

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 06/22/99

Received By: yacketa

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus 6-2257

By/Representing: Walter

This file may be shown to any legislator: NO

Drafter: yacketa

May Contact:

Alt. Drafters: kunkemd
nelsorp1

Subject: Health - miscellaneous

Extra Copies: DAK

Pre Topic:

SDC:.....Walter - #4012,

Topic:

Hospital rate setting by PSC

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	yacketa 06/28/99 kunkemd 06/28/99	wjackson 06/29/99		_____			
/1	kunkemd 06/29/99	ygeller 06/29/99	martykr 06/29/99	_____	lrb_docadmin 06/29/99		
/2	kunkemd 06/29/99	ygeller 06/29/99	kfollet 06/29/99	_____	lrb_docadmin 06/29/99		

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/3			kfollet 06/29/99	_____ _____	lrb_docadmin 06/29/99		

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Page 2

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/1			martykr 06/29/99 <i>kjf 6/29</i>	_____	lrb_docadmin 06/29/99		
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Page 1

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1?	yacketa	1 WLJ 6/29	Jm 6/29	Editors L/29	cmh J. Olson		

FE Sent For:

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yes

Agency: Public Service Commission

caucus number 4012

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number: SB 17	
LRB draft #	LRB P-draft:

description: SB 17 modified to clarify that PSC could use a proie oap methodology to regulate Hospital Rates.

other notes

drafting instructions: Modify SB 17. See above.

more instructions:

Agency: **Public Service Commission**

Number of Amendments: 1

1999-2001 BUDGET AMENDMENTS

+

- 4001 1. Reverse JFC / Jauch action to limit state funding for referenda approved debt to \$420 million as outlined in Motion 888 (item a). Effect would be to maintain current law. Cost = \$13.3 million. Also reverse items g and l in Motion 888 relating to inclining enrollment districts and shifting costs for Milwaukee School Choice and Charter Programs to general school aids.
- 4002 2. Require DOT, not later than June 30, 2001, to conduct a corridor study for USH 8 in Barron, Polk, Price and Rusk Counties and to report the results to the County Boards in each of those counties. Cost = 0
- 4003 3. Modify Decker Motion 531 relating to the Division of Vocational Rehabilitation per the attached language recommended by Secretary Stewart. Cost = 0
- 4004 4. Fund recycling with a \$8 - \$10 tipping fee. (we will decide the amount next week) The program would be structured according to the Decker Recycling Motion 1138. Cost = \$48 to \$60 million SEG
- 4005 5. Provide \$100,000 GPR in 1999-00 to the Arts Board for a one-time grant to a non-profit performing arts foundation. Chvala agreed to this with Greg Huber. This would be in addition to the \$50,000 JFC approved for this project in Motion 1164. Cost = \$100,000
- 4006 6. Wildlife biologist for Marathon County. Cost = \$32,300 SEG 1999-00 and \$43,000 SEG 2000-01 (SEG - Fish & Wildlife Account)
- 4007 7. Group deer bow hunting as outlined in JFC Motion 367, but modified to include antlered deer. Cost = 0
- 4008 8. Stray voltage research study as outlined in JFC Motion 924. Cost = \$400,000 PR
- 4009 9. Can the Stanley Prison as outlined in Motion 474. As fallback, include language from Decker Motion 875 (item c) which basically puts the Doyle opinion into the statutes. Cost = 0
- 4010 10. Use value assessment modifications (developer penalties) as recommended by The Wisconsin Association of Assessing Officers. These modifications are also supported by the League of Municipalities and the Alliance of Cities.
- 4011 11. Rebuild Rib Mountain Chalet. Cost=\$500,000 from Stewardship Fund
- 4012 12. Hospital Rate Setting (1997 Senate Bill 17) modified to clarify that PSC could use a price cap methodology to regulate rates. This is a less labor intensive means of rate regulation and was recommended by PSC Commissioner Mettner as a way of holding down the PSC fiscal note. Cost=0 (assessments on high profit hospitals would pay for the program.)

1999

Date (time) needed

D-NOTE

LRB b 0830 1 1

**CAUCUS BUDGET AMENDMENT
[ONLY FOR CAUCUS]**

TAY, MURKIN: WLJ: _____

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 1999 ASSEMBLY BILL 133**

>>FOR CAUCUS SUPRAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

√ #. Page 115, line 4: after that line insert:
(insert 115-4)

√ #. Page 293, line 4: after that line insert:
(insert 293-4)

√ #. Page 206, line 19: after that line insert:
(insert 206-19)

√ #. Page 228, line 9: after that line insert:
(insert 228-9)

√ #. Page 239, line 8: after that line insert:
(insert 239-8)

√ #. Page 250, line 3: after that line insert:
(insert 250-3)

1999

Date (time) needed

(cont)

LRB b

0830 1 1

CAUCUS BUDGET AMENDMENT
[ONLY FOR CAUCUS]

See form AMENDMENTS — COMPONENTS & ITEMS.

CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 1999 ASSEMBLY BILL 133

>>FOR CAUCUS SUPBRAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

✓ #. Page 1155, line 13.: after that line insert:
(insert 1155-13)

✓ #. Page 1190, line 11.: after that line insert:
(insert 1190-11)

✓ #. Page 1179, line 19.: after that line insert:
(insert 1179-19)

✓ #. Page 1186, line 9.: after that line insert:
(insert 1186-9)

✓ #. Page 1405, line 24.: after that line insert:
(insert 1405-24)

✓ #. Page 1544, line 8.: after that line insert:
(insert 1544-8)

3

1999

Date (time) needed (Cont.)

LRB b 0830 1/

CAUCUS BUDGET AMENDMENT
[ONLY FOR CAUCUS]

See form AMENDMENTS — COMPONENTS & ITEMS.

CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 1999 ASSEMBLY BILL 193

>>FOR CAUCUS SUPRAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

~~#. Page 593, line 17: after that line insert:
(insert 1593-17)~~

↓ #. Page 1613, line 8: after that line insert:
(insert 1613-8)

#. Page , line : after that line insert:
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(END)

SENATE BILL 17

- 4. The purchase or acquisition of a hospital.
- 5. The construction or operation of an ambulatory surgery center or a home health agency.

The bill requires a person intending to undertake a project or activity subject to review to publish a notice describing the project or activity and to conduct a public hearing on the proposed project or activity. The bill also requires the PSC to publish a notice of receipt of an application for review. The PSC must also conduct a public meeting upon the request of an affected party to review projects seeking approval.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

3 1997-98 1998-99
4 **20.155 Public service commission**

5	" (3)	HOSPITAL RATE ^{PRICE CAPS - (C)} SETTING AND CAPITAL EXPENDITURE				
6		REVIEW				
7	(a)	General program operations	GPR	A	-0-	500,000
8	(gm)	Assessments	PR	A	-0-	-0-
9	(g)	Application Fees	PR	A	0	0

10 " SECTION 2. 20.155 (3) of the statutes is created to read:

11 20.155 (3) HOSPITAL RATE ^{PRICE CAPS} SETTING AND CAPITAL EXPENDITURE REVIEW. (a) General
12 program operations. The amounts in the schedule for ~~hospital rate setting activities~~
13 ^{general program operations} under subch. II of ch. 196.

14 (gm) Assessments. The amounts in the schedule for hospital ^{rate setting}
15 activities of the commission under ch. 196. All moneys received under s. ^{196.996} ~~196.996~~

SCHEDULE
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 115-4

insert
 292-4

SENATE BILL 17

9141

1999

1 (2) and ~~1997~~ Wisconsin Act ... (this act), section ~~19.12~~ (d), shall be credited to this
2 appropriation.

3 (gr) Application fees. The amounts in the schedule for the capital expenditure
4 review program under ch. 196. All moneys received under s. 196.9998 (6) shall be
5 credited to this appropriation.

6 SECTION ~~3~~ 20.155 (3) (a) of the statutes, as created by 1997 Wisconsin Act ...
7 (this act), is repealed.

8 " SECTION ~~4~~ 49.45 (3) (e) 11. of the statutes is created to read:

9 49.45 (3) (e) 11. Notwithstanding subs. 1 to 10, the department may authorize
10 the public service commission to determine reimbursement rates under subch. II of
11 ch. 196.

