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verizonwireless

John T. Scott, III
Vice President &
Deputy General Counsel
Regulatory Law

May 25, 2006

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Washington, DC 20005

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Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 - 12th Street, S.W.
Washington, D.C. 20554

RECEIVED

JUN 15 2006

Federal Communications Commission
Office of the Secretary

Re: Certification of Non-Readiness pursuant to 47 C.F.R. § 20.18(j)(4);
Conflicting Requests for Phase I and II Enhanced 911 ("E911") by Dane
County, Wisconsin and the City of Middleton, Wisconsin

Dear Ms. Dortch:

Verizon Wireless, having given prior notice to Dane County and the City of Middleton, local jurisdictions within the state of Wisconsin, hereby files this certification letter pursuant to 47 C.F.R. § 20.18(j)(4) of the Commission's rules.

Verizon Wireless received dueling requests for Phase I and Phase II E911 from Dane County and two cities within its borders, Sun Prairie and Middleton. The cities oppose Dane County's request for the service for calls made from their city boundaries; all parties have implemented upgrades in preparation to receive the service.¹ Verizon Wireless cannot deploy service to the County and the cities. Therefore, these jurisdictions must agree on which PSAP will receive the calls and finalize routing instructions with Verizon Wireless to permit the company to complete the deployment.² Agreed-upon call routing instructions will identify the PSAP responsible for receiving 911 calls from each particular cell site sector in the disputed area – which is the crux of the current dispute.

¹ In particular, the company has received multiple letters from legal representatives of both Dane County and Sun Prairie asserting their right, as a matter of law, to receive the service, which are attached as Exhibit A. On information and belief, Verizon Wireless believes that the City of Middleton holds the same legal opinion as that expressed by the attached letters from the City of Sun Prairie.

² Verizon Wireless, through its local counsel, met with various local officials in an attempt to work out a solution to the current impasse. In addition, Verizon Wireless has worked with other wireless carriers to resolve this matter.

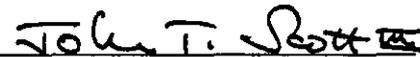
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Marlene H. Dortch
May 25, 2006
Page 2 of 2

In light of the ongoing dispute between these local jurisdictions, on May 1, 2006, Verizon Wireless sought extensions of the six-month period prescribed by the Commission's rules to deploy the service – to no avail.³ On May 4, 2006, Verizon Wireless, Sprint Nextel and US Cellular jointly sent a notice letter regarding the companies' intention to certify these requests to the FCC unless the local jurisdictions could reach a compromise that would allow deployment to proceed.⁴ In the meantime, Verizon Wireless deployed Phase I and II E911 to the undisputed areas of Dane County. On May 10, 2006, Sun Prairie's City Attorney notified Verizon Wireless that as of May 2, 2006, the city had reached a 90-day agreement with Dane County to allow the county to receive E911 calls from within the City's boundaries.⁵ Upon receipt of this notification, Verizon immediately completed the deployment by upgrading the cell site within Sun Prairie to Phase I and II E911 to route calls to Dane County. However, no such agreement has been reached with respect to Middleton, necessitating this certification letter and suspension of Verizon Wireless' further implementation efforts.

Pursuant to 47 C.F.R. § 20.18(j)(4), Verizon Wireless certifies the dueling requests from the city of Middleton and Dane County, covering only those cell sites within Middleton, because further implementation steps cannot proceed absent finalized routing instructions. As demonstrated by the company's good faith efforts thus far, including the speedy deployment of the Sun Prairie sites to Dane County pursuant to their 90-day agreement, Verizon Wireless is not the source of delay in this process and stands ready to deploy to either Middleton or Dane County once their dispute is resolved.

Sincerely,



John T. Scott, III
Vice President and Deputy General
Counsel – Regulatory Law

cc: Duke Ellingson, Director, Dane County Public Safety Communications
Noel Kakuske, Lt. Communications Center Manager, Middleton Police
Jeff Cohen, Wireless Telecommunications Bureau
Angela Giancarlo, Wireless Telecommunications Bureau
Kathryn Berthot, Enforcement Bureau

³ See Exhibit B.

⁴ See Exhibit B. The responses from Middleton and Dane County to the notice letter are also attached at Exhibit B. Both jurisdictions assert readiness to receive E911 calls but offer no solution regarding the current dispute. Given the dueling requests for service, Verizon Wireless cannot be forced to determine which PSAP is the appropriate PSAP to receive E911 calls.

⁵ See Exhibit C.

Daniel Grosh

From: Lolita.Forbes@VerizonWireless.com
Sent: Friday, May 26, 2006 9:01 AM
To: Jeff Cohen; Angela Giancarlo; Kathryn.Berthot@fcc.gov
Subject: VZW filing

Follow Up Flag: Follow up
Flag Status: Flagged



FCC Certification
Exhibits.pdf...

Here are the attachments to yesterday's filing.

-----Original Message-----

From: Williams, Lacreata
Sent: Thursday, May 25, 2006 4:26 PM
To: Forbes, Lolita
Subject: Scanned document <31 pages ~2013 KB> -- 5/25/2006 4:25:03 PM

See Exhibits attached.

This PDF file was created using the eCopy Suite of products. For more information about how you can eCopy paper documents and distribute them by email please visit <http://www.ecopy.com> <<FCC Certification Exhibits.pdf>>

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EXHIBIT A



Postmarked 3/3/06
Received 3/10/06

OFFICE OF THE CITY ATTORNEY

300 East Main Street, Sun Prairie, WI 53590-2227

(608) 825-1158

FAX (608) 834-4302

www.cityofsunprairie.com

March 3, 2006

Mr. Peter McHale
Verizon Wireless
1 Verizon Place
Alpharetta, GA 30004-8511

RE: Phase I and Phase II Wireless 911 Services

Dear Mr. McHale:

On November 21, 2005, Frank G. Sleeter, the Chief of Police for the City of Sun Prairie Police Department, sent to your firm a formal request for phase I and phase II wireless 911 services for the City of Sun Prairie with installation and testing to be completed by January 1, 2006. The City of Sun Prairie Common Council formally adopted a resolution on December 6, 2005, designated the Sun Prairie Police Department Communications Center as the primary PSAP for wireless 911 calls in the City of Sun Prairie, Wisconsin. This resolution was adopted pursuant to Section 146.70(3m)(c)6a. The relevant part of the statute states:

A local government (in our case Dane County) is not required to serve, with its wireless public safety answering point, the area of a city, village, or town that, by resolution, states its intention to establish a wireless public safety answering point separate from the wireless public safety answering point specified in a resolution under subd. 3. passed by the county in which the city, village, or town is located. A city, village, or town that adopts a resolution under this subd. 6. a. shall ensure that its entire geographic area is served by another wireless public safety answering point.

The City of Sun Prairie has provided a copy of the resolution to Dane County and to the Public Service Commission and can ensure that its entire geographic area is served by the City of Sun Prairie Police Department wireless public safety answering point in order to comply with state law. To this end, the City has expended over \$500,000.00 to enhance its PSAP dispatching to include wireless 911. Also, the City has ordered installation of the necessary wireless 911 trunk lines from AT&T and Verizon and these wireless 911 trunk lines will be fully operational by March 13, 2006. In addition, the City recently purchased and installed a new computer-aided dispatch software and in the process upgraded this software to include wireless 911 capability. This system was part

of a joint effort that included the Cities of Middleton and Fitchburg. In fact, the Cities of Middleton and Sun Prairie have executed an agreement that will make these two communities each other's backup for 911 and wireless 911 service effective March 23, 2006. Attempts have been made with Dane County for a smooth transition of wireless 911 dispatching to Sun Prairie. However, the City has only met resistance.

It is the City of Sun Prairie's position that 146.70(3m)(c)6a by operation of law allows a local government to opt out of participation in the county's wireless 911 service and is, therefore, I am asking your company to follow through with the City's formal request for phase I and phase II wireless 911 services for the City of Sun Prairie, Wisconsin, previously made by Chief Sleeter.

A copy of the relevant state statute and resolution are provided for your review. There is no requirement for the City to have permission granted to it by a county in state law. It is the City's position that Sun Prairie has properly opted out of countywide wireless 911 service and I am renewing the City's request for phase I and phase II services to your firm and believe the City stands on firm ground while making the request.

As the second largest community in Dane County, our elected officials and residents expect and demand the earliest possible implementation of this important life saving service.

Please contact Chief Sleeter at (608) 837-7336 to implement the change.

Very truly yours,

CITY OF SUN PRAIRIE



Paul F. Evert
City Attorney

PFE/cms
Enclosure

cc: Frank Sleeter, Police Chief
Patrick Cannon, City Administrator
Margaret Powers, Asst. City Administrator
Joe Chase, Mayor
Bill Clausius, President City Council

City of Sun Prairie, Wisconsin

**A RESOLUTION TO PROVIDE SERVICES
AS A WIRELESS 9-1-1
PUBLIC SAFETY ANSWERING POINT**

Presented: December 6, 2005

Adopted: December 6, 2005

File Number: 9985

Resolution No.: 05/273

RESOLUTION

WHEREAS, the City of Sun Prairie operates a communications center; and

WHEREAS, the City of Sun Prairie is committed to providing a high level of service to the residents within its entire geographic area; and

WHEREAS, the location of any person calling for assistance using a wireless phone is critical information necessary to insure prompt and efficient public safety response; and

WHEREAS, wireless phones will be capable of providing this information to properly equipped public safety answering points (PSAPs); and

WHEREAS, Sun Prairie Police Department will have such equipment and will be fully capable of receiving wireless calls and calculating and mapping the caller's actual location; and

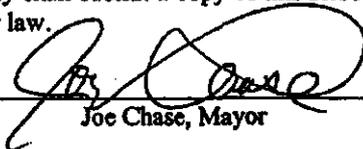
WHEREAS, the state has adopted legislation providing for an opt-out of the county designed PSAP allowing municipalities to receive the wireless 9-1-1 calls directly; and

WHEREAS, the Committee of the Whole on the 16th day of November, 2005, made a formal recommendation to allow the City of Sun Prairie to receive wireless 9-1-1 calls directly.

THEREFORE, BE IT RESOLVED that the City of Sun Prairie directs the Police Department to implement a wireless 9-1-1 answering point in the City of Sun Prairie, Wisconsin, in accordance with Wisconsin Statute 146.70(3m)(c) 6a.

BE IT FURTHER RESOLVED that the City shall submit a copy of this Resolution to Dane County and to the Wisconsin Public Service Commission as required by law.

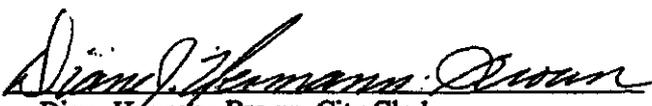
Approved _____


Joe Chase, Mayor

Date Approved _____

December 6, 2005

This is to certify that the foregoing resolution was adopted by the Common Council of the City of Sun Prairie at a meeting held on the 6th day of December 2005.


Diane Hermann-Brown, City Clerk

(c) Paragraphs (a) and (ag) do not apply to any person who provides the information required under sub. (3) to either of the departments.

(10) RELATION TO OTHER LAWS. The authority, power and remedies provided in this section are in addition to any authority, power or remedy provided in any other statutes or provided at common law.

History: 1989 a. 15; 1993 a. 213; 1995 a. 27 s. 9126 (19); 1997 a. 283; 2001 a. 109.

146.62 Rural hospital loan program. (1) DEFINITION. In this section:

(a) "Hospital" has the meaning given under s. 50.33 (2).

(b) "Rural" means outside a metropolitan statistical area, as specified under 42 CFR 412.62 (ii) (A).

(4) DEPARTMENTAL DUTIES. The department shall negotiate with each recipient of a loan made under s. 146.62 (2) and (3), 1989 stats., the schedule of repayments and collect the loan repayments as they are due. Loan repayments shall be deposited in the general fund. Except as provided in sub. (5), repayment for each loan shall begin no later than 12 months after the project funded under the loan begins operation.

(5) LOAN FORGIVENESS. If a rural hospital that receives a loan under s. 146.62 (2) and (3), 1989 stats., is unable to undertake the proposed project, the rural hospital may submit to the department a final report concerning the feasibility of loan repayment. The department shall review the report and may forgive all or part of the loan.

History: 1989 a. 31; 1991 a. 39; 1993 a. 16.

146.65 Rural health dental clinics. (1) From the appropriation under s. 20.435 (5) (dm), the department shall distribute moneys as follows:

(a) In each fiscal year, not more than \$232,000, to the rural health dental clinic located in Ladysmith that provides dental services to persons who are developmentally disabled or elderly or who have low income, in the counties of Rusk, Price, Taylor, Sawyer, and Chippewa.

(b) In each fiscal year, not more than \$355,600, to the rural health dental clinic located in Menomonie that provides dental services to persons who are developmentally disabled or elderly or who have low income, in the counties of Barron, Chippewa, Dunn, Pepin, Pierce, Polk, and St. Croix.

(c) In each fiscal year, not more than \$400,000, to a rural health clinic in Chippewa Falls to provide dental services to persons who are developmentally disabled or elderly or who have low income, in the area surrounding Chippewa Falls, including the counties of Chippewa, Dunn, Barron, Taylor, Clark, and Eau Claire.

NOTE: Par. (c) is created eff. 7-1-86 by 1985 Wis. Act 25.

(2) The department shall also seek federal funding to support the operations of the rural health dental clinics under sub. (1).

History: 2001 a. 16; 2003 a. 33; 2005 a. 25.

146.70 Statewide emergency services number.

(1) DEFINITIONS. In this section:

(a) "Automatic location identification" means a system which has the ability to automatically identify the address of the telephone being used by the caller and to provide a display at the central location of a sophisticated system.

(b) "Automatic number identification" means a system which has the ability to automatically identify the caller's telephone number and to provide a display at the central location of a sophisticated system.

(c) "Basic system" means a telecommunications system which automatically connects a person dialing the digits "911" to a public safety answering point.

(cm) "Commercial mobile radio service provider" has the meaning given in s. 196.01 (2g).

(d) "Department" means the department of administration.

(e) "Direct dispatch method" means a telecommunications system providing for the dispatch of an appropriate emergency service vehicle upon receipt of a telephone request for such service.

(f) "Public agency" means any municipality as defined in s. 345.05 (1) (c) or any state agency which provides or is authorized by statute to provide fire fighting, law enforcement, ambulance, medical or other emergency services.

(g) "Public safety agency" means a functional division of a public agency which provides fire fighting, law enforcement, medical or other emergency services.

(gm) "Public safety answering point" means a facility to which a call on a basic or sophisticated system is initially routed for response, and on which a public agency directly dispatches the appropriate emergency service provider, relays a message to the appropriate emergency service provider or transfers the call to the appropriate emergency services provider.

(h) "Relay method" means a telecommunications system whereby a request for emergency services is received and relayed to a provider of emergency services by telephone.

(i) "Sophisticated system" means a basic system with automatic location identification and automatic number identification.

(k) "Transfer method" means a telecommunications system which receives telephone requests for emergency services and transfers such requests directly to an appropriate public safety agency or other provider of emergency services.

(2) EMERGENCY PHONE SYSTEM. (a) Every public agency may establish and maintain within its respective jurisdiction a basic or sophisticated system under this section. Such a system shall be in a central location.

(b) Every basic or sophisticated system established under this section shall be capable of transmitting requests for law enforcement, fire fighting and emergency medical and ambulance services to the public safety agencies providing such services. Such system may provide for transmittal of requests for poison control to the appropriate regional poison control center under s. 146.57, suicide prevention and civil defense services and may be capable of transmitting requests to ambulance services provided by private corporations. If any agency of the state which provides law enforcement, fire fighting, emergency medical or ambulance services is located within the boundaries of a basic or sophisticated system established under this section, such system shall be capable of transmitting requests for the services of such agency to the agency.

(c) The digits "911" shall be the primary emergency telephone number within every basic or sophisticated system established under this section. A public agency or public safety agency located within the boundaries of a basic or sophisticated system established under this section shall maintain a separate 7-digit phone number for nonemergency telephone calls. Every such agency may maintain separate secondary 7-digit back-up numbers.

(d) Public agencies, including agencies with different territorial boundaries, may combine to establish a basic or sophisticated system established under this section.

(e) If a public agency or group of public agencies combined to establish an emergency phone system under par. (d) has a population of 250,000 or more, such agency or group of agencies shall establish a sophisticated system.

(f) Every basic or sophisticated system established under this section shall utilize the direct dispatch method, the relay method or the transfer method.

(g) Every telecommunications utility providing coin-operated telephones for public use within the boundaries of a basic or sophisticated system established under this section shall convert, by December 31, 1987, all such telephones to telephones which enable a user to reach "911" without inserting a coin. Any coin-operated telephone installed by a telecommunications utility after

146.70 MISCELLANEOUS HEALTH PROVISIONS

December 31, 1987, in an agency which has established an emergency phone system under this section shall enable a user to reach "911" without inserting a coin.

(h) A commercial mobile radio service provider shall permit a user of the provider to access a basic or sophisticated system if the provider operates within the boundaries of a system.

(i) If a user reaches a basic or sophisticated system through a commercial mobile radio service provider and the service requested is to be provided outside of the jurisdiction served by the system, the public agency operating the system shall transfer the request for services to the appropriate jurisdiction.

(3) FUNDING FOR COUNTYWIDE SYSTEMS. (a) *Definitions.* In this subsection:

1. "Commission" means the public service commission.
2. "Costs" means the costs incurred by a service supplier after August 1, 1987, in installing and maintaining the trunking and central office equipment used only to operate a basic or sophisticated system and the database used only to operate a sophisticated system.
3. "Service supplier" means a telecommunications utility which provides exchange telephone service within a county.
4. "Service user" means any person who is provided telephone service by a service supplier which includes access to a basic or sophisticated system.

(b) *Charge authorized.* A county by ordinance may levy a charge on all service users in the county to finance the costs related to the establishment of a basic or sophisticated system in that county under sub. (2) if:

1. The county has adopted by ordinance a plan for that system.
2. Every service user in that county has access to a system.
3. The county has entered into a contract with each service supplier in the county for the establishment of that system to the extent that each service supplier is capable of providing that system on a reasonable economic basis on the effective date of the contract and that contract includes all of the following:

a. The amount of nonrecurring charges service users in the county will pay for all nonrecurring services related to providing the trunking and central office equipment used only to operate a basic or sophisticated system established in that county and the database used only to operate that sophisticated system.

b. The amount of recurring charges service users in the county will pay for all recurring services related to the maintenance and operation of a basic or sophisticated system established in that county.

c. Every provision of any applicable schedule which the service supplier has filed with the commission under s. 196.19 or 196.20, which is in effect on the date the county signs the contract and which is related to the provision of service for a basic or sophisticated system.

4. The charge is calculated, under a schedule filed under s. 196.19 or 196.20, by dividing the costs related to establishing a basic or sophisticated system in that county by the total number of exchange access lines, or their equivalents, which are in the county and which are capable of accessing that system.

5. The charge is billed to service users in the county in a service supplier's regular billing to those service users.

6. Every public safety answering point in the system is in constant operation.

7. Every public safety agency in the county maintains a telephone number in addition to "911".

8. The sum of the charges under subd. 3. a. and b. does not exceed any of the following:

- a. Twenty-five cents each month for each exchange access line or its equivalent in the county if the county has a population of 500,000 or more.

b. One dollar each month for each exchange access line or its equivalent if the county has a population of less than 500,000 and the county is recovering charges under subd. 3. a.

c. Forty cents each month for each exchange access line or its equivalent if the county has a population of less than 500,000 and the county is not recovering charges under subd. 3. a.

(c) If 2 or more counties combine under sub. (2) (b) to establish a basic or sophisticated system, they may levy a charge under par. (b) if every one of those counties adopts the same ordinance, as required under par. (b).

(d) Charges under par. (b) 3. a. may be recovered in rates assessed over a period not to exceed 36 months.

(e) If a county has more than one service supplier, the service suppliers in that county jointly shall determine the method by which each service supplier will be compensated for its costs in that county.

(f) 1. Except as provided under subd. 2., a service supplier which has signed a contract with a county under par. (b) 3. may apply to the commission for authority to impose a surcharge on its service users who reside outside of that county and who have access to the basic or sophisticated system established by that county.

2. A service supplier may not impose a surcharge under subd. 1. on any service user who resides in any governmental unit which has levied a property tax or other charge for a basic or sophisticated system, except that if the service user has access to a basic or sophisticated system provided by the service supplier, the service supplier may impose a surcharge under subd. 1. for the recurring services related to the maintenance and operation of that system.

3. The surcharge under subd. 1. shall be equal to the charge levied under par. (b) by that county on service users in that county. A contract under par. (b) 3. may be conditioned upon the commission's approval of such a surcharge. The commission's approval under this paragraph may be granted without a hearing.

(g) No service supplier may bill any service user for a charge levied by a county under par. (b) unless the service supplier is actually participating in the countywide operation of a basic or sophisticated system in that county.

(h) Every service user subject to and billed for a charge under this subsection is liable for that charge until the service user pays the charge to the service supplier.

(i) Any rate schedule filed under s. 196.19 or 196.20 under which a service supplier collects a charge under this subsection shall include the condition that the contract which established the charge under par. (b) 3. is compensatory and shall include any other condition and procedure required by the commission in the public interest. Within 20 days after that contract or an amendment to that contract has been executed, the service supplier which is a party to the contract shall submit the contract to the commission. The commission may disapprove the contract or an amendment to the contract if the commission determines within 60 days after the contract is received that the contract is not compensatory, is excessive or does not comply with that rate schedule. The commission shall give notice to any person, upon request, that such a contract has been received by the commission. The notice shall identify the service supplier and the county that have entered into the contract.

(j) A service supplier providing telephone service in a county, upon request of that county, shall provide the county information on its capability and an estimate of its costs to install and maintain trunking and central office equipment to operate a basic or sophisticated system in that county and the database required to operate a sophisticated system.

