

**1999 DRAFTING REQUEST**

**Bill**

Received: **04/20/1999**

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC 266-2982**

By/Representing: **Dick Sweet**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact:

Alt. Drafters:

Subject: **Health - miscellaneous**  
**Mental Health - miscellaneous**

Extra Copies: **TAY, MGD**

**Pre Topic:**

No specific pre topic given

**Topic:**

Defining "record" for purposes of mental health and patient health care record confidentiality

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1							
/P2	kenneda 05/06/1999	gilfokm 05/07/1999	jfrantze 05/07/1999	_____	lrb_docadmin 05/07/1999		S&L
/P3	kenneda 05/24/1999	gilfokm 05/24/1999	mclark 05/25/1999	_____	lrb_docadmin 05/25/1999		S&L
/1	kenneda 07/27/1999	ygeller 07/27/1999	martykr 07/27/1999	_____	lrb_docadmin 07/28/1999	lrb_docadmin	S&L 08/02/1999

FE Sent For:

8/17

<END>

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/P3	kenneda 05/24/99	gilfokm 05/24/99	mclark 05/25/99	_____	lrb_docadmin 05/25/99		S&L

FE Sent For:

1 7/27 JLG  
km 7/27  
km 7/27  
<ENDS>

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/P1							
/P2	kenneda 05/6/99	gilfokm 05/7/99	jfrantze 05/7/99	_____	lrb_docadmin 05/7/99		S&L
FE Sent For:		/p3-5-24-99 king	MRC S/24	MRC/JF 5/25 <END>			

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**Instructions:**

See Attached

*Please submit  
DK*

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	kenneda	1/2-5-7-99 kmg	2/5/99	8/1/99 5/9			

FE Sent For:

<END>



Problem

§ 19.30 (3) refers to "court record" or  
"records of court proceedings; § 19.30 (3)(c) authorizes  
release - need to narrow application of  
new definition of "record"



( MONDAY, if possible, in edit 4/6 )  
State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-2947/P#2

DAK: /mrc

King

D-NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

This bill is explained in the <sup>(CS)</sup> NOTES provided by the joint legislative council in the bill.  
FE-S/L

patient health care and mental health

1 AN ACT to renumber 51.30 (1) (a); and to create 51.30 (1) (a) and 146.81 (6) of  
2 the statutes; relating to: defining "record" for purposes of confidentiality  
3 statutes.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

~~NOTE~~ NOTE: This ~~draft~~ <sup>bill</sup> was prepared for the joint legislative council's special committee on telemedicine issues.

delete space

Section 51.30, stats., relates to access to, and confidentiality of, mental health records. Sections 146.81 to 146.84, stats., relate to general patient health care records. While those statutes use the term "record", they do not specify the format of the records that are covered. This ~~draft~~ defines "record", for purposes of those statutes, as "any material on which written, drawn, printed, spoken, visual, electromagnetic or digital information is recorded or preserved, regardless of physical form or characteristics". The intent of this definition is to ensure that the confidentiality laws cover all formats for patient records.

4 SECTION 1. 51.30 (1) ~~(a)~~ of the statutes is renumbered 51.30 (1) ~~(a)~~ (a)

5 SECTION 2. 51.30 (1) (a) of the statutes is created to read:

bm



bm

In this subsection,

1 51.30 (1) (a) "Record" means any material on which written, drawn, printed,  
2 spoken, visual, electromagnetic or digital information is recorded or preserved,  
3 regardless of physical form or characteristics.

4 SECTION 3. 146.81 (6) of the statutes is created to read:

5 146.81 (6) "Record" means any material on which written, drawn, printed,  
6 spoken, visual, electromagnetic or digital information is recorded or preserved  
7 regardless of physical form or characteristics.

8

→ Ins. 2-7

(END)

D-NOTE

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU - LEGAL SECTION  
(608-266-3561)

To Dick Sweet:

In the end, I decided to draft more  
along the lines <sup>that</sup> you had proposed; I believe  
this clears up the problem.

