

2007 Senate Bill 487

Date of enactment: **March 17, 2008**
Date of publication*: **March 31, 2008**

2007 WISCONSIN ACT 108

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

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

SECTION 1. 51.30 (4) (b) 8g. (intro.) of the statutes is renumbered 51.30 (4) (b) 8g. bm. and amended to read:

51.30 (4) (b) 8g. bm. To ~~health care providers in a related health care entity, a health care provider,~~ or to any person acting under the supervision of ~~such a~~ the health care provider who is involved with an individual's care, if necessary for the current treatment 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 of services for mental illness, developmental disability, alcoholism, or drug dependence;~~ the date of ~~mental health service any of those services~~ provided; the individual's medications, allergies, ~~and diagnosis, diagnostic test results, and symptoms;~~ 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:~~

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 a. of the statutes is repealed.

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

51.30 (4) (b) 8g. am. In this subdivision, "diagnostic test results" means the results of clinical testing of bio-

logical parameters, but does not mean the results of psychological or neuropsychological testing.

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 b. of the statutes is repealed.

SECTION 5. 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) (e),~~ 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), records related to sales of pseudoephedrine products, as defined in s. 961.01 (20c), that are maintained by pharmacies under s. 961.235, 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 6. 146.82 (2) (b) of the statutes is repealed.

SECTION 7. 146.82 (2) (d) of the statutes is repealed.

SECTION 8. 146.82 (3) (c) of the statutes is repealed.

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

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

* Section 991.11, WISCONSIN STATUTES 2005-06 : 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].

1. "Immediate family" has the meaning given in s. 350.01 (8m).

2. "Incapacitated" has the meaning given in s. 50.94 (1) (b).

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

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

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

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

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

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

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

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

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

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

2. A court of record orders the redisclosure.

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

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

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

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

(1) TREATMENT RECORDS. The treatment of section 51.30 (4) (b) 8g. (intro.), a., am., and b. of the statutes takes effect on the first day of the 7th month beginning after publication, or on January 1, 2009, whichever is earlier.