(3m) WIRELESS PROVIDERS. (a) *Definitions.* In this subsection:

1. "Commercial mobile radio service provider" has the meaning given in s. 196.01 (2g).

2. "Commission" means the public service commission.

3. "Federal wireless orders" means the orders of the federal communications commission regarding 911 emergency services for wireless telephone users in FCC docket no. 94-102.

4. "Local government" means a city, village, town, or county, or an entity formed by a contract under s. 66.0301 (2) by a city, village, town, or county.

5. "Reimbursement period" means the period beginning on September 3, 2003, and ending on the last day of the 3-year period beginning on the first day of the 2nd month beginning after the effective date of the rules promulgated under par. (f) 1.

6. "Wireless provider" means a commercial mobile radio service provider that is subject to the federal wireless orders.

7. "Wireless public safety answering point" means a facility to which a person dialing the digits "911" on a wireless provider's system is initially routed for response, and on which a public agency directly dispatches the appropriate emergency service provider, relays a message to the appropriate emergency service provider, transfers the call to the appropriate emergency services provider, or relays a message or transfers the call to a local government emergency call center that dispatches the appropriate emergency services provider.

(am) *Designated public safety answering points.* A wireless public safety answering point shall be a designated public safety answering point for the purpose of implementing the federal wireless orders only if the wireless public safety answering point is identified in a resolution adopted under par. (c) 3. or 6.

(b) *Grant applications; wireless providers.* 1. Except as provided in subd. 2. and par. (d) 1e., a wireless provider may not receive a grant under par. (d) unless, no later than the first day of the 3rd month beginning after the effective date of the rules promulgated under par. (d) 4., the wireless provider applies to the commission with an estimate, and supporting documentation, of the costs that it has incurred, or will incur, during the reimbursement period to upgrade, purchase, lease, program, install, test, operate, or maintain all data, hardware, and software necessary to comply with the federal wireless orders in this state. The estimate may not include, and a wireless provider may not seek reimbursement for, any such costs that the wireless provider recovers or has recovered from customers in this state during or before the reimbursement period for the implementation of wireless 911 emergency service in this state.

2. A wireless provider that does not provide service to customers in this state prior to September 3, 2003, may make an application under subd. 1. after the date specified in subd. 1. pursuant to rules promulgated by the commission under par. (d) 4.

(c) *Grant applications; local governments.* 1. Except as provided in par. (d) 1e., a local government that operates a wireless public safety answering point, or local governments that jointly operate a wireless public safety answering point, may not receive a grant under par. (d) unless the requirements under subds. 3. to 5. are satisfied and, no later than the first day of the 3rd month beginning after the effective date of the rules promulgated under par. (d) 4., every county that itself is one of the local governments or in which any of the local governments is located applies to the commission with an estimate, and supporting documentation, of the costs specified in subd. 1r. and the costs that the local government or local governments have directly and primarily incurred, or will directly and primarily incur, during the reimbursement period for leasing, purchasing, operating, or maintaining the wireless public safety answering point, including costs for all of the following:

a. Necessary network equipment, computer hardware and software, database equipment, and radio and telephone equipment, that are located within the wireless public safety answering point.

b. Training operators of a wireless public safety answering point.

c. Network costs for delivery of calls from a wireless provider to a wireless public safety answering point.

d. Collection and maintenance of data used by the wireless public safety answering point, including data to identify a caller and the location of a caller.

e. Relaying messages regarding wireless emergency 911 telephone calls via data communications from the wireless public safety answering point to local government emergency call centers in operation before June 1, 2003, that dispatch the appropriate emergency service providers, but only if the rules promulgated under par. (d) 4. allow for reimbursement of such costs.

1m. The estimate under subd. 1. may not include, and a local government may not seek reimbursement for, any costs described in subd. 1. that the local government recovers in the form of a gift or grant received by the local government for the purposes described in subd. 1.

1r. An application under subd. 1. may include an estimate of costs directly and primarily incurred by the local government or local governments between January 1, 1999, and September 3, 2003, for any of the costs identified in subd. 1. a. and d.

2. If an application under subd. 1. is for the joint operation of a wireless public safety answering point by local governments, the application shall specify the manner in which the estimated costs are apportioned among the local governments.

3. A local government that operates a wireless public safety answering point, or local governments that jointly operate a wireless public safety answering point, are not eligible for grants under par. (d) unless, no later than the first day of the 3rd month beginning after the effective date of the rules promulgated under par. (d) 4., every county that itself is one of the local governments or in which any of the local governments is located has passed a resolution specifying that the wireless public safety answering point is eligible for the grants. Except as provided in subd. 4., only one wireless public safety answering point in each county is eligible for local governments to receive grants under par. (d).

4. If a county or local government in a county jointly operates a wireless public safety answering point with another county or local government in another county, the resolution passed by each county under subd. 3. shall specify the same wireless public safety answering point, and the counties shall submit a joint application under subd. 1. that complies with the requirement under subd. 2. In each county that submits a joint application, only the wireless public safety answering point specified in the resolutions is eligible for local governments to receive grants under par. (d).

5. Except as provided in subd. 6. a., a local government that operates, or local governments that jointly operate, a wireless public safety answering point are not eligible for grants under par. (d) unless the wireless public safety answering point serves the entire geographic area of all of the following:

a. For each local government that is not a county, each county in which the local government is located.

b. For each local government that is a county, the county itself.

6. a. A local government is not required to serve, with its wireless public safety answering point, the area of a city, village, or town that, by resolution, states its intention to establish a wireless public safety answering point separate from the wireless public safety answering point specified in a resolution under subd. 3. passed by the county in which the city, village, or town is located. A city, village, or town that adopts a resolution under this subd. 6. a. shall ensure that its entire geographic area is served by another wireless public safety answering point.

b. A city, village, or town that adopts a resolution under subd. 6. a. is not required to receive wireless 911 emergency service from the wireless public safety answering point specified in a resolution under subd. 3. passed by the county in which the city, vil-

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lage, or town is located. A city, village, or town that rescinds a resolution adopted under subd. 6. a. is required to receive wireless 911 emergency service from the wireless public safety answering point specified in a resolution under subd. 3. passed by the county in which the city, village, or town located, unless the city, village, or town subsequently adopts a new resolution under subd. 6. a.

c. A city, village, or town that adopts a resolution under subd. 6. a. shall submit a copy of the resolution to the county in which it is located and to the commission.

(d) *Grants; commission approval and rules.* 1. The commission shall approve an application under par. (b) or (c) if the commission determines that the costs estimated in the application are reasonable and have been, or will be, incurred for the purpose of promoting a cost-effective and efficient statewide system for responding to wireless emergency 911 telephone calls and, for an application under par. (c), if the requirements under subd. 1g. are satisfied.

1e. If a wireless provider or local government submits an application after the deadline specified in par. (b) 1. or (c) 1. (intro.), the commission shall reduce the costs approved under subd. 1. by the following amounts:

- a. If the application is no more than 1 week late, 5%.
- b. If the application is 1 week or more but less than 2 weeks late, 10%.
- c. If the application is 2 weeks or more but less than 4 weeks late, 25%.
- d. If the application is 4 weeks or more late, the wireless provider or local government is not eligible for a grant.

1g. If an application under par. (c) includes an estimate of costs identified in par. (c) 1. d. incurred during the reimbursement period or between January 1, 1999, and September 3, 2003, the commission may approve the application only if the commission determines that the local government's collection of land information, as defined in s. 16.967 (1) (b), and development of a land information system, as defined in s. 16.967 (1) (c), that is related to that purpose are consistent with the applicable county land records modernization plans developed under s. 59.72 (3) (b), conform to the standards on which such plans are based, and do not duplicate land information collection and other efforts funded through the land information program under s. 16.967 (7). The commission shall obtain the advice of the department of administration in making determinations under this subdivision.

1i. If the commission does not approve an application under subd. 1., the commission shall provide the applicant or applicants with the commission's reasons and give the applicant or applicants an opportunity to resubmit the application.

2. From the appropriation under s. 20.155 (3) (g), the commission shall make grants to reimburse wireless providers and local governments for costs approved under subd. 1. that are actually incurred by the wireless providers and local governments, except that no wireless provider or local government may receive a total amount in grants that exceeds the estimated amount approved by the commission under subd. 1. for that wireless provider or local government. For applications for the joint operation of a wireless public safety answering point, the commission shall apportion the grants in the manner specified under par. (c) 2.

3. No grant to a local government under subd. 2. may be used to reimburse costs for any of the following:

- a. Emergency service dispatch, including personnel, training, equipment, software, records management, radio communications, and mobile data network systems.
- b. Vehicles and equipment in vehicles.
- c. Communications equipment and software used to communicate with vehicles.
- d. Real estate and improvements to real estate, other than improvements necessary to maintain the security of a wireless public safety answering point.

e. Salaries and benefits of operators of a wireless public safety answering point.

4. The commission shall promulgate rules establishing requirements and procedures for making grants under this paragraph, including criteria for approving estimated costs under subd. 1. The rules shall require the commission to make the grants during the 3-year period beginning on the first day of the 3rd month beginning after the effective date of the rules promulgated under par. (f) 1. The rules shall include record-keeping requirements to ensure that the grants are used to reimburse estimated costs approved by the commission. The rules shall allow the commission to make the grants in installments. The rules shall also include requirements for wireless providers specified in par. (b) 2. to apply for grants. The rules shall specify the conditions under which a wireless provider or local government may revise an application approved under subd. 1.

4m. The rules promulgated under subd. 4. may allow local governments to receive grants for reimbursement of the costs described in par. (c) 1. e., but only if the commission determines that reimbursement of such costs is in the public interest, promotes public health and safety.

6. If the commission approves an application under subd. 1., the wireless provider or a local government that submitted the application may, before the commission makes a grant award to the wireless provider or local government, revise the application pursuant to the rules promulgated under subd. 4.

(e) *Supplemental grants.* The commission shall promulgate rules for making supplemental grants from the appropriation under s. 20.155 (3) (g) to counties that submit joint applications required under par. (c) 4. The rules shall establish the supplemental grants in amounts that provide an incentive for counties to submit joint applications. The rules may not impose any limits on the use of a supplemental grant and shall allow the commission to make the grants in installments.

(f) *Wireless surcharge.* 1. The commission shall promulgate rules requiring each wireless provider to impose the same monthly surcharge for each telephone number of a customer that has a billable address in this state, except that the rules shall adjust the amount of the surcharge that is imposed on customers who prepay for service to ensure that such customers pay an amount that is comparable to the monthly amount paid by other customers. The rules shall require the surcharge to be imposed during the 3-year period beginning on the first day of the 2nd month beginning after the effective date of the rules. The amount of the surcharge shall be sufficient for the commission to administer and make the grants under par. (d) and the supplemental grants under par. (e). The rules shall require wireless providers to pay the surcharge to the commission for deposit in the wireless 911 fund.

2. The commission may promulgate rules that increase or decrease the surcharge, except that the commission may not increase the surcharge more than once per year and any increase must be uniform statewide.