DAK

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2947/P2ins  
DAK:kmg:kmg

INSERT 2-7

1 SECTION 1. 301.335 of the statutes is amended to read:

2 301.335 Treatment records. Section 51.30 applies to treatment records, as  
3 defined in s. 51.30 (1) ~~(b)~~ (a) 2., maintained by the department of corrections in regard  
4 to children adjudged delinquent. The department has the same authority, including  
5 rule-making authority, with regard to treatment records maintained by the  
6 department that is granted to the department of health and family services under  
7 s. 51.30.

History: 1989 a. 31; 1995 a. 27 s. 9126 (19).

8 SECTION 2. 971.14 (2) (e) of the statutes is amended to read:

9 971.14 (2) (e) The examiner shall personally observe and examine the  
10 defendant and shall have access to his or her past or present treatment records, as  
11 defined under s. 51.30 (1) ~~(b)~~ (a) 2.

History: 1981 c. 367; 1985 a. 29, 176; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 85, 403; 1989 a. 31, 107; Sup. Ct. Order, 158 W (2d) xvii (1990); 1991 a. 32; 1995 a. 27 s. 9126 (19); 1995 a. 268; 1997 a. 252.

12 SECTION 3. 971.17 (2) (e) of the statutes is amended to read:

13 971.17 (2) (e) The examiner appointed under par. (b) shall personally observe  
14 and examine the person. The examiner or facility shall have access to the person's  
15 past or present treatment records, as defined in s. 51.30 (1) ~~(b)~~ (a) 2., and patient  
16 health care records, as provided under s. 146.82 (2) (c). If the examiner believes that  
17 the person is appropriate for conditional release, the examiner shall report on the  
18 type of treatment and services that the person may need while in the community on  
19 conditional release.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 W (2d) xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275.

20 SECTION 4. 971.17 (4) (c) of the statutes is amended to read:

21 971.17 (4) (c) Within 20 days after receipt of the petition, the court shall appoint  
22 one or more examiners having the specialized knowledge determined by the court to

1 be appropriate, who shall examine the person and furnish a written report of the  
2 examination to the court within 30 days after appointment. The examiners shall  
3 have reasonable access to the person for purposes of examination and to the person's  
4 past and present treatment records, as defined in s. 51.30 (1) ~~(b)~~ (a) 2., and patient  
5 health care records, as provided under s. 146.82 (2) (c). If any such examiner believes  
6 that the person is appropriate for conditional release, the examiner shall report on  
7 the type of treatment and services that the person may need while in the community  
8 on conditional release.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 W (2d) xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275.

9 **SECTION 5.** 971.17 (7) (c) of the statutes is amended to read:

10 971.17 (7) (c) If the person wishes to be examined by a physician, as defined  
11 in s. 971.16 (1) (a), or a psychologist, as defined in s. 971.16 (1) (b), or other expert  
12 of his or her choice, the procedure under s. 971.16 (4) shall apply. Upon motion of an  
13 indigent person, the court shall appoint a qualified and available examiner for the  
14 person at public expense. Examiners for the person or the district attorney shall  
15 have reasonable access to the person for purposes of examination, and to the person's  
16 past and present treatment records, as defined in s. 51.30 (1) ~~(b)~~ (a) 2., and patient  
17 health care records as provided under s. 146.82 (2) (c).

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 W (2d) xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 W (2d) xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275.

18 **SECTION 6.** 980.03 (4) of the statutes is amended to read:

19 980.03 (4) Whenever the person who is the subject of the petition is required  
20 to submit to an examination under this chapter, he or she may retain experts or  
21 professional persons to perform an examination. If the person retains a qualified  
22 expert or professional person of his or her own choice to conduct an examination, the  
23 examiner shall have reasonable access to the person for the purpose of the

1 examination, as well as to the person's past and present treatment records, as  
2 defined in s. 51.30 (1) (b) (a) 2., and patient health care records as provided under s.  
3 146.82 (2) (c). If the person is indigent, the court shall, upon the person's request,  
4 appoint a qualified and available expert or professional person to perform an  
5 examination and participate in the trial on the person's behalf. Upon the order of the  
6 circuit court, the county shall pay, as part of the costs of the action, the costs of a  
7 court-appointed expert or professional person to perform an examination and  
8 participate in the trial on behalf of an indigent person. An expert or professional  
9 person appointed to assist an indigent person who is subject to a petition may not be  
10 subject to any order by the court for the sequestration of witnesses at any proceeding  
11 under this chapter.