12 " SECTION ~~5~~ 49.49 (2) (c) 1. of the statutes is amended to read:

13 49.49 (2) (c) 1. A discount or other reduction in price obtained by a provider of
14 services or other entity under chs. 46 to 51 and 58 and subch. II of ch. 196 if the
15 reduction in price is properly disclosed and appropriately reflected in the costs
16 claimed or charges made by the provider or entity under a medical assistance
17 program.

18 " SECTION ~~6~~ 49.74 of the statutes is amended to read:

19 49.74 (title) Institutions subject to ~~chapter~~ chapters 150 and 196. Any
20 institution created under the authority of s. 49.70, 49.71, 49.72 or 49.73 is subject to
21 ch. 150 and subch. II of ch. 196.

22 " SECTION ~~7~~ 50.36 (1) of the statutes is amended to read:

23 50.36 (1) The department shall promulgate, adopt, amend and enforce such
24 rules and standards for hospitals for the construction, maintenance and operation
25 of the hospitals deemed necessary to provide safe and adequate care and treatment

293-4

insert 206-19

insert 226-9

insert 226-3

insert 250-3

WFO: Please Proof W/Stats.

SENATE BILL 17

1 of the patients in the hospitals and to protect the health and safety of the patients
 2 and employes; and nothing contained herein shall pertain to a person licensed to
 3 practice medicine and surgery or dentistry. The building codes and construction
 4 standards of the department of commerce shall apply to all hospitals and the
 5 department may adopt additional construction codes and standards for hospitals,
 6 provided they are not lower than the requirements of the department of commerce.
 7 Except for the construction codes and standards of the department of commerce and
 8 except as provided in s. 50.39 (3) and subch. II of ch. 196, the department shall be the
 9 sole agency to adopt and enforce rules and standards pertaining to hospitals. (c)

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proof
w/stats

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10 SECTION 8. 146.37 (1g) of the statutes is amended to read:

11 146.37 (1g) Except as provided in s. 153.85, no person acting in good faith who
 12 participates in the review or evaluation of the services of health care providers or
 13 facilities or the charges for such services conducted in connection with any program
 14 organized and operated to help improve the quality of health care, to avoid improper
 15 utilization of the services of health care providers or facilities or to determine the
 16 reasonable charges for such services, or who participates in the obtaining of health
 17 care information under ch. 153, or who participates in hospital ^{rate price cap} ~~rate setting~~ activities
 18 under subch. II of ch. 196, is liable for any civil damages as a result of any act or
 19 omission by such person in the course of such review or evaluation. Acts and
 20 omissions to which this subsection applies include, but are not limited to, acts or
 21 omissions by peer review committces or hospital governing bodies in censuring,
 22 reprimanding, limiting or revoking hospital staff privileges or notifying the medical
 23 examining board ^{or podiatrists affiliated credentialing board} under s. 50.36 or taking any other disciplinary action against a
 24 health care provider or facility and acts or omissions by a medical director, as defined

1500 X 1155-13

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WFO

SENATE BILL 17

Please proof w/ stats.

1 in s. 146.50 (1) (j), in reviewing the performance of emergency medical technicians
2 or ambulance service providers.

insert 1100-10

3 SECTION 9. 153.05 (4n) of the statutes is created to read:

4 153.05 (4n) The office shall provide the public service commission with
5 information necessary for performance of duties of the public service commission
6 under s. 196.9998 (16) (a) and as requested of the office by the public service
7 commission.

insert 1179-19

8 SECTION 10. Chapter 196 (title) of the statutes is amended to read:

CHAPTER 196

REGULATION OF PUBLIC UTILITIES

SERVICE COMMISSION

Please proof w/ stats.

12 SECTION 11. Subchapter I (title) of chapter 196 [precedes 196.01] of the statutes
13 is created to read:

CHAPTER 196

SUBCHAPTER I

REGULATION OF PUBLIC UTILITIES

17 SECTION 12. 196.01 (intro.) of the statutes is amended to read:

18 196.01 Definitions. (intro.) As used in this chapter subchapter and ch. 197,
19 unless the context requires otherwise:

Please proof w/ stats.

insert 1186-9

20 SECTION 13. Subchapter II of chapter 196 [precedes 196.991] of the statutes is
21 created to read:

CHAPTER 196

SUBCHAPTER II

HOSPITAL RATE SETTING

PRICE CAPS

25 196.991 Definitions. In this subchapter:

SENATE BILL 17

insert 1186-9

INSERT 7-9

1 ~~(1) "Capital expenditure limit" means the maximum amount of capital~~
2 ~~expenditures that may be approved under s. 106.0098.~~

3 ~~(1m) "Capital project" means a proposed capital expenditure that exceeds~~
4 ~~\$1,000,000, if the purpose of contributing to a new use or renovating part or all of~~
5 ~~a hospital, a proposed capital expenditure that exceeds \$1,500,000.~~

6 (1) "Commission" means the public service commission.

7 (2) "Consumer price index" has the meaning given in s. 16.004 (8) (e) 1.

8 (3) "Hospital" has the meaning given in s. 50.33 (2), except that "hospital" does
9 not include a center for the developmentally disabled, as defined in s. 51.01 (3).

10 (4) "Rates" means individual charges of a hospital for the services that it
11 provides or, if authorized under s. ~~196.992~~ ^{196.993}, the aggregate charges based on case
12 mix measurements. INSERT 7-17

13 **196.992 Prospective rate setting.** Beginning on July 1, ~~1998~~, the
14 commission shall establish and may regularly revise maximum hospital rates on a
15 prospective basis. The commission shall publish biennial reports showing its
16 proceedings, together with information necessary to describe the rate of hospital cost
17 increases and the financial condition of hospitals.

18 **196.993 Rule making.** The commission shall promulgate all of the following:

19 (1) Rules that implement this subchapter. At least 2 commissioners must sign
20 any rules that are promulgated to interpret s. 196.992.

21 (2) Rules that establish the rate for assessments that are authorized under s.
22 196.9996.

23 **196.994 Requests for a rate change.** (1) The commission shall create a
24 schedule allowing each hospital to request rate changes annually, on or after the date
25 the hospital receives its audited financial statements. The commission may schedule

SENATE BILL 17

~~11/22/97~~

1 (e) The commission may reject the application for approval of a project operated
2 by any person who has repeatedly been subject to the penalties specified in this
3 subsection or may impose restrictions as part of its approval to ensure compliance
4 with this section.

5 (16) STATE HEALTH SERVICES PLAN (a) The commission shall adopt a state health
6 services plan using information provided by the office of health care information in
7 the office of the commissioner of insurance, at least once every 3 years that includes
8 a description of the hospital system in the state and identifies health care needs and
9 surpluses with respect to existing health care services, facilities and equipment and
10 other components the commission finds useful.

11 (b) The commission may not accept any application for a project under this
12 section for the addition of hospital beds that would exceed the number of beds
13 described by the state health services plan for the acute care service area where the
14 project would be located. The commission shall establish its method for defining an
15 acute care service area by rule.

16 " SECTION 14. 632.75 (5) of the statutes is amended to read: *price cap*
17 632.75 (5) PAYMENTS FOR HOSPITAL SERVICES. No insurer may reimburse a
18 hospital for patient health care costs at a rate exceeding the *strike* rate established under
19 ch. 54, 1985 stats., or s. 146.60, 1983 stats., for care provided prior to July 1, 1987
20 subch. II of ch. 196. " " *Please Proof of Stats.*

21 SECTION 15. ~~Nonstatutory provisions.~~

22 (1) ~~PUBLIC SERVICE COMMISSION~~ HOSPITAL RATE SETTING.
23 (a) By *December 1999* ~~October 1, 1997~~, the public service commission shall submit, under
24 section 16.515 of the statutes, a request to supplement the appropriation under
25 section 20.155 (3) (gm) of the statutes, as created by this act, that details a proposed

in Sept 1405-24

INSERT 1544-8
NONSTATS

SENATE BILL 17

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1 budget for activities of the public service commission under subchapter II of chapter
2 196 of the statutes, as created by this act.

