I. INTRODUCTION

The Wisconsin Caregiver Law requires background and criminal history checks of certain personnel who are responsible for the care, safety and security of children and adults. The law contemplates that an employing entity conduct criminal background checks on employees and some volunteers. The purpose of this document and its attachments is to assist UWM faculty and staff in understanding their roles and responsibilities pursuant to the Wisconsin Caregiver Law with regard to student internships and field and clinical placements.

The Wisconsin Caregiver Law affects UWM because we place students in internships and clinical or field placements where they, as well as the UWM faculty and staff who supervise them, are subject to these background checks. Recently, it has become commonplace for a field placement site to require UWM to perform the background checks on UWM students and supervising faculty and staff. UWM has generally agreed to do so, but has required the placement site to make the ultimate decision regarding acceptance of the student.

Some examples of entities governed by the Wisconsin Caregiver Law are hospitals, day care facilities, hospices and most entities where health care is provided. You likely know if a program you encounter is subject to the law because UWM has an agreement with the entity regarding each party’s obligations with regard to the background checks. However, if you are unsure, you may ask a contact person at the program. This document attempts to address typical terms of agreements that UWM has with placement site entities, however, if you have questions about particular terms of an affiliation agreement, please contact the Office of Risk Management or the Office of Legal Affairs. Moreover, please note that a school or college may have written policies or guidelines for Wisconsin Caregiver Law compliance. Such policies and guidelines must be consistent with this policy, but may, based on a school or college’s particular needs, provide additional detail or restrictions.

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2 This document is intended for UWM employees who already have some familiarity with the Wisconsin Caregiver Law. For that reason, the document does not explain every facet of the law. If you have questions that are not answered in this document, please call the Office of Legal Affairs at x4278.
II. ADMINISTRATIVE

A. Liaison and Point Person

To ensure efficiency in conducting background checks and otherwise complying with the law, each School or College will appoint a liaison and point person(s). The liaison will have ultimate responsibility for the School or College’s compliance with the law; be the person who receives new information about the law; and manage the personnel who perform the duties that are required by the law. To that end, the liaison will choose a point person(s) to perform the responsibilities for the School or College, such as answering questions from UWM students and employees, processing the required documents, maintaining the records, and serving as a contact for the placement sites. Each School or College may choose point people as they see fit, whether it be that each department has one, or a team that services the entire School or College.

From time to time, the Offices of Legal Affairs and Risk Management will provide workshops to the liaisons and point people.

B. Notice to Students of Requirement of Background Check

Legal Affairs recommends that each School and College provide notice about the background checks to prospective and current students. The notice, when applicable, should include the following information:

- They will be required to go through a background check to participate in clinical placements, internships, etc., which are a requirement to graduate.

- When the School or College will conduct the initial background check and any subsequent checks that may be necessary if the student participates in clinical placements, internships, etc. for an extended period of time. Each School and College should make the decision about frequency of checks based on its particular programs.

- That if their records contain certain types of investigations, convictions, or arrests that demonstrate harm to a vulnerable population, their background check records will be sent to the placement site and it is possible they will not be able to participate in clinical placements, internships, etc.

- It is likely that employers in their field will require this same background check (if that is the case).
Each School and College should provide this information in admissions materials and all other related documents to all affected students at a point which allows the student ample time to choose another major or area of study if the student chooses to not undergo a background check. This point may vary for each School and College, but some suggested times are when the student applies to the School or College or to the individual major.

C. Notice to Employees of Requirement of Background Check

Employees who are required to undergo the background check are likely aware of this requirement in their field. The law requires that a check be performed every four years.

It is recommended that each School and College develop a tickler system to meet the background check requirements for employees.

D. Notice to Students and UWM Employees Regarding Requirement to Update UWM After Check

The law requires UWM to inform its employees and students that they must notify UWM if they have been convicted of a crime or are being investigated by a government agency within a reasonable time after the conviction or start of the investigation. To accomplish this, Legal Affairs has incorporated this information into forms that the students and employees must sign to participate in internship or clinical/field placement experiences (see Attachments 1 and 2 in section III.A.3 below).

All students who are participating in clinical placements that require these background checks, as well as all employees who are supervising students in such placements, should sign these forms at the time these procedures go into effect, regardless of whether a check is being performed at that time.

