



2007 SENATE BILL 487

1 **AN ACT** *to repeal* 51.30 (4) (b) 8g. a., 51.30 (4) (b) 8g. b., 146.82 (2) (b), 146.82 (2)
2 (d) and 146.82 (3) (c); *to renumber and amend* 51.30 (4) (b) 8g. (intro.); *to*
3 *amend* 146.81 (4) and 655.275 (8); and *to create* 51.30 (4) (b) 8g. am., 146.82
4 (4) and 146.82 (5) of the statutes; **relating to:** treatment records and patient
5 health care records.

Analysis by the Legislative Reference Bureau

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

6 **SECTION 1.** 51.30 (4) (b) 8g. (intro.) of the statutes is renumbered 51.30 (4) (b)
7 8g. bm. and amended to read:
8 51.30 **(4)** (b) 8g. bm. ~~To health care providers in a related health care entity, a~~
9 health care provider, or to any person acting under the supervision of such a ~~the~~
10 health care provider who is involved with an individual's care, if necessary for the

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1 current treatment of the individual. Information that may be released under this
2 subdivision is limited to the individual's name, address, and date of birth; the name
3 of the individual's ~~mental health treatment~~ provider of services for mental illness,
4 developmental disability, alcoholism, or drug dependence; the date of ~~mental health~~
5 ~~service~~ any of those services provided; the individual's medications, allergies, and
6 diagnosis, diagnostic test results, and symptoms; and other relevant demographic
7 information necessary for the current treatment of the individual. ~~In this~~
8 subdivision, "~~related health care entity~~" means ~~one of the following:~~

9 **SECTION 2.** 51.30 (4) (b) 8g. a. of the statutes is repealed.

10 **SECTION 3.** 51.30 (4) (b) 8g. am. of the statutes is created to read:

11 51.30 (4) (b) 8g. am. In this subdivision, "diagnostic test results" means the
12 results of clinical testing of biological parameters, but does not mean the results of
13 psychological or neuropsychological testing.

14 **SECTION 4.** 51.30 (4) (b) 8g. b. of the statutes is repealed.

15 **SECTION 5.** 146.81 (4) of the statutes is amended to read:

16 146.81 (4) "Patient health care records" means all records related to the health
17 of a patient prepared by or under the supervision of a health care provider, ~~including~~
18 ~~the records required under s. 146.82 (2) (d) and (3) (c),~~ but not those records subject
19 to s. 51.30, reports collected under s. 69.186, records of tests administered under s.
20 252.15 (2) (a) 7., 343.305, 938.296 (4) or (5) or 968.38 (4) or (5), records related to sales
21 of pseudoephedrine products, as defined in s. 961.01 (20c), that are maintained by
22 pharmacies under s. 961.235, fetal monitor tracings, as defined under s. 146.817 (1),
23 or a pupil's physical health records maintained by a school under s. 118.125. "Patient
24 health care records" also includes health summary forms prepared under s. 302.388
25 (2).

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1 **SECTION 6.** 146.82 (2) (b) of the statutes is repealed.

2 **SECTION 7.** 146.82 (2) (d) of the statutes is repealed.

3 **SECTION 8.** 146.82 (3) (c) of the statutes is repealed.

4 **SECTION 9.** 146.82 (4) of the statutes is created to read:

5 **146.82 (4) RELEASE OF A PORTION OF A RECORD TO CERTAIN PERSONS.** (a) In this
6 subsection:

7 1. “Immediate family” has the meaning given in s. 350.01 (8m).

8 2. “Incapacitated” has the meaning given in s. 50.94 (1) (b).

9 (b) Notwithstanding sub. (1), a health care provider may release a portion, but
10 not a copy, of a patient health care record, to the following, under the following
11 circumstances:

12 1. Any person, if the patient or a person authorized by the patient is not
13 incapacitated, is physically available, and agrees to the release of that portion.

14 2. Any of the following, as applicable, if the patient and person authorized by
15 the patient are incapacitated or are not physically available, or if an emergency
16 makes it impracticable to obtain an agreement from the patient or from the person
17 authorized by the patient, and if the health care provider determines, in the exercise
18 of his or her professional judgment, that release of a portion of the patient health care
19 record is in the best interest of the patient:

20 a. A member of the patient’s immediate family, another relative of the patient,
21 a close personal friend of the patient, or an individual identified by the patient, that
22 portion that is directly relevant to the involvement by the member, relative, friend,
23 or individual in the patient’s care.

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1 b. Any person, that portion that is necessary to identify, locate, or notify a
2 member of the patient's immediate family or another person that is responsible for
3 the care of the patient concerning the patient's location, general condition, or death.

4 **SECTION 10.** 146.82 (5) of the statutes is created to read:

5 146.82 **(5)** REDISCLOSURE. (a) In this subsection, "covered entity" has the
6 meaning given in 45 CFR 160.103.

7 (b) Notwithstanding sub. (1) and except as provided in s. 610.70 (5), a covered
8 entity may redisclose a patient health care record it receives under this section
9 without consent by the patient or person authorized by the patient if the redisclosure
10 of the patient health care record is a release permitted under this section.

11 (c) Notwithstanding sub. (1), an entity that is not a covered entity may
12 redisclose a patient health care record it receives under this section only under one
13 of the following circumstances:

14 1. The patient or a person authorized by the patient provides informed consent
15 for the redisclosure.

16 2. A court of record orders the redisclosure.

17 3. The redisclosure is limited to the purpose for which the patient health care
18 record was initially received.

19 **SECTION 11.** 655.275 (8) of the statutes is amended to read:

20 655.275 **(8)** PATIENT RECORDS. The council may obtain any information relating
21 to any claim it reviews under this section that is in the possession of the
22 commissioner or the board of governors. The council shall keep patient health care
23 ~~information records~~ confidential as required by s. 146.82 ~~(2)~~ (b).

24 **SECTION 12. Effective dates.** This act takes effect on the day after publication,
25 except as follows:

