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Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Public Health, Senior Issues, Long-Term Care, and Job Creation (SC-PHSILTCJC)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Gigi Godwin (LRB) (November/2011)

Senate

Record of Committee Proceedings

Committee on Public Health, Senior Issues, Long-Term Care, and Job Creation

Senate Bill 594

Relating to: requirements for residential facilities that provide or promote themselves as providing specialized care for persons who have Alzheimer's disease or related dementia and providing penalties.

By Senators Carpenter, Taylor and Lehman; cosponsored by Representatives Krusick, Pasch, Pope-Roberts, Berceau, Clark, Staskunas and Kaufert, by request of Wisconsin Alzheimer's Association Chapter Network, AARP - Wisconsin, Coalition of Wisconsin Aging Groups, Disability Rights - Wisconsin, Independence First, Wisconsin Board on Aging and Long-Term Care, Wisconsin Coalition of Independent Living Centers.

March 08, 2010 Referred to Committee on Public Health, Senior Issues, Long-Term Care, and Job Creation.

March 31, 2010 **PUBLIC HEARING HELD**

Present: (5) Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.
Absent: (0) None.

Appearances For

- Peggy Krusick, Milwaukee — Rep., 7th Assembly District
- Paul Golueke, Milwaukee — Alzheimers Assoc.
- Rob Gundermann, Madison — Alzheimers Alliance

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Tim Carpenter, Milwaukee — Sen., 3rd Senate District
- Judy Stevenson, Madison — Alzheimers Disease Alliance of Wisconsin
- Mary Pike, Madison
- Paul Rusk, Madison — Alzheimers & Dementia Alliance of Wisconsin
- William Donaldson, Madison — Board on Aging & Long Term Care

Registrations Against

- None.

Registrations for Information Only

- None.

April 6, 2010

EXECUTIVE SESSION HELD

Present: (5) Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Absent: (0) None.

Moved by Senator Carpenter, seconded by Senator Vinehout that **Senate Bill 594** be recommended for passage.

Ayes: (5) Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes: (0) None.

PASSAGE RECOMMENDED, Ayes 5, Noes 0



Russell DeLong
Committee Clerk

Vote Record

Committee on Public Health, Senior Issues, Long-Term Care, and Job Creation

Date: 4/6/10

Moved by: Carpenter

Seconded by: Vinehout

AB _____ SB 594 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
- Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Tim Carpenter, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Spencer Coggs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Kathleen Vinehout	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dale Schultz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dan Kapanke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed



State Representative

Dan Meyer

SB 594?

March 30, 2010

Committee on Public Health, Senior Issues, Long-term Care, and Job Creation
Senator Tim Carpenter, Chair

Dear Members of the Public Health, Senior Issues, Long-term Care, and Job Creation
Committee,

Under current law, nursing homes are required by law to use informed consent for medication forms if the resident is being treated for a mental illness or developmental disability. These forms, which already exist and are defined under current statute and rule, are intended to inform the patient (or their guardian) about the potential benefits and risks of medication prescribed to them.

Alzheimer's and dementia related psychosis do not fall under these categories. What that means is that residents of a nursing home who have these conditions are not entitled to receive the written informed consent form that explains potential benefits and risks. Current law does require these factors to be discussed orally with the patient or their guardian.

In 2005, the Federal Food & Drug Administration (FDA) issued "black box" warnings for certain atypical antipsychotics that pose increased risks of death for patients with dementia-related psychosis. In 2008, the FDA expanded that risk warning to also include an older generation of conventional antipsychotics.

If there is higher risk of death to these patients, shouldn't they (or their guardians whom they have entrusted with their care) have the opportunity to verifiably consent to the administration of these drugs?

This bill would expand the current requirement by requiring written informed consent in cases when an antipsychotic, for which the FDA has issued a 'black box warning,' is prescribed for a patient with dementia in a nursing home. The purpose of this bill is to make sure patients with dementia or their legal guardians have accurate and up-to-date information about antipsychotic medication that may pose higher risks of death in certain cases.