3. A wireless provider shall identify the surcharge on a customer's bill on a separate line that consists of the words "federal wireless 911 mandate fee."

4. The commission may bring an action to collect a surcharge that is not paid by a customer and the customer's wireless provider is not liable for the unpaid surcharge.

(g) *Confidentiality of information.* The commission shall withhold from public inspection any information received under this subsection that would aid a competitor of a wireless provider in competition with the wireless provider.

(h) *Other charges prohibited.* No local government or state agency, as defined in s. 560.9810 (1), except the commission, may require a wireless provider to collect or pay a surcharge or fee related to wireless emergency telephone service.

(i) *Commission authority.* Nothing in this section affects the exemption from commission authority for commercial mobile radio service providers in s. 196.202.

(j) *Sunset.* This subsection does not apply after the first day of the 42nd month beginning after the effective date of the rules promulgated under par. (f) 1.

(4) **DEPARTMENTAL ADVISORY AUTHORITY.** The department may provide information to public agencies, public safety agencies and telecommunications utilities relating to the development and operation of emergency number systems.

(6) **TELECOMMUNICATIONS UTILITY REQUIREMENTS.** A telecommunications utility serving a public agency or group of public agencies which have established a sophisticated system under sub. (2) (e) shall provide by December 31, 1985, or upon establishing a system, whichever is later, such public agency or group of public agencies access to the telephone numbers of subscribers and the addresses associated with the numbers as needed to implement automatic number identification and automatic location identification in a sophisticated system, but such information shall at all times remain under the direct control of the telecommunications utility and a telecommunications utility may not be required to release a number and associated address to a public agency or group of public agencies unless a call to the telephone number "911" has been made from such number. The costs of such access shall be paid by the public agency or group of public agencies.

(7) **LIABILITY EXEMPTION.** A telecommunications utility, wireless provider, as defined in sub. (3m) (a) 6., or local government, as defined in sub. (3m) (a) 4., shall not be liable to any person who uses an emergency number system created under this section or makes an emergency telephone call initially routed to a wireless public safety answering point, as defined in sub. (3m) (a) 7.

(9) **JOINT POWERS AGREEMENT.** (a) In implementing a basic or sophisticated system under this section, public agencies combined under sub. (2) (d) shall annually enter into a joint powers agreement. The agreement shall be applicable on a daily basis and shall provide that if an emergency services vehicle is dispatched in response to a request through the basic or sophisticated system established under this section, such vehicle shall render its services to the persons needing the services regardless of whether the vehicle is operating outside the vehicle's normal jurisdictional boundaries.

(b) Public agencies and public safety agencies which have contiguous or overlapping boundaries and which have established separate basic or sophisticated systems under this section shall annually enter into the agreement required under par. (a).

(c) Each public agency or public safety agency shall cause a copy of the annual agreement required by pars. (a) and (b) to be filed with the department of justice. If a public agency or public safety agency fails to enter into such agreement or to file copies thereof, the department of justice shall commence judicial proceedings to enforce compliance with this subsection.

(10) **PENALTIES.** (a) Any person who intentionally dials the telephone number "911" to report an emergency, knowing that the fact situation which he or she reports does not exist, shall be fined not less than \$50 nor more than \$300 or imprisoned not more than 90 days or both for the first offense and is guilty of a Class H felony for any other offense committed within 4 years after the first offense.

(b) Any person who discloses or uses, for any purpose not related to the operation of a basic or sophisticated system, any information contained in the database of that system shall be fined not more than \$10,000 for each occurrence.

(11) **PLANS.** Every public agency establishing a basic or sophisticated system under this section shall submit tentative plans for the establishment of the system as required under this section to every local exchange telecommunications utility providing service within the respective boundaries of such public agency. The public agency shall submit final plans for the estab-

lishment of the system to the telecommunications utility and shall provide for the implementation of the plans.

History: 1977 c. 392; 1979 c. 34, 361; 1981 c. 20 s. 2202 (1) (b); 1981 c. 383; 1983 a. 27; 1983 a. 53 c. 114; 1983 a. 189 s. 329 (31); 1985 a. 29; 128; 1985 a. 297 s. 12; 76; 1985 a. 332; 1987 a. 27, 403; 1989 a. 31; 1991 a. 39, 267; 1993 a. 16, 388, 496; 1997 a. 218, 283; 1999 a. 185; 2001 a. 109; 2003 a. 48, 320; 2005 a. 25.
Cross References: See also ch. PSC 173, Wis. adm. code.

146.71 Determination of death. An individual who has sustained either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death shall be made in accordance with accepted medical standards.

History: 1981 c. 134.

To determine whether an infant was "been alive" under a. 939.22 (16) for purposes of the homicide laws, courts apply s. 146.71. *State v. Cornaliux*, 152 Wis. 2d 272, 448 N.W.2d 434 (Ct. App. 1989).

146.81 Health care records; definitions. In ss. 146.81 to 146.84:

(1) "Health care provider" means any of the following:

- (a) A nurse licensed under ch. 441.
- (b) A chiropractor licensed under ch. 446.
- (c) A dentist licensed under ch. 447.
- (d) A physician, physician assistant, perfusionist, or respiratory care practitioner licensed or certified under subch. II of ch. 448.
- (dg) A physical therapist licensed under subch. III of ch. 448.
- (dr) A podiatrist licensed under subch. IV of ch. 448.
- (em) A dietitian certified under subch. V of ch. 448.
- (eq) An athletic trainer licensed under subch. VI of ch. 448.
- (es) An occupational therapist or occupational therapy assistant licensed under subch. VII of ch. 448.
- (f) An optometrist licensed under ch. 449.
- (fm) A pharmacist licensed under ch. 450.
- (g) An acupuncturist certified under ch. 451.
- (h) A psychologist licensed under ch. 455.
- (hg) A social worker, marriage and family therapist, or professional counselor certified or licensed under ch. 457.
- (hm) A speech-language pathologist or audiologist licensed under subch. II of ch. 459 or a speech and language pathologist licensed by the department of public instruction.
- (hp) A massage therapist or bodyworker certified under ch. 460.
- (i) A partnership of any providers specified under pars. (a) to (hp).
- (jp) A corporation or limited liability company of any providers specified under pars. (a) to (hp) that provides health care services.
- (k) An operational cooperative sickness care plan organized under ss. 185.981 to 185.985 that directly provides services through salaried employees in its own facility.
- (L) A hospice licensed under subch. IV of ch. 50.
- (m) An inpatient health care facility, as defined in s. 50.135 (1).
- (n) A community-based residential facility, as defined in s. 50.01 (1g).
- (p) A rural medical center, as defined in s. 50.50 (11).
- (2) "Informed consent" means written consent to the disclosure of information from patient health care records to an individual, agency or organization that includes all of the following:
 - (a) The name of the patient whose record is being disclosed.
 - (b) The type of information to be disclosed.
 - (c) The types of health care providers making the disclosure.
 - (d) The purpose of the disclosure such as whether the disclosure is for further medical care, for an application for insurance, to obtain payment of an insurance claim, for a disability determination, for a vocational rehabilitation evaluation, for a legal investigation or for other specified purposes.

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(c) The individual, agency or organization to which disclosure may be made.

(f) The signature of the patient or the person authorized by the patient and, if signed by a person authorized by the patient, the relationship of that person to the patient or the authority of the person.

(g) The date on which the consent is signed.

(h) The time period during which the consent is effective.

(3) "Patient" means a person who receives health care services from a health care provider.

(4) "Patient health care records" means all records related to the health of a patient prepared by or under the supervision of a health care provider, including the records required under s. 146.82 (2) (d) and (3) (c), but not those records subject to s. 51.30, reports collected under s. 69.186, records of tests administered under s. 252.15 (2) (a) 7., 343.305, 938.296 (4) or (5) or 968.38 (4) or (5), fetal monitor tracings, as defined under s. 146.817 (1), or a pupil's physical health records maintained by a school under s. 118.125. "Patient health care records" also includes health summary forms prepared under s. 302.388 (2).

(5) "Person authorized by the patient" means the parent, guardian or legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person vested with supervision of the child under s. 938.183 or 938.34 (4d), (4h), (4m) or (4n), the guardian of a patient adjudged incompetent, as defined in s. 880.01 (3) and (4), the personal representative or spouse of a deceased patient, any person authorized in writing by the patient or a health care agent designated by the patient as a principal under ch. 155 if the patient has been found to be incapacitated under s. 155.05 (2), except as limited by the power of attorney for health care instrument. If no spouse survives a deceased patient, "person authorized by the patient" also means an adult member of the deceased patient's immediate family, as defined in s. 632.895 (1) (d). A court may appoint a temporary guardian for a patient believed incompetent to consent to the release of records under this section as the person authorized by the patient to decide upon the release of records, if no guardian has been appointed for the patient.

History: 1979 c. 221; 1981 c. 39 s. 22; 1983 s. 27; 1983 s. 189 s. 329 (1); 1983 s. 534; 1985 s. 315; 1987 s. 27, 70, 264; 1987 s. 399 s. 403r, 491r; 1987 s. 403; 1989 s. 31, 168, 199, 200, 226, 316, 359; 1991 s. 39, 160, 269; 1993 s. 27, 32, 105, 112, 113, 385, 443, 496; 1995 s. 27 s. 914s (1); 1995 s. 77, 98, 352; 1997 s. 27, 67, 75, 156, 175; 1999 s. 9, 32, 151, 180, 188; 2001 s. 38, 70, 74, 80, 89.

A letter written by a person not licensed as a health care provider under sub. (1) was not a record under sub. (4) prepared under the supervision of a health care provider under sub. (1) (j) when the person was employed by a corporation that employed health care professionals but the corporation's shareholders were not health care providers. *Hart v. Beane*, 2003 WI App 231, 267 Wis. 2d 919, 672 N.W.2d 506, 02-2993.

146.815 Contents of certain patient health care records. (1) Patient health care records maintained for hospital inpatients shall include, if obtainable, the inpatient's occupation and the industry in which the inpatient is employed at the time of admission, plus the inpatient's usual occupation.

(2) (a) If a hospital inpatient's health problems may be related to the inpatient's occupation or past occupations, the inpatient's physician shall ensure that the inpatient's health care record contains available information from the patient or family about these occupations and any potential health hazards related to these occupations.

(b) If a hospital inpatient's health problems may be related to the occupation or past occupations of the inpatient's parents, the inpatient's physician shall ensure that the inpatient's health care record contains available information from the patient or family about these occupations and any potential health hazards related to these occupations.

(3) The department shall provide forms that may be used to record information specified under sub. (2) and shall provide guidelines for determining whether to prepare the occupational history required under sub. (2). Nothing in this section shall be construed to require a hospital or physician to collect information

required in this section from or about a patient who chooses not to divulge such information.

History: 1981 c. 214.

146.817 Preservation of fetal monitor tracings and microfilm copies. (1) In this section, "fetal monitor tracing" means documentation of the heart tones of a fetus during labor and delivery of the mother of the fetus that are recorded from an electronic fetal monitor machine.

