2003-04 SESSION COMMITTEE HEARING RECORDS

Committee Name:

Senate Committee on Health, Children, Families, Aging and Long Term Care

(SC-HCFALTC)

Sample:

Record of Comm. Proceedings ... RCP

- 03hrAC-EdR_RCP_pt01a
- 03hrAC-EdR_RCP_pt01b
- 03hrAC-EdR_RCP_pt02

- *Appointments ... Appt*
- **

- *Clearinghouse Rules ... CRule*
- **

- *Committee Hearings ... CH*
- **

- *Committee Reports ... CR*
- **

- *Executive Sessions ... ES*
- **

- *Hearing Records ... HR*
- *03hr_ab0560_pt04*

NO DATE

- *Miscellaneous ... Misc*
- **

- *Record of Comm. Proceedings ... RCP*
- **

Dirk Sweet very involved

By end of '04 - all practitioners will have a HIPPA number

- Upchurch did not go for Schubert et. al amendment.
  - Feds will be following disease mgmt etc w/ HIPPA

* Rep Kukmir's bill will be ~~be~~ taken up by the Assembly on 2/5/04.

would like taken up by Health Committee on 2/12/04

Carol,
Mike Hafele
+ Lonie Schubert
stopped by re: this
bill thats up tomorrow
They want an amendment. →
see last page...
#347-1313
Mike Hafele

What
should I
tell them? They
offered to come up
here to talk to
you for a minute...
(Ask them to
to speak to
Rep Vukmir
& Kaufert
Re.

LRB–2697/2
RLR:jld:rs

2003 ASSEMBLY BILL 560

October 6, 2003 – Introduced by Representatives VUKMIR, UNDERHEIM, WASSERMAN, GIELOW, SCHNEIDER, HAHN, VAN ROY, M. LEHMAN, OWENS, POWERS, AINSWORTH, HUEBSCH, D. MEYER, GUNDRUM, WARD, BALOW, SUDER, MONTGOMERY, GOTTLIEB, NASS, CULLEN, KREIBICH, GRONEMUS, HUNDERTMARK, PETROWSKI, PETTIS, STONE, HINES, FRISKE, TOWNS, BIES and TOWNSEND, cosponsored by Senators KANAVAS and DARLING. Referred to Committee on Health.

AN ACT ***to create*** 146.87 of the statutes; **relating to:** use of federal registration numbers required for prescribers of controlled substances and providing a penalty.

Analysis by the Legislative Reference Bureau

Federal law requires certain people and entities that manufacture, distribute, prescribe, dispense, or administer controlled substance to register with the federal Drug Enforcement Administration (DEA) and obtain a DEA number. Controlled substances include opiates, hallucinogenic substances, depressants, stimulants, and narcotics. Under federal law, a person who prescribes a controlled substance must include his or her DEA number on the prescription. Federal law prohibits a pharmacist from dispensing a controlled substance if the prescriber's DEA number is not included on the prescription for the controlled substance.

Also under federal law, the U.S. Health Insurance Portability and Accountability Act, commonly known as "HIPAA," requires the U.S. Department of Health and Human Services to adopt a unique identifier that health care providers will be required to use.

This bill prohibits any person from requiring that a person authorized to prescribe drugs (practitioner) include his or her DEA number on a prescription for a drug or device that is not a controlled substance. The bill further prohibits any person from disclosing a practitioner's DEA number without the practitioner's consent for any purpose other than complying with or enforcing federal or state law related to controlled substances. Finally, the bill prohibits any person from using a

practitioner's DEA number without the practitioner's consent to identify or monitor the practitioner's prescribing practices for purposes other than complying with or enforcing federal or state law related to controlled substances. Under the bill, these prohibitions are effective 12 months after the effective date of a U.S. Department of Health and Human Services HIPAA regulation that requires use of unique identifiers for health care providers.

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

SECTION 1. 146.87 of the statutes is created to read:

146.87 Federal registration numbers for prescribers of controlled substances. (1) In this section:

(a) "Controlled substance" has the meaning given in s. 961.01 (4).

(b) "Federal registration number" means the registration number required under 21 USC 822 for practitioners who prescribe controlled substances.

(c) "Health care provider" has the meaning given in 42 USC 1320d (3).

(d) "Practitioner" has the meaning given in s. 450.01 (17).

(e) "Prescription order" has the meaning given in s. 450.01 (21).

(2) Beginning on the first day of the 12th month beginning after the effective date of a U.S. Department of Health and Human Services regulation under 42 USC 1320d–2 (b) that requires use of a unique identifier for health care providers, no person may do any of the following:

(a) Require that a practitioner include his or her federal registration number on a prescription order for a drug or device that is not a controlled substance.

