations.</p> <p>(i) Permitted disclosures. A CE may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other <i>Individual</i> PHI about such inmate or <i>Individual</i>, if the correctional institution or such law enforcement official represents that such <i>Protected health information</i> is necessary for:</p> <p>(A) The provision of health care to such <i>Individuals</i>;</p> <p>(B) The health and safety of such <i>Individual</i> or other inmates;</p> <p>(C) The health and safety of the officers or employees of or others at the correctional institution;</p> <p>(D) The health and safety of such <i>Individuals</i> and officers or other persons responsible for the transporting of inmates or their transfer from one institution,</p>	Follow both. Both allow disclosure for the circumstances contemplated by this exception.

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			facility, or setting to another; (E) Law enforcement on the premises of the correctional institution; and (F) The administration and maintenance of the safety, security, and good order of the correctional institution.	
	14. If the test results of a test administered to an <i>Individual</i> are positive and the <i>Individual</i> is deceased, by the <i>Individual's</i> attending physician, to persons, if known to the physician, with whom the <i>Individual</i> has had sexual contact or has shared intravenous drug <i>Use</i> paraphernalia.	164.512(j)(1)(i)	Standard: <i>Uses</i> and disclosures to avert a serious threat to health or safety. (1) Permitted disclosures. A CE may, consistent with applicable law and standards of ethical conduct, <i>Use</i> or disclose PHI, if the CE, in good faith, believes the <i>Use</i> or disclosure: (i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and (B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat	Follow both. Both allow disclosure for the circumstances contemplated by this exception. However, State limits disclosure to records of deceased patient.
	15. To anyone who provides consent for the testing under sub. (2) (a) 4. b., except that disclosure may be made under this subdivision only during a period in which the test subject is adjudicated incompetent under ch. 880, is under 14 years of age or is unable to communicate due to a medical condition.	164.502(g)(1)	Standard: Personal representatives. As specified in this paragraph, a covered entity must, except as provided in paragraphs (g)(3) and (g)(5) of this section, treat a personal representative as the <i>Individual</i> for purposes of this subchapter.	Follow both. Both allow disclosure for the circumstances contemplated by this exception.
	17. To an alleged victim or victim, to a health care professional, upon request as specified in s. 938.296 (4) (e) or (5) (e) or 968.38 (4) (c) or (5) (c), who provides care to the alleged victim or victim and, if the alleged victim or victim is a minor, to the parent or guardian of the alleged victim or victim, under s. 938.296 (4) or (5) or 968.38 (4) or (5).		No HIPAA related provision.	
	18. To an affected person, under the requirements of sub. (2) (a) 7.	164.512(j)(1)(i)	Standard: <i>Uses</i> and disclosures to avert a serious threat to health or	Follow both. Both allow disclosure for the circumstances contemplated by