3 (b) 1. The public service commission shall submit proposed rules required
4 under section ~~196.993~~ (196.992(c)) of the statutes, as created by this act, to the legislative council
5 staff for review under section 227.15 (1) of the statutes no later than ~~January 1, 1998~~ July 1, 2000

6 These rules may not take effect before ~~July 1, 1998~~ January 1, 2001

7 2. Using the procedure under section 227.24 of the statutes, the public service
8 commission shall promulgate rules required under section 196.993 (2) of the
9 statutes, as created by this act, for the period prior to the effective date of the rules
10 submitted under subdivision 1., but not to exceed the period authorized under
11 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a)
12 and (2) (b) of the statutes, the public service commission need not provide evidence
13 of the necessity of preservation of the public peace, health, safety or welfare in
14 promulgating the rules under this paragraph.

15 (c) By January 1, ~~1998~~ ²⁰⁰⁰, the public service commission shall do all of the
16 following:

17 1. Estimate the total amount of revenue required for fiscal year ~~1997-98~~ ²⁰⁰⁰
18 administration by the commission of subchapter II of chapter 196 of the statutes, as
19 created by this act.

20 2. Assess the estimated total amount under subdivision 1. to hospitals, as
21 defined in section 150.01 (12) of the statutes, ~~under the rates established by rule~~
22 ~~under paragraph (b) 2. and~~ in proportion to each hospital's respective net income, as
23 defined in section ~~196.993~~ ^{196.996} (1) (e) of the statutes, as created by this act, during the
24 hospital's most recently concluded entire fiscal year, except that the public service

INSERT
1544-8

SENATE BILL 17

1 commission may not assess a hospital that has a net income of 3% or less over the
2 net income for the hospital's next most recently concluded entire fiscal year.

3 3. Credit all payments of assessments to the appropriation under section
4 20.155 (3) (gm) of the statutes, as created by this act.

5 (d) Every hospital that is assessed under paragraph (c) 2. shall, by April 1,
6 ~~1998~~ ²⁰⁰⁰ pay the entire amount assessed the hospital.

7 ~~Section 16. Initial applicability.~~

8 ~~(1) PUBLIC SERVICE COMMISSION, HOSPITAL RATE SETTING. This act first applies to~~
9 ~~requests for rate changes submitted under subchapter II of chapter 196 of the~~
10 ~~statutes, as created by this act, on July 1, 1998.~~

11 SECTION 17. Effective dates. This act takes effect on September 1, 1997, or
12 on the day after publication, whichever is later, except as follows:

13 ~~(1) HOSPITAL RATE SETTING. The repeal of section 20.155 (3) (a) of the statutes~~
14 ~~takes effect on January 1, 1999.~~ ²⁰⁰¹

insert
1613-8

EFF
DATES

15

(END)

~~2000~~
~~(2/15/98)~~

~~The treatment of sections 20.155 (3) (gm) and (gr), 49.45 (3) (e) 11., 49.47 (2) (c) 1., 49.74, 50.36 (1), 146.37 (1), 153.05 (4n), 196.01 (intra.) and 196.75 (5) of the statutes, the amending of chapter 196 (title) of the statutes, the creation of section 20.155 (3) (a) of the statutes and the creation of subchapters I and II of chapter 196~~

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INSERT 7-9 TO INSERT 1186-9:

(m) "Price cap" means the maximum rate that may be charged for a service and includes any allowable increases in the maximum rate that are based on increases in the consumer price index.

INSERT 7-12 TO INSERT 1186-9:

196.992 Hospital rate price caps. (1) The commission shall promulgate rules that establish price caps for hospital rates. The commission shall consider each of the following in promulgating rules under this subsection:

(a) The need to reduce the rate of hospital cost increases while preserving the quality of health care in all parts of the state.

(b) A variety of cost-related trend factors based on nationally or regionally recognized economic models.

(c) The past budget and rate experiences of hospitals in this state.

(2) Rules promulgated under sub. (1) shall include requirements and procedures for hospitals to provide the commission with information that the commission determines is necessary to carry out its duties under this subchapter and for hospitals to notify the commission and patients of rates charged and any proposed increases or decreases in rates. The rules shall also include requirements and procedures for the commission to regularly review and, if necessary, revise the price caps established in the rules promulgated under sub. (1).

(3) Rules promulgated under sub. (1) may include requirements and procedures for each of the following:

1 (a) Exceptions from price caps for rural or teaching hospitals if the commission
2 determines that such hospitals are subject to special circumstances that warrant an
3 exception.

4 (b) A uniform system for hospitals to make reports to the commission if the
5 commission determines that such a system is necessary for the commission to carry
6 out its duties under this subchapter.

7 **196.993 Case mix measurements.** The commission may promulgate rules
8 establishing a system that defines rates as aggregate charges based on case mix
9 measurements if the commission submits its proposed system to the joint committee
10 on finance under s. 13.10, receives that committee's approval and holds a public
11 hearing prior to promulgating its rules. Such a system may not take effect prior to
12 January 1, 2001, shall be consistent with the standard under s. 196.992 (1) (a) and
13 shall ensure quality of care at a reasonable cost to patients.

14 **196.994 Commission prohibitions.** In carrying out its duties under this
15 subchapter, the commission may not do any of the following:

16 (a) Interfere directly in the personal or decision-making relationships between
17 a patient and the patient's physician.

18 (b) Restrict the freedom of patients to receive care at a hospital consistent with
19 their religious preferences or request a hospital that is affiliated with a religious
20 group to act in a manner contrary to the mission and philosophy of the religious
21 group.

22 (c) Restrict directly the freedom of hospitals to exercise management decisions
23 in complying with the price caps established in rules promulgated under s. 196.992
24 (1).

1 (d) Require the submission of unrelated financial data from religious groups
2 affiliated with a hospital.

3 **196.995 Enforcement.** (1) The commission may seek a judicial remedy to
4 enforce compliance with any requirement of this subchapter or with any rule or order
5 of the commission under this subchapter if it first notifies the hospital and provides
6 the hospital a reasonable time to correct a violation. The commission shall commence
7 any action under this subsection in the circuit court for the county in which the
8 hospital is located.

9 (2) Any court that finds an intentional failure to comply with a price cap
10 established in rules promulgated under s. 196.992 (1) may impose a forfeiture of up
11 to \$5,000. Each week that a hospital continues its intentional failure to comply with
12 the price cap constitutes a separate violation.

13 (3) Any court with jurisdiction over an action brought under this section may
14 adopt remedies that it finds necessary to enforce compliance. Remedies under this
15 section apply notwithstanding the existence or pursuit of any other remedy.

16 **196.996 Assessments.** (1) In this section:

17 (a) "Commercial insurance" includes a group or individual disability insurance
18 policy, as defined in s. 632.895 (1) (a), an employer's self-insured health care plan
19 and worker's compensation.

20 (b) "Deduction" means the portion of a charge that was incurred by a patient
21 but was not received from 3rd-party payers or governmental or private payment.
22 "Deduction" includes charity care but does not include bad debt.

23 (c) "Expense" means the cost of operation, including bad debt, that is charged
24 to a hospital during the hospital's fiscal year.

1 (d) "Gross patient revenue" means the total charges to medicare, as defined in
2 s. 49.498 (1) (f),[✓] the medical assistance program, other public programs, commercial
3 insurance and other self-payers or nonpublic payers, that are generated by a
4 hospital from inpatient and outpatient services.

5 (e) "Net income" means total revenue and nonoperating gains in excess of
6 expenses and nonoperating losses.

7 (f) "Net patient revenue" means gross patient revenue minus deductions.

8 ^g (g) ^p "Nonoperating gains" means gifts, donations, endowments, return on
9 investments and any other gains that are not related to patient care.