III. HOW DO I CONDUCT THE CHECK?

A. Forms to be Filled Out

Each student and employee should fill out:

1. The DHFS Background Information Disclosure (BID) Form HFS-64 (see, http://www.dhfs.state.wi.us/forms/HFS/HFS0064.pdf);

2. The DOJ Criminal History Record Request Form DJ-LE-250 for single name requests or DJ-LE-250A to search multiple names (see http://www.doj.state.wi.us/dles/cib/forms/index.asp#recordCheckForms); and
3. For student: Authorization, Acknowledgment and Release Form (see Attachment 1)\(^3\)  
   For employee: Authorization and Acknowledgement Form (see Attachment 2)\(^4\)

**B. What Do I Do With The Forms?**

1. Retain the Release Form in the Student’s or Employee’s background check file (see section VI below for more information about maintaining records).

2. Send the Criminal History Request Form to Department of Justice, Crime Information Bureau, Wisconsin Department of Justice, Division of Law Enforcement Services, Criminal Information – Records Check Unit, P.O. Box 2688, Madison, WI 53701-2688, with appropriate information regarding fees (see section V below) and a self-addressed stamped envelope.\(^5\) To pursue electronic filing, please see [http://www.dhfs.state.wi.us/caregiver/index.htm](http://www.dhfs.state.wi.us/caregiver/index.htm) 

   The School or College should check the “Caregiver – General” box on the Criminal History Record Request form to obtain full information for a caregiver background check, which includes an electronic search of the DHFS and DRL databases, also known as the Integrated Background Information System (IBIS). The current fees for criminal history record searches by the Wisconsin Department of Justice are $5/check for governmental agencies. There is also an additional cost of $2.50/check for the DHFS and DRL database query. (See more regarding UWM’s payment of fees in section V below).

**C. When Should I Receive a Response to My Request?**

The results should arrive in one to two weeks, consisting of:

1. an IBIS letter from DHFS; and

2. the DOJ search results.

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\(^3\) The student is required to sign the BID Form, Criminal History Record Request form and Authorization, Acknowledgement and Release to participate in the clinical placement. If s/he chooses not to sign these forms, s/he should not be allowed to participate in the placement.

\(^4\) Please note that at the time these procedures go into effect, all students and employees who are participating in programs governed by this law should sign Attachments 1 and 2, regardless of whether the student or employee is due for a check at that time. If they are due for a check, they should fill out all of the forms.

\(^5\) The complete caregiver background check is not required if the student will be at the entity for less than 60 days, is under supervision, and the student’s Background Information Disclosure form does not indicate a crime or offense that would make the student ineligible to be placed at an entity.
1. DHFS Response

The response from DHFS, also referred to as the IBIS letter, provides the following information:

- Nurse Aide Directory Training and Testing Status
- Caregiver Findings of Abuse or Neglect of a Client or Misappropriation of a Client’s Property
- Denials or Revocations of Operating Licenses for Adult Programs
- Denials or Revocations of Operating Licenses for Child Programs
- Rehabilitation Review Findings
- Status of Professional Credentials, Licenses or Certifications maintained by the Department of Regulation and Licensing

You may direct questions about information within the IBIS letter to the appropriate phone number listed on the letter.

If a School or College does not receive the letter from DHFS within two weeks, it may direct questions to the Caregiver Regulation and Investigation Section at (608) 267-3225.

2. DOJ Response

The response from DOJ will either be:

a. A “no record found”; or

b. A criminal record transcript.

If an entity does not receive a response from DOJ within two weeks, contact the Criminal Information Bureau at (608) 266-7780.

D. When Do I Need to Search For Additional Information?6

1. Person has lived out-of-state or out of United States in past 3 years

UWM must make a good faith effort to obtain out-of-state conviction records from any state or other US jurisdiction (e.g., tribal courts, Puerto Rico, US Virgin

6 You should attempt to obtain this information using the sources suggested in this section and other reasonable sources. If, after following these steps, you are not able to locate the information, you may contact Pam Hodermann (x4627) of the UWM Police Department for assistance. An exception to this is the licensing background check (the information obtained from DHFS), which is licensing, not necessarily criminal, information. To obtain this information from other states, you should use good faith efforts to contact licensing agencies from other states and follow the guidance provided in section III.D.3 below.
Islands and Northern Mariana Islands, including Guam) for students who resided outside of Wisconsin at any time during the three years preceding the date of the search. UWM should also make good faith efforts to obtain this information for a student who has lived internationally, or outside of the United States’ jurisdiction, in the past three years. The DHFS web site provides guidance on how to obtain a background check from other states at http://www.dhfs.state.wi.us/caregiver/contacts/index.htm (see “Other States” section at the bottom of the page).