(b) Disclose a practitioner's federal registration number without the practitioner's consent for any purpose other than complying with or enforcing federal or state law related to controlled substances.

(c) Use a federal registration number to identify or monitor the prescribing practices of a practitioner, except for the purpose of complying with or enforcing federal or state law related to controlled substances. want amended out!

(3) A person who violates this section may be required to forfeit not more than $10,000 for each violation.

(END)

Not new 57 sub statistic.

They want something drafted so it can move tomorrow if necessary.

Don't need to introduce tomorrow
Don't need you to do amendment
but would like it if you did!

Leah – Doctor,
DEA #'s out there
used in app
Based on Minnesota law

Minnesota → nothing new today
contingent on HIPAA effect

~~2008~~
May 2008

State of Wisconsin
2003 – 2004 LEGISLATURE

LRBa2173/1
DAK:kjf:rs

Failed in Committee 2-7

SENATE AMENDMENT ,

TO 2003 ASSEMBLY BILL 560

At the locations indicated, amend the bill as follows:

1. Page 3, line 1: delete lines 1 to 3.

(END)

① WI requires HIPAA identifiers for federal claims - MA, etc. as of Oct. 16, 03.

Implementation of HIPAA Transactions and Code Sets
Information for Legislators

DHFS prepared this document to provide information to legislators on implementation of HIPAA and to provide resources for resolving HIPAA related problems encountered by health care providers.

What is HIPAA?

HIPAA is the federal Health Insurance Portability and Accountability Act of 1996. A primary purpose of the law is reducing the costs of health care administration by increasing automation by requiring payers and providers who submit transactions electronically to use national standards and code sets for electronic health care claims and other health care business processes. These changes are effective October 16, 2003. HIPAA also established basic national protections for the privacy of health information, which were implemented in April 2003.

This is the date!

All health plans, including private insurance and government programs (e.g., Medicaid, Medicare), must comply with the HIPAA requirements by the federal deadlines. Providers who submit or receive electronic health claims or other health care business electronically must also comply with the HIPAA requirements.

What does HIPAA require?

The HIPAA regulation called "Transactions and Code Sets" requires providers and health plans to use national formats and codes for submission and payment of health care claims and other health care business processes. Programs administered by the Department of Health and Family Services (DHFS) that are impacted by HIPAA include:

- Medicaid, BadgerCare, SeniorCare,
- Health Insurance Risk Sharing Plan (HIRSP),
- Wisconsin Chronic Disease Program (WCDP),
- Wisconsin Well Woman Program (WWWP).

These DHFS programs are ready to accept electronic claims from providers using the HIPAA requirements.

What are the challenges for providers?

HIPAA poses major challenges for health care providers because it changes the requirements for submission and payment of electronic claims submitted to any payer including private insurance, Medicare and Medicaid. In many cases HIPAA billing requirements require significant system and administrative changes for providers to be able to continue to submit electronic claims to health plans. Challenges include:

- Requirements for submitting claims to health care payers are more complex with HIPAA.
- Industry-wide testing between providers, health plans and billing services has been taking place but many providers are behind schedule.
- Providers who are not ready to submit claims according to the new HIPAA standards may revert to submitting paper claims, which could increase the time before payment is received and increase costs of paying claims.

- Providers may experience a temporary delay in the payment of claims due to increased billing errors and system changes after the federal compliance date of October 16, 2003, as payers and providers implement HIPAA nationwide.

What has DHFS done to assist providers with the transition to HIPAA?

- Conducted statewide provider and county agency training in May and June 2003.
- Met with provider associations, large providers and clinics to provide information and coordinate implementation of HIPAA requirements.
- Published over 100 provider publications in June, July and August 2003 regarding new billing instructions, testing requirements and other changes required by HIPAA.
- Created a HIPAA web page on the DHFS web site(www.dhfs.state.wi.us/medicaid9/index.htm)
- Made available free electronic claims billing software and provided training on the software.
- Developed contingency plans for critical business processes, such as claims processing and provider payments. These plans allow providers additional time to transition to the new requirements and to complete their HIPAA testing.

Where can a provider get help?

