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Testimony before the Assembly Committee on Aging and Long-Term Care

AB 729

January 12, 2022

Representative Donna M. Rozar (R-69)

Thank you, Chair Gundrum and members of the Assembly Committee on Aging and Long-Term Care for holding this hearing on Assembly Bill (AB) 729, relating to: modifying administrative rules related to home health. As explained by the Legislative Reference Bureau, AB 729 repeals DHS 133.05 in its entirety, removing the requirement to establish a Professional Advisory Body (PAB). This action amends the state statute to bring parity between our state requirements and federal CMS standards. This Professional Advisory Body is no longer needed now that the federal government has eliminated professional advisory committees (which they did in 2017) and now requires home health agencies to implement quality assessment and performance improvement (QAPI) programs, which prioritize quality of care and patient safety. Eliminating this redundant governing authority allows professionals to better serve clients without jeopardizing the quality of care provided.

I would like to explain the amendment that deletes the majority of the Bill as initially introduced. As introduced, AB 729 and its Senate companion Bill SB 700, made three changes as stated in the LRB analysis. Prior to the introduction of the draft of the bill, it was forwarded to DHS for their review and feedback. There was no feedback initially that presented any objection to the bill draft. Most recently, the Department voiced concerns about the 2 provisions that the amendment deletes, and Senator Ballweg and I, as the Bill's authors are willing to amend the Bill to address these concerns and eliminated those 2 provisions. It is my understanding the Department plans to address those 2 provisions through the administrative rule process.

Thank you for your kind attention to these comments, and I would appreciate your support of this Bill which brings Wisconsin's regulations in line with federal regulations. I will be glad to answer any questions.



JOAN BALLWEG

STATE SENATOR · 14TH SENATE DISTRICT

Assembly Bill 729: Modifying Administrative Rules Related to Home Health Agencies
Testimony of State Senator Joan Ballweg
Assembly Committee on Aging and Long-Term Care
January 12, 2022

Thank you, Chair Gundrum, and members of the committee for holding this public hearing.

Home health agencies provide medical services to patients receiving post-acute medical care within the comforts of their homes. This can include skilled nursing services, occupational therapy, physical therapy, speech therapy or other necessary services.

Currently, administrative rules require each home health agency to establish a professional advisory body. These advisory bodies are used to annually review and make recommendations to the governing body concerning the agency's scope of services, admission and discharge policies, emergency care and other factors.

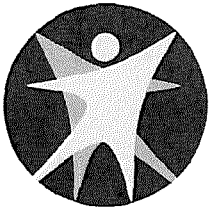
Under recent federal regulations, professional advisory bodies were eliminated given that all home health agencies are already overseen by a governing body, which continually updates and adopts by-laws, charters and written policies relating to the management of the agency.

AB 729 was drafted at the request of Wisconsin Association of Home Health Care, Inc. to bring Wisconsin in line with that recent federal update.

This legislation is also supported by the Wisconsin Occupational Therapy Association.

When AB 729 was originally introduced, it also included provisions that would allow home health agencies additional time to develop a plan of care and allow supervisory visits to be conducted via telehealth. These provisions were taken out in a subsequent amendment due to consideration of potential additional federal changes in guidance. The Department of Health Services indicated they may be able to use internal processes to make those changes later on.

Thank you for your consideration of this legislation. If you have any questions, please feel free to reach out to my office.



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Karen E. Timberlake, Secretary-Designee

TO: Members of the Assembly Committee on Long-Term Care

FROM: HJ Waukau, Legislative Director Wisconsin Department of Health Services

DATE: January 12, 2022

RE: AB 729, relating to: modifying administrative rules related to home health agencies

The Department of Health Services (DHS) would like to submit written testimony for information only on Assembly Bill 729 (AB 729) and Assembly Amendment 1, regarding the modification of administrative rules for home health agencies under DHS 133.

Section 1 of AB 729 would remove the regulatory requirement that a home health agency have a professional advisory body to provide recommendations on agency activities. Under Wis. Admin. Code § DHS 133.05(2) the advisory body must make annual recommendations concerning the scope of services offered by a home health agency, admission and discharge policies, medical supervision and plans of care, emergency care, clinical records, personnel qualifications, and program evaluation procedures. The advisory body must also annually to advise the agency on professional issues, participate in the evaluation of the agency's program, assist the agency in maintaining liaisons with other health care providers in a community information program, and document all meetings by dated minutes

Per CMS Administration Information Memo: 19-07 HHA, dated January 23, 2019, Wis. Admin. Code § DHS 133.05(2) is no longer compatible with federal guidance. AB 729 as amended by Assembly Amendment 1 for AB 729 would bring state regulations into alignment with federal regulations and statutes.

Re: 2021 Assembly Bill 729

Lakeland Care, Inc. is a Wisconsin based managed care organization that is contracted with the Wisconsin Department of Health Services to provide the Family Care program to eligible Wisconsinites in twenty-two counties. Lakeland Care is the predecessor organization of Fond du Lac County's Creative Care Options, which was one of the original Family Care pilot counties.

Lakeland Care employs almost 500 individuals, supports 7,600 family care members and contracts with well over 1,000 local providers to meet the long-term care needs of the members. Additionally, Lakeland Care has partnerships with the Menominee Indian Tribe of Wisconsin and the Oneida Nation to provide culturally competent care management to their respective Tribal members wishing to enroll in the Family Care program.

Lakeland Care registered in support of this bill modifying administrative rules related to home health agencies. This bill provides an update to existing rules that have become critical to the long-term care ecosystem. Home health agencies play a vital role in supporting individuals in their home versus an institution, which is a more cost-effective and consumer preferred option in our health care system.