2. **Person was in military in past three years**

UWM must obtain a copy of the military discharge papers (DD-214) from a student or employee who was discharged from the military within the three years preceding the search. The School or College must obtain additional information when a person’s discharge is other than “honorable” (see section III.D.7 below). The military units provide discharge papers to military personnel upon discharge so you should be able to obtain the appropriate documentation from the student. Veterans who do not have their DD-214 may obtain a copy of their discharge papers by submitting a Standard form 180, Request Pertaining to Military Records found at www.nara.gov/regional/mprsf180.html. They may also contact their local County Veterans Service Officer (CVSO) for assistance in obtaining copies of their discharge papers.

3. **Department of Regulation and Licensing (DRL) Information is incomplete.**

If the information in the DHFS Response under Status of Professional Credential(s), License(s) or Certificate(s) is incorrect or incomplete, an entity may query this information on the DRL Internet site at www.drl.state.wi.us by clicking on Business & Professional License Lookup. The information found there is consistent with the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and the National Committee for Quality Assurance (NCQA) standards for primary source verification. Entities may print out the information and file it with the background check information. For additional information related to licensing of health professionals, contact the Department of Regulation and Licensing at (608) 266-8794.

4. **The BID form includes a conviction not listed on the DOJ report.**

5. **The DOJ report does not provide a conclusive disposition on a criminal charge for a crime on the Offenses List, which is available at http://www.legis.state.wi.us/rsb/code/hfs/hfs012_app_a.pdf.**

6. **The BID or DOJ response indicates a conviction of:**
Misdemeanor battery s.940.19 (1), Stats.
Battery to an unborn child s.940.195, Stats.
Battery, special circumstances s.940.20, Stats.
Reckless endangerment s.941.30, Stats.
Invasion of Privacy s.942.08, Stats.
Disorderly conduct s.947.01, Stats.
Harassment s.947.013, Stats.

where the conviction occurred five years or less from the date on which the information was obtained; or,

7. The military discharge was other than “honorable.”

If the student or employee’s circumstances meet the criteria described in items 4-7 above, UWM must make a good faith effort to clarify what actually happened, which means UWM must try to locate additional information, including conviction records, from the appropriate jurisdiction such as the county clerk of courts, tribal jurisdiction, armed services branch, etc. Below are some suggestions on how to locate this information. In the event you need assistance, please contact Pam Hodermann (x4627) of the UWM Police Department.

Other available resources are:

When a person has a conviction record or criminal charge listed in items 4-6 above, the criminal complaint and judgment of conviction must be obtained from the County Clerk of Courts or Tribal Courts Office in the county where the person was convicted. See www.courts.state.wi.us/directory/pdf/clerks.pdf for a list of Clerk of Courts by County.

When a person has a discharge status other than honorable, additional information regarding the nature and circumstances of the discharge must be obtained from the armed forces branch. See the National Personnel Records Center, Military Personnel Records at www.nara.gov/regional/mprinfo.html for contact information.

Arrest and conviction information is also available at the Wisconsin Circuit Court Automation Program web site at http://ccap.courts.state.wi.us/InternetCourtAccess/. This web site provides Criminal Summary Reports for most Wisconsin counties. It is an easy-to-use system that allows access with the individual’s first and last name. These records include the individual’s date of birth, address, charge description, associated statute, severity (felony or misdemeanor), disposition, disposition date, case status and more. A search on CCAP that fails to find a criminal record does not mean that the person does not have a record. Information obtained via the Circuit Court Automation Program cannot be used in lieu of the caregiver background checks, which are required by law.

E. When Is A Caregiver Background Check Complete?
A complete caregiver background check consists of the following documents:

1. a completed BID form;

2. a response from DOJ:
   - a “no record found” response or
   - a criminal record transcript; and
   - an IBIS letter from DHFS that reports the person’s administrative finding or licensing restriction status.

3. Other documentation is required when information is needed to complete the background check, such as other state’s conviction records, military discharge papers, arrest and conviction disposition information from local clerks of courts or tribal courts.

IV. HOW TO PROCESS THE COMPLETE BACKGROUND CHECK

This section focuses on processing a student’s background check. In the event a school or college receives “hit” information regarding an employee, please contact the Office of Legal Affairs for advice.