10 (h) "Nonoperating losses" means state and federal corporate income and real
11 estate taxes and other losses that are not directly related to patient care or
12 hospital-related patient services.

13 (i) "Other public programs" include programs operated by or contracted for by
14 county departments under s. 46.215,[✓] 46.22[✓] or 46.23[✓] and the relief block grant
15 program under ch. 49.[✓]

16 (j) "Other revenue" means revenue from services, other than health care
17 services, provided to patients and revenue from sales to and services provided to
18 nonpatients.

19 (k) "Total revenue" means the sum of net patient revenue and other revenue.

20 (2) Beginning July 1, 2000, the commission shall, within 90 days after the
21 commencement of each fiscal year, estimate the total amount of revenue required for
22 administration by the commission of this subchapter during that fiscal year and
23 assess that estimated total amount to hospitals in proportion to each hospital's
24 respective net income during the hospital's most recently concluded entire fiscal
25 year. The commission may not assess under this subsection a hospital that has a net

1 income of 3% or less over the net income for the hospital's next most recently
2 concluded entire fiscal year. Each hospital that is assessed shall pay the assessment
3 by the December 1 following the assessment. The commission shall credit all
4 payments of assessments to the appropriation account under s. 20.155 (3) (gm).”.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0830/1dn

MDK:/.....

Wlj

Please review this amendment very carefully to make sure that it achieves your intent. Note that, although it is based on 1997 Senate Bill 17, very little of that bill remains in the amendment because the amendment provides for price caps, rather than a rate-of-return regulatory scheme. Therefore, many of the provisions of that bill are irrelevant. Also, please note the following:

1. Because the instructions do not contain many details about the price caps, the amendment requires the PSC to promulgate rules that establish price caps. Although there is a price cap scheme under current law for certain telecommunications utilities, I do not think that that scheme is relevant to hospital rates.

2. The amendment allows the PSC to create exceptions for rural and teaching hospitals. ^{is included in} (1997 Senate Bill 17 includes a similar provision) Is this okay?

3. Do you want to allow the PSC to create exceptions for other hospitals?

4. Neither 1997 Senate Bill 17 nor this amendment define "case mix measurement". A definition may be helpful, unless this term is generally understood in the hospital industry.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0830/1dn
MDK:wlj:km

June 29, 1999

Please review this amendment very carefully to make sure that it achieves your intent. Note that, although it is based on 1997 Senate Bill 17, very little of that bill remains in the amendment because the amendment provides for price caps, rather than a rate-of-return regulatory scheme. Therefore, many of the provisions of that bill are irrelevant. Also, please note the following:

1. Because the instructions do not contain many details about the price caps, the amendment requires the PSC to promulgate rules that establish price caps. Although there is a price cap scheme under current law for certain telecommunications utilities, I do not think that that scheme is relevant to hospital rates.

2. The amendment allows the PSC to create exceptions for rural and teaching hospitals. A similar provision is included in 1997 Senate Bill 17. Is this okay?

3. Do you want to allow the PSC to create exceptions for other hospitals?

4. Neither 1997 Senate Bill 17 nor this amendment define "case mix measurement". A definition may be helpful, unless this term is generally understood in the hospital industry.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

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SDC:.....Walter - #4012, Hospital rate setting by PSC

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 115, line 4: after that line insert:

3 "(3) HOSPITAL RATE PRICE CAPS

4 (a) General program operations GPR A -0- 500,000 ✓

5 (gm) Assessments PR A -0- -0-".

6 2. Page 293, line 4: after that line insert:

7 "SECTION 226dg. 20.155 (3) of the statutes is created to read:

8 20.155 (3) HOSPITAL RATE PRICE CAPS. (a) *General program operations.* The

9 amounts in the schedule for general program operations under subch. II of ch. 196.

13
#

1 (gm) *Assessments*. The amounts in the schedule for hospital rate price cap
2 activities of the commission under ch. 196. All moneys received under s. 196.996 (2)
3 and 1999 Wisconsin Act (this act), section 9141 (2mg) (d), shall be credited to this
4 appropriation.

5 ~~SECTION 226dm. 20.155 (3) (a) of the statutes, as created by 1999 Wisconsin~~
6 ~~Act (this act), is repealed.~~

7 **3.** Page 706, line 19: after that line insert:

8 “SECTION 1375m. 49.45 (3) (e) 11. of the statutes is created to read:
9 49.45 (3) (e) 11. Notwithstanding subs. 1. to 10., the department may
10 authorize the public service commission to determine price caps for reimbursement
11 rates under subch. II of ch. 196.”

12 **4.** Page 728, line 9: after that line insert:

13 “SECTION 1443m. 49.49 (2) (c) 1. of the statutes is amended to read:
14 49.49 (2) (c) 1. A discount or other reduction in price obtained by a provider of
15 services or other entity under chs. 46 to 51 and 58 and subch. II of ch. 196 if the
16 reduction in price is properly disclosed and appropriately reflected in the costs
17 claimed or charges made by the provider or entity under a medical assistance
18 program.”

19 **5.** Page 739, line 8: after that line insert:

20 “SECTION 1483m. 49.74 of the statutes is amended to read:
21 49.74 (title) **Institutions subject to chapter chapters 150 and 196**. Any
22 institution created under the authority of s. ~~49.70, 49.71, 49.72~~ or 49.73 is subject to
23 ch. 150 and subch. II of ch. 196.”

24 **6.** Page 750, line 3: after that line insert:

1 **“SECTION 1524m.** 50.36 (1) of the statutes is amended to read:

2 50.36 (1) The department shall promulgate, adopt, amend and enforce such
3 rules and standards for hospitals for the construction, maintenance and operation
4 of the hospitals deemed necessary to provide safe and adequate care and treatment
5 of the patients in the hospitals and to protect the health and safety of the patients
6 and employes; and nothing contained herein shall pertain to a person licensed to
7 practice medicine and surgery or dentistry. The building codes and construction
8 standards of the department of commerce shall apply to all hospitals and the
9 department may adopt additional construction codes and standards for hospitals,
10 provided they are not lower than the requirements of the department of commerce.
11 Except for the construction codes and standards of the department of commerce and
12 except as provided in s. 50.39 (3) and subch. II of ch. 196, the department shall be the
13 sole agency to adopt and enforce rules and standards pertaining to hospitals.”

14 **7.** Page 1155, line 13: after that line insert:

15 **“SECTION 2246m.** 146.37 (1g) of the statutes is amended to read:

16 146.37 (1g) Except as provided in s. 153.85, no person acting in good faith who
17 participates in the review or evaluation of the services of health care providers or
18 facilities or the charges for such services conducted in connection with any program
19 organized and operated to help improve the quality of health care, to avoid improper
20 utilization of the services of health care providers or facilities or to determine the
21 reasonable charges for such services, or who participates in the obtaining of health
22 care information under ch. 153, or who participates in hospital rate price cap
23 activities under subch. II of ch. 196, is liable for any civil damages as a result of any
24 act or omission by such person in the course of such review or evaluation. Acts and

1 omissions to which this subsection applies include, but are not limited to, acts or
2 omissions by peer review committees or hospital governing bodies in censuring,
3 reprimanding, limiting or revoking hospital staff privileges or notifying the medical
4 examining board or podiatrists affiliated credentialing board under s. 50.36 or taking
5 any other disciplinary action against a health care provider or facility and acts or
6 omissions by a medical director, as defined in s. 146.50 (1) (j), in reviewing the
7 performance of emergency medical technicians or ambulance service providers.”.

8 **8.** Page 1170, line 11: after that line insert:

9 “**SECTION 2279m.** 153.05 (4n) of the statutes is created to read:

10 153.05 (4n) The office shall provide the public service commission with
11 information necessary for performance of duties of the public service commission
12 under subch. II of ch. 196 and as requested of the office by the public service
13 commission.”.