While I am aware of the extensive patient rights in state and federal law, I have found no state or federal regulation that would provide the same information this bill provides, and create a written record of having received that information via written consent.

Many nursing homes already voluntarily present informed consent for medication forms (which are available by downloading them off the Department of Health Services website) to patients or their legal guardians. This proposal aims to solidify this practice, ensuring the patient (or their legal guardian) is presented with up-to-date information about benefits and risks.

A second, vital component to the bill specifies that informed consent forms include a description, **using the most recently issued information from the FDA**, of the side effects or risks of side effects of the medication and any warnings about the medication. The bill would require the Department of Health Services (DHS) to keep abreast of new risk information that is issued from the FDA.

This requirement is important because the forms available for downloading off the DHS website and promoted by the department for use by nursing homes and other facilities have been antiquated, omitting important risk information. Not only may this pose a problem of liability for the institution providing the form that they received from the DHS website, but there must be accountability for wrong or antiquated information on the form.

While I am aware of contentions that this is not a widespread problem, that can only be true if an institution did not download an informed consent form from the DHS website between the dates of 2005 (when the FDA issued this warning) to 2008 (when DHS updated their forms.)

Most nursing homes have been providing these forms to patients out of courtesy, not because they are required. That is why this bill is not asking for extraordinary action that is not already taking place. It is not an unnecessary burden or special communication that does not commonly already happen. This bill will solidify that practice and provide accountability for the information on those forms.

Recent studies have estimated the number of seniors receiving antipsychotic medication has doubled between 1996-2006. While the use of medication is a decision to be made between the patient and health care providers, it is imperative the patient or their legal guardians have accurate and up-to-date information to make an informed decision.

I appreciate the opportunity to share this proposal with you.

Sincerely,

Dan Meyer

State Representative

34th Assembly District





March 31, 2010

Senate Committee on Public Health, Senior Issues, Long Term Care and Job Creation--SB 594.

By: Rob Gundermann, Public Policy Director, Alzheimer's & Dementia Alliance of Wisconsin.

Good morning chair Carpenter, members of the committee and thank you for the opportunity to speak today.

I'm Rob Gundermann here on behalf of the Alzheimer's and Dementia Alliance of Wisconsin in support of SB 594.

Under current law there are no standards of care for facilities claiming to offer specialized care for people with dementia. We recognize that most facilities in Wisconsin are providing wonderful, innovative programming for people with dementia. This bill will help to ensure that all facilities claiming to provide specialized care are actually doing so and will help families make good, educated decisions regarding the specific health care needs of their loved ones.

SB 594 shouldn't be a burden on the assisted living industry. There are no new mandates on programming, staffing, training or anything else other than requiring the facility to disclose what special care they currently provide and even then only if they hold themselves out as providing special care for people with dementia.

I did some research looking at the states around Wisconsin and found that Illinois, Indiana, Minnesota, Michigan and Ohio have all passed disclosure laws. Some of those states have gone even further by legislating specific mandates in addition to disclosure. Iowa is the only border state that does not specifically mandate disclosure. Iowa, instead, mandates additional training and continuing education for all staff in Alzheimer's units and higher staff to patient ratios.

SB 594 would simply require facilities to share what special services they provide with the families purchasing those special services, allowing families to make educated, informed decisions about their purchases.

Thank you for your time. I hope the committee will support this bill and I would be happy to try to answer any questions.

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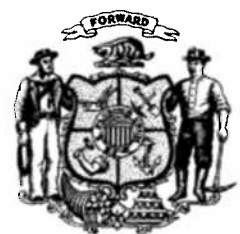
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WISCONSIN STATE LEGISLATURE





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Position of the Board on Aging and Long Term Care
Presented to the Senate Committee on
Public Health, Senior Issues, Long-Term Care, and Job Creation
31 March 2010

Good morning, Senator Carpenter and members of the committee. The Board on Aging and Long Term Care (BOALTC) wishes to express its enthusiastic **support for AB 594**.

