



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 845

**Assembly Amendments 1 and 6
(and Amendment 1 to
Amendment 6)**

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Contact: Richard Sweet, Senior Staff Attorney (266-2982)

Assembly Bill 845 requires the Department of Health and Family Services (DHFS) to establish and maintain a cancer drug repository program under which persons may donate cancer drugs for use by an individual who meets eligibility criteria specified by DHFS by rule. DHFS is required to promulgate a number of rules related to the program including rules dealing with standards for inspecting donated cancer drugs to determine if they are in their original, unopened, sealed, and tamper-evident packaging; eligibility criteria for persons to receive donated cancer drugs; and lists of cancer drugs that the program will or will not accept for dispensing. The bill also provides immunity from liability and a prohibition on a finding of unprofessional conduct for persons under specified circumstances relating to the cancer drug repository.

Assembly Amendment 1 also includes supplies that are needed to administer a cancer drug in the cancer drug repository.

Assembly Amendment 6, as amended by *Assembly Amendment 1 to Assembly Amendment 6*, deletes the immunity from liability provision of the bill and substitutes a different immunity provision. Under the amendment, a manufacturer of a cancer drug or supply is not subject to criminal or civil liability for injury, death, or loss to a person or property for matters related to the donation, acceptance, or dispensing of the cancer drug or supply that is donated to the cancer drug repository. This includes immunity from liability for failure to transfer or communicate product or consumer information or the expiration date of the donated cancer drug or supply. The immunity does not apply if the manufacturer of a drug or supply exercises bad faith.

In addition, the amendment provides that persons other than the manufacturer of a drug or supply are immune from civil liability for injury to or the death of the individual to whom the drug or supply is dispensed and may not be found guilty of unprofessional conduct for acts or omissions relating to donating, accepting, distributing, or dispensing a cancer drug or supply under the law dealing with the cancer drug repository. This immunity does not apply to donation, acceptance, distribution, or

dispensation of a cancer drug by a person whose act or omission involves reckless, wanton, or intentional misconduct.

Legislative History

Assembly Amendment 1 was introduced by the Assembly Committee on Health. Assembly Amendment 6, and Assembly Amendment 1 to Assembly Amendment 6, were introduced by Representative Gregg Underheim. On February 17, 2004, the Assembly Committee on Health recommended adoption of Assembly Amendment 1 by a vote of Ayes 14, Noes 0; and passage of the bill as amended by a vote of Ayes 13, Noes 1. On February 25, 2004, the Assembly adopted Assembly Amendment 1, Assembly Amendment 1 to Assembly Amendment 6, and Assembly Amendment 6, all by voice votes; and passed the bill as amended by a vote of Ayes 92, Noes 2. On February 26, 2004, the Senate concurred in the bill.

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