

1999 Assembly Bill 795

Date of enactment: **May 10, 2000**
Date of publication*: **May 24, 2000**

1999 WISCONSIN ACT 151

AN ACT to amend 146.81 (4); and to create 146.82 (2) (a) 20., 252.15 (5) (a) 20. and 302.388 of the statutes; relating to: prisoner medical records.

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

SECTION 1. 146.81 (4) of the statutes is amended to read:

146.81 (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 968.38 (4), 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).

SECTION 2. 146.82 (2) (a) 20. of the statutes is created to read:

146.82 (2) (a) 20. To a prisoner's health care provider, the medical staff of a prison or jail in which a prisoner is confined, the receiving institution intake staff at a prison or jail to which a prisoner is being transferred or a person designated by a jailer to maintain prisoner medical records, if the disclosure is made with respect to 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).

SECTION 3. 252.15 (5) (a) 20. of the statutes is created to read:

252.15 (5) (a) 20. To a prisoner's health care provider, the medical staff of a prison or jail in which a prisoner is confined, the receiving institution intake staff at a prison or jail to which a prisoner is being transferred or a person designated by a jailer to maintain prisoner medical records, if the disclosure is made with respect to the prisoner's patient health care records under s. 302.388, to the medical staff of a jail to whom the results are disclosed under s. 302.388 (2) (c) or (d), to the medical staff of a jail to which a prisoner is being transferred, if the results are provided to the medical staff by the department of corrections as part of the prisoner's medical file, to a health care provider to whom the results are disclosed under s. 302.388 (2) (c) or (f) or the department of corrections if the disclosure is made with respect to a prisoner's patient health care records under s. 302.388 (4).

SECTION 4. 302.388 of the statutes is created to read:
302.388 Prisoner medical records. (1) DEFINITIONS. In this section:

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

(b) "Jail" means a jail or house of correction.

* Section 991.11, WISCONSIN STATUTES 1997-98: 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].

(c) "Jailer" means the sheriff, superintendent or other keeper of a jail.

(d) "Medical staff" means health care providers employed by the department or a jail.

(e) "Patient health care records" has the meaning given in s. 146.81 (4).

(f) "Prisoner" means any person who is either arrested, incarcerated, imprisoned or otherwise detained in a jail or prison but does not include any of the following:

1. Any person who is serving a sentence of detention under s. 973.03 (4) unless the person is in the county jail under s. 973.03 (4) (c).

2. Any child held in custody under ss. 48.19 to 48.21.

3. Any child participating in the mother-young child care program under s. 301.049.

4. A juvenile held in a jail under s. 938.209.

(g) "Receiving institution intake staff" means the warden or superintendent or his or her designee, if a prisoner is transferred to a prison, or the jailer or his or her designee, if a prisoner is transferred to a jail.

(2) HEALTH SUMMARY FORM. (a) The department shall provide each jailer a standardized form for recording the medical conditions and history of prisoners being transferred to the department or another county's jail. Except as provided in pars. (b) and (bm), jail medical staff shall complete the form and provide it to the receiving institution intake staff at the time of each such transfer.

(b) If the jail does not have medical staff on duty at the time of a transfer, the jailer or his or her designee shall complete as much of the form as possible and provide it to the receiving institution intake staff at the time of the transfer. The jailer shall ensure that all of the following occur within 24 hours after the transfer:

1. The jail medical staff, the prisoner's health care provider or, if the prisoner does not have a health care provider, a health care provider under contract with the jail reviews the form provided to the receiving institution at the time of the transfer.

2. The medical staff or health care provider reviewing the form corrects any errors in the form and includes in it any additional available information.

3. The medical staff or health care provider reviewing the form transmits the updated form or the information included on the form by the quickest available means to the receiving institution intake staff.

(bm) Jail medical staff need not complete the form if the jailer or his or her designee provides a copy of the prisoner's complete medical file to the receiving institution intake staff at the time of the transfer.

(c) Except as provided in pars. (d) and (e), the department shall complete the form described in par. (a) for each prisoner whom the department transfers to a jail and shall provide it to the receiving institution intake staff at the time of the transfer.

(d) If the prison does not have medical staff on duty at the time of a transfer, the warden or superintendent or his or her designee shall complete as much of the form as possible and provide it to the receiving institution intake staff at the time of the transfer. The department shall ensure that all of the following occur within 24 hours after the transfer, unless the prisoner returns to the prison within that time:

1. The prison medical staff, the prisoner's health care provider or, if the prisoner does not have a health care provider, a health care provider under contract with the department reviews the form provided to the receiving institution at the time of the transfer.

2. The medical staff or health care provider reviewing the form corrects any errors in the form and includes in it any additional available information.

3. The medical staff or health care provider reviewing the form transmits the updated form or the information included on the form by the quickest available means to the receiving institution intake staff.

(e) Paragraph (c) does not apply if the department provides a copy of the prisoner's complete medical file to the receiving institution intake staff at the time of the transfer.

(f) Receiving institution intake staff may make a health summary form available to any of the following:

1. The prison's or jail's medical staff.

2. A prisoner's health care provider.

3. In the case of a prison or jail that does not have medical staff on duty at the time of the transfer, a health care provider designated by the department or the jailer to review health summary forms.

4. In the case of a jail that does not have medical staff, a person designated by the jailer to maintain prisoner medical records.

(3) TREATMENT SUMMARIES. Each health care provider, other than medical staff, who provides health care services to a prisoner shall provide the department or the jail in which the prisoner is confined a written summary of the services provided and a description of follow-up care and treatment that the prisoner requires. The treatment summary may be made available to medical staff at the prison or jail at which the prisoner is confined or the prisoner's health care provider or, in the case of a jail that does not have medical staff, to a person designated by the jailer to maintain prisoner medical records.

(4) REQUESTS FOR PRISONER MEDICAL RECORDS. Health care providers providing health care services to a prisoner or medical staff at the prison or jail in which a prisoner is confined may obtain patient health care records for the prisoner from other health care providers who have provided health care services to the prisoner while he or she has been confined in a prison or jail and from other prisons or jails in which the prisoner has been confined.

SECTION 4v. Effective date.

(1) This act takes effect on the first day of the 6th month beginning after publication.
