The Law Governing Concealed Weapons in Wisconsin is Changing. What is the New Law and How Do The Changes Affect Your Practice?

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Wisconsin law currently prohibits most people from carrying a concealed weapon in your clinic. Effective Nov 1, 2011, it is no longer a crime for persons who have obtained a license to carry concealed weapons in Wisconsin. This change in the law has generated a great deal of comment. It seems that the majority of persons have strong opinions regarding the law, whether strongly in favor or strongly opposed. The purpose of this article is not to question or to support the law, but simply to explain the law and to highlight for you some analysis and some decisions you will need to make about the effect of the concealed carry law on your clients and others coming into the clinic, as well as your employees.

If you support the ability of clients, employees and others coming to the clinic to carry concealed weapons, then there's nothing you need to do with respect to the new law.

If you wish to restrict the right of the public and/or your employees to have concealed weapons in the clinic, there are some very specific steps you must take.

With respect to the general public, if you wish to prohibit concealed weapons in the clinic, you must post signs, at least 5 inches by 7 inches in size, at ALL entrances to the parts of the clinic where concealed weapons are prohibited.

Also with respect to the general public, if you wish to prohibit concealed weapons in the clinic parking lot, you must post similar signs at all entrances to the parking lot. However, even if the parking area is posted, it is not illegal for the general public to have concealed weapons in their vehicles. Therefore, you will be responsible for enforcing the prohibition.

If you lease, rather than own, your clinic premises, there may be an issue of whether you or your landlord may make the decision whether to place signs prohibiting concealed weapons on the premises. If you are the sole tenant, you likely have the right to make that decision. If you are in a multi-tenant building, and you wish to prohibit concealed weapons in your premises, you may be able to place signs at the entrances to the clinic space. However, you cannot prohibit concealed weapons in any common areas, including the parking area.

If you wish to prohibit employees, but not the general public, from carrying concealed weapons in the clinic, you can adopt that restriction as a policy in your employee handbook and it's not necessary to post signs.

However, you cannot restrict the right of an employee to have a concealed weapon in the employee's vehicle on clinic property. This is the law regardless of whether the employee is using the employee's vehicle in the course of the employment. This seems to lead to the result that if the clinic provides a vehicle for farm visits, the clinic can, if you so choose, prohibit the employee from having a concealed weapon in the vehicle, but you cannot do so if it is an employee-owned vehicle. Although not addressed by the new legislation, it seems that an employer could impose reasonable requirements on how the weapon is stored in the employee's vehicle (e.g., locked in glove box, stored in other secure area, etc.)

If you choose to allow concealed weapons on your premises, there is an express immunity from any liability of you as the clinic owner and/or the employer for claims arising as the result of your decision to allow concealed weapons. Some commentators have seized on this immunity as a compelling reason to allow concealed weapons, since there is no corresponding provision for immunity if you prohibit concealed weapons. However, it appears that this may be giving too much emphasis to the immunity.

The practical effect of this immunity from liability is not certain. It seems clear that if you do not prohibit concealed weapons, and a claim arises as the result of someone having a concealed weapon, you are excluded from any liability for that claim (at least in so far as the claim arises because of the fact of a concealed weapon). On the other hand, it does not appear that the intent of the new law is to create any new liability of a property owner/tenant or employer for a claim that arises because a client or employee might have avoided an injury if allowed to carry a concealed weapon. As is so often the case with new laws, it appears that the courts will decide how broadly or narrowly to apply the immunity from liability.

We urge that you carefully consider the application of this new law to your clinic setting, taking into consideration the interests of your clients and employees. You should review your employee handbook to see if you currently have a weapons policy and to decide what revisions may be appropriate in light of the new law.

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