



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Senate Bill 609

**Senate Amendment 1 and
Senate Amendment 1 to Senate
Amendment 1**

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2009 Senate Bill 609

2009 Senate Bill 609 does the following:

- Requires a **physician** who prescribes a psychotropic medication to a nursing home resident who has a 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, Stats. That statute provides under what circumstances a guardian is authorized to consent to medication and treatment on behalf of the ward.
- 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.
- Provides that, unless withdrawn sooner, the written informed consent is valid for the period specified on the consent form, but for not longer than 15 months from the date the form was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.
- 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.
- 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.

Senate Amendment 1

Senate Amendment 1 does the following:

- Subjects advanced practice nurse prescribers and physician assistants with prescriptive authority to the requirements applicable to physicians under the bill.
- Makes the cross-references in ch. 54, Stats., more specific to the procedures in that section that apply to procedures for informed consent for administration of psychotropic medication.
- Specifies 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 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.
- 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.
- Provides that the requirements in the bill do not abridge any rights the resident has under s. 51.61 (1) (g), Stats., relating to patients' rights to refuse medication or treatment.

Senate Amendment 1 to Senate Amendment 1

Senate Amendment 1 to Senate Amendment 1 provides that the bill, if enacted, takes effect on the first day of the 7th month beginning after publication.

Companion Bill

2009 Senate Bill 609, as amended by Senate Amendment 1 and Senate Amendment 1 to Senate Amendment 1, contains the same provisions as 2009 Assembly Bill 526, as amended by Assembly Amendment 1, recommended for passage by the Assembly Committee on Aging and Long-Term Care.

Legislative History

Senate Amendment 1 to Senate Amendment 1 was offered by Senator Holperin on March 31, 2010. Senate Amendment 1 was offered by Senator Holperin on March 24, 2010. On April 6, 2010, the Senate Committee on Public Health, Senior Issues, Long-Term Care and Job Creation recommended adoption of Senate Amendment 1 to Senate Amendment 1 on a vote of Ayes, 5; Noes, 0, and recommended adoption of Senate Amendment 1, as amended, on a vote of Ayes, 5; Noes, 0. On the same date, the committee recommended passage of the bill, as amended, on a vote of Ayes, 5; Noes, 0.

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