The Board operates the Wisconsin Long Term Care Ombudsman Program, a federally mandated advocacy service for residents of long term care facilities nationwide. In Wisconsin, our Ombudsmen provide advocacy services for residents as well as consultative and educational offerings for care providers on topics ranging from residents' rights and person-directed care, to preventing and dealing with resident abuse and neglect.

It is the position of BOALTC that the people of the State of Wisconsin have an interest in assuring that the residents of the state's long term care facilities are receiving the quality and quantity of care that they have been promised and are paying for.

We also work with families who express concerns for their loved ones' safety and well being. The Board would like to very briefly share with you some examples of the "special dementia care" that some residents and their families have experienced.

A recent case involved a call to the Ombudsman from a family member inquiring about his mother's nursing home's use of restraints to prevent her from wandering, a symptomatic behavior typical to persons with dementia, usually in response to a former routine or unmet need. The resident's son was told by the nursing home that his mother was being involuntarily discharged because the facility does not hold the right kind of license to retain persons with dementia. This occurred after being assured upon admission that the facility cares for persons with dementia as a matter of routine. Upon investigation, the ombudsman found the resident restrained in a chair by a form of restraint no longer used in WI nursing homes, and the director of nursing denying that any staff would resort to this as a means of supporting the resident's needs.

A family member of a resident in a supposedly dementia-specific community-based residential facility (CBRF) called to report that there were no age appropriate social activities taking place in the facility. Upon investigation it was noted that the children's game, "Candyland" was the posted morning activity for each and every day. This was verified with the facility staff who reported having received no specific education on the social needs of persons with dementia. In another CBRF owned by the same owner, on a wintery evening, a resident with dementia left the building unsupervised and not dressed for winter weather. This unfortunate resident was found by a passerby lying facedown in the road and bleeding from the head. The temperature was 12 degrees, and the only staff person in the building for the 15 residents did not know how long the resident had been gone. The staff person had not even known the resident was missing until going to the door to see what the police were doing in front of the building.

As a final example, a resident of a nursing home who had been diagnosed as having dementia resulting from several small strokes was threatened with involuntary discharge due to his behavior which included swearing at staff and making sexually-oriented comments and gestures. Because he still possessed very good speech and mobility the facility assumed that he was intentional in his words and gestures. The facility demanded that he accept conditions in violation of his resident and civil rights in order for him to be allowed to remain in the facility. When the man's wife attempted to share with the facility approaches that she had found helpful in caring for him, she was told that the staff are professionals and that they would use their own approaches according to the behavior that they observed in that setting.

Unfortunately, BOALTC's Ombudsmen can describe many more cases just like these. And in nearly all, the family will describe how they were told by the facility, when their loved one was admitted, that the facility was especially well organized and the staff well-trained and capable to address the needs of residents with Alzheimer's or other dementias.

An increasing complaint addressed to the Ombudsman intake line is the situation raised by a perceived or even expressly stated promise of "special care" or dementia-specific care for a family's loved one who is affected by dementia. The complaint is usually that the "special care" can't really be identified as "special" or "dementia-specific," at all. In fact, it is often described as the same care that everyone else in the facility is receiving. But this scenario may have some penalty attached to it, such as the threat of involuntary discharge, if the resident behaves in ways that can often be expected of a person with dementia.

SB 594 would require that a facility claiming to provide dementia specific services, whatever program model is used, actually can document that the model of care used is supportive and beneficial to persons diagnosed as having dementia. The model should be demonstrated as providing specific favorable outcomes and also indicate a measure of dementia-considerate staff education.