14 **9.** Page 1179, line 19: after that line insert:

15 “**SECTION 2309d.** Chapter 196 (title) of the statutes is amended to read:

16 **CHAPTER 196**

17 **REGULATION OF PUBLIC UTILITIES**

18 **SERVICE COMMISSION**

19 **SECTION 2309f.** Subchapter I (title) of chapter 196 [precedes 196.01] of the
20 statutes is created to read:

21 **CHAPTER 196**

22 **SUBCHAPTER I**

23 **REGULATION OF PUBLIC UTILITIES**

24 **SECTION 2309h.** 196.01 (intro.) of the statutes is amended to read:

1 (b) A variety of cost-related trend factors based on nationally or regionally
2 recognized economic models.

3 (c) The past budget and rate experiences of hospitals in this state.

4 (2) Rules promulgated under sub. (1) shall include requirements and
5 procedures for hospitals to provide the commission with information that the
6 commission determines is necessary to carry out its duties under this subchapter and
7 for hospitals to notify the commission and patients of rates charged and any proposed
8 increases or decreases in rates. The rules shall also include requirements and
9 procedures for the commission to regularly review and, if necessary, revise the price
10 caps established in the rules promulgated under sub. (1).

11 (3) Rules promulgated under sub. (1) may include requirements and
12 procedures for each of the following:

13 (a) Exceptions from price caps for rural or teaching hospitals if the commission
14 determines that such hospitals are subject to special circumstances that warrant an
15 exception.

16 (b) A uniform system for hospitals to make reports to the commission if the
17 commission determines that such a system is necessary for the commission to carry
18 out its duties under this subchapter.

19 **196.993 Case mix measurements.** The commission may promulgate rules
20 establishing a system that defines rates as aggregate charges based on case mix
21 measurements if the commission submits its proposed system to the joint committee
22 on finance under s. 13.10, receives that committee's approval and holds a public
23 hearing prior to promulgating its rules. Such a system may not take effect prior to
24 January 1, 2001, shall be consistent with the standard under s. 196.992 (1) (a) and
25 shall ensure quality of care at a reasonable cost to patients.

1 **196.994 Commission prohibitions.** In carrying out its duties under this
2 subchapter, the commission may not do any of the following:

3 (a) Interfere directly in the personal or decision-making relationships between
4 a patient and the patient's physician.

5 (b) Restrict the freedom of patients to receive care at a hospital consistent with
6 their religious preferences or request a hospital that is affiliated with a religious
7 group to act in a manner contrary to the mission and philosophy of the religious
8 group.

9 (c) Restrict directly the freedom of hospitals to exercise management decisions
10 in complying with the price caps established in rules promulgated under s. 196.992
11 (1).

12 (d) Require the submission of unrelated financial data from religious groups
13 affiliated with a hospital.

14 **196.995 Enforcement.** (1) The commission may seek a judicial remedy to
15 enforce compliance with any requirement of this subchapter or with any rule or order
16 of the commission under this subchapter if it first notifies the hospital and provides
17 the hospital a reasonable time to correct a violation. The commission shall commence
18 any action under this subsection in the circuit court for the county in which the
19 hospital is located.

20 (2) Any court that finds an intentional failure to comply with a price cap
21 established in rules promulgated under s. 196.992 (1) may impose a forfeiture of up
22 to \$5,000. Each week that a hospital continues its intentional failure to comply with
23 the price cap constitutes a separate violation.

1 (3) Any court with jurisdiction over an action brought under this section may
2 adopt remedies that it finds necessary to enforce compliance. Remedies under this
3 section apply notwithstanding the existence or pursuit of any other remedy.

4 **196.996 Assessments.** (1) In this section:

5 (a) “Commercial insurance” includes a group or individual disability insurance
6 policy, as defined in s. 632.895 (1) (a), an employer’s self-insured health care plan
7 and worker’s compensation.

8 (b) “Deduction” means the portion of a charge that was incurred by a patient
9 but was not received from 3rd-party payers or governmental or private payment.
10 “Deduction” includes charity care but does not include bad debt.

11 (c) “Expense” means the cost of operation, including bad debt, that is charged
12 to a hospital during the hospital’s fiscal year.

13 (d) “Gross patient revenue” means the total charges to medicare, as defined in
14 s. 49.498 (1) (f), the medical assistance program, other public programs, commercial
15 insurance and other self-payers or nonpublic payers, that are generated by a
16 hospital from inpatient and outpatient services.

17 (e) “Net income” means total revenue and nonoperating gains in excess of
18 expenses and nonoperating losses.

19 (f) “Net patient revenue” means gross patient revenue minus deductions.

20 (g) “Nonoperating gains” means gifts, donations, endowments, return on
21 investments and any other gains that are not related to patient care.

22 (h) “Nonoperating losses” means state and federal corporate income and real
23 estate taxes and other losses that are not directly related to patient care or
24 hospital-related patient services.

1 (i) "Other public programs" include programs operated by or contracted for by
2 county departments under s. 46.215, 46.22 or 46.23 and the relief block grant
3 program under ch. 49.

4 (j) "Other revenue" means revenue from services, other than health care
5 services, provided to patients and revenue from sales to and services provided to
6 nonpatients.

7 (k) "Total revenue" means the sum of net patient revenue and other revenue.

8 (2) Beginning July 1, 2000, the commission shall, within 90 days after the
9 commencement of each fiscal year, estimate the total amount of revenue required for
10 administration by the commission of this subchapter during that fiscal year and
11 assess that estimated total amount to hospitals in proportion to each hospital's
12 respective net income during the hospital's most recently concluded entire fiscal
13 year. The commission may not assess under this subsection a hospital that has a net
14 income of 3% or less over the net income for the hospital's next most recently
15 concluded entire fiscal year. Each hospital that is assessed shall pay the assessment
16 by the December 1 following the assessment. The commission shall credit all
17 payments of assessments to the appropriation account under s. 20.155 (3) (gm)."

18 **11.** Page 1405, line 24: after that line insert:

19 "SECTION 3044ad. 632.75 (5) of the statutes is amended to read:

20 632.75 (5) PAYMENTS FOR HOSPITAL SERVICES. No insurer may reimburse a
21 hospital for patient health care costs at a rate exceeding the rate price cap
22 established under ch. 54, 1985 stats., or s. 146.60, 1983 stats., for care provided prior
23 to July 1, 1987 subch. II of ch. 196."

24 **12.** Page 1544, line 8: after that line insert:

1 “(2mg) HOSPITAL RATE SETTING.

2 (a) By December 1, 1999, the public service commission shall submit, under
3 section 16.515 of the statutes, a request to supplement the appropriation under
4 section 20.155 (3) (gm) of the statutes, as created by this act, that details a proposed
5 budget for activities of the public service commission under subchapter II of chapter
6 196 of the statutes, as created by this act.

7 (b) The public service commission shall submit proposed rules required under
8 section 196.992 (1) of the statutes, as created by this act, to the legislative council
9 staff for review under section 227.15 (1) of the statutes no later than July 1, 2000.
10 These rules may not take effect before January 1, 2001.

11 (c) By January 1, 2000, the public service commission shall do all of the
12 following:

13 1. Estimate the total amount of revenue required for fiscal year 1999–2000 for
14 administration by the commission of subchapter II of chapter 196 of the statutes, as
15 created by this act.

16 2. Assess the estimated total amount under subdivision 1. to hospitals, as
17 defined in section 150.01 (12) of the statutes in proportion to each hospital's
18 respective net income, as defined in section 196.996 (1) (e) of the statutes, as created
19 by this act, during the hospital's most recently concluded entire fiscal year, except
20 that the public service commission may not assess a hospital that has a net income
21 of 3% or less over the net income for the hospital's next most recently concluded entire
22 fiscal year.

23 3. Credit all payments of assessments to the appropriation under section
24 20.155 (3) (gm) of the statutes, as created by this act.

1 (d) Every hospital that is assessed under paragraph (c) 2. shall, by April 1,
2 2000, pay the entire amount assessed the hospital.”

3 **13.** Page 1618, line 8: after that line insert:
4 “(2m) HOSPITAL RATE SETTING. The repeal of section 20.155 (3) (a) of the statutes
5 takes effect on January 1, 2001.”

