



## Fiscal Estimate Narratives

DPI 2/27/2008

LRB Number	07-4043/1	Introduction Number	SB-487	Estimate Type	Original
<b>Description</b> Treatment records and patient health care records					

### Assumptions Used in Arriving at Fiscal Estimate

Under current law, certain records related to the health of a patient that are prepared by or under the supervision of a health care provider (patient health care records) are confidential and may be released only with the written consent of the patient or of a person authorized by the patient. Current law has numerous exceptions to the confidentiality requirements that permit access to patient health care records without the informed consent of the patient or of a person authorized by the patient. However, redisclosure of information obtained under one of the exceptions is prohibited, unless authorized by a court or under an insurance transaction.

Senate Bill 487 authorizes the redisclosure of a patient health care record, if made by a covered entity (health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form) for a purpose for which a release is otherwise permitted. The bill authorizes an entity that is not a covered entity to redisclose a patient health care record only if the patient or a person authorized by the patient provides informed consent, a court of record orders the redisclosure, or the redisclosure is limited to the purpose for which the patient health care record was initially received.

The bill permits a health care provider to release, without informed consent, a portion, but not a copy, of a patient health care record, as follows:

1. If the patient or a person authorized by the patient is not incapacitated, is physically available, and agrees to the release of that portion, to anyone.
2. If the patient and the person authorized by the patient are incapacitated or not physically available or if an emergency makes it impracticable to obtain agreement from the patient or person, and if the health care provider determines that release is in the best interest of the patient, to (1) a member of the patient's immediate family, another relative, a close personal friend, or an individual identified by the patient, that portion of the patient health care record that is directly relevant to involvement by the person in the patient's care; or (2) any person, that portion of the patient health care record that is necessary to identify, locate, or notify a member of the patient's immediate family or another person concerning the patient's location, general condition, or death.

Under current law, records that are created in the course of providing services to individuals for mental illness, developmental disabilities, alcoholism, or drug dependence (treatment records) are confidential and may be released only with the informed consent of the individual, or to a health care provider in a related health care entity, or any person acting under the supervision of the health care provider who is involved with the individual's care, if necessary for the individual's current treatment.

This bill expands information that may be released from treatment records to include diagnostic test results (clinical testing of biological parameters, NOT psychological or neuropsychological testing) and symptoms.

**State Fiscal Effect:** Pupils at the Wisconsin School for the Deaf in Delavan and the Wisconsin School for the Blind and Visually Impaired in Janesville receive health care for minor illnesses and common incidents on campus. They also receive health care at the Janesville or Delavan local hospitals when emergencies arise, and nearer their homes for more routine care. Due to the various medical providers involved, there is a great need to share information regarding the pupils' treatment. If SB 487 required greater disclosure of health records from care received on campus than is currently occurring, it is expected that the cost of such disclosure could be absorbed in the school's budget.

**Local Fiscal Effect:** Current law specifically states that pupils' physical health records maintained by a school are not "patient health care records" (WI Stat. 146.81(4)). Thus, there would be no cost to school districts.

## Long-Range Fiscal Implications