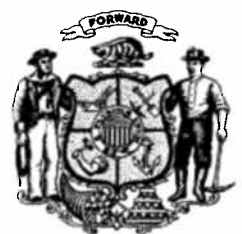
Detractors of SB 594 and its companion have derisively said that it is "merely a truth in advertising mandate." In this case, truth in advertising is an extraordinarily important concern. When a family entrusts their loved one to a facility after having been promised a certain level of care, often at a premium price, they deserve no less than the fulfillment of that promise. Simply to be assured that the care is somehow different is not enough. The provider must be able to prove to the family and to the resident that there really is something different and demonstrably effective to support the resident's needs related to dementia. This over and above ordinary care being given to other residents without Alzheimer's or other dementias.

The regulatory aspect of this bill is not intended to define what particular form or model of care is provided. The DHS' Division of Quality Assurance (DQA) is mandated to establish standards for specialty dementia care that address training, staffing and security. The bill does not mandate the selection of a particular model of care or minimum degree of effectiveness to be achieved in every resident's case. The bill requires DQA to consult with the provider industry and advocates for residents, presumably including BOALTC's Long Term Care Ombudsman Program. We would welcome the responsibility to participate in this effort to assure that the voices of the residents and their families are included in the discussion.

The Board on Aging and Long Term Care thanks you, Chairperson Carpenter, for authoring SB 594 and for holding this hearing. Our Executive Director, Heather A. Bruemmer, will be happy to respond to any questions that you or the committee may pose to her at your convenience. Ms. Bruemmer can be reached at 608 246.7014 .



WISCONSIN STATE LEGISLATURE





PEGGY KRUSICK
STATE REPRESENTATIVE

**Peggy Krusick's Testimony in Support of SB 594
Alzheimer's Special Care Disclosure**

Senate Committee on Public Health, Senior Issues, Long-Term Care, and Job Creation
March 31, 2010

Thank you Senator Carpenter and committee members for the opportunity to testify in support of SB 594—the Alzheimer's Special Care Disclosure Bill.

Basic Facts

Alzheimer's disease is a progressive irreversible dementia that damages areas of the brain involved in memory, intelligence, judgment, language and behavior.

About 5% to 10% of the U.S. population over age 65 has Alzheimer's disease. Over 100,000 of those people live in Wisconsin.

Almost 1,000 long-term care providers in Wisconsin care for residents with Alzheimer's or another dementia.

However, according to the Department of Health Services, in the State of Wisconsin there currently is no standardized rule for the specific delivery of care for consumers who have Alzheimer's disease or related dementia.

The number of residents in long-term care facilities with some form of dementia is significant and growing. As of September 2009:

There were 14,680 residents with dementia in Wisconsin's nursing homes. That's almost 50% of all nursing home residents. By comparison, in July 1996, about 38% of nursing home residents had some form of dementia. Furthermore, 384 of Wisconsin's 391 federally certified nursing homes (or 98% of the homes) care for persons with dementia.

Likewise, 50% (or 654) of Wisconsin's adult day care residents and 60% (or 14,251) of residents in community based residential facilities have irreversible dementia and Alzheimer's disease.

While many providers provide excellent care to residents with Alzheimer's disease, others may provide little care or, worse yet, inadequate care.

For example, in June a CBRF in Dane County accepted a man with a dementia diagnosis into their 8-bed home. They were told ahead of time that the man had wandered in the past. The manager of the home explained that wandering would not be a problem for them because their home was equipped with a door alarm. The door was not locked, but every time it opened a soft chime sounded. When the house was relatively quiet, the chime could easily be heard. Two or three times the man walked into the backyard without staff realizing it. He was corrected. Then one morning, the man walked out the front door. Once

again the staff was not attuned or perhaps busy in a far part of the house, and the man wandered far from the home. When the police brought him back, he was told by staff not to do that again, that he knows better.

Current Law

Does not require nursing homes, residential care facilities and home health agencies that promote special services for Alzheimer's patients to meet any minimum standards for such care.

The Bill

Requires a facility that advertises or markets providing special Alzheimer's programs or units to disclose in writing how they are different from other facilities.