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			<p>safety.</p> <p>(1) Permitted disclosures. A covered entity may, consistent with applicable law and standards of ethical conduct, <i>Use</i> or disclose <i>Protected health information</i>, if the covered entity, in good faith, believes the <i>Use</i> or disclosure:</p> <p>(i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and</p> <p>(B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat;</p>	<p>this exception.</p>
252.15(5)(a)	<p>19. If the test was administered to a child who has been placed in a foster home, <i>Treatment</i> foster home, group home, residential care center for children and youth, or secured correctional facility, as defined in s. 938.02 (15m), including a placement under s. 48.205, 48.21, 938.205, or 938.21 or for whom placement in a foster home, <i>Treatment</i> foster home, group home, residential care center for children and youth, or secured correctional facility is recommended under s. 48.33 ( 4 ), 48.425 (1) (g), 48.837 ( 4 ) ( c ), or 938.33 (3) or ( 4 ), to an agency directed by a court to prepare a court report under s. 48.33 (1), 48.424 ( 4 ) (b), 48.425 (3), 48.831 (2), 48.837 ( 4 ) ( c ), or 938.33 (1), to an agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2), 48.837 ( 4 ) ( c ), or 938.365 (2g), to an agency responsible for preparing a permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) ( c ) or (5) ( c ), 48.63 ( 4 ) or (5) ( c ), 48.831 ( 4 ) (e), 938.355 (2e), or 938.38 regarding the child, or to an agency that placed the child or arranged for the placement of the child in any of those placements and, by any of those agencies, to any other of those agencies and, by the agency that placed the child or arranged for the placement of the child in any of those placements, to the child's foster parent or <i>Treatment</i> foster parent or the operator of the group home, residential care center for children and youth,</p>	164.502(g)	<p>No HIPAA related provision.</p> <p>Allows for personal representative to act on the <i>Individual's</i> behalf and defers to state law. Allows parent or guardian to act as personal representative (except for ab<del>Use</del>/ neglect situations).</p>	<p>An authorization may be required. For disclosure to agencies required to prepare court reports or permanency plans, there is no specific HIPAA provision allowing disclosure without an authorization. Depending on the facts relating to the request, there may be HIPAA provisions that allow disclosure (e.g. administrative proceedings, law enforcement, court order).</p> <p>To the extent that a patient contemplated in 252.15(5)(a)19 has a guardian or other personal representative, disclosures to that person will be governed by 164.502(g).</p> <p>Whether HIPAA applies to disclosures between agencies depends on whether the disclosing agency is a covered entity or business associate.</p>

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	or secured correctional facility in which the child is placed, as provided in s. 48.371 or 938.371.			
252.15(5)(a)	20. To a prisoner's health care provider, the medical staff of a prison or jail in which a prisoner is confined, the receiving institution intake staff at a prison or jail to which a prisoner is being transferred or a person designated by a jailer to maintain prisoner medical records, if the disclosure is made with respect to the prisoner's patient health care records under s. 302.388, to the medical staff of a jail to whom the results are disclosed under s. 302.388 (2) (c) or (d), to the medical staff of a jail to which a prisoner is being transferred, if the results are provided to the medical staff by the department of corrections as part of the prisoner's medical file, to a health care provider to whom the results are disclosed under s. 302.388 (2) (c) or (f) or the department of corrections if the disclosure is made with respect to a prisoner's patient health care records under s. 302.388 (4).	164.512(k)(5)	<p><i>Uses</i> and disclosures for specialized government functions.</p> <p>(5) Correctional institutions and other law enforcement custodial situations. (i) Permitted disclosures. A covered entity may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other <i>Individual Protected health information</i> about such inmate or <i>Individual</i>, if the correctional institution or such law enforcement official represents that such <i>Protected health information</i> is necessary for:</p> <p>(A) The provision of health care to such <i>Individuals</i>;</p> <p>(B) The health and safety of such <i>Individual</i> or other inmates;</p> <p>(C) The health and safety of the officers or employees of or others at the correctional institution;</p> <p>(D) The health and safety of such <i>Individuals</i> and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;</p> <p>(E) Law enforcement on the premises of the correctional institution; and</p> <p>(F) The administration and maintenance of the safety, security, and good order of the correctional institution.</p> <p>(ii) Permitted <i>Uses</i>. A covered entity that is a correctional institution may <i>Use Protected health</i></p>	<p>State law deals with release of PHI by the jail or prison. If the jail is not a CE, HIPAA does not apply. If the jail is a CE, both HIPAA and State law are broadly, but not identically, written to allow for the release of health information concerning an inmate to jail or prison personnel at the time of incarceration. HIPAA is perhaps somewhat broader in that it allows disclosure of PHI for the purposes of the health and safety of others, has a "catch-all" provision and, finally, may allow release to a wider range of police and jail personnel than does state law. The practical implications of these differences are unclear and depend on the particular circumstances. The health care summary contemplated under Wis. Stat. § 302.388 relates to any care and <i>Treatment</i> that a prisoner requires during the period of incarceration and the summary is meant to accompany the prisoner when transferred to a different facility.</p>

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			<p>information of <i>Individuals</i> who are inmates for any purpose for which such <i>Protected health information</i> may be disclosed.</p> <p>(iii) No application after release. For the purposes of this provision, an <i>Individual</i> is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.</p>	
252.15(5)(b)	A private pay patient may deny access to disclosure of his or her test results granted under par. (a) 10. if he or she annually submits to the maintainer of his or her test results under sub. (4) (c) a signed, written request that denial be made.	164.512(i)  164.522(a)(1)(v)	<p>CE may <i>Use</i> or disclose PHI for <i>Research</i> only if certain difficult obstacles are overcome, including approval by an IRB or a privacy board of an altered authorization or waiver of an authorization, various representations from the <i>Researcher</i>, including that no PHI will be removed from the CE, etc. <i>Research</i> under HIPAA as it stands would be extremely difficult.</p> <p>Standard: Right of an <i>Individual</i> to request restriction of <i>Uses</i> and disclosures.</p> <p>(v) A restriction agreed to by a covered entity under paragraph (a) of this section, is not effective under this subpart to prevent <i>Uses</i> or disclosures permitted or required under Secs. 164.502(a)(2)(i), 164.510(a) or 164.512.</p>	Follow State. HIPAA does not permit restriction of <i>Use</i> or disclosure for the situation contemplated in this section. [see 164.522(a)(1)(v)]
252.15(5m)	(5m) Autopsies; testing of certain corpses. Notwithstanding s. 157.05, a corpse may be subjected to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and the test results disclosed to the person who has been significantly exposed under any of the following conditions: (a) If a person, including a person exempted from civil liability under the conditions specified under s. 895.48,	164.512(j)(1)(i)	<p>Standard: <i>Uses</i> and disclosures to avert a serious threat to health or safety.</p> <p>(1) Permitted disclosures. A covered entity may, consistent with applicable law and standards of ethical conduct, <i>Use</i> or disclose <i>Protected health information</i>, if the</p>	Follow both. Both allow disclosure for the circumstances contemplated by this exception. State requires certification of significant exposure.

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	<p>who renders to the victim of an emergency or accident emergency care during the course of which the emergency caregiver is significantly exposed to the emergency or accident victim and the emergency or accident victim subsequently dies prior to testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, and if a physician, based on information provided to the physician, determines and certifies in writing that the emergency caregiver has been significantly exposed and if the certification accompanies the request for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the coroner, medical examiner or physician who certifies the victim's <i>caUse</i> of death under s. 69.18 (2) (b), (c) or (d).</p> <p>(b) If a funeral director, coroner, medical examiner or appointed assistant to a coroner or medical examiner who prepares the corpse of a decedent for burial or other disposition or a person who performs an autopsy or assists in performing an autopsy is significantly exposed to the corpse, and if a physician, based on information provided to the physician, determines and certifies in writing that the funeral director, coroner, medical examiner or appointed assistant has been significantly exposed and if the certification accompanies the request for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the attending physician of the funeral director, coroner, medical examiner or appointed assistant who is so exposed.</p> <p>(c) If a health care provider or an agent or employee of a health care provider is significantly exposed to the corpse or to a patient who dies subsequent to the exposure and prior to testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, and if a physician who is not the health care provider, based on information provided to the physician, determines and certifies in writing that the health care provider, agent or employee has been significantly exposed and if the certification accompanies the request for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the physician who certifies that the significant exposure has occurred.</p>		<p>covered entity, in good faith, believes the <i>Use</i> or disclosure:</p> <p>(i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and</p> <p>(B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat;</p>	