(2) (a) Unless a health care provider has first made and preserved a microfilm copy of a patient's fetal monitor tracing, the health care provider may delete or destroy part or all of the patient's fetal monitor tracing only if 35 days prior to the deletion or destruction the health care provider provides written notice to the patient.

(b) If a health care provider has made and preserved a microfilm copy of a patient's fetal monitor tracing and if the health care provider has deleted or destroyed part or all of the patient's fetal monitor tracing, the health care provider may delete or destroy part or all of the microfilm copy of the patient's fetal monitor tracing only if 35 days prior to the deletion or destruction the health care provider provides written notice to the patient.

(c) The notice specified in pars. (a) and (b) shall be sent to the patient's last-known address and shall inform the patient of the imminent deletion or destruction of the fetal monitor tracing or of the microfilm copy of the fetal monitor tracing and of the patient's right, within 30 days after receipt of notice, to obtain the fetal monitor tracing or the microfilm copy of the fetal monitor tracing from the health care provider.

(d) The notice requirements under this subsection do not apply after 5 years after a fetal monitor tracing was first made.

History: 1987 s. 27, 399, 403.

146.819 Preservation or destruction of patient health care records. (1) Except as provided in sub. (4), any health care provider who ceases practice or business as a health care provider or the personal representative of a deceased health care provider who was an independent practitioner shall do one of the following for all patient health care records in the possession of the health care provider when the health care provider ceased business or practice or died:

(a) Provide for the maintenance of the patient health care records by a person who states, in writing, that the records will be maintained in compliance with ss. 146.81 to 146.835.

(b) Provide for the deletion or destruction of the patient health care records.

(c) Provide for the maintenance of some of the patient health care records, as specified in par. (a), and for the deletion or destruction of some of the records, as specified in par. (b).

(2) If the health care provider or personal representative provides for the maintenance of any of the patient health care records under sub. (1), the health care provider or personal representative shall also do at least one of the following:

(a) Provide written notice, by 1st class mail, to each patient or person authorized by the patient whose records will be maintained, at the last-known address of the patient or person, describing where and by whom the records shall be maintained.

(b) Publish, under ch. 985, a class 3 notice in a newspaper that is published in the county in which the health care provider's or decedent's health care practice was located, specifying where and by whom the patient health care records shall be maintained.

(3) If the health care provider or personal representative provides for the deletion or destruction of any of the patient health care records under sub. (1), the health care provider or personal representative shall also do at least one of the following:

(a) Provide notice to each patient or person authorized by the patient whose records will be deleted or destroyed, that the records pertaining to the patient will be deleted or destroyed. The notice shall be provided at least 35 days prior to deleting or destroying

the records, shall be in writing and shall be sent, by 1st class mail, to the last-known address of the patient to whom the records pertain or the last-known address of the person authorized by the patient. The notice shall inform the patient or person authorized by the patient of the date on which the records will be deleted or destroyed, unless the patient or person retrieves them before that date, and the location where, and the dates and times when, the records may be retrieved by the patient or person.

(b) Publish, under ch. 985, a class 3 notice in a newspaper that is published in the county in which the health care provider's or decedent's health care practice was located, specifying the date on which the records will be deleted or destroyed, unless the patient or person authorized by the patient retrieves them before that date, and the location where, and the dates and times when, the records may be retrieved by the patient or person.

(4) This section does not apply to a health care provider that is any of the following:

(a) A community-based residential facility or nursing home licensed under s. 50.03.

(b) A hospital approved under s. 50.35.

(c) A hospice licensed under s. 50.92.

(d) A home health agency licensed under s. 50.49 (4).

(f) A local health department, as defined in s. 250.01 (4), that ceases practice or business and transfers the patient health care records in its possession to a successor local health department.

History: 1991 a. 269; 1993 a. 27; 1999 a. 9.

Cross References: See also ch. Med 21, Wis. adm. code.

146.82 Confidentiality of patient health care records.

(1) **CONFIDENTIALITY.** All patient health care records shall remain confidential. Patient health care records may be released only to the persons designated in this section or to other persons with the informed consent of the patient or of a person authorized by the patient. This subsection does not prohibit reports made in compliance with s. 146.995, 253.12 (2) or 979.01; testimony authorized under s. 905.04 (4) (h); or releases made for purposes of health care operations, as defined in 45 CFR 164.501, and as authorized under 45 CFR 164, subpart E.

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

1. To health care facility staff committees, or accreditation or health care services review organizations for the purposes of conducting management audits, financial audits, program monitoring and evaluation, health care services reviews or accreditation.

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

a. The person is rendering assistance to the patient.

b. The person is being consulted regarding the health of the patient.

c. The life or health of the patient appears to be in danger and the information contained in the patient health care records may aid the person in rendering assistance.

d. The person prepares or stores records, for the purposes of the preparation or storage of those records.

3. To the extent that the records are needed for billing, collection or payment of claims.

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

5. In response to a written request by any federal or state governmental agency to perform a legally authorized function, including but not limited to management audits, financial audits, program monitoring and evaluation, facility licensure or certification or individual licensure or certification. The private pay patient, except if a resident of a nursing home, may deny access

granted under this subdivision by annually submitting to a health care provider, other than a nursing home, a signed, written request on a form provided by the department. The provider, if a hospital, shall submit a copy of the signed form to the patient's physician.

6. For purposes of research if the researcher is affiliated with the health care provider and provides written assurances to the custodian of the patient health care records that the information will be used only for the purposes for which it is provided to the researcher, the information will not be released to a person not connected with the study, and the final product of the research will not reveal information that may serve to identify the patient whose records are being released under this paragraph without the informed consent of the patient. The private pay patient may deny access granted under this subdivision by annually submitting to the health care provider a signed, written request on a form provided by the department.

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

8. To the department under s. 255.04. The release of a patient health care record under this subdivision shall be limited to the information prescribed by the department under s. 255.04 (2).

9. a. In this subdivision, "abuse" has the meaning given in s. 51.62 (1) (ag); "neglect" has the meaning given in s. 51.62 (1) (br); and "parent" has the meaning given in s. 48.02 (13), except that "parent" does not include the parent of a minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11), or for whom a guardian is appointed under s. 880.33.

b. Except as provided in subd. 9. c. and d., to staff members of the protection and advocacy agency designated under s. 51.62 (2) or to staff members of the private, nonprofit corporation with which the agency has contracted under s. 51.62 (3) (a) 3., if any, for the purpose of protecting and advocating the rights of a person with developmental disabilities, as defined under s. 51.62 (1) (am), who resides in or who is receiving services from an inpatient health care facility, as defined under s. 51.62 (1) (b), or a person with mental illness, as defined under s. 51.62 (1) (bm).

c. If the patient, regardless of age, has a guardian appointed under s. 880.33, or if the patient is a minor with developmental disability, as defined in s. 51.01 (5) (a), who has a parent or has a guardian appointed under s. 48.831 and does not have a guardian appointed under s. 880.33, information concerning the patient that is obtainable by staff members of the agency or nonprofit corporation with which the agency has contracted is limited, except as provided in subd. 9. e., to the nature of an alleged rights violation, if any; the name, birth date and county of residence of the patient; information regarding whether the patient was voluntarily admitted, involuntarily committed or protectively placed and the date and place of admission, placement or commitment; and the name, address and telephone number of the guardian of the patient and the date and place of the guardian's appointment or, if the patient is a minor with developmental disability who has a parent or has a guardian appointed under s. 48.831 and does not have a guardian appointed under s. 880.33, the name, address and telephone number of the parent or guardian appointed under s. 48.831 of the patient.

d. Except as provided in subd. 9. e., any staff member who wishes to obtain additional information about a patient described in subd. 9. c. shall notify the patient's guardian or, if applicable, parent in writing of the request and of the guardian's or parent's right to object. The staff member shall send the notice by mail to the guardian's or, if applicable, parent's address. If the guardian or parent does not object in writing within 15 days after the notice is mailed, the staff member may obtain the additional information. If the guardian or parent objects in writing within 15 days after the

notice is mailed, the staff member may not obtain the additional information.

e. The restrictions on information that is obtainable by staff members of the protection and advocacy agency or private, nonprofit corporation that are specified in subd. 9. c. and d. do not apply if the custodian of the record fails to promptly provide the name and address of the parent or guardian; if a complaint is received by the agency or nonprofit corporation about a patient, or if the agency or nonprofit corporation determines that there is probable cause to believe that the health or safety of the patient is in serious and immediate jeopardy, the agency or nonprofit corporation has made a good-faith effort to contact the parent or guardian upon receiving the name and address of the parent or guardian, the agency or nonprofit corporation has either been unable to contact the parent or guardian or has offered assistance to the parent or guardian to resolve the situation and the parent or guardian has failed or refused to act on behalf of the patient; if a complaint is received by the agency or nonprofit corporation about a patient or there is otherwise probable cause to believe that the patient has been subject to abuse or neglect by a parent or guardian; or if the patient is a minor whose custody has been transferred to a legal custodian, as defined in s. 48.02 (1) or for whom a guardian that is an agency of the state or a county has been appointed.

10. To persons as provided under s. 655.17 (7) (b), as created by 1985 Wisconsin Act 29, if the patient files a submission of controversy under s. 655.04 (1), 1983 stats., on or after July 20, 1985 and before June 14, 1986, for the purposes of s. 655.17 (7) (b), as created by 1985 Wisconsin Act 29.

11. To a county department, as defined under s. 48.02 (2g), a sheriff or police department or a district attorney for purposes of investigation of threatened or suspected child abuse or neglect or suspected unborn child abuse or for purposes of prosecution of alleged child abuse or neglect, if the person conducting the investigation or prosecution identifies the subject of the record by name. The health care provider may release information by initiating contact with a county department, sheriff or police department or district attorney without receiving a request for release of the information. A person to whom a report or record is disclosed under this subdivision may not further disclose it, except to the persons, for the purposes and under the conditions specified in s. 48.981 (7).

12. To a school district employee or agent, with regard to patient health care records maintained by the school district by which he or she is employed or is an agent, if any of the following apply:

a. The employee or agent has responsibility for preparation or storage of patient health care records.

b. Access to the patient health care records is necessary to comply with a requirement in federal or state law.

13. To persons and entities under s. 940.22.

14. To a representative of the board on aging and long-term care, in accordance with s. 49.498 (5) (e).

15. To the department under s. 48.60 (5) (c), 50.02 (5) or 51.03 (2) or to a sheriff, police department or district attorney for purposes of investigation of a death reported under s. 48.60 (5) (a), 50.035 (5) (b), 50.04 (2t) (b) or 51.64 (2).

16. To a designated representative of the long-term care ombudsman under s. 16.009 (4), for the purpose of protecting and advocating the rights of an individual 60 years of age or older who resides in a long-term care facility, as specified in s. 16.009 (4) (b).