Legislators may experience an increase in inquiries from providers who experience difficulties during the period of transition to the HIPAA requirements. We encourage providers to obtain assistance with claims and other HIPAA issues by contacting the appropriate health plan. Problems with Medicare claims must be directed to the appropriate Medicare carrier or fiscal intermediary. **Legislators are encouraged to refer providers to the following customer service phone numbers:**

DHFS Programs:	**Provider Customer Service Phone Number**
Medicaid/BadgerCare/SeniorCare	(800) 947-9627 or (608) 221-9883
HIRSP	(800) 828-4777 or (608) 221-4551
Wisconsin Chronic Disease Program	(608) 221-3701
Wisconsin Well Woman Program	(608) 221-3846
Medicare Programs:	
Medicare Part A (United Government Services)	(877) 309-4290
Medicare Part B (Wisconsin Physicians Service)	(877) 567-7176

DHFS is ready to provide assistance to any provider who has problems billing DHFS programs during the implementation of HIPAA.

Please contact Ken Dybevik at (608) 267-7118 with any questions regarding this document.

The Wisconsin Society of Anesthesiologists, Inc.

Testimony of Dr. Robert E. Kettler

My name is Robert E. Kettler. I am a physician specializing in anesthesiology. I am an associate professor of anesthesiology at the Medical College of Wisconsin, and I serve as the Director of the Froedtert and Medical College Pain Management Center (PMC). I am also a Past-President of the Milwaukee Society of Anesthesiologists and the Wisconsin Society of Anesthesiologists and am a current member of the House of Delegates of the American Society of Anesthesiologists.

I am sorry that I cannot attend the Committee hearing, but I'm attending the Annual Meeting of the American Society of Anesthesiologists. I thank the members of the Committee for accepting my written testimony. I would be glad to answer any questions that Committee members have, and Mr. Joe Handrick can provide you with contact information.

I think that the best way for me to explain why I urge approval of A.B. 560 is to relate the following story:

> About one year ago I saw a patient in the PMC who had been discharged from several other pain clinics in the Southeastern Wisconsin area. One of the reasons for her discharge from other pain clinics is that she had forged prescriptions for narcotics using the illicitly obtained DEA number of a physician. She had been prosecuted for this crime. She had also undergone a rehabilitation treatment program and was presumed not to be abusing narcotics at that time. We evaluated her, and, considering her pain syndrome and her past history, provided a multi-component pain therapy program that did not include narcotics. When I gave her the prescriptions she said to me, "Wait a minute, you forgot to write your DEA number on the prescription." I explained to her that the medications were not for controlled substances, so the DEA number wasn't necessary. Although I didn't discuss this with her, I also thought it would be foolish on my part to unnecessarily provide my DEA number to someone who had a history of using these numbers to commit a crime. She said that her insurance wouldn't let her receive the medications if I didn't provide the DEA number, and I naively assured her that wasn't the case. Shortly her pharmacy called the clinic asking for my DEA number. I asked why they needed it for non-controlled substances, and I was told that insurance companies use the DEA number as a universal identifier of physicians and would not reimburse the pharmacy without it.

Please let me provide some background information on this issue. The Drug Enforcement Agency (DEA) has established several categories (also known as schedules) of drugs that have abuse potential. The best known of these drugs are probably the narcotic analgesics. These drugs are extremely potent pain-killers, and they are extremely potent euphoria inducing drugs. While the euphoria doesn't seem to be a problem when these drugs are used to treat pain, it can cause addiction when the drugs are taken for recreational purposes. Even though it's rare to see addiction when pain is treated, this complication can occur even then. Because of their abuse potential, these drugs must be used under medical supervision. Only individuals or institutions registered with the DEA can prescribe or dispense these drugs. Once registered with the DEA, the individual or institution is identified by a number, the DEA number. The DEA number is in some ways like a Social Security Number (SSN). Just as identity theft can result in unauthorized use of someone's SSN, a similar type of physician identity theft can result in the unauthorized and inappropriate use of a DEA number. For example, someone could steal a prescription pad, write a prescription for narcotics, forge a physician's signature, and write the stolen DEA number and illegally obtain narcotics.

Continued...

Because of my experience I've done some investigation into this matter. I've found out that some medical equipment companies ask for a DEA number to obtain reimbursement for provision of medical supplies and equipment. While pharmacies will get physician DEA numbers because of the need to dispense controlled substances, medical supply and equipment providers don't need the DEA number, except for reimbursement purposes. When a DEA number is provided to these entities, a whole host of individuals are unnecessarily provided with knowledge of a physician's DEA number. I have spoken with risk management personnel at the Medical College of Wisconsin and personnel in Wisconsin's regulatory agency about this problem. I will not speak for them, but I think it's fair to state that they agree with me that this is not the purpose for which the DEA established this identification system; that the current excessive use of DEA numbers is ill-advised; and that this bill works toward an important goal.