6 (END)

3

SDC:.....Walter - #4012, Hospital rate setting by PSC

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 115, line 4: after that line insert:

3 “(3) HOSPITAL RATE PRICE CAPS

4 (gm) Assessments PR A -0- -0-”.

5 **2.** Page 293, line 4: after that line insert:

6 “SECTION 226dg. 20.155 (3) of the statutes is created to read:

7 20.155 (3) HOSPITAL RATE PRICE CAPS. (gm) *Assessments*. The amounts in the
8 schedule for hospital rate price cap activities of the commission under ch. 196. All
9 moneys received under s. 196.996 (2) and 1999 Wisconsin Act (this act), section
10 9141 (2mg) (d), shall be credited to this appropriation.”.

1 **3.** Page 706, line 19: after that line insert:

2 “**SECTION 1375m.** 49.45 (3) (e) 11. of the statutes is created to read:

3 49.45 (3) (e) 11. Notwithstanding subsds. 1. to 10., the department may
4 authorize the public service commission to determine price caps for reimbursement
5 rates under subch. II of ch. 196.”.

6 **4.** Page 728, line 9: after that line insert:

7 “**SECTION 1443m.** 49.49 (2) (c) 1. of the statutes is amended to read:

8 49.49 (2) (c) 1. A discount or other reduction in price obtained by a provider of
9 services or other entity under chs. 46 to 51 and 58 and subch. II of ch. 196 if the
10 reduction in price is properly disclosed and appropriately reflected in the costs
11 claimed or charges made by the provider or entity under a medical assistance
12 program.”.

13 **5.** Page 739, line 8: after that line insert:

14 “**SECTION 1483m.** 49.74 of the statutes is amended to read:

15 **49.74** (title) **Institutions subject to ~~chapter~~ chapters 150 and 196.** Any
16 institution created under the authority of s. ~~49.70, 49.71, 49.72~~ or 49.73 is subject to
17 ch. 150 and subch. II of ch. 196.”.

18 **6.** Page 750, line 3: after that line insert:

19 “**SECTION 1524m.** 50.36 (1) of the statutes is amended to read:

20 **50.36 (1)** The department shall promulgate, adopt, amend and enforce such
21 rules and standards for hospitals for the construction, maintenance and operation
22 of the hospitals deemed necessary to provide safe and adequate care and treatment
23 of the patients in the hospitals and to protect the health and safety of the patients
24 and employes; and nothing contained herein shall pertain to a person licensed to

1 practice medicine and surgery or dentistry. The building codes and construction
2 standards of the department of commerce shall apply to all hospitals and the
3 department may adopt additional construction codes and standards for hospitals,
4 provided they are not lower than the requirements of the department of commerce.
5 Except for the construction codes and standards of the department of commerce and
6 except as provided in s. 50.39 (3) and subch. II of ch. 196, the department shall be the
7 sole agency to adopt and enforce rules and standards pertaining to hospitals.”.

8 **7.** Page 1155, line 13: after that line insert:

9 “SECTION 2246m. 146.37 (1g) of the statutes is amended to read:

10 146.37 (1g) Except as provided in s. 153.85, no person acting in good faith who
11 participates in the review or evaluation of the services of health care providers or
12 facilities or the charges for such services conducted in connection with any program
13 organized and operated to help improve the quality of health care, to avoid improper
14 utilization of the services of health care providers or facilities or to determine the
15 reasonable charges for such services, or who participates in the obtaining of health
16 care information under ch. 153, or who participates in hospital rate price cap
17 activities under subch. II of ch. 196, is liable for any civil damages as a result of any
18 act or omission by such person in the course of such review or evaluation. Acts and
19 omissions to which this subsection applies include, but are not limited to, acts or
20 omissions by peer review committees or hospital governing bodies in censuring,
21 reprimanding, limiting or revoking hospital staff privileges or notifying the medical
22 examining board or podiatrists affiliated credentialing board under s. 50.36 or taking
23 any other disciplinary action against a health care provider or facility and acts or

1 omissions by a medical director, as defined in s. 146.50 (1) (j), in reviewing the
2 performance of emergency medical technicians or ambulance service providers.”.

3 **8.** Page 1170, line 11: after that line insert:

4 “**SECTION 2279m.** 153.05 (4n) of the statutes is created to read:

5 153.05 (4n) The office shall provide the public service commission with
6 information necessary for performance of duties of the public service commission
7 under subch. II of ch. 196 and as requested of the office by the public service
8 commission.”.

9 **9.** Page 1179, line 19: after that line insert:

10 “**SECTION 2309d.** Chapter 196 (title) of the statutes is amended to read:

11 **CHAPTER 196**

12 **REGULATION OF PUBLIC UTILITIES**

13 **SERVICE COMMISSION**

14 **SECTION 2309f.** Subchapter I (title) of chapter 196 [precedes 196.01] of the
15 statutes is created to read:

16 **CHAPTER 196**

17 **SUBCHAPTER I**

18 **REGULATION OF PUBLIC UTILITIES**

19 **SECTION 2309h.** 196.01 (intro.) of the statutes is amended to read:

20 **196.01 Definitions.** (intro.) As used in this ~~chapter~~ subchapter and ch. 197,
21 unless the context requires otherwise.”.

22 **10.** Page 1186, line 9: after that line insert:

23 “**SECTION 2337m.** Subchapter II of chapter 196 [precedes 196.991] of the
24 statutes is created to read:

1 for hospitals to notify the commission and patients of rates charged and any proposed
2 increases or decreases in rates. The rules shall also include requirements and
3 procedures for the commission to regularly review and, if necessary, revise the price
4 caps established in the rules promulgated under sub. (1).

5 (3) Rules promulgated under sub. (1) may include requirements and
6 procedures for each of the following:

7 (a) Exceptions from price caps for rural or teaching hospitals if the commission
8 determines that such hospitals are subject to special circumstances that warrant an
9 exception.

10 (b) A uniform system for hospitals to make reports to the commission if the
11 commission determines that such a system is necessary for the commission to carry
12 out its duties under this subchapter.

13 **196.993 Case mix measurements.** The commission may promulgate rules
14 establishing a system that defines rates as aggregate charges based on case mix
15 measurements if the commission submits its proposed system to the joint committee
16 on finance under s. 13.10, receives that committee's approval and holds a public
17 hearing prior to promulgating its rules. Such a system may not take effect prior to
18 January 1, 2001, shall be consistent with the standard under s. 196.992 (1) (a) and
19 shall ensure quality of care at a reasonable cost to patients.

20 **196.994 Commission prohibitions.** In carrying out its duties under this
21 subchapter, the commission may not do any of the following:

22 (a) Interfere directly in the personal or decision-making relationships between
23 a patient and the patient's physician.

24 (b) Restrict the freedom of patients to receive care at a hospital consistent with
25 their religious preferences or request a hospital that is affiliated with a religious

1 group to act in a manner contrary to the mission and philosophy of the religious
2 group.

3 (c) Restrict directly the freedom of hospitals to exercise management decisions
4 in complying with the price caps established in rules promulgated under s. 196.992
5 (1).

6 (d) Require the submission of unrelated financial data from religious groups
7 affiliated with a hospital.

8 **196.995 Enforcement.** (1) The commission may seek a judicial remedy to
9 enforce compliance with any requirement of this subchapter or with any rule or order
10 of the commission under this subchapter if it first notifies the hospital and provides
11 the hospital a reasonable time to correct a violation. The commission shall commence
12 any action under this subsection in the circuit court for the county in which the
13 hospital is located.

14 (2) Any court that finds an intentional failure to comply with a price cap
15 established in rules promulgated under s. 196.992 (1) may impose a forfeiture of up
16 to \$5,000. Each week that a hospital continues its intentional failure to comply with
17 the price cap constitutes a separate violation.

18 (3) Any court with jurisdiction over an action brought under this section may
19 adopt remedies that it finds necessary to enforce compliance. Remedies under this
20 section apply notwithstanding the existence or pursuit of any other remedy.

