

State of Wisconsin



2005 Senate Bill 650

Date of enactment: **May 23, 2006**
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2005 WISCONSIN ACT 449

AN ACT *to renumber and amend* 51.30 (1) (a); *to amend* 51.30 (1) (b), 51.30 (4) (b) 8. and 51.30 (9) (a); and *to create* 51.30 (1) (ag) and 51.30 (4) (b) 8g. of the statutes; **relating to:** registration and treatment records for services for mental illness, developmental disability, alcoholism, or drug dependence, exceptions to confidentiality for treatment records, and a good faith exception to liability for release of records by a record custodian.

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

SECTION 1. 51.30 (1) (a) of the statutes is renumbered 51.30 (1) (am) and amended to read:

51.30 (1) (am) "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 treatment facilities which identify individuals who are receiving or who at any time have received, that are created in the course of providing services to individuals for mental illness, developmental disabilities, alcoholism, or drug dependence.

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

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

SECTION 3. 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 that are~~ created in the course of providing services to individuals for mental illness, developmental disabilities, alcoholism, or drug dependence ~~which and that~~ are maintained

by the department, by county departments under s. 51.42 or 51.437 and their staffs, and by treatment facilities. ~~Such Treatment~~ records do not include notes or records maintained for personal use by an individual providing treatment services for the department, a county department under s. 51.42 or 51.437, or a treatment facility, if ~~such the~~ notes or records are not available to others.

SECTION 4. 51.30 (4) (b) 8. of the statutes is amended to read:

51.30 (4) (b) 8. ~~To a licensed physician who has determined that the life or health of the individual is in danger and that treatment without the information contained in the treatment records could be injurious to the patient's health. Such disclosure~~ For treatment of the individual in a medical emergency, to a health care provider who is otherwise unable to obtain the individual's informed consent because of the individual's condition or the nature of the medical emergency. Disclosure under this subdivision shall be limited to that part of the records necessary to meet the medical emergency.

SECTION 5. 51.30 (4) (b) 8g. of the statutes is created to read:

51.30 (4) (b) 8g. To health care providers in a related health care entity, or to any person acting under the supervision of such a health care provider who is involved with an individual's care, if necessary for the current treatment

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

of the individual. Information that may be released under this subdivision is limited to the individual's name, address, and date of birth; the name of the individual's mental health treatment provider; the date of mental health service provided; the individual's medications, allergies, and diagnosis; and other relevant demographic information necessary for the current treatment of the individual. In this subdivision, "related health care entity" means one of the following:

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

b. An organized system of health care in which the health care providers hold themselves out to the public as

participating in a joint arrangement and jointly participate in activities.

SECTION 6. 51.30 (9) (a) of the statutes is amended to read:

51.30 (9) (a) Any person, including the state or any political subdivision of the state, violating this section shall be liable to any person damaged as a result of the violation for such damages as may be proved, together with exemplary damages of not more than \$1,000 for each violation and such costs and reasonable actual attorney fees as may be incurred by the person damaged. ~~A custodian of records incurs no liability under this paragraph for the release of records in accordance with this section while acting in good faith.~~