I can understand that insurance and managed care organizations may need a mechanism to track physician services. I'm not opposed to some type of identification number like the identification numbers for University of Wisconsin students that have replaced social security numbers. I try not to be someone who only proposes eliminating an established system without proposing an alternative, but this area (insurance reimbursement) is so complex that I feel unqualified to propose alternatives. I think those who are knowledgeable in this area could better propose alternatives. I also don't think that prohibiting the use of DEA numbers for non-narcotic drugs will eliminate inappropriate narcotic use. However, I do think that it's important to minimize the possibility of prescription forgery, and I believe A. B. 560 will move Wisconsin towards that goal. I hope that the Committee will approve the bill.

Thank you.

Dr. Robert E. Kettler
FMLH East
9200 W. Wisconsin Ave
Milwaukee WI 53226

(414) 805-6121

rkettler@wi.rr.com

Carol Roessler

State Senator
18th Senate District

Restricts use of DEA #
Mgmt. to monitor
Prescribing
Trmt.

Bill wld prevent
Tues Assembly.

Fraud or abusive
subscription
patterns.

HIPAA - federal
rule creates unique
identifier for
all providers. this
bill

State Capitol
P.O. Box 7882, Madison, WI 53707-7882
608-266-5300

Carol Roessler

State Senator
18th Senate District

Kick in a yr.
open.
3466 Fed Register.
DEA
Once uniq # Assigned
believe Pharmacy
Defacto w/nat'l
standard....
Specific.
anesthesiologist,
misunderstanding w/
Vet's Pharmacy
Society misled her.
~~Timing~~ — to be only used for narcotic
Dean Ukumer
KANAVAS

State Capitol
P.O. Box 7882, Madison, WI 53707-7882
608-266-5300

Every provider
Now has DEA #
Dept. of Commerce
list of DEA #

this bill would
just not allow State
facilities to use DEA #
DEA # used universally
used for wide variety
of tracking systems

Stop mandating
mandates

Prevent # getting

Many of 2005
Enforceable

Assembly Bill 560

RELATING TO USE OF FEDERAL REGISTRATION NUMBERS REQUIRED FOR PRESCRIBERS OF CONTROLLED SUBSTANCES AND PROVIDING A PENALTY.

- **AB 560 passed the Assembly Health Committee 14-1 (Gielow).**
- **On February 3rd, the bill passed the Assembly (voice vote).**
- **The Assembly did adopt Assembly Amendment 1, which changed the effective date of the bill.**

Under the bill:
The prohibitions apply beginning on the first day of the 12th month beginning after the effective date of a U.S. Department of Health and Human Services (DHHS) regulation under the Health Insurance Portability and Accountability Act (HIPAA) that requires use of a unique identifier for health care providers.

Assembly Amendment 1:
The prohibitions in the bill first apply beginning on the first day on which small health plans are required to comply with a DHHS regulation under HIPAA that requires use of a unique identifier for health care providers.

The final federal regulation on unique identifiers for health care providers has been published in the Federal Register and small health plans will be required to comply with that regulation by May 23, 2008.

- **A Fiscal Note did not need to be prepared for this bill**
- **The Pharmacy Society of Wisconsin has withdrawn opposition to this bill due to the adoption of Assembly Amendment 1.**
- **The WI. Association of Health Plans and Dean Health Care will likely testify in opposition to this bill (you met with Louie Schubert and Michael Heifitz on this bill weeks ago…they were opposed).**

2003 ASSEMBLY BILL 560

October 6, 2003 – Introduced by Representatives VUKMIR, UNDERHEIM, WASSERMAN, GIELOW, SCHNEIDER, HAHN, VAN ROY, M. LEHMAN, OWENS, POWERS, AINSWORTH, HUEBSCH, D. MEYER, GUNDRUM, WARD, BALOW, SUDER, MONTGOMERY, GOTTLIEB, NASS, CULLEN, KREIBICH, GRONEMUS, HUNDERTMARK, PETROWSKI, PETTIS, STONE, HINES, FRISKE, TOWNS, BIES and TOWNSEND, cosponsored by Senators KANAVAS and DARLING. Referred to Committee on Health.

AN ACT ***to create*** 146.87 of the statutes; **relating to:** use of federal registration numbers required for prescribers of controlled substances and providing a penalty.

Analysis by the Legislative Reference Bureau

Federal law requires certain people and entities that manufacture, distribute, prescribe, dispense, or administer controlled substance to register with the federal Drug Enforcement Administration (DEA) and obtain a DEA number. Controlled substances include opiates, hallucinogenic substances, depressants, stimulants, and narcotics. Under federal law, a person who prescribes a controlled substance must include his or her DEA number on the prescription. Federal law prohibits a pharmacist from dispensing a controlled substance if the prescriber's DEA number is not included on the prescription for the controlled substance.