21 **196.996 Assessments.** (1) In this section:

22 (a) “Commercial insurance” includes a group or individual disability insurance
23 policy, as defined in s. 632.895 (1) (a), an employer’s self-insured health care plan
24 and worker’s compensation.

1 (b) “Deduction” means the portion of a charge that was incurred by a patient
2 but was not received from 3rd-party payers or governmental or private payment.

3 “Deduction” includes charity care but does not include bad debt.

4 (c) “Expense” means the cost of operation, including bad debt, that is charged
5 to a hospital during the hospital’s fiscal year.

6 (d) “Gross patient revenue” means the total charges to medicare, as defined in
7 s. 49.498 (1) (f), the medical assistance program, other public programs, commercial
8 insurance and other self-payers or nonpublic payers, that are generated by a
9 hospital from inpatient and outpatient services.

10 (e) “Net income” means total revenue and nonoperating gains in excess of
11 expenses and nonoperating losses.

12 (f) “Net patient revenue” means gross patient revenue minus deductions.

13 (g) “Nonoperating gains” means gifts, donations, endowments, return on
14 investments and any other gains that are not related to patient care.

15 (h) “Nonoperating losses” means state and federal corporate income and real
16 estate taxes and other losses that are not directly related to patient care or
17 hospital-related patient services.

18 (i) “Other public programs” include programs operated by or contracted for by
19 county departments under s. 46.215, 46.22 or 46.23 and the relief block grant
20 program under ch. 49.

21 (j) “Other revenue” means revenue from services, other than health care
22 services, provided to patients and revenue from sales to and services provided to
23 nonpatients.

24 (k) “Total revenue” means the sum of net patient revenue and other revenue.

1 (2) Beginning July 1, 2000, the commission shall, within 90 days after the
2 commencement of each fiscal year, estimate the total amount of revenue required for
3 administration by the commission of this subchapter during that fiscal year and
4 assess that estimated total amount to hospitals in proportion to each hospital's
5 respective net income during the hospital's most recently concluded entire fiscal
6 year. The commission may not assess under this subsection a hospital that has a net
7 income of 3% or less over the net income for the hospital's next most recently
8 concluded entire fiscal year. Each hospital that is assessed shall pay the assessment
9 by the December 1 following the assessment. The commission shall credit all
10 payments of assessments to the appropriation account under s. 20.155 (3) (gm)."

11 **11.** Page 1405, line 24: after that line insert:

12 "SECTION 3044ad. 632.75 (5) of the statutes is amended to read:

13 632.75 (5) PAYMENTS FOR HOSPITAL SERVICES. No insurer may reimburse a
14 hospital for patient health care costs at a rate exceeding the rate price cap
15 established under ~~ch. 54, 1985 stats., or s. 146.60, 1983 stats., for care provided prior~~
16 ~~to July 1, 1987 subch. II of ch. 196.~~"

17 **12.** Page 1544, line 8: after that line insert:

18 "(2mg) HOSPITAL RATE SETTING.

19 (a) By December 1, 1999, the public service commission shall submit, under
20 section 16.515 of the statutes, a request to supplement the appropriation under
21 section 20.155 (3) (gm) of the statutes, as created by this act, that details a proposed
22 budget for activities of the public service commission under subchapter II of chapter
23 196 of the statutes, as created by this act.

1 (b) The public service commission shall submit proposed rules required under
2 section 196.992 (1) of the statutes, as created by this act, to the legislative council
3 staff for review under section 227.15 (1) of the statutes no later than July 1, 2000.

4 These rules may not take effect before January 1, 2001.

5 (c) By ~~January 1, 2000~~, the public service commission shall do all of the
6 following: December 1, 1999 ✓

7 1. Estimate the total amount of revenue required for fiscal year 1999–2000 for
8 administration by the commission of subchapter II of chapter 196 of the statutes, as
9 created by this act.

10 2. Assess the estimated total amount under subdivision 1. to hospitals, as
11 defined in section 150.01 (12) of the statutes in proportion to each hospital's
12 respective net income, as defined in section 196.996 (1) (e) of the statutes, as created
13 by this act, during the hospital's most recently concluded entire fiscal year, except
14 that the public service commission may not assess a hospital that has a net income
15 of 3% or less over the net income for the hospital's next most recently concluded entire
16 fiscal year.

17 3. Credit all payments of assessments to the appropriation under section
18 20.155 (3) (gm) of the statutes, as created by this act.

19 (d) Every hospital that is assessed under paragraph (c) 2. shall, by ~~January 1,~~
20 2000, pay the entire amount assessed the hospital." ✓

21 (END)

February 1,



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0830/3
TAY/MDK/RPN:wlj&jlg:kjf

SDC:.....Walter - #4012, Hospital rate setting by PSC

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 115, line 4: after that line insert:

3 “(3) HOSPITAL RATE PRICE CAPS

4 (gm) Assessments PR A -0- -0-”.

5 2. Page 293, line 4: after that line insert:

6 “SECTION 226dg. 20.155 (3) of the statutes is created to read:

7 20.155 (3) HOSPITAL RATE PRICE CAPS. (gm) *Assessments*. The amounts in the
8 schedule for hospital rate price cap activities of the commission under ch. 196. All
9 moneys received under s. 196.996 (2) and 1999 Wisconsin Act ... (this act), section
10 9141 (2mg) (d), shall be credited to this appropriation.”.

1 **3.** Page 706, line 19: after that line insert:

2 “**SECTION 1375m.** 49.45 (3) (e) 11. of the statutes is created to read:

3 49.45 (3) (e) 11. Notwithstanding subds. 1. to 10., the department may
4 authorize the public service commission to determine price caps for reimbursement
5 rates under subch. II of ch. 196.”.

6 **4.** Page 728, line 9: after that line insert:

7 “**SECTION 1443m.** 49.49 (2) (c) 1. of the statutes is amended to read:

8 49.49 (2) (c) 1. A discount or other reduction in price obtained by a provider of
9 services or other entity under chs. 46 to 51 and 58 and subch. II of ch. 196 if the
10 reduction in price is properly disclosed and appropriately reflected in the costs
11 claimed or charges made by the provider or entity under a medical assistance
12 program.”.

13 **5.** Page 739, line 8: after that line insert:

14 “**SECTION 1483m.** 49.74 of the statutes is amended to read:

15 **49.74** (title) **Institutions subject to ~~chapter~~ chapters 150 and 196.** Any
16 institution created under the authority of s. ~~49.70, 49.71, 49.72~~ or 49.73 is subject to
17 ch. 150 and subch. II of ch. 196.”.

18 **6.** Page 750, line 3: after that line insert:

19 “**SECTION 1524m.** 50.36 (1) of the statutes is amended to read:

20 **50.36 (1)** The department shall promulgate, adopt, amend and enforce such
21 rules and standards for hospitals for the construction, maintenance and operation
22 of the hospitals deemed necessary to provide safe and adequate care and treatment
23 of the patients in the hospitals and to protect the health and safety of the patients
24 and employes; and nothing contained herein shall pertain to a person licensed to

1 practice medicine and surgery or dentistry. The building codes and construction
2 standards of the department of commerce shall apply to all hospitals and the
3 department may adopt additional construction codes and standards for hospitals,
4 provided they are not lower than the requirements of the department of commerce.
5 Except for the construction codes and standards of the department of commerce and
6 except as provided in s. 50.39 (3) and subch. II of ch. 196, the department shall be the
7 sole agency to adopt and enforce rules and standards pertaining to hospitals.”.

8 **7.** Page 1155, line 13: after that line insert:

9 “**SECTION 2246m.** 146.37 (1g) of the statutes is amended to read:

10 146.37 (1g) Except as provided in s. 153.85, no person acting in good faith who
11 participates in the review or evaluation of the services of health care providers or
12 facilities or the charges for such services conducted in connection with any program
13 organized and operated to help improve the quality of health care, to avoid improper
14 utilization of the services of health care providers or facilities or to determine the
15 reasonable charges for such services, or who participates in the obtaining of health
16 care information under ch. 153, or who participates in hospital rate price cap
17 activities under subch. II of ch. 196, is liable for any civil damages as a result of any
18 act or omission by such person in the course of such review or evaluation. Acts and
19 omissions to which this subsection applies include, but are not limited to, acts or
20 omissions by peer review committees or hospital governing bodies in censuring,
21 reprimanding, limiting or revoking hospital staff privileges or notifying the medical
22 examining board or podiatrists affiliated credentialing board under s. 50.36 or taking
23 any other disciplinary action against a health care provider or facility and acts or

1 omissions by a medical director, as defined in s. 146.50 (1) (j), in reviewing the
2 performance of emergency medical technicians or ambulance service providers.”.

