

State & Federal Statutes/Regulations for Mental Health Treatment Providers

Below is a list of state and federal statutes and regulations that apply directly or indirectly to certified mental health and substance use treatment providers. This list was developed primarily for outpatient mental health clinics, but is generally applicable to other mental health and substance use treatment providers. The links to the Revisor of Statutes Bureau for the applicable statutes and regulations are provided in parentheses; these links are to the current versions of the statutes and regulations.

The listing below includes state and federal statutes and regulations that generally are applicable to outpatient mental health clinics as of July 1, 2010; the list is not meant to be 100% comprehensive. If you have questions about this list, contact me.

Dan Zimmerman
Contract Administrator
Bureau of Prevention, Treatment and Recovery
1 W. Wilson Street, Room 851
PO Box 7851
Madison, WI 53707-7851
608-266-7072
608-267-7793 (fax)
Daniel.Zimmerman@wisconsin.gov

State Statutes:

1. § 46.90, elder abuse reporting system (<http://www.legis.state.wi.us/statutes/Stat0046.pdf>)
2. Applicable parts of ch. 48 related to children's issues, including reporting information related to child abuse/neglect (<http://www.legis.state.wi.us/statutes/Stat0048.pdf>)
3. § 50.065, criminal history and patient abuse record search (<http://www.legis.state.wi.us/statutes/Stat0050.pdf>)
4. § 51.10, voluntary admission of adults (<http://www.legis.state.wi.us/statutes/Stat0051.pdf>)
5. § 51.14, voluntary admission of minors (<http://www.legis.state.wi.us/statutes/Stat0051.pdf>)
6. § 51.15, emergency detention (<http://www.legis.state.wi.us/statutes/Stat0051.pdf>)
7. § 51.30, confidentiality (<http://www.legis.state.wi.us/statutes/Stat0051.pdf>)
8. § 51.42, county responsibilities for mental health and substance use issues (what the county may be responsible to provide) (<http://www.legis.state.wi.us/statutes/Stat0051.pdf>)
9. § 51.45, county responsibilities related to substance use issues (<http://www.legis.state.wi.us/statutes/Stat0051.pdf>)
10. § 51.61, patient rights (<http://www.legis.state.wi.us/statutes/Stat0051.pdf>)
11. § 51.64, death reporting (<http://www.legis.state.wi.us/statutes/Stat0051.pdf>)
12. Applicable parts of ch. 54 related to guardianship; particularly § 54.36 related to the examination of proposed ward and § 54.25 related to the powers and duties of a guardian (<http://www.legis.state.wi.us/statutes/Stat0054.pdf>)
13. Applicable parts of ch. 55 related to protective services; particularly § 55.043 related to the adult-at-risk reporting system (<http://www.legis.state.wi.us/statutes/Stat0055.pdf>)
14. § 134.97, disposal of records containing personal information (<http://www.legis.state.wi.us/statutes/Stat0134.pdf>)
15. § 134.98, notice of unauthorized acquisition of personal information (<http://www.legis.state.wi.us/statutes/Stat0134.pdf>)
16. §§ 146.81 – 146.84 related to health care records (<http://www.legis.state.wi.us/statutes/Stat0146.pdf>)
17. § 155.20, health care agent; powers; limitations (<http://www.legis.state.wi.us/statutes/Stat0155.pdf>)
18. Applicable parts of chs. 441 related to licensure of nurses (<http://www.legis.state.wi.us/statutes/Stat0441.pdf>), 455 related to licensure of psychologists (<http://www.legis.state.wi.us/statutes/Stat0455.pdf>), 457 related to licensure of marriage and family therapists, professional counselors and social workers (<http://www.legis.state.wi.us/statutes/Stat0457.pdf>) and 448 (<http://www.legis.state.wi.us/statutes/Stat0448.pdf>) related to licensure of physicians
19. § 632.89, required coverage of alcoholism and other diseases (<http://www.legis.state.wi.us/statutes/Stat0632.pdf>)