Also under federal law, the U.S. Health Insurance Portability and Accountability Act, commonly known as "HIPAA," requires the U.S. Department of Health and Human Services to adopt a unique identifier that health care providers will be required to use.

This bill prohibits any person from requiring that a person authorized to prescribe drugs (practitioner) include his or her DEA number on a prescription for a drug or device that is not a controlled substance. The bill further prohibits any person from disclosing a practitioner's DEA number without the practitioner's consent for any purpose other than complying with or enforcing federal or state law related to controlled substances. Finally, the bill prohibits any person from using a

practitioner's DEA number without the practitioner's consent to identify or monitor the practitioner's prescribing practices for purposes other than complying with or enforcing federal or state law related to controlled substances. Under the bill, these prohibitions are effective 12 months after the effective date of a U.S. Department of Health and Human Services HIPAA regulation that requires use of unique identifiers for health care providers.

Changed by Assembly Amendment 1.

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

SECTION 1. 146.87 of the statutes is created to read:

146.87 Federal registration numbers for prescribers of controlled substances. (1) In this section:

(a) "Controlled substance" has the meaning given in s. 961.01 (4).

(b) "Federal registration number" means the registration number required under 21 USC 822 for practitioners who prescribe controlled substances.

(c) "Health care provider" has the meaning given in 42 USC 1320d (3).

(d) "Practitioner" has the meaning given in s. 450.01 (17).

(e) "Prescription order" has the meaning given in s. 450.01 (21).

(2) Beginning on the first day of the 12th month beginning after the effective date of a U.S. Department of Health and Human Services regulation under 42 USC 1320d–2 (b) that requires use of a unique identifier for health care providers, no person may do any of the following:

(a) Require that a practitioner include his or her federal registration number on a prescription order for a drug or device that is not a controlled substance.

(b) Disclose a practitioner's federal registration number without the practitioner's consent for any purpose other than complying with or enforcing federal or state law related to controlled substances.

(c) Use a federal registration number to identify or monitor the prescribing practices of a practitioner, except for the purpose of complying with or enforcing federal or state law related to controlled substances.

(3) A person who violates this section may be required to forfeit not more than $10,000 for each violation.

(END)

LRBa2062/1
DAK:kjf:rs

ASSEMBLY AMENDMENT 1,

TO 2003 ASSEMBLY BILL 560

February 3, 2004 – Offered by Representative VUKMIR.

At the locations indicated, amend the bill as follows:

1. Page 2, line 10: delete lines 10 and 11 and substitute:

"**(2)** Beginning on the first day on which small health plans are required to comply with a U.S. Department of Health and Human Services regulation under 42 USC".

(END)

ASSEMBLY BILL 560 - PROHIBITING USE OF DEA NUMBERS

Name: **Charles Rynearson**

Health Plan: Network Health Plan

Phone Number: **(920) 720-1603**

1. **What is your position on Assembly Bill 560?**

   _____ **Support** ____X___ **Oppose** _____ **No position**

   Comments:

   The main problem is prohibitions on the use and disclosure of the DEA number at a state level. The number doesn't have to be on the prescription to use the number for network validation and reporting purposes. If we can't do that there is a significant problem. Virtually every pharmacy transaction system uses the DEA number as the unique identifier. This will require reprogramming of every retail pharmacy computer system in the state, every data exchange vendor and every PBM nationally. Since most of the companies involved are multi-state companies, they will need to support different rules for different states. This legislation, if enacted at all, should come from the federal government to ensure uniformity from state to state.

2. **What problems, if any, do you foresee if this legislation passes as currently drafted?**

   Different states will function differently creating confusion in what is a national marketplace. The timetable is too short for development, testing and rollout of such a significant change in the system. Not allowing internal reporting based on DEA does nothing for preventing forged prescriptions.

3. **Please identify any changes you would suggest to the bill.**

   Allow 24 months for implementation. Drop 2.c. all together

4. **Would you or a representative of your plan be willing to testify on this legislation?**

   _____ **Yes** ___X__ **No**

   - **If yes, please provide the following contact information:**

     Name: _____

     Title: _____

     Phone Number: _____

     E-mail Address: _____

5. **Please indicate any additional comments that you may have regarding this issue.**

_____

_____

_____

_____

Jennifer.

Thought Carol might be interested in seeing Network's comments on the survey they submitted to us.

Louise