17. To the department under s. 50.53 (2).

18. Following the death of a patient, to a coroner, deputy coroner, medical examiner or medical examiner's assistant, for the purpose of completing a medical certificate under s. 69.18 (2) or investigating a death under s. 979.01 or 979.10. The health care provider may release information by initiating contact with the office of the coroner or medical examiner without receiving a request for release of the information and shall release informa-

tion upon receipt of an oral or written request for the information from the coroner, deputy coroner, medical examiner or medical examiner's assistant. The recipient of any information under this subdivision shall keep the information confidential except as necessary to comply with s. 69.18, 979.01 or 979.10.

18m. If the subject of the patient health care records is a child or juvenile who has been placed in a foster home, treatment foster home, group home, residential care center for children and youth, or a secured correctional facility, including a placement under s. 48.205, 48.21, 938.205, or 938.21 or for whom placement in a foster home, treatment 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 juvenile, or to an agency that placed the child or juvenile or arranged for the placement of the child or juvenile 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 juvenile or arranged for the placement of the child or juvenile in any of those placements, to the foster parent or treatment foster parent of the child or juvenile or the operator of the group home, residential care center for children and youth, or secured correctional facility in which the child or juvenile is placed, as provided in s. 48.371 or 938.371.

19. To an organ procurement organization by a hospital pursuant to s. 157.06 (5) (b) 1.

20. If the patient health care records do not contain information and the circumstances of the release do not provide information that would permit the identification of the patient.

21. 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 a prisoner's patient health care records under s. 302.388 or to the department of corrections if the disclosure is made with respect to a prisoner's patient health care records under s. 302.388 (4).

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

(c) Notwithstanding sub. (1), patient health care records shall be released to appropriate examiners and facilities in accordance with ss. 971.17 (2) (e), (4) (c) and (7) (c), 980.03 (4) and 980.08 (3). The recipient of any information from the records shall keep the information confidential except as necessary to comply with s. 971.17 or ch. 980.

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

(3) REPORTS MADE WITHOUT INFORMED CONSENT. (a) Notwithstanding sub. (1), a physician who treats a patient whose physical or mental condition in the physician's judgment affects the patient's ability to exercise reasonable and ordinary control over a motor vehicle may report the patient's name and other information relevant to the condition to the department of transportation without the informed consent of the patient.

(b) Notwithstanding sub. (1), an optometrist who examines a patient whose vision in the optometrist's judgment affects the patient's ability to exercise reasonable and ordinary control over a motor vehicle may report the patient's name and other informa-

tion relevant to the condition to the department of transportation without the informed consent of the patient.

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

History: 1979 s. 221; 1983 s. 398; 1985 s. 29, 241, 332, 340; 1987 s. 40, 70, 127, 215, 233, 380, 399; 1989 s. 31, 102, 334, 336; 1991 s. 39; 1993 s. 16, 27, 445, 479; 1995 s. 98, 169, 417; 1997 s. 35, 114, 231, 272, 292, 305; 1999 s. 32, 78, 83, 114, 151; 2001 s. 38, 59, 69, 105; 2003 s. 281.

Because under s. 905.04 (4) (f) there is no privilege for chemical tests for intoxication, results of a test taken for diagnostic purposes are admissible in an OMYWI trial without patient approval. *City of Muskego v. Godes*, 167 Wis. 2d 536, 482 N.W.2d 79 (1992).

Patient billing records requested by the state in a fraud investigation under s. 46.25 (now s. 49.22) may be admitted into evidence under the exception to confidentiality found under sub. (2) (a) 3. *State v. Allen*, 200 Wis. 2d 301, 546 N.W.2d 517 (1996), 95-0792.

This section does not restrict access to medical procedures and did not prevent a police officer from being present during an operation. *State v. Thompson*, 222 Wis. 2d 179, 585 N.W.2d 905 (Ct. App. 1998), 97-2744.

The provision of confidentiality for patient health records is not an absolute bar to the release of information without the patient's informed consent. Sub. (2) provides numerous exceptions. Information of previous sensitive behavior by a nursing home resident was not protected by the physician-patient privilege and was subject to release by "lawful court order." *Cawford v. Care Concepts, Inc.* 2001 WI 45, 243 Wis. 2d 119, 625 N.W.2d 876, 99-0863.

Disclosure of patient health care records in Wisconsin. *Lehner, WBB Aug. 1984.*
Confidentiality of Medical Records. *Meili. Wis. Law. Feb. 1995.*

Balancing Federal and Wisconsin Medical Privacy Laws. *Hartis. Wis. Law. June 2003.*

Attorney access to and use of medical records. *Stone. Wis. Law. Aug. 2003.*
Attorney access to medical records. *Stone. Wis. Law. Oct. 2003.*

146.83 Access to patient health care records.

(1) Except as provided in s. 51.30 or 146.82 (2), any patient or other person may, upon submitting a statement of informed consent:

(a) Inspect the health care records of a health care provider pertaining to that patient at any time during regular business hours, upon reasonable notice.

(b) Receive a copy of the patient's health care records upon payment of fees, as established by rule under sub. (3m).

(c) Receive a copy of the health care provider's X-ray reports or have the X-rays referred to another health care provider of the patient's choice upon payment of fees, as established by rule under sub. (3m).

(1m) (a) A patient's health care records shall be provided to the patient's health care provider upon request and, except as provided in s. 146.82 (2), with a statement of informed consent.

(b) The health care provider under par. (a) may be charged reasonable costs for the provision of the patient's health care records.

(2) The health care provider shall provide each patient with a statement paraphrasing the provisions of this section either upon admission to an inpatient health care facility, as defined in s. 50.135 (1), or upon the first provision of services by the health care provider.

(3) The health care provider shall note the time and date of each request by a patient or person authorized by the patient to inspect the patient's health care records, the name of the inspecting person, the time and date of inspection and identify the records released for inspection.

(3m) (a) The department shall, by rule, prescribe fees that are based on an approximation of actual costs. The fees, plus applicable tax, are the maximum amount that a health care provider may charge under sub. (1) (b) for duplicate patient health care records and under sub. (1) (c) for duplicate X-ray reports or the referral of X-rays to another health care provider of the patient's choice. The rule shall also permit the health care provider to charge for actual postage or other actual delivery costs. In determining the approximation of actual costs for the purposes of this subsection, the department may consider all of the following factors:

1. Operating expenses, such as wages, rent, utilities, and duplication equipment and supplies.

2. The varying cost of retrieval of records, based on the different media on which the records are maintained.

3. The cost of separating requested patient health care records from those that are not requested.

4. The cost of duplicating requested patient health care records.

5. The impact on costs of advances in technology.

(b) By January 1, 2006, and every 3 years thereafter, the department shall revise the rules under par. (a) to account for increases or decreases in actual costs.

(4) No person may do any of the following:

(a) Intentionally falsify a patient health care record.

(b) Conceal or withhold a patient health care record with intent to prevent or obstruct an investigation or prosecution or with intent to prevent its release to the patient, to his or her guardian appointed under ch. 880, to his or her health care provider with a statement of informed consent, or under the conditions specified in s. 146.82 (2), or to a person with a statement of informed consent.

(c) Intentionally destroy or damage records in order to prevent or obstruct an investigation or prosecution.

History: 1979 s. 221; 1989 s. 56; 1993 s. 27, 445; 1997 s. 157; 2001 s. 109.

Sub. (1) (b) does not preclude certification of a class action in a suit to recover unreasonable fees charged for copies of health care records. *Cruz v. All Saints Healthcare System, Inc.* 2001 WI App 67, 242 Wis. 2d 432, 625 N.W.2d 344, 00-1473.

The party asserting the health care services review privilege under sub. (1m) bears the burden of establishing 2 conditions: 1) the investigation must be part of a program organized and operated to improve the quality of health care at the hospital, and 2) the person conducting the investigation must be acting on behalf of, or as part of a group with relatively constant membership, officers, a purpose, and a set of regulations. The privilege did not apply to an investigation conducted by an individual doctor, and not the hospital's peer review committee, that was initiated by the hospital to report a problem to the supervisor of the residency program in which the defendant resident was enrolled, and not to improve the quality of health care at the hospital. *Phelps v. Physicians Insurance Company of Wisconsin, Inc.* 2005 WI 85, 282 Wis. 2d 69, 698 N.W.2d 643, 03-0580.

146.835 Parents denied physical placement rights. A parent who has been denied periods of physical placement under s. 767.24 (4) (b) or 767.325 (4) may not have the rights of a parent or guardian under this chapter with respect to access to that child's patient health care records under s. 146.82 or 146.83.

History: 1987 s. 355.

146.836 Applicability. Sections 146.815, 146.82, 146.83 (4) and 146.835 apply to all patient health care records, including those on which written, drawn, printed, spoken, visual, electromagnetic or digital information is recorded or preserved, regardless of physical form or characteristics.

History: 1999 s. 78.

146.84 Violations related to patient health care records. (1) ACTIONS FOR VIOLATIONS; DAMAGES; INJUNCTION.

(a) A custodian of records incurs no liability under par. (bm) for the release of records in accordance with s. 146.82 or 146.83 while acting in good faith.

(b) Any person, including the state or any political subdivision of the state, who violates s. 146.82 or 146.83 in a manner that is knowing and willful shall be liable to any person injured as a result of the violation for actual damages to that person, exemplary damages of not more than \$25,000 and costs and reasonable actual attorney fees.

(bm) Any person, including the state or any political subdivision of the state, who negligently violates s. 146.82 or 146.83 shall be liable to any person injured as a result of the violation for actual damages to that person, exemplary damages of not more than \$1,000 and costs and reasonable actual attorney fees.

(c) An individual may bring an action to enjoin any violation of s. 146.82 or 146.83 or to compel compliance with s. 146.82 or 146.83 and may, in the same action, seek damages as provided in this subsection.



Frank G. Sleeter
Chief of Police
(608) 825-1149

Postmarked 3/8/06
Received 3/13/06

DEPARTMENT OF POLICE

300 East Main Street, Sun Prairie, WI 53590-2227
(608) 837-7336
RECORDS (608) 837-7339
Fax (608) 825-1198

March 8, 2006

Verizon Wireless
Peter McHale
1 Verizon Place
Alpharetta, GA 30004-8511

Dear Mr. McHale:

This letter is a follow-up to a letter dated March 3, 2006 from Sun Prairie City Attorney Paul Evert regarding wireless 911 service for the City of Sun Prairie. Mr. Evert's letter was generated to each of the cell phone companies doing business in Sun Prairie, Wisconsin as a result of the potential of misinformation being circulated in regard to Sun Prairie's position and intent to fully implement phase I and II wireless 911 service for our community. It is my understanding that all of the cell phone companies doing business in Sun Prairie have acknowledged our community's request for service dated in December of 2005 with implementation to be accomplished prior to mid May 2006.

Once again, the goal of Mr. Evert's letter was to clarify our community's continued commitment to installing wireless 911 serving our community and to provide each of the cell phone companies the legal documentation required by FCC and Wisconsin Statutes to make this binding request.

The City of Sun Prairie has complied with all the necessary and required elements of state, federal and local laws in making the request for wireless 911 service. In addition, Sun Prairie has been designated as a "primary PSAP" in Dane County by the FCC, and has complied with all appropriate FCC definitions and regulations.

Please feel free to contact me if you have any questions or are in need of additional documentation in order to honor the City of Sun Prairie's request for wireless 911 service.