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	<p>provider, if known.</p> <p>3. The name, address, telephone number, age or date of birth, race and ethnicity, sex and county of residence of the test subject, if known.</p> <p>4. The date on which the test was performed.</p> <p>5. The test result.</p> <p>6. Any other medical or epidemiological information required by the state epidemiologist for the purpose of exercising surveillance, control and prevention of HIV infections.</p> <p>(c) Except as provided in sub. (7m), a report made under par. (b) may not include any of the following:</p> <p>1. Information with respect to the sexual orientation of the test subject.</p> <p>2. The identity of persons with whom the test subject may have had sexual contact.</p> <p>(d) This subsection does not apply to the reporting of information under s. 252.05 with respect to persons for whom a diagnosis of acquired immunodeficiency syndrome has been made.</p>		<p>information for the public health activities and purposes described in this paragraph to:</p> <p>(i) A <i>Public health authority</i> that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a <i>Public health authority</i>, to an official of a foreign government agency that is acting in collaboration with a <i>Public health authority</i>;</p>	
252.15(7m)	<p>Reporting of persons significantly exposed. If a positive, validated test result is obtained from a test subject, the test subject's physician who maintains a record of the test result under sub. (4) (c) may report to the state epidemiologist the name of any person known to the physician to have been significantly exposed to the test subject, only after the physician has done all of the following:</p> <p>(a) Counseled the test subject to inform any person who has been significantly exposed to the test subject.</p> <p>(b) Notified the test subject that the name of any person known to the physician to have been significantly exposed to the test subject will be reported to the state epidemiologist.</p>	164.512(b)(1) (i)	See above.	Follow Both. Both allow disclosure for the circumstances contemplated by this exception.
252.15 (8)	<p>Civil liability.</p> <p>(a) Any person violating sub. (2), (5) (a), (5m), (6) or (7) (c) is liable to the subject of the test for actual damages, costs and reasonable actual attorney fees, plus exemplary damages of up to \$1,000 for a negligent violation and up to \$25,000 for an intentional violation.</p> <p>(b) The plaintiff in an action under par. (a) has the burden</p>		No HIPAA related provision.	Follow State.

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	of proving by a preponderance of the evidence that a violation occurred under sub. (2), (5) (a), (5m), (6) or (7) (c). A conviction under sub. (2), (5) (a), (5m), (6) or (7) (c) is not a condition precedent to bringing an action under par. (a).			
252.15(9)	Penalties. Whoever intentionally discloses the results of a blood test in violation of sub. (2) (a) 7m., (5) (a) or (5m) and thereby <i>causes</i> bodily harm or psychological harm to the subject of the test may be fined not more than \$25,000 or imprisoned not more than 9 months or both. Whoever negligently discloses the results of a blood test in violation of sub. (2) (a) 7m., (5) (a) or (5m) is subject to a forfeiture of not more than \$1,000 for each violation. Whoever intentionally discloses the results of a blood test in violation of sub. (2) (a) 7m., (5) (a) or (5m), knowing that the information is confidential, and discloses the information for pecuniary gain may be fined not more than \$100,000 or imprisoned not more than 3 years and 6 months, or both.		HIPAA specific noncompliance with privacy regulations: \$50,000 fine and imprisonment for one year if we knowingly obtain or disclose <i>Individually identifiable health information</i> ; \$100,00 fine and imprisonment for 5 years if we knowingly obtain or disclose PHI under false pretenses and a maximum fine of \$250,000 and/or up to 10 years imprisonment if we obtain or disclose PHI with the intent to sell, transfer or <i>Use</i> health information for commercial advantage, personal gain or malicious harm	
252.15(10)	Discipline of employees. Any employee of the state or a political subdivision of the state who violates this section may be discharged or suspended without pay.	164.530(e)(1)	Sanctions. A covered entity must have and apply appropriate sanctions against members of its workforce who fail to comply with the privacy policies and procedures of the covered entity or the requirements of this subpart.	Follow Both.
252.16	Health insurance premium subsidies.		No HIPAA implications.	

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