20. § 813.12, domestic abuse restraining orders and injunctions (<http://www.legis.state.wi.us/statutes/Stat0813.pdf>)
21. § 813.122, child abuse restraining orders and injunctions (<http://www.legis.state.wi.us/statutes/Stat0813.pdf>)
22. § 813.123, restraining orders and injunctions for individuals at risk (<http://www.legis.state.wi.us/statutes/Stat0813.pdf>)
23. § 813.125, harassment restraining orders and injunctions (<http://www.legis.state.wi.us/statutes/Stat0813.pdf>)
24. § 940.22, sexual exploitation by therapist; duty to report, as well as §§ 940.225 (5) (b) and (c), 940.285, 940.29 and 940.295, which should bar a mental health professional from employment (see DHS 35.03 (9m)) (<http://www.legis.state.wi.us/statutes/Stat0940.pdf>)

State regulations:

1. DHS 12 - Caregiver Background Checks (<http://www.legis.state.wi.us/rsb/code/dhs/dhs012.pdf> and http://www.legis.state.wi.us/rsb/code/dhs/dhs012_app_a.pdf)
2. DHS 13 – Reporting and Investigation of Caregiver Misconduct (<http://www.legis.state.wi.us/rsb/code/dhs/dhs013.pdf>)
3. DHS 35 - Outpatient Mental Health Clinics <http://www.legis.state.wi.us/rsb/code/dhs/dhs035.pdf>)
4. DHS 92 – Confidentiality of Treatment Records (<http://www.legis.state.wi.us/rsb/code/dhs/dhs092.pdf>)
5. DHS 94 – Patient Rights and Resolution of Patient Grievances (<http://www.legis.state.wi.us/rsb/code/dhs/dhs094.pdf>)
6. § DHS 106.06 - Involuntary termination or suspension from program participation (<http://www.legis.state.wi.us/rsb/code/dhs/dhs106.pdf>)
7. § DHS 107.13 (2) Medicaid reimbursement of outpatient mental health clinic services (<http://www.legis.state.wi.us/rsb/code/dhs/dhs107.pdf>). Also see the Medicaid Update 2007-09 issued in January 2007 for outpatient mental health clinic services, which you can find at (<https://www.forwardhealth.wi.gov/kw/pdf/2007-09.pdf>) and the Medicaid Update 2007-10 issued in January 2007 for HealthCheck “Other Services” In-Home Mental Health and Substance Abuse Treatment Services for Children, which you can find at (<https://www.forwardhealth.wi.gov/kw/pdf/2007-10.pdf>)
8. § DHS 108.02 (9) (d) Medicaid fraud (<http://www.legis.state.wi.us/rsb/code/dhs/dhs108.pdf>)
9. Applicable Department of Regulation and Licensing (DRL) regulations for professionals licensed or certified by DRL (<http://www.legis.state.wi.us/rsb/code/mpsw/mpsw.html> for marriage and family therapists, professional counselors, and social workers, <http://www.legis.state.wi.us/rsb/code/med/med.html> for physicians and physician assistants, <http://www.legis.state.wi.us/rsb/code/n/n.html> for nurses, and <http://www.legis.state.wi.us/rsb/code/psy/psy.html> for psychologists)

Federal statutes or regulations:

1. 45 CFR Parts 160, 162 and 164 (HIPAA) and the underlying federal statutes under HIPAA and HITECH. The official source of information regarding HIPAA and HITECH is the Office for Civil Rights within the federal Department of Health and Human Services (<http://www.hhs.gov/ocr/privacy/hipaa/understanding/index.html>). [View the Combined Regulation Text](#) of the HIPAA Security, Privacy, Transaction, and Enforcement/Compliance regulations (as of February 2009). This is an unofficial version that presents all the regulatory standards in one document. The official version of all federal regulations is published in the Code of Federal Regulations (CFR). View the official versions at 45 C.F.R. [Part 160](#), [Part 162](#), and [Part 164](#). Go to <http://www.hhs.gov/ocr/privacy/index.html> for information regarding the HITECH Act and specifically, <http://www.hhs.gov/ocr/privacy/hipaa/administrative/enforcementrule/hitechenforcementiffr.html> for the HITECH Act Enforcement Interim Final Rule, and <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveridentities/breachnotificationiffr.html> for the HITECH Breach Notification Interim Final Rule.
2. The basic provisions of the civil rights laws, including the Americans with Disabilities Act (ADA) of 1990; 42 USC 12101; 29 USC 794 (a), which is section 504 of the Rehabilitation Act of 1973; and the Civil Rights Act of 1964, 42 USC 1981 to 2000, as they apply to the delivery of mental health services.