WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO

2009 Wisconsin Act 281 [2009 Senate Bill 609]	Informed Consent for Psychotropic Medication

2009 Wisconsin Act 281 does the following:

- Requires a physician, advanced practice nurse prescriber, or a physician assistant with prescriptive authority who prescribes a psychotropic medication to a nursing home resident who has degenerative brain disorder to notify the nursing home if the prescribed medication has a boxed warning under 21 C.F.R. s. 201.57 (hereafter, a "boxed warning").

- Requires a nursing home to obtain written informed consent from the nursing home resident, or the person acting on behalf of the resident if the resident is incapacitated, before administering a psychotropic medication that has a boxed warning. The consent form must be provided by the Department of Health Services (DHS), or must be a form that contains the same information as the consent form made available by DHS.

- Requires DHS to make available on its website, or by mail, multiple drug-specific forms for obtaining the required informed consent. The form must contain several specific items of information.

- Provides that written informed consent provided by a guardian is subject to s. 54.25 (2) (d) 2. ab. and ac., Stats. That statute provides under what circumstances a guardian is authorized to consent to medication and treatment on behalf of the ward.

- Provides that if a health care agent is acting on behalf of a resident, the informed consent must be given within the authority expressed in the power of attorney for health care instrument, or in accordance with the requirements in s. 155.20 (5), Stats.

- Requires the nursing home to give the resident, or person acting on the resident's behalf, a copy of the completed consent form, upon request.

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- Provides that, unless withdrawn sooner, the written informed consent is valid for the period specified on the consent form, but for not longer than 15 months from the date the form was signed.

- Provides that a resident, or person acting on the resident's behalf, may withdraw consent in writing, at any time.

- Requires the nursing home to orally inform the resident or the person acting on the resident's behalf that informed consent may be withdrawn in writing at any time; and that unless the consent is withdrawn sooner, it is valid for the period specified on the form or for 15 months from the date the resident or person signs the form, whichever is shorter.

- Prohibits retaliation or threats to retaliate against a resident, or person acting on the resident's behalf, for refusing to provide consent, or for withdrawing consent.

- Requires the nursing home to use the most current written informed consent forms available from DHS, or to update its own forms with the most current information about the medications available from DHS.

- Provides that a nursing home is not required to obtain written informed consent before administering a psychotropic medication with a boxed warning to a nursing home resident with degenerative brain disorder if the prescription is written or reauthorized while the resident is off the nursing home's premises.

- Allows a nursing home to administer a psychotropic medication to a resident in certain specific cases of emergency where time and distance preclude obtaining written informed consent.

- Provides that the requirements in the Act do not abridge any rights the resident has under s. 51.61 (1) (g), Stats., relating to patients' rights to refuse medication or treatment.

Effective date: The Act takes effect on December 1, 2010.

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