A. Send information to the internship/field placement site

1. If the student has a “clean” record:
   - Provide the placement site with letter that certifies that UWM performed the check and this student is certified for the placement. See Sample Letter as Attachment 3.
   - Do not send the original BID form and other background check documents. Maintain these documents in the student’s file with the release (see section VI below for more information about record maintenance).

2. If a student’s record has a “hit”:
   - After verifying that the student has signed a release, provide the placement site with a letter stating that UWM performed the check and provide a copy of the relevant document(s). See Sample Letter as Attachment 4.
   - At the same time, send the student a letter in which you provide a copy of the hit information and explain that UWM is sending the hit information to the placement site. See Sample Letter 5.
   - Do not send the original BID form and other background check documents. Maintain these documents in the student’s file with the
release (see section VI below for more information about record maintenance).

B. When Placement Site Requests Information

There may be instances in which a placement site asks for copies of BID forms or other background check documents. Indeed, in the contracts that govern UWM’s relationships with placement sites, UWM often agrees to provide such documents upon request, provided that the student has granted permission. If UWM has agreed in a contract to provide the documents upon request, the custodian of the records may make the documents available if the student has signed a release (see more about custodian of records in section VI below). Please feel free to contact the Office of Legal Affairs if you have questions about such a request.

C. Placement Site Decision

UW System and UWM’s position is that the placement site should make the decision to accept a student with a “hit” on his or her record. If a site determines that it will not accept such a student, under appropriate circumstances, UWM may attempt to place the student at an alternate site. UWM may decide, however, that it is unlikely that any site will accept a particular student based on that student’s record. If that is the case, at least two representatives of the School or College should talk to the student in person about that decision. Please contact the Office of Legal Affairs if you have any questions about how to handle such a conversation.

D. What to Do When UWM Obtains “Hit” Information After the Background Check

From time to time, a School or College may learn during a student’s placement experience that the student is being investigated by a government agency or has been convicted of a crime. UWM may learn this from the student directly or in a random manner. Either way, UWM should share this information with the placement site.

The Authorization, Acknowledgement and Release form (see paragraph 1 of Attachment 1) allows UWM to share student records with the placement site that it obtains from any source. In some cases, it may be most sensible to allow the placement site to make a decision about the student continuing in the placement.

The release form also states that the student understands that UWM may terminate the student’s placement for failure to notify the School or College about such an investigation or criminal conviction (see paragraph 2 of Attachment 1). If UWM learned about the new “hit” information from a source other than the student, the School or College may wish to take some action against the student for failure to abide by the terms of the release form. Please contact the Office of Legal Affairs with any questions you may have about this.
V. FEES

Starting July 1, 2003, each School and College will be responsible for ensuring payment for background checks. In the case of student checks, the Schools and Colleges may charge each student for the cost of his or her check; if this is a new requirement, the School or College should notify students of the change in any appropriate literature or form.

If the School or College wishes to set up an account with the Department of Justice, please fill out the application found at http://www.doj.state.wi.us/dles/cib/crimback.asp#Q3

VI. RECORDS STORAGE/ACCESS/DESTRUCTION

The records that Schools and Colleges collect as a result of conducting background checks are confidential. The student records are also subject to the Family Educational Rights and Privacy Act (FERPA). As a result, UWM must take steps to preserve the confidentiality and privacy of these records.

To that end, Legal Affairs recommends that each School and College maintain background check information in individual student and employee files that are locked and accessible only to the School or College employee who serves as the contact person for caregiver background checks and any employees who assist in performing this function. This person may be thought of as the custodian of these records. It is permissible to maintain the background check documents in the same file as other non-confidential information related to the placement (e.g., an application for the placement, letter notifying student of the placement) as long as it does not burden the School or College to limit access to the non-confidential information. If a School or College maintains a data base or other electronic copies of the information in the background check materials, it should do so in a confidential manner and limit access to the information to the custodian and any other employees who work with that person.

If you receive a request for a copy of student records (other than a request pursuant to a contract with the placement site as described in section IV B above), please call the Office of Legal Affairs or forward the request to UWM’s Public Records Custodian. If you receive a request for employee records, please contact the Office of Legal Affairs.

According to the UWM Archives Policy, (http://www.uwm.edu/Library/arch/rrda-all.htm; see “Student Records – Unofficial” category) you may destroy these records confidentially one year after the student’s last date of attendance at UWM.