Specifies that the disclosure statement needs to include a description of the facility's approach to care and treatment; admission criteria; process for establishing a resident care plan; staff training and credentials; physical environment and security features; special activities available; and any additional fees.

Requires facilities to provide a copy of the disclosure statement to DHS, the long-term care ombudsman and prospective residents; update the statement whenever substantial changes are made; and provide at least 30 days notice before increasing any fees for specialized services.

Directs DHS to first issue a correction order, rather than a notice of violation, to facilities that fail to comply with any of the requirements of the bill. A forfeiture of up to \$500 for nursing homes and up to \$100 for adult family homes and community based residential facilities could be assessed if the order is not corrected or it is a repeat violation.

Rationale

SB 594 is simply a truth in advertising bill that will help to protect consumers and give families piece of mind.

Families of Alzheimer's patients deserve and need accurate, uniform information on providers that claim to provide special care and may actually charge more to provide this care.

The disclosure requirements provided under SB 594 will allow consumers to make informed decisions and help them find the best place for their loved ones.

At least 25 states have standards for facilities that hold themselves out as providing dementia care. Wisconsin should be next.

Supporters

Alzheimer's & Dementia Alliance of Wisconsin, Alzheimer's Association Wisconsin Chapters, AARP-Wisconsin, Coalition of Wisconsin Aging Groups, Disability Rights Wisconsin, IndependenceFirst, Wisconsin Board on Aging and Long-Term Care, Wisconsin Coalition of Independent Living Centers, League of Women Voters of Wisconsin

Conclusion

Again, thanks for your time and attention. I'd be happy to answer any questions.





Wednesday, March 31, 2010

Senator Carpenter and Members of the Committee,

Good morning and thank you for the opportunity to allow the Alzheimer's Association to speak in favor of SB 594. My name is Paul Golueke and I am the Information and Referral Coordinator for the Alzheimer's Association of Southeastern Wisconsin. I am also the staff liaison to our Public Policy Committee.

One of our core services at the Alzheimer's Association is to provide education to family members and caregivers, often to assist them in finding a safe and secure facility for a loved one with dementia. We educate caregivers about what to look for when touring facilities and empower them to ask questions about the type of care their loved ones will be receiving. The Alzheimer's Association supports the passage of this bill as an important first step in a move toward creating a better standard of care for persons with dementia living in facilities. However, while this bill may assist caregivers in understanding what a particular facility provides, disincentives and shortcomings in the system of regulating nursing homes and dementia care units will remain.

As we have seen in a recent case in Milwaukee County, a gentleman that had challenging behaviors was discharged from the facility where he and his wife lived, and later was detained under Chapter 51 and was taken to the Milwaukee County Mental Health Complex where he was diagnosed with pneumonia. He passed away within a day of being transferred to a hospital.

This example is something that we see far too often at the Alzheimer's Association, and since this incident additional similar cases have been reported to us. Unfortunately what we have learned from this case is the current regulatory system makes it difficult for facilities to work with someone who has challenging behaviors. Facilities are put in the position of being fined if they have a resident who demonstrates challenging behaviors and often decide they must discharge a resident to avoid a citation of placing other residents at risk of harm.

While the Alzheimer's Association supports this bill as a progressive first step forward because it would enable facilities to say in writing what kinds of supports they provide, more action needs to be taken to allow facilities to treat persons with challenging behaviors. We believe that eventually the State of Wisconsin must reexamine existing nursing home regulations to better determine reasonable and realistic standards for a dementia care unit in Wisconsin. This will allow family members to be assured of the quality and standard of care their loved ones receive and not to fear that one day their loved one will have to be discharged with no proper setting for them to go to. It will also provide a standard for dementia care units that will allow facilities to work with residents with challenging behaviors without the fear of being fined.

We look forward to the opportunity to continue a discussion about these issues in the future, and we thank you for your support of SB 594 which will enable us to take an important and much needed step forward today.

Thank You.