History: 1993 a. 479; 1997 a. 252.

12 **SECTION 7.** 980.08 (3) of the statutes is amended to read:

13 980.08 (3) Within 20 days after receipt of the petition, the court shall appoint  
14 one or more examiners having the specialized knowledge determined by the court to  
15 be appropriate, who shall examine the person and furnish a written report of the  
16 examination to the court within 30 days after appointment. The examiners shall  
17 have reasonable access to the person for purposes of examination and to the person's  
18 past and present treatment records, as defined in s. 51.30 (1) (b) (a) 2., and patient  
19 health care records, as provided under s. 146.82 (2) (c). If any such examiner believes  
20 that the person is appropriate for supervised release, the examiner shall report on  
21 the type of treatment and services that the person may need while in the community  
22 on supervised release.

History: 1993 a. 479; 1995 a. 276; 1997 a. 27, 275, 284; s. 13.93 (2) (c).

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2947/P2dn  
DAK:kmg:jf

May 7, 1999

To Dick Sweet:

In the end, I decided to draft more along the lines that you had proposed; I believe this clears up the problem.

Debra A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137

## MEMORANDUM

from RICHARD SWEET  
Legislative Council Staff

Debra,

I would like to avoid all of the cross-reference changes. I think we can do that by just adding the language on p. 2, l. 3-5, at the end of current s. 51.30 (1) (a) and (b).

Thanks.

Dick



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-2947/P2

DAK:kmg:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1     **AN ACT** to renumber 51.30 (1); to amend 301.335, 971.14 (2) (e), 971.17 (2) (e),  
2             971.17 (4) (c), 971.17 (7) (c), 980.03 (4) and 980.08 (3); and to create 51.30 (1)  
3             (bm) and 146.81 (6) of the statutes; relating to: defining "record" for purposes  
4             of patient health care and mental health confidentiality statutes.

---

***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the joint legislative council in the bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on telemedicine issues.

Section 51.30, stats., relates to access to, and confidentiality of, mental health records. Sections 146.81 to 146.84, stats., relate to general patient health care records. While those statutes use the term "record", they do not specify the format of the records that are covered. This bill defines "record", for purposes of those statutes, as "any material on which written, drawn, printed, spoken, visual, electromagnetic or digital information is recorded or preserved, regardless of physical form or characteristics". The intent of this definition is to ensure that the confidentiality laws cover all formats for patient records.



*-2-  
This language should be added at the  
end of 51.30 (1) (a) and (b).*

1 SECTION 1. 51.30 (1) of the statutes is renumbered 51.30 (1) (a).

2 SECTION 2. 51.30 (1) (bm) of the statutes is created to read:

3 ~~51.30 (1) (bm)~~ <sup>paragraph</sup> In this subsection, "record" means any material on which  
4 written, drawn, printed, spoken, visual, electromagnetic or digital information is  
5 recorded or preserved, regardless of physical form or characteristics.

6 SECTION 3. 146.81 (6) of the statutes is created to read:

7 146.81 (6) "Record" means any material on which written, drawn, printed,  
8 spoken, visual, electromagnetic or digital information is recorded or preserved  
9 regardless of physical form or characteristics.

10 SECTION 4. 301.335 of the statutes is amended to read:

11 ~~301.335 Treatment records.~~ Section 51.30 applies to treatment records, as  
12 defined in s. 51.30 (1) ~~(b)~~ (a) 2., maintained by the department of corrections in regard  
13 to children adjudged delinquent. The department has the same authority, including  
14 rule-making authority, with regard to treatment records maintained by the  
15 department that is granted to the department of health and family services under  
16 s. 51.30.