3 **8.** Page 1170, line 11: after that line insert:

4 “SECTION 2279m. 153.05 (4n) of the statutes is created to read:

5 153.05 (4n) The office shall provide the public service commission with
6 information necessary for performance of duties of the public service commission
7 under subch. II of ch. 196 and as requested of the office by the public service
8 commission.”.

9 **9.** Page 1179, line 19: after that line insert:

10 “SECTION 2309d. Chapter 196 (title) of the statutes is amended to read:

11 **CHAPTER 196**

12 **REGULATION OF PUBLIC UTILITIES**

13 **SERVICE COMMISSION**

14 **SECTION 2309f.** Subchapter I (title) of chapter 196 [precedes 196.01] of the
15 statutes is created to read:

16 **CHAPTER 196**

17 **SUBCHAPTER I**

18 **REGULATION OF PUBLIC UTILITIES**

19 **SECTION 2309h.** 196.01 (intro.) of the statutes is amended to read:

20 **196.01 Definitions.** (intro.) As used in this ~~chapter~~ subchapter and ch. 197,
21 unless the context requires otherwise:”.

22 **10.** Page 1186, line 9: after that line insert:

23 “SECTION 2337m. Subchapter II of chapter 196 [precedes 196.991] of the

24 statutes is created to read:

1 for hospitals to notify the commission and patients of rates charged and any proposed
2 increases or decreases in rates. The rules shall also include requirements and
3 procedures for the commission to regularly review and, if necessary, revise the price
4 caps established in the rules promulgated under sub. (1).

5 (3) Rules promulgated under sub. (1) may include requirements and
6 procedures for each of the following:

7 (a) Exceptions from price caps for rural or teaching hospitals if the commission
8 determines that such hospitals are subject to special circumstances that warrant an
9 exception.

10 (b) A uniform system for hospitals to make reports to the commission if the
11 commission determines that such a system is necessary for the commission to carry
12 out its duties under this subchapter.

13 **196.993 Case mix measurements.** The commission may promulgate rules
14 establishing a system that defines rates as aggregate charges based on case mix
15 measurements if the commission submits its proposed system to the joint committee
16 on finance under s. 13.10, receives that committee's approval and holds a public
17 hearing prior to promulgating its rules. Such a system may not take effect prior to
18 January 1, 2001, shall be consistent with the standard under s. 196.992 (1) (a) and
19 shall ensure quality of care at a reasonable cost to patients.

20 **196.994 Commission prohibitions.** In carrying out its duties under this
21 subchapter, the commission may not do any of the following:

22 (a) Interfere directly in the personal or decision-making relationships between
23 a patient and the patient's physician.

24 (b) Restrict the freedom of patients to receive care at a hospital consistent with
25 their religious preferences or request a hospital that is affiliated with a religious

1 group to act in a manner contrary to the mission and philosophy of the religious
2 group.

3 (c) Restrict directly the freedom of hospitals to exercise management decisions
4 in complying with the price caps established in rules promulgated under s. 196.992
5 (1).

6 (d) Require the submission of unrelated financial data from religious groups
7 affiliated with a hospital.

8 **196.995 Enforcement.** (1) The commission may seek a judicial remedy to
9 enforce compliance with any requirement of this subchapter or with any rule or order
10 of the commission under this subchapter if it first notifies the hospital and provides
11 the hospital a reasonable time to correct a violation. The commission shall commence
12 any action under this subsection in the circuit court for the county in which the
13 hospital is located.

14 (2) Any court that finds an intentional failure to comply with a price cap
15 established in rules promulgated under s. 196.992 (1) may impose a forfeiture of up
16 to \$5,000. Each week that a hospital continues its intentional failure to comply with
17 the price cap constitutes a separate violation.

18 (3) Any court with jurisdiction over an action brought under this section may
19 adopt remedies that it finds necessary to enforce compliance. Remedies under this
20 section apply notwithstanding the existence or pursuit of any other remedy.

21 **196.996 Assessments.** (1) In this section:

22 (a) “Commercial insurance” includes a group or individual disability insurance
23 policy, as defined in s. 632.895 (1) (a), an employer’s self-insured health care plan
24 and worker’s compensation.

1 (b) “Deduction” means the portion of a charge that was incurred by a patient
2 but was not received from 3rd-party payers or governmental or private payment.

3 “Deduction” includes charity care but does not include bad debt.

4 (c) “Expense” means the cost of operation, including bad debt, that is charged
5 to a hospital during the hospital’s fiscal year.

6 (d) “Gross patient revenue” means the total charges to medicare, as defined in
7 s. 49.498 (1) (f), the medical assistance program, other public programs, commercial
8 insurance and other self-payers or nonpublic payers, that are generated by a
9 hospital from inpatient and outpatient services.

10 (e) “Net income” means total revenue and nonoperating gains in excess of
11 expenses and nonoperating losses.

12 (f) “Net patient revenue” means gross patient revenue minus deductions.

13 (g) “Nonoperating gains” means gifts, donations, endowments, return on
14 investments and any other gains that are not related to patient care.

15 (h) “Nonoperating losses” means state and federal corporate income and real
16 estate taxes and other losses that are not directly related to patient care or
17 hospital-related patient services.

18 (i) “Other public programs” include programs operated by or contracted for by
19 county departments under s. 46.215, 46.22 or 46.23 and the relief block grant
20 program under ch. 49.

21 (j) “Other revenue” means revenue from services, other than health care
22 services, provided to patients and revenue from sales to and services provided to
23 nonpatients.

24 (k) “Total revenue” means the sum of net patient revenue and other revenue.

1 (2) Beginning July 1, 2000, the commission shall, within 90 days after the
2 commencement of each fiscal year, estimate the total amount of revenue required for
3 administration by the commission of this subchapter during that fiscal year and
4 assess that estimated total amount to hospitals in proportion to each hospital's
5 respective net income during the hospital's most recently concluded entire fiscal
6 year. The commission may not assess under this subsection a hospital that has a net
7 income of 3% or less over the net income for the hospital's next most recently
8 concluded entire fiscal year. Each hospital that is assessed shall pay the assessment
9 by the December 1 following the assessment. The commission shall credit all
10 payments of assessments to the appropriation account under s. 20.155 (3) (gm)."

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23 196 of the statutes, as created by this act.

1 (b) The public service commission shall submit proposed rules required under
2 section 196.992 (1) of the statutes, as created by this act, to the legislative council
3 staff for review under section 227.15 (1) of the statutes no later than July 1, 2000.
4 These rules may not take effect before January 1, 2001.

5 (c) By December 1, 1999, the public service commission shall do all of the
6 following:

7 1. Estimate the total amount of revenue required for fiscal year 1999–2000 for
8 administration by the commission of subchapter II of chapter 196 of the statutes, as
9 created by this act.

10 2. Assess the estimated total amount under subdivision 1. to hospitals, as
11 defined in section 150.01 (12) of the statutes in proportion to each hospital's
12 respective net income, as defined in section 196.996 (1) (e) of the statutes, as created
13 by this act, during the hospital's most recently concluded entire fiscal year, except
14 that the public service commission may not assess a hospital that has a net income
15 of 3% or less over the net income for the hospital's next most recently concluded entire
16 fiscal year.

17 3. Credit all payments of assessments to the appropriation under section
18 20.155 (3) (gm) of the statutes, as created by this act.

19 (d) Every hospital that is assessed under paragraph (c) 2. shall, by February
20 1, 2000, pay the entire amount assessed the hospital.”

21 (END)