Requiring home health agencies to develop an initial care plan within 72 hours of the acceptance for care from the agency can be overwhelming to the system and cause disruption to an existing care plan. Giving these agencies an additional 48 hours to develop that care plan allows the agency to more comprehensively plan with the patient and their family on what is required to support their needs.

Additionally, the requirement of allowing the registered nurse or other therapist to provide a remote supervisory visit for the intention of ensuring that the care plan is being followed can still provide adequate supervision of the caregiver's understanding and follow through of the care plan. As our community's caregiver human resources continue to be threatened, it is our duty to ensure that we are not placing undue hardship on the finite human resources we do have, bogging them down with unnecessary administrative burden.

Lastly, the requirement of a home health agency to have a professional advisory body, in addition to the home health agency staff and patients to complete an annual evaluation of the program, could be a duplicative and burdensome function for the agency. The recommended requirement of the staff and patient to be included in this function is adequate.

If the last two years have shed the light on anything in long-term care, it is about making sure that there are adequate numbers of high quality employees providing high quality services to individuals that need it, as well as making sure that the work we are doing adds value and is not an exercise in checking the box in order to be compliant. It appears that this bill is meant to update existing administrative rules with the addition of technology and to give the agencies adequate time to work with the patient on their care plan.



WISCONSIN ASSOCIATION FOR HOME HEALTH CARE

The Wisconsin Association for Home Health Care (WIAHC) is a statewide membership-based organization that represents the interests of home health care agencies and their employees. Through education, networking, and advocacy, WIAHC advances the common interests of our members and promotes home health care as a high-quality, cost-effective health care option in Wisconsin. We also provide members with additional resources and share best practices to enhance operations and improve innovative care that is critical to patient quality of life.

- ◆ **WIAHC Mission Statement:** To promote, protect and advance the highest quality health care at home for Wisconsin patients
- ◆ **WIAHC Vision Statement:** Be the leading and unifying voice for skilled home health care in Wisconsin.

WHAT IS HOME HEALTH CARE:

Home health care can mean different things to different medical professionals, caregivers, and patients depending on their profession and their current need for care. However, WIAHC and our members view home health care as a wide range of health care services to treat an illness or injury that are provided by skilled non-physician practitioners, including nurses and physical therapists, in a patient's home.

Examples of skilled home health services, which must be initiated by a physician's order, include surgical wound care; monitoring serious illness, providing injections; and administering Intravenous therapy. The goal of home health care is to treat a patient's injury or illness in a setting where they are comfortable and ultimately help them get better and regain independence, or reduce their physical decline and maintain their current level of self-sufficiency.

WHAT ARE THE BENEFITS OF HOME HEALTH CARE:

WIAHC believes most patients prefer to receive care in the comfort of their own homes, where patients tend to recover more quickly, avoid infections and other complications, and enjoy a better quality of life than they would in an institutional setting. Home health care also offers convenience, as the care a patient requires comes to them, as opposed to having to visit multiple providers at different locations.



In addition to helping patients stay healthier and keep their dignity, skilled home health care is typically less expensive than care they would receive in a hospital or other facility. It offers quality expert care at reduced costs for patients, private payers, and public payers — including the Wisconsin Medicaid program.



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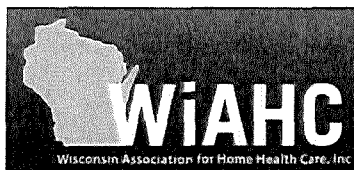
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About WiAHC

The Wisconsin Association for Home Health Care (WiAHC) is a membership-based association that represents home health care agencies and their staff. WiAHC helps to support the common interests of its members to promote home health care as a quality, cost-effective health care option in our state.

Home health care agencies provide skilled nursing, occupational therapy, physical therapy, speech therapy, and other medical services to patients receiving post-acute medical care in their homes following discharge from a hospital.

Senate Bill 700 and Assembly Bill 729 bring Wisconsin's regulations in line with federal regulations by eliminating home health care professional advisory bodies but maintaining governing bodies.

WiAHC Supports Senate Bill 700 and Assembly Bill 729 (As Amended)

Current state administrative rules require each home health agency to establish a professional advisory body [DHS 133.05(2)], which is required to review and submit recommendations to the governing body regarding various operational matters each year. However, in 2017, federal regulations eliminated professional advisory committees and instead created an ongoing **quality assessment and performance improvement (QAPI)** program (Title 42, Part 484.65).

QAPI is an ongoing program for quality improvement and patient safety that requires home health agencies' performance improvement efforts to address priorities for improved quality of care and patient safety and are evaluated for effectiveness.

A Home Health agency's governing body is ultimately responsible for ensuring that the QAPI program is operated properly. An additional professional advisory body is no longer needed in state administrative rules now that the federal government has eliminated professional advisory committees and required home health agencies to implement QAPI programs, which prioritizes quality of care and patient safety.

Bill authors Senator Ballweg and Representative Rozar introduced identical amendments to modify both bills so that the bills only eliminate professional advisory bodies but maintain governing bodies.

Information on Home Health Care Agency Governing Bodies

According to DHS 133.05(1) in state administrative rules, each home health agency is required to have a governing body, which must do the following:

- Adopt governing policies in the form of by-laws, charter, written policies or other official means.
- Adopt a statement detailing the services to be provided.
- Oversee the management of the home health agency.
- Appoint an administrator.
- Provide for a qualified substitute administrator to act in absence of the administrator.

Contact Information

Please contact Tim Hoven at (414) 305-2011 or tim@hovenconsulting.com or Nathan Butzlaff at (608) 310-8833 or nathan@hovenconsulting.com.