17 SECTION 5. 971.14 (2) (e) of the statutes is amended to read:

18 971.14 (2) (e) The examiner shall personally observe and examine the  
19 defendant and shall have access to his or her past or present treatment records, as  
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21 SECTION 6. 971.17 (2) (e) of the statutes is amended to read:

22 971.17 (2) (e) The examiner appointed under par. (b) shall personally observe  
23 and examine the person. The examiner or facility shall have access to the person's  
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1 the person is appropriate for conditional release, the examiner shall report on the  
2 type of treatment and services that the person may need while in the community on  
3 conditional release.

4 **SECTION 7.** 971.17 (4) (c) of the statutes is amended to read:

5 971.17 (4) (c) Within 20 days after receipt of the petition, the court shall appoint  
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16 971.17 (7) (c) If the person wishes to be examined by a physician, as defined  
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20 person at public expense. Examiners for the person or the district attorney shall  
21 have reasonable access to the person for purposes of examination, and to the person's  
22 past and present treatment records, as defined in s. 51.30 (1) (b) (a) 2., and patient  
23 health care records as provided under s. 146.82 (2) (c).

24 **SECTION 9.** 980.03 (4) of the statutes is amended to read:

1           980.03 (4) Whenever the person who is the subject of the petition is required  
2 to submit to an examination under this chapter, he or she may retain experts or  
3 professional persons to perform an examination. If the person retains a qualified  
4 expert or professional person of his or her own choice to conduct an examination, the  
5 examiner shall have reasonable access to the person for the purpose of the  
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7 defined in s. 51.30 (1) ~~(b)~~ (a) 2., and patient health care records as provided under s.  
8 146.82 (2) (c). If the person is indigent, the court shall, upon the person's request,  
9 appoint a qualified and available expert or professional person to perform an  
10 examination and participate in the trial on the person's behalf. Upon the order of the  
11 circuit court, the county shall pay, as part of the costs of the action, the costs of a  
12 court-appointed expert or professional person to perform an examination and  
13 participate in the trial on behalf of an indigent person. An expert or professional  
14 person appointed to assist an indigent person who is subject to a petition may not be  
15 subject to any order by the court for the sequestration of witnesses at any proceeding  
16 under this chapter.

17           **SECTION 10.** 980.08 (3) of the statutes is amended to read:

18           980.08 (3) Within 20 days after receipt of the petition, the court shall appoint  
19 one or more examiners having the specialized knowledge determined by the court to  
20 be appropriate, who shall examine the person and furnish a written report of the  
21 examination to the court within 30 days after appointment. The examiners shall  
22 have reasonable access to the person for purposes of examination and to the person's  
23 past and present treatment records, as defined in s. 51.30 (1) ~~(b)~~ (a) 2., and patient  
24 health care records, as provided under s. 146.82 (2) (c). If any such examiner believes  
25 that the person is appropriate for supervised release, the examiner shall report on

1 the type of treatment and services that the person may need while in the community  
2 on supervised release.

3 (END)

Tues., 5/25

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regenerate

1 AN ACT to renumber 51.30 (1); to amend 301.335, 971.14 (2) (e), 971.17 (2) (e),  
 2 971.17 (4) (c), 971.17 (7) (c), 980.03 (4) and 980.08 (3); and to create 51.30 (1)  
 3 (bm) and 146.81 (6) of the statutes; relating to: defining "record" for purposes  
 4 of patient health care and mental health confidentiality statutes.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the joint legislative council in the bill.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on telemedicine issues.

Section 51.30, stats., relates to access to, and confidentiality of, mental health records. Sections 146.81 to 146.84, stats., relate to general patient health care records. While those statutes use the term "record", they do not specify the format of the records that are covered. This bill defines "record", for purposes of those statutes, as "any material on which written, drawn, printed, spoken, visual, electromagnetic or digital information is recorded or preserved, regardless of physical form or characteristics". The intent of this definition is to ensure that the confidentiality laws cover all formats for patient records.

WFO:  
 delete space  
 see p2 rough copy; and select note pref component in "format" for the 1st component, change "Below" to "0.0"; and in the 2nd component, change "Above" to "0.0".

