



PAUL TITTL

STATE REPRESENTATIVE • 25TH ASSEMBLY DISTRICT

Senate Committee on Judiciary & Labor
Senate Bill 599 Testimony
February 20, 2014

First of all, I would like to thank you, Chairman Grothman and committee members, for allowing me to testify on SB 599.

This bill relates to medical records of individuals who are being represented by the Office of the State Public Defender. In its representation of indigent clients, it is quite common for the State Public Defender to request medical records related to those clients. That information can be very important in enabling the State Public Defender to represent those clients in the best possible manner.

Current law (s. 146.83) requires the person making the request to be a “person authorized by the patient.” SBB 599 makes an important change to the law by stating that a person authorized by the patient includes an attorney appointed to represent the patient if that attorney has informed written consent from the patient to view and obtain copies of the record.

That change accomplishes two important things. First, it enables the State Public Defender to obtain these records in a timely manner. Many of these clients have unstable living situations which may make it more difficult for them to request and receive copies of these records. As a result, unnecessary delays can impede the work of the State Public Defender in its representation of these clients.

Second, the change would enable the State Public Defender to receive these records at a reduced fee. The Fiscal Bureau projects the savings of \$6,000 to \$10,000. The amount is not great, but it nevertheless represents a savings.

Thanks for giving me the opportunity to testify. I would be happy to address any questions you might have.



Wisconsin State Public Defender

315 N. Henry St. - 2nd Floor
PO Box 7923 Madison, WI 53707-7923
Office Number: 608-266-0087 / Fax Number: 608-267-0584
www.wisspd.org

Kelli S. Thompson
State Public Defender

Michael Tobin
Deputy State
Public Defender

February 19, 2014

Chairman Glenn Grothman
Senate Committee on Judiciary and Labor
P.O. Box 7882
Madison, WI 53707

Dear Chairman and members,

Thank you for having this hearing on Senate Bill 599, which will improve the process for Public Defender attorneys to access the medical records of our clients, with their informed consent.

When the State Public Defender represents indigent clients, attorneys request evaluations of client treatment, medical, educational, vocational or other needs. Medical records are often a necessary part of the client's assessment, both to understanding the client's mental status and to assist in developing treatment proposals. To have informed discussions with the client and to advocate effectively with the prosecutor and the judge, the public defender often needs to acquire client medical records, in full or in part.

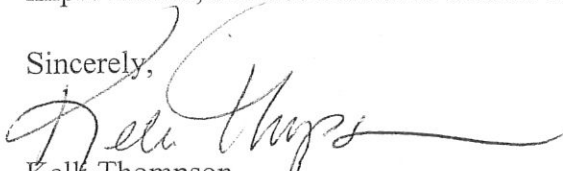
2009 Wisconsin Act 28 changed the medical record access statute (s. 146.83) to create a fee schedule for copies of medical records. A "person authorized by the patient" was exempt from certain fees and, if the patient is eligible for Medical Assistance, qualifies for reduced fees. Although SPD clients, by reason of their financial status, are Medical Assistance eligible, records providers are charging the SPD the higher statutory rates because a patient's SPD-appointed attorney does not fall within the precise definition of "person authorized by the patient."

In an attempt to mitigate the cost to the SPD and taxpayers, the SPD has asked clients to submit the health records requests directly. This approach created a separate set of problems, including delays getting records in a timely manner, providers requiring pre-payment for the records from indigent defendants, and getting the records from the client to the attorney. These problems are compounded by factors common to SPD clients such as unstable living conditions and lack of access to transportation or a telephone.

In summary, since 2009 Act 28 took effect, the SPD has been faced with a choice of either paying higher fees than necessary or using a process to obtain records that is inefficient and unreliable. Inefficiencies can take the form of SPD attorneys spending more time than necessary to obtain the records and can even result in delayed court dates.

Senate Bill 599 provides a simple fix to this problem by clarifying that an attorney provided by the SPD is a "person authorized by the patient" to obtain medical records. This amendment is most significantly a process improvement, but also results in a fiscal savings to the state.

Sincerely,



Kelli Thompson
State Public Defender