State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-0286/1
JPC:cdc

2023 ASSEMBLY BILL 609

October 31, 2023 - Introduced by Representatives SORTWELL, MURPHY, ROZAR, ALLEN, BEHNKE, BODDEN, BRANDTJEN, CALLAHAN, EDMING, MAGNAFICI, MICHALSKI, O'CONNOR, PENTERMAN, RETTINGER, SCHRAA and SCHUTT, cosponsored by Senators NASS, CABRAL-GUEVARA and STROEBEL. Referred to Committee on Health, Aging and Long-Term Care.

AN ACT ***to create*** 146.50 and 440.208 of the statutes; **relating to:** prohibiting discrimination or retaliation against health care providers by health care entities and credentialing boards for ordering or discussing innovative or novel therapies.

Analysis by the Legislative Reference Bureau

This bill prevents health care entities and credentialing boards from discriminating or retaliating against health care providers for ordering innovative therapies or novel therapies if certain conditions are met, including: 1) the health care provider orders the therapy based on his or her assessment of the patient and any available clinical data supporting the therapy; 2) the patient requests the innovative therapy or novel therapy; and 3) the ordered therapy, if the therapy is a drug, device, or biological product, is either approved or authorized for emergency use by the federal Food and Drug Administration. Further, this bill prevents any health care entity or credentialing board from restricting any health care provider from informing a patient of any innovative or novel therapy that may potentially benefit the patient. The protections provided under the bill do not apply to a health care provider who orders any drug, device, or biological product that is intended to

delay or suppress pubertal development in a minor for the purpose of assisting the minor with a gender transition.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 146.50 of the statutes is created to read:

146.50 Novel and innovative therapies. (1) In this section:

(a) "Biological sex" means the biological indication of male or female in the context of reproductive potential or capacity, such as by sex chromosomes, naturally occurring sex hormones, gonads, and unambiguous internal and external genitalia present at birth, without regard to psychological, chosen, or subjective experience of gender.

(b) "Gender transition" means a process in which an individual goes from identifying with and living as a gender that corresponds with the individual's biological sex to identifying with and living as a gender different from the individual's biological sex.

(c) "Health care entity" has the meaning given for "health care provider" in s. 146.81 (1) (i) to (p).

(d) "Health care provider" has the meaning given in s. 146.81 (1) (a) to (hp).

(2) No health care entity may retaliate against, discriminate against, or deny privileges to a health care provider for ordering an innovative or novel therapy if all of the following apply:

(a) The health care provider orders the innovative or novel therapy based on his or her assessment of the patient and any available clinical data supporting the innovative or novel therapy.

(b) The patient is informed of all reasonable alternative courses of treatment and requests the innovative or novel therapy over alternative courses of treatment.

(c) If the ordered innovative or novel therapy is a drug, device, or biological product, the ordered drug, device, or biological product is approved by the federal food and drug administration under 21 USC 355 or is authorized for emergency use by the federal food and drug administration under 21 USC 360bbb–3.

(3) A health care entity may not restrict, directly or indirectly, any health care provider from informing a patient of any innovative or novel therapy that may potentially benefit the patient.

(4) This section does not apply to a health care provider who orders any drug, device, or biological product that is intended to delay or suppress pubertal development in a minor for the purpose of assisting the minor with a gender transition.

SECTION 2. 440.208 of the statutes is created to read:

440.208 Novel and innovative therapies. (1) In this section, "health care provider" has the meaning given in s. 146.81 (1) (a) to (hp).

(2) No credentialing board may retaliate against, discriminate against, or deny, suspend, limit, or revoke a credential to a health care provider for ordering an innovative or novel therapy if all of the following apply:

(a) The health care provider orders the innovative or novel therapy based on his or her assessment of the patient and any available clinical data supporting the innovative or novel therapy.

(b) The patient is informed of all reasonable alternative courses of treatment and requests the innovative or novel therapy over alternative courses of treatment.

(c) If the ordered innovative or novel therapy is a drug, device, or biological product, the ordered drug, device, or biological product is approved by the federal food and drug administration under 21 USC 355 or is authorized for emergency use by the federal food and drug administration under 21 USC 360bbb–3.

(3) No credentialing board may restrict, directly or indirectly, by rule or any other official action, any health care provider from informing a patient of any innovative or novel therapy that may potentially benefit the patient.

(4) This section does not apply to a health care provider who orders any drug, device, or biological product that is intended to delay or suppress pubertal development in a minor for the purpose of assisting the minor with a gender transition, as defined in s. 146.50 (1) (b).

(END)