1 ~~SECTION 1. 51.30 (1) of the statutes is renumbered 51.30 (1) (a).~~

2 ~~SECTION 2. 51.30 (1) (bm) of the statutes is created to read:~~

3 ~~51.30 (1) (bm) In this subsection, "record" means any material on which~~  
4 ~~written, drawn, printed, spoken, visual, electromagnetic or digital information is~~  
5 ~~recorded or preserved, regardless of physical form or characteristics.~~

INSERT 25

6 ~~SECTION 3. 146.81 (6) of the statutes is created to read:~~

7 ~~146.81 (6) "Record" means any material on which written, drawn, printed,~~  
8 ~~spoken, visual, electromagnetic or digital information is recorded or preserved~~  
9 ~~regardless of physical form or characteristics.~~

10 ~~SECTION 4. 301.335 of the statutes is amended to read:~~

11 ~~301.335 Treatment records. Section 51.30 applies to treatment records, as~~  
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14 ~~rule-making authority, with regard to treatment records maintained by the~~  
15 ~~department that is granted to the department of health and family services under~~  
16 ~~s. 51.30.~~

17 ~~SECTION 5. 971.14 (2) (e) of the statutes is amended to read:~~

18 ~~971.14 (2) (e) The examiner shall personally observe and examine the~~  
19 ~~defendant and shall have access to his or her past or present treatment records, as~~  
20 ~~defined under s. 51.30 (1) (b) (a) 2.~~

21 ~~SECTION 6. 971.17 (2) (e) of the statutes is amended to read:~~

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23 ~~and examine the person. The examiner or facility shall have access to the person's~~  
24 ~~past or present treatment records, as defined in s. 51.30 (1) (b) (a) 2., and patient~~  
25 ~~health care records, as provided under s. 146.82 (2) (c). If the examiner believes that~~

1 the person is appropriate for conditional release, the examiner shall report on the  
2 type of treatment and services that the person may need while in the community on  
3 conditional release.

4 **SECTION 7.** 971.17 (4) (c) of the statutes is amended to read:

5 971.17 (4) (c) Within 20 days after receipt of the petition, the court shall appoint  
6 one or more examiners having the specialized knowledge determined by the court to  
7 be appropriate, who shall examine the person and furnish a written report of the  
8 examination to the court within 30 days after appointment. The examiners shall  
9 have reasonable access to the person for purposes of examination and to the person's  
10 past and present treatment records, as defined in s. 51.30 (1) ~~(b)~~ (a) 2., and patient  
11 health care records, as provided under s. 146.82 (2) (c). If any such examiner believes  
12 that the person is appropriate for conditional release, the examiner shall report on  
13 the type of treatment and services that the person may need while in the community  
14 on conditional release.

15 **SECTION 8.** 971.17 (7) (c) of the statutes is amended to read:

16 971.17 (7) (c) If the person wishes to be examined by a physician, as defined  
17 in s. 971.16 (1) (a), or a psychologist, as defined in s. 971.16 (1) (b), or other expert  
18 of his or her choice, the procedure under s. 971.16 (4) shall apply. Upon motion of an  
19 indigent person, the court shall appoint a qualified and available examiner for the  
20 person at public expense. Examiners for the person or the district attorney shall  
21 have reasonable access to the person for purposes of examination, and to the person's  
22 past and present treatment records, as defined in s. 51.30 (1) ~~(b)~~ (a) 2., and patient  
23 health care records as provided under s. 146.82 (2) (c).

24 **SECTION 9.** 980.03 (4) of the statutes is amended to read:

1           980.03 (4) Whenever the person who is the subject of the petition is required  
2 to submit to an examination under this chapter, he or she may retain experts or  
3 professional persons to perform an examination. If the person retains a qualified  
4 expert or professional person of his or her own choice to conduct an examination, the  
5 examiner shall have reasonable access to the person for the purpose of the  
6 examination, as well as to the person's past and present treatment records, as  
7 defined in s. 51.30 (1) (b) (a) 2., and patient health care records as provided under s.  
8 146.82 (2) (c). If the person is indigent, the court shall, upon the person's request,  
9 appoint a qualified and available expert or professional person to perform an  
10 examination and participate in the trial on the person's behalf. Upon the order of the  
11 circuit court, the county shall pay, as part of the costs of the action, the costs of a  
12 court-appointed expert or professional person to perform an examination and  
13 participate in the trial on behalf of an indigent person. An expert or professional  
14 person appointed to assist an indigent person who is subject to a petition may not be  
15 subject to any order by the court for the sequestration of witnesses at any proceeding  
16 under this chapter.