Sincerely,

Frank G. Sleeter
Chief of Police
Sun Prairie Police Department

cc: Patrick Cannon, City Administrator
Margaret Powers, Assistant City Administrator
Joe Chase, Mayor
Bill Clausius, President City Council
Paul Evert, City Attorney
Laura Morrison, Administrative Services Dir.
Patrick Anhalt, Assistant Chief

POSTMARKED 3/15/06
RECEIVED 3/21/06



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Randy A. Woodford

March 14, 2006

Chief 9-1-1 Compliance Officer
Verizon Wireless
One Verizon Place
Alpharetta, Georgia 30004-8511

Re: Letter from Sun Prairie regarding Phase I and Phase II
Wireless 911 Services

Dear Compliance Officer:

In a recent letter, the City of Sun Prairie wrote you regarding its attempts to become the wireless PSAP for 911 calls originating within that municipality. As you know, the Dane County Public Safety Communications Center is the primary wireless PSAP for Dane County and has been since 1993. It is Dane County's position that sec. 146.70(3m)(c)6a., Wis. Stats., does not give any particular municipality the right to "opt-out" and create its own wireless 911 PSAP without the consent of the primary PSAP. The plain language of the statute indicates that the primary PSAP is required to provide wireless 911 service and "is not required to serve" a municipality that has taken the statutorily required steps to ensure that there will be wireless 911 coverage to that municipality. The language that appears in bold clearly evinces a legislative intent that the primary PSAP (the Dane County Public Safety Communications Center) has the discretion to determine whether it will continue to serve a municipality regardless of any action that municipality has taken. Common sense also bears out such an interpretation.

As you are well aware, the technology does not allow cellular coverage to be turned on or off at city limits. In order to provide the City of Sun Prairie with the service it is demanding, a cellular provider would have to dedicate entire cell sectors to that municipality. Towers lying both inside and outside the geographic boundaries of Sun Prairie provide cellular service to Dane County citizens who do not reside in Sun Prairie.

Verizon Wireless
March 14, 2006
Page 2

Dedicating those cell sectors to Sun Prairie (or any other municipality seeking to "opt out"), would result in wireless 911 calls emanating outside the geographic boundaries of that municipality being routed there rather than to the Dane County Public Safety Communications Center, the primary PSAP for those regions. Dane County would thus no longer be able to fulfill its responsibilities as the dedicated PSAP for the County, and the citizens affected would be denied the security of knowing their wireless 911 calls were being routed to the proper entity.

The resolution passed by the City of Sun Prairie can have no force on citizens who do not live in that municipality, and Dane County will do whatever is necessary to ensure that its citizens who place cellular 911 calls will continue to have those calls directly routed to the Dane County Public Safety Communications Center. We believe that after considering the matter you will agree that Dane County's position is not only the logical conclusion that must be drawn, it is the legally correct one. However, should you decide otherwise, we ask that as a long time partner with Dane County, you would do us the courtesy of advising us well in advance of taking any action that may disrupt existing 911 cellular service within Dane County so that we may take steps to protect the interests of our citizens.

Sincerely,



Kristi A. Gullen
Assistant Corporation Counsel

WirelessCarrierLtr-4

EXHIBIT B

Forbes, Lolita

From: *McHale, Peter H.*
Sent: Monday, May 01, 2006 6:41 PM
To: *mcvicar@co.dane.wi.us*
Subject: Dane County Public Safety Communications P2 Deployment Extension Agreement

Mr. McVicar,

Given the delay Verizon Wireless has encountered in attempting to deploy Phase 2 service with sites whose routing is currently being debated between Dane County Public Safety Communications, Sun Prairie PD and Middleton PD, I am requesting an extension for your Phase 1 and Phase 2 deployment to remain in compliance with the FCC's E-911 guidelines. The timeframe of this extension is based upon the date that an agreement is reached between the PSAPs as to call routing from the disputed sites plus 30 days to complete testing and bring the deployment live.

Please respond in the affirmative and return to me as soon as possible.

Thank you for your immediate attention to this important matter.

Regards,

Peter McHale

Member of the Technical Staff- E911

Verizon Wireless

One Verizon Place

GA3B1REG

Alpharetta, GA 30004

office 678.339.4116

fax 678.339.8554

cell 404.217.5642

Forbes, Lolita

From: *McHale, Peter H.*
Sent: Monday, May 01, 2006 6:41 PM
To: lfass@ci.middleton.wi.us
Subject: Middleton Police Department P2 Deployment Extension Agreement

Mr. Fass,

Given the delay Verizon Wireless has encountered in attempting to deploy Phase 2 service with sites whose routing is currently being debated between Dane County Public Safety Communications, Sun Prairie PD and Middleton PD, I am requesting an extension for your Phase 1 and Phase 2 deployment to remain in compliance with the FCC's E-911 guidelines. The timeframe of this extension is based upon the date that an agreement is reached between the PSAPs as to call routing from the disputed sites plus 30 days to complete testing and bring the deployment live.

Please respond in the affirmative and return to me as soon as possible.

Thank you for your immediate attention to this important matter.

Regards,

Peter McHale

Member of the Technical Staff- E911

Verizon Wireless
One Verizon Place
GA3B1REG
Alpharetta, GA 30004
office 678.339.4116
fax 678.339.8554
cell 404.217.5642

Forbes, Lolita

From: McHale, Peter H.
Sent: Monday, May 01, 2006 6:41 PM
To: fsleeter@cityofsunprairie.com
Subject: Sun Prairie Police Department P2 Deployment Extension Agreement

Mr. Sleeter,

Given the delay Verizon Wireless has encountered in attempting to deploy Phase 2 service with sites whose routing is currently being debated between Dane County Public Safety Communications, Sun Prairie PD and Middleton PD, I am requesting an extension for your Phase 1 and Phase 2 deployment to remain in compliance with the FCC's E-911 guidelines. The timeframe of this extension is based upon the date that an agreement is reached between the PSAPs as to call routing from the disputed sites plus 30 days to complete testing and bring the deployment live.

Please respond in the affirmative and return to me as soon as possible.

Thank you for your immediate attention to this important matter.

Regards,

Peter McHale

Member of the Technical Staff- E911

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BEIJING GENEVA SAN FRANCISCO
BRUSSELS HONG KONG SHANGHAI
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DALLAS LOS ANGELES TOKYO
FRANKFURT NEW YORK WASHINGTON, DC

FOUNDED 1888

May 4, 2006

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED & E-MAIL

Duke Ellingson
Director
Dane County Public Safety Communications
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703-3342

Frank Sleeter
Chief of Police
Sun Prairie Police
300 E Main St.
Sun Prairie, WI 53590

Noel Kakuske
Lt. Communications Center Manager
Middleton Police
7426 Hubbard Ave.
Middleton, WI 53562-3118

RE: Notice of Intent to File a Certification of Non-Readiness pursuant to 47
C.F.R. §20.18(j)(4)

Dear Mr. Ellingson, Mr. Sleeter, and Mr. Kakuske:

The undersigned wireless carriers, Sprint Nextel Corporation, U.S. Cellular and Verizon Wireless ("Wireless Carriers" or "Carriers") are writing to provide Dane County, the City of Sun Prairie and the City of Middleton (Sun Prairie and Middleton collectively hereinafter the "Cities") notice of their intent to file a Certification of Non-Readiness for the areas in and around the City of Sun Prairie and the City of Middleton due to the ongoing dispute about the routing of E911 calls (hereinafter the "disputed area"). While we understand that negotiations to resolve this dispute are ongoing, the Wireless Carriers must provide this notification to protect our interests under Section 20.18(j)(4) of the Federal Communications Commission's rules. See 47 C.F.R. §20.18(j)(4). We hope the negotiations are successful and we stand ready to proceed with deployment expeditiously.

The Wireless Carriers have completed all of the steps necessary to deploy Phase I and Phase II service in the disputed area. The Carriers have developed network



Duke Ellingson
Frank Sleeter
Noel Kakuske
May 4, 2006
Page 2

recommendations, placed trunk orders, updated the appropriate databases and implemented switch translations to the extent possible. Unfortunately, we are unable to take any further steps toward deployment until we receive an agreed upon call routing spreadsheet from the County and the Cities which identifies the PSAP responsible for receiving 911 calls from each particular cell site sector in the disputed area. Calls from any given cell site sector can only be routed to one PSAP. Without completion of an agreed upon call routing spreadsheet, Dane County and the Cities have not taken the steps necessary to receive and utilize Phase I and Phase II information.

It is our understanding that Dane County and the Cities are unable to provide an agreed upon call routing spreadsheet because each contends that they are entitled to receive Phase I and Phase II calls in the disputed area under Wisconsin law. Each has insisted that the Carriers route Phase I and Phase II E911 traffic for the same cell site sectors to their respective PSAPs. As noted above, however, the Wireless Carriers cannot as a technical matter complete deployment using conflicting routing instructions. Moreover, the Wireless Carriers do not have the authority to resolve jurisdictional disputes between local governmental agencies.

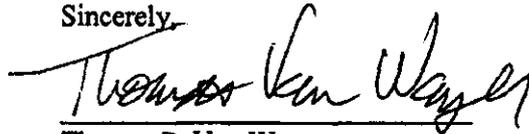
For these reasons, the Wireless Carriers must consider Dane County and the Cities unable to receive and utilize the data elements associated with Phase I and Phase II service in the disputed area and provide this notification to protect our interests under the FCC's rules. If a resolution of this dispute is reached, the Wireless Carriers will proceed with deployment expeditiously. As soon as the PSAPs are able to provide an agreed upon call routing spreadsheet, the Wireless Carriers will complete the necessary translations, schedule appropriate drive testing and complete all other work required to deploy Phase I and Phase II service in the disputed area.

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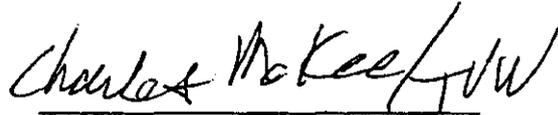
Duke Ellingson
Frank Sleeter
Noel Kakuske
May 4, 2006
Page 3

We remain committed to working with you to deploy E911 services at the earliest opportunity. We encourage you to reach a compromise or final settlement of your dispute so that Phase I and Phase II deployment in the dispute area can proceed as quickly as possible.

Sincerely,



Thomas P. Van Wazer
Counsel for United States Cellular
Corporation



Charles W. McKee
Director- Government Affairs
Sprint Nextel Corporation



Lolita D. Forbes
Verizon Wireless

Middleton Police Department

7426 Hubbard Avenue

Middleton, WI 53562

Phone: 608/827-1000

Fax: 608/827-1030



Brad J. Keil
Chief of Police

May 25, 2006

VIA E-MAIL and U.S. MAIL

tvanwazer@sidley.com

Attorney Thomas P. Van Wazer
Sidley Austin LLP
1501 K Street, N.W.
Washington DC 20005

Re: Notice of Intent to File a Certification of Non-Readiness Pursuant to 47 C.F.R. 20.18(j)(4)

Dear Mr. Van Wazer:

The City of Middleton has received your notice of Intent to File. I remind you that our City is ready to proceed with Phase I and Phase II wireless as outlined in our letter to you dated December 16, 2005 wherein we requested formal implementation of Phase I and Phase II wireless and further outlined by our City Attorney, Lawrence E. Bechler, on March 10, 2006. Copies of both letters are attached.

