

Summary for Clinics State of Wisconsin Medical Records Privacy Laws

I. Summary

Wisconsin has “Patient Confidentiality Statutes”¹ that address the confidentiality, disclosure and a patient’s right of access to health care records, and appears to expand the type of health care providers who must comply with confidentiality and disclosure requirements. Because PRCs and PMCs are not covered entities under HIPAA, they may not be impacted by the Wisconsin laws; however, and out of an abundance of caution, PMCs should apply HIPAA privacy, protection and transmittal requirements to the use and disclosure of all treatment records in their possession. Both PRCs and PMCs have an obligation to provide notice of any unauthorized access to stored personal information of clients.

II. Do the requirements of the law apply to Wisconsin PRCs? To PMCs?

Wisconsin’s “treatment records” statutes appear to be limited to health care providers who work with mental health, developmental disability, and substance abuse patients², but the “Patient Confidentiality Statutes” appear to apply to any person or any entity that maintains patient health care records.³ The language does not appear to preempt the privacy rule requirements of HIPAA, and even though PMC’s are not covered entities under HIPAA, PMC’s would still be well advised to adopt the HIPAA standards as outlined in the NIFLA HIPAA Voluntary Compliance Manual for PMC’s to assure compliance with Wisconsin law.

III. Does Wisconsin law define “Protected Health Information” differently than HIPAA?

The Wisconsin “Patient Confidentiality Statutes” adopt the same definition for PHI as found in the HIPAA regulations.⁴

IV. Are there any specific compliance requirements for PMCs under Wisconsin law not identified in the NIFLA HIPAA VOLUNTARY COMPLIANCE MANUAL FOR PMCs?

While the requirements of the Wisconsin records laws do not seem to address PMCs, it is recommended that Wisconsin PMCs adopt the standards for treating protected health information found in the NIFLA HIPAA Voluntary Compliance Manual for PMCs and apply those standards to all forms of medical information.

V. Are there any specific Wisconsin law provisions applicable to PRCs?

Wisconsin requires any collector of personal information (inclusive of first name or first initial and last name in connection with a social security number, driver’s license number, credit card number or other account numbers, etc.) to notify the owner of the information if there is an unauthorized access or breach of personal data immediately upon discovery of the breach.⁵ PRCs and PMCs are strongly encouraged to install encryption software on their computer systems to minimize the risk of a breach.

¹ Wis. Stat. §§146.81-82

² Wis. Stat. §51.30

³ Wis. Stat. §146.81

⁴ Wis. Stat. §146.816(1)(f)

⁵ Wis. Stat. §134.98