If you have any questions about the maintenance or disclosure of such records, please call the Office of Legal Affairs.
VII. RESOURCES

For comprehensive information about the Wisconsin Caregiver Background Check law, including FAQs, forms, and more, see http://www.dhfs.state.wi.us/caregiver/index.htm.

If you have any questions about the law, please contact the Office of Legal Affairs, which is located in Chapman Hall 380, and may be reached at x4278.
AUTHORIZATION, ACKNOWLEDGEMENT, AND RELEASE FORM

I hereby authorize the University of Wisconsin-Milwaukee (UWM) to obtain criminal records about me from any source. I also authorize UWM to provide such records to third parties for the purposes of evaluating my application for acceptance into or continued participation in an internship or field/clinical placement.

In the event I am accepted into an internship or field/clinical placement, I hereby acknowledge that during the course of my internship or field/clinical placement I shall notify UWM as soon as possible, but no later than the next day I am expected to attend the internship or field/clinical placement, when I have been convicted of any crime or have been or are being investigated by any governmental agency for any act or offense. I further acknowledge that if I fail to abide by this acknowledgement, UWM has the right to immediately terminate my participation in an internship or field/clinical placement.

I hereby release such third parties and the Board of Regents of the University of Wisconsin System, its agents, employees, and officers, including the University of Wisconsin-Milwaukee, from any liability that may arise from the disclosure of any information contemplated by this form or from UWM terminating me from an internship or field/clinical placement as described in the immediately preceding paragraph.

I understand that this form is in effect until my degree is completed at UWM, unless I revoke it in writing and provide such revocation to the ______________________ [insert appropriate name of office]. I further understand that if I choose to revoke this form, I may not be able to participate in an internship or field/clinical placement.

I have read and understand the above authorization, acknowledgement and release.

________________________________________
Signature of Student    Date

________________________________________
Printed Name of Student

________________________________________
Major or Student Classification
ATTACHMENT 2

The University of Wisconsin- Milwaukee
School of ______________________

ACKNOWLEDGEMENT AND AUTHORIZATION FORM

I, ____________________________________, hereby acknowledge that UWM is subject to requirements to periodically conduct a criminal background check on me to be able to assign me to supervise students in internships or clinical placements at entities external to UWM. I further authorize UWM to conduct this type of check unless I revoke this document by informing my supervisor of such revocation in writing.

In exchange for the opportunity to have exposure to staff, services, and the general operations of the entity(ies) where I may be assigned, where I will provide oversight to UWM students in internships or clinical/field placements, I further acknowledge that I will notify UWM as soon as possible but no later than the next working day when I have been convicted of a crime or have been or are being investigated by any governmental agency for any act or offense.

I have read and understand the above acknowledgement.

________________________________________  
Signature of Employee   Date

________________________________________  
Printed Name of Employee
[date]

[name of agency and contact]
[address]

Dear _____________:

UWM has __________ [insert school or college] students who have applied for clinical placements at your site for the upcoming ____________ semester. We have performed criminal background checks on these students and I am pleased to inform you that the following students are certified to participate in the placement:

[list students].

If you have any questions, please contact me at 414/229- ______ or ______@uwm.edu.

Sincerely,
[date]

[name of agency and contact]
[address]

Dear _____________:

UWM has __________ [insert school or college] students who have applied for clinical placements at your site for the upcoming ____________ semester. We have performed criminal background checks on these students and I have enclosed the materials on one of the students for whom some activity was reported from the State of Wisconsin Department of Justice [or other entity].

If you have any questions, please contact me at 414/229-______ or ______@uwm.edu.

Sincerely,
Dear _____________:

I am writing regarding your criminal history background check. We have received some documents as a result of the check that indicate some arrest or charge information (copy enclosed). Pursuant to the Authorization, Acknowledgement and Release form that you signed on __________, 2003, and our obligation under the law, we are forwarding this information to the agency to which you applied for a placement for the ___________ semester. The agency has the right to make a determination about the suitability of you being placed at their site, given the information in your background check.

Please be aware that certain types of criminal offenses may make licensure as a ___________ unlikely. Detailed information about the Wisconsin Caregiver Law is available at www.dhfs.state.wi.us/caregiver.

If you have any questions, please contact me at 414/229- ______ or ______@uwm.edu.

Sincerely,