The Common Council of the City of Middleton adopted a Resolution designating the City of Middleton Police Department as a wireless 911 Public Safety Access Point in full compliance with Wis. Stats. § 146.70(3m)(c)6.a. This fulfilled the applicable statutory requirement.

In addition, the City of Middleton is capable of receiving and utilizing the data elements associated with the 911 wireless services requested. The City of Middleton has insured that its geographic area is served by its own wireless 911 Public Safety Access Point. 911 wireless trunk lines have been installed and are operational. Additionally, the City of Middleton has computer-aided dispatch software that is 911 wireless capable.

The City of Middleton has allocated sufficient resources through its budgetary process in order to staff its 911 center and to maintain its wireless 911 equipment.

Accordingly, the City of Middleton Police Department is ready, willing and able to provide all necessary services connected with the wireless 911 program as a statutory Public Safety Access Point. The City of Middleton is hopeful that the County of Dane withdraws its opposition in the very near future.

I assume from your May 4, 2006 letter that you are authorized to act on behalf of United States Cellular Corporation, Sprint-Nextel Corporation and Verizon Wireless. If this is incorrect, please let me know as soon as possible so I can provide this response to those providers as well.

Thank you very much.

Sincerely,

Brad J Keil
Chief of Police

Enclosures

cc: Attorney Lawrence E. Bechler
Lt. Kakuske



OFFICE OF THE CORPORATION COUNSEL

May 18, 2006

Attorney Thomas P. Van Wazer
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005

Attorney Charles W. McKee
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005

Attorney Lolita D. Forbes
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005

Re: Notice of Intent to File a Certification of Non-Readiness pursuant to
47 C.F.R. §20.18(j)(4)

Dear Gentlepersons:

I am writing to correct/clarify several misstatements in the May 4th letter in which you notified Dane County, Sun Prairie and Middleton of the intent of U.S. Cellular, Sprint Nextel and Verizon to file a Certification of Non-Readiness pursuant to 47 C.F.R. §20.18(j)(4).

47 C.F.R. §20.18 sets forth the criteria a PSAP must meet in order to be ready to receive wireless 911 calls. Dane County, unlike the City of Middleton, has met all those criteria and has been fully able to implement Enhanced 911 within all of Dane County since March 21, 2006. The City of Sun Prairie adopted a resolution on May 2, 2006 that allows Dane County to continue serving as its primary wireless PSAP for 90 days. A copy of that resolution is attached. Neither call routing nor PSAP readiness are current issues for Sun Prairie. While Middleton remains in various states of non-readiness, there is no authority for carriers to refuse to provide service to a PSAP fully capable of receiving and utilizing the data elements associated with the service requested by attempting to impart another PSAP's non-readiness to the PSAP that has met the requirements set forth in the Federal Regulations.

Corporation Counsel

Marcia MacKenzie

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Thomas P. Van Wazer
Charles W. McKee
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When submitting a certification pursuant to 47 C.F.R. §20.18(j)(4)(iii), the carrier must, *inter alia*, document why a PSAP will not be ready. There is no basis on which any such documentation can be made with regard to Dane County.

To justify your claim of non-readiness, you assert that Dane County and the cities have not taken the steps necessary to receive and utilize Phase I and Phase II information and you claim you cannot take further steps toward deployment until you have received an agreed upon call routing spreadsheet which identifies the PSAP responsible for receiving 911 calls. This is not correct. There is no requirement in the federal regulations for an agreed upon spreadsheet. Dane County has prepared and submitted spreadsheets to U.S. Cellular on 5/24/05, Verizon on 6/14/05, and Sprint Nextel on 9/25/05. Further, the County has taken all required steps and worked with all carriers to deploy Enhanced 911 service throughout the County during the period of April 5 through May 10, 2006. Dane County continues to answer un-enhanced calls from the Middleton area and is prepared and willing to answer Enhanced 911 calls in this area as well.

You also assert that you cannot resolve jurisdictional disputes between local governmental entities. Again, this is not a criterion that can be used by a carrier to attempt to deny providing service to a PSAP. More importantly, however, nobody is asking the carriers to resolve anything. The carriers are obligated to provide service to a PSAP that has proven itself ready to receive and utilize the service requested. Dane County can do this, Middleton cannot. By hiding behind this "jurisdictional" argument, you are impeding the timely provision of Enhanced 911 service to the citizens of Dane County.

47 C.F.R. §20.18(j)(4)(v) prohibits carriers from filing an inadequate or incomplete certification to delay performing its responsibilities. The most prudent course of action is for you to separate out Dane County and Sun Prairie from your letter and include only Middleton in your certification and thus avoid the possible imposition of sanctions pursuant to 47 C.F.R. §20.18(j)(4)(viii) & (ix). If you refuse to do so, Dane County insists that when submitting your certification and the accompanying affidavit, you identify each reason why Dane County, standing alone, has failed to be ready rather than continue to attempt to disguise your refusal to provide service to Dane County by hiding behind the non-readiness of another PSAP.

Dane County, as the only fully ready and capable PSAP in this service area, remains ready to work with all local carriers to implement Enhanced 911 service to its citizens and looks forward to working with U.S. Cellular, Sprint Nextel and Verizon to provide this valuable service in the very near future.

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If your certification of non-compliance includes Dane County, this letter must be included pursuant to 47 C.F.R. §20.18 (j)(4)(i).

Sincerely,



Kristi A. Gullen
Assistant Corporation Counsel

Enclosure

cc: Duke Ellingson

City of Sun Prairie, Wisconsin

**A RESOLUTION TEMPORARILY
AUTHORIZING DANE COUNTY TO SERVE
AS THE WIRELESS 9-1-1 PUBLIC SAFETY
ANSWERING POINT FOR THE
CITY OF SUN PRAIRIE**

Presented: April 4, 2006
Presented: May 2, 2006
Adopted: May 2, 2006

File Number: 10,066

Resolution No.: 06/81

RESOLUTION

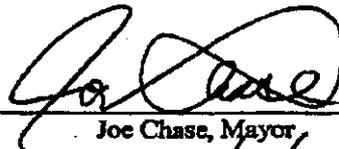
WHEREAS, on April 25th, 2006 the Committee of the Whole met in closed session to discuss wireless 9-1-1 service; and

WHEREAS, after returning to open session, the Committee moved to recommend that the Common Council approve the following: For a period of 90 days from the date of implementing of the wireless 9-1-1 system that will allow for X-Y coordinates, The City will allow the County to be the initial wireless Public Safety Answering Point (PSAP) for the City of Sun Prairie.

NOW THEREFORE, BE IT RESOLVED, that the City of Sun Prairie for a period of 90 days from the date of implementation of wireless 9-1-1 system that will allow for X-Y coordinates, will allow the County to be the public safety answering point serving the City of Sun Prairie; and

BE IT FURTHER RESOLVED that while the City's claim is pending, city staff, under the direction of the Common Council will continue to work with the County to resolve the differences between the two governing bodies.

Approved

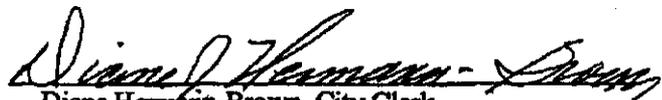


Joe Chase, Mayor

Date Approved

5/2/2006

This is to certify that the foregoing resolution was adopted by the Common Council of the City of Sun Prairie at a meeting held on the 2nd day of May 2006.



Diane Hermann-Brown, City Clerk

EXHIBIT C



OFFICE OF THE CITY ATTORNEY

300 East Main Street, Sun Prairie, WI 53590-2227
(608) 837-2511
FAX (608) 825-1183

May 10, 2006

Mr. Peter McHale
Verizon Wireless
1 Verizon Place
Alpharetta, GA 30004-8511

RE: Phase I and Phase II Wireless 911 Services

Dear Mr. McHale:

The purpose of this letter is to advise you that on May 2, 2006, the City of Sun Prairie Common Council passed the attached Resolution allowing Dane County to be the Public Safety Answering Point serving the City of Sun Prairie for wireless 911 calls for a period of 90 days from the date of implementation of Phase I and II wireless 911. During the 90-day period, the City will continue to work with the County to resolve the differences between the two governing bodies. It was the Council's intent to make sure that our citizens are served with the most enhanced wireless 911 technology available regardless of which municipality served as a Public Safety Answering Point. For this reason I was directed to bring this decision and resolution to your attention so our residents can begin receiving Phase I and II wireless 911 service with Dane County as serving as the Public Safety Answering Point for wireless 911 calls.

Again, a copy of the Resolution is attached, and I would hope that you can now move forward with this service.

Very truly yours,

CITY OF SUN PRAIRIE

Paul F. Evert
City Attorney

PFE/cms
Enclosure

cc: Frank Sleeter, Police Chief
Patrick Cannon, City Administrator
Margaret Powers, Asst. City Administrator
Joe Chase, Mayor
Zachary Weber, President City Council

City of Sun Prairie, Wisconsin

**A RESOLUTION TEMPORARILY
AUTHORIZING DANE COUNTY TO SERVE
AS THE WIRELESS 9-1-1 PUBLIC SAFETY
ANSWERING POINT FOR THE
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Presented: April 4, 2006
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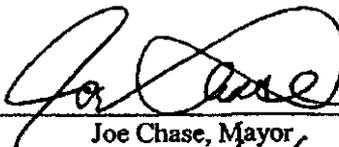
RESOLUTION

WHEREAS, on April 25th, 2006 the Committee of the Whole met in closed session to discuss wireless 9-1-1 service; and

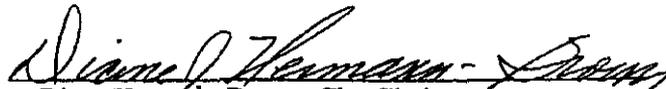
WHEREAS, after returning to open session, the Committee moved to recommend that the Common Council approve the following: For a period of 90 days from the date of implementing of the wireless 9-1-1 system that will allow for X-Y coordinates, The City will allow the County to be the initial wireless Public Safety Answering Point (PSAP) for the City of Sun Prairie.

NOW THEREFORE, BE IT RESOLVED, that the City of Sun Prairie for a period of 90 days from the date of implementation of wireless 9-1-1 system that will allow for X-Y coordinates, will allow the County to be the public safety answering point serving the City of Sun Prairie; and

BE IT FURTHER RESOLVED that while the City's claim is pending, city staff, under the direction of the Common Council will continue to work with the County to resolve the differences between the two governing bodies.

Approved 
Joe Chase, Mayor
Date Approved 5/2/2006

This is to certify that the foregoing resolution was adopted by the Common Council of the City of Sun Prairie at a meeting held on the 2nd day of May 2006.


Diane Hermann-Brown, City Clerk