17           **SECTION 10.** 980.08 (3) of the statutes is amended to read:

18           980.08 (3) Within 20 days after receipt of the petition, the court shall appoint  
19 one or more examiners having the specialized knowledge determined by the court to  
20 be appropriate, who shall examine the person and furnish a written report of the  
21 examination to the court within 30 days after appointment. The examiners shall  
22 have reasonable access to the person for purposes of examination and to the person's  
23 past and present treatment records, as defined in s. 51.30 (1) (b) (a) 2., and patient  
24 health care records, as provided under s. 146.82 (2) (c). If any such examiner believes  
25 that the person is appropriate for supervised release, the examiner shall report on



1 the type of treatment and services that the person may need while in the community  
2 on supervised release.

3 (END)

Section #. 51.30 (1) (a) of the statutes is amended to read:

51.30 (1) (a) "Registration records" include all the records of the department, county departments under s. 51.42 or 51.437, treatment facilities, and other persons providing services to the department, county departments or facilities which identify individuals who are receiving or who at any time have received services for mental illness, developmental disabilities, alcoholism or drug dependence.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; s. 13.93 (2) (c).

no #

In this paragraph, "record" means any material on which written, drawn, printed, spoken, visual, electromagnetic or digital information is recorded or preserved, regardless of physical form or characteristics.



Section #. 51.30 (1) (b) of the statutes is amended to read:

51.30 (1) (b) "Treatment records" include the registration and all other records concerning individuals who are receiving or who at any time have received services for mental illness, developmental disabilities, alcoholism, or drug dependence which are maintained by the department, by county departments under s. 51.42 or 51.437 and their staffs, and by treatment facilities. Such records do not include notes or records maintained for personal use by an individual providing treatment services for the department, a county department under s. 51.42 or 51.437, or a treatment facility if such notes or records are not available to others.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; s. 13.93 (2) (c).

no #

In this paragraph, "record" means any material on which written, drawn, printed, spoken, visual, electromagnetic or digital information is recorded or preserved, regardless of physical form or characteristics.

End of ins 2-5

6/17/99

**MEMORANDUM**

from RICHARD SWEET  
Legislative Council Staff

Debra,

This looks good.  
Can I get a /1?  
Thanks.

Dick

↑  
Stays

SOON. In edit 7/27

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

1 AN ACT to amend 51.30 (1) (a) and 51.30 (1) (b); and to create 146.81 (6) of the  
2 statutes; relating to: defining "record" for purposes of patient health care and  
3 mental health confidentiality statutes.

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***Analysis by the Legislative Reference Bureau***

This bill is explained in the NOTES provided by the joint legislative council in the bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on telemedicine issues.

Section 51.30, stats., relates to access to, and confidentiality of, mental health records. Sections 146.81 to 146.84, stats., relate to general patient health care records. While those statutes use the term "record", they do not specify the format of the records that are covered. This bill defines "record", for purposes of those statutes, as "any material on which written, drawn, printed, spoken, visual, electromagnetic or digital information is recorded or preserved, regardless of physical form or characteristics". The intent of this definition is to ensure that the confidentiality laws cover all formats for patient records.

4 SECTION 1. 51.30 (1) (a) of the statutes is amended to read:



**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 07/28/1999

To: Legislative Council - JLC

Relating to LRB drafting number: LRB-2947

**Topic**

Defining "record" for purposes of mental health and patient health care record confidentiality

**Subject(s)**

Health - miscellaneous, Mental Health - miscellaneous

1. **JACKET** the draft for introduction \_\_\_\_\_

in the **Senate** \_\_\_\_ or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Debora A. Kennedy, Managing Attorney  
Telephone: (608) 266-0137