



**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

<b>2007 Assembly Bill 377</b>	<b>Assembly Substitute Amendment 1</b>
<i>Memo published:</i> December 18, 2007	<i>Contact:</i> Don Dyke, Chief of Legal Services (266-0292)

**ASSEMBLY BILL 377**

**Requirements on Hospitals**

Assembly Bill 377 requires a hospital that provides emergency services to a sexual assault victim (as defined) to: (1) provide the victim medically and factually accurate and unbiased written and oral information about emergency contraception and its use and efficacy; (2) orally inform the victim of: (a) her option to receive emergency contraception at the hospital; (b) her option to report the sexual assault to a law enforcement agency; and (c) any available options for her to receive an examination to gather evidence regarding the sexual assault; and (3) immediately provide the victim, upon her request, emergency contraception in accordance with instructions approved by the federal Food and Drug Administration. If the medication is taken in more than one dosage, the hospital must provide all subsequent dosages to the victim for later self administration.

In addition to the above, the bill requires a hospital that provides emergency care to sexual assault victims to ensure that each hospital employee who provides care to a victim has available medically and factually accurate and unbiased information about emergency contraception.

The bill defines “emergency contraception” as “a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device that is approved by the federal food and drug administration and that prevents a pregnancy after sexual intercourse.” The term expressly does not include “a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device of any nature that is prescribed to terminate the pregnancy of a female.”

**Exception**

Assembly Bill 377 provides that no hospital may be required to provide emergency contraception to a sexual assault victim who is pregnant, as indicated by a test for pregnancy.

**Enforcement**

The Department of Health and Family Services (DHFS) is required under the bill to respond to any complaint it receives concerning noncompliance by a hospital with the above-described requirements. Further, the department is directed to periodically review hospital procedures to determine whether a hospital is in compliance with the requirements.

A hospital that violates a requirement under the bill is subject to a forfeiture of not less than \$2,500 nor more than \$5,000 for each violation. DHFS may directly assess a forfeiture, subject to the right of the hospital to contest the assessment by requesting a hearing with the state Division of Hearing and Appeals.

**ASSEMBLY SUBSTITUTE AMENDMENT 1**

The civil forfeiture created by the bill for violations of the bill's requirements on hospitals is created as a part of s. 50.38, Stats. See SECTION 3 of the bill. By making the civil forfeiture a part of existing s. 50.38, other provisions of s. 50.38 that relate to the assessment, appeal, and collection of the forfeiture applied to the forfeiture created by the bill. However, s. 50.38 was repealed by 2007 Wisconsin Act 20, SEC. 1808 (Biennial Budget Act). The substitute amendment essentially recreates the language of former s. 50.38, as it was affected by the original bill, as new s. 50.389, Stats., but limits the application of the new language to violations of the bill's requirements.

**Legislative History**

Assembly Substitute Amendment 1 was offered by Representatives Wood, Musser, and Pocan. The Assembly adopted the substitute amendment by a vote of Ayes 56; Noes, 41. The proposal has been ordered to a third reading.

DD:jal:ksm