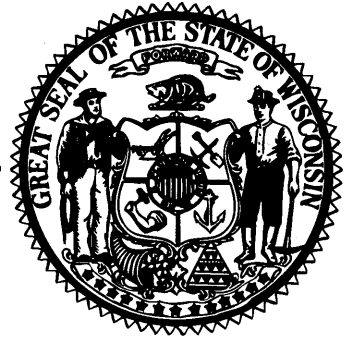


**FRED A. RISSER**  
President  
Wisconsin State Senate

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Room 411 South, 1:30 p.m.  
February 9, 2000

Senate Committee on Health, Utilities, Veterans and Military Affairs

Senate Bill 313 relates to providing state agency status for liability insurance coverage for certain psychiatrists who provide services under certain county contracts.

Senate Bill 313 would designate certain psychiatrists as agents of the Department of Health and Family Services, entitling them to liability coverage under the state's self-insured risk management program and representation by the Department of Justice in any legal action arising from psychiatric services covered under the bill.

This bill is necessary because many times psychiatrists are available on a limited, part-time basis to help fill counseling gaps in county institutions. However, because of the cost of purchasing medical malpractice insurance for work with a few clients, on a limited basis, they are reluctant to give their time. Many of these practitioners are retired, and would like temporary work, or would be available to fill in for psychiatrists on vacation or leave.

This bill would simply provide those psychiatrists who work within county institutions, or contract with counties to be covered for liability in the same manner as state agents of the Department of Health and Family Services. That coverage is limited to \$250,000.

This limited coverage is good public policy. And the valuable contribution of psychiatrists within these institutions will more than compensate for the minimal cost of the coverage.

The fiscal effect of this measure is negligible (under \$200,000 annually), and largely covered by program revenue.

Last Session this measure was recommended for passage by this committee with a vote of 5-1. It was then passed by the Senate on a vote of 28-4. It has bipartisan support and is noncontroversial. Your support would be appreciated.

# WAUKESHA COUNTY



515 West Moreland Boulevard  
Waukesha, Wisconsin 53188-2428

County Board Office

Phone: (414) 548-7002  
Fax: (414) 548-7005

February 9, 2000

TO: Senator Judy Robson, Chair  
Members of the Senate Committee on Human Services

FR: Dave Krahn  
Legislative Policy Advisor

RE: **Senate Bill 313 - State Agent Status for Psychiatrists under Certain County Contracts**

This legislation (introduced last session - it was approved by the senate on a vote of 28-4) is before you again today in order to deal with numerous situations around the state where retired psychiatrists have been unable to assist counties based on the high cost of private malpractice insurance. Employing contract psychiatrists on a part-time basis in our mental health center has been problematic for this very reason.

SB 313 paves the way for counties to enhance the delivery of much needed community psychiatry by ensuring that part-time psychiatrists working for counties will be able to tap into the state's liability insurance.

At a time when mental health is rightfully in the public spotlight due to efforts here in Wisconsin, and at the federal level, to offer health insurance benefits to those afflicted with mental diseases, we have an opportunity to make a difference that counts. Approving SB 313 moves Wisconsin progressively ahead in the effort to ensure adequate mental health delivery systems are in place to help make Wisconsin a better, more productive place to live.

Waukesha County urges you to approve SB 313.

# *Wisconsin Psychiatric Association*

A District Branch of The American Psychiatric Association

Senate Committee on Health, Utilities, Veterans and Military Affairs  
February 9, 2000

Testimony by  
Ronald J. Diamond, MD  
University of Wisconsin Psychiatric Research Institute and Clinics

Thank you Senator Moen and Health Committee members for the opportunity to submit testimony in support of SB 313.

As you are probably aware, there is a significant problem in getting a sufficient number of psychiatrists to work in public sector agencies in Wisconsin, especially in rural areas. Many Community Mental Health Centers (CMHCs) in Wisconsin find themselves without adequate psychiatric coverage, while others are able to piece coverage together using many part-time psychiatrists working at a very high hourly rate. This has led to inadequate health care for many citizens and extra costs for many county mental health systems.

Providing state sponsored liability protection is one inexpensive way to increase the potential pool of psychiatrists wanting to work in the public sector. Many psychiatrists working at one of the State Institutes or at one of the Veterans Hospitals might be interested in working part-time in other parts of the public sector, except for the burden of carrying professional liability insurance for a what might be a day a week of work. Similarly, some retired psychiatrists have indicated that they would enjoy working for a CMHC one day per week, or to help out with vacation coverage or during overload periods, except for the financial burden of malpractice insurance. Other psychiatrists who currently have a part-time private practice would find practice in the public sector much more attractive if they did not have to purchase their own liability coverage. Not needing to buy private malpractice coverage would be an incentive for those people now working part-time in the public sector and part-time in the private sector to work entirely in the public sector, if this would allow them to give up their own malpractice coverage. Finally, it would make it attractive for psychiatrists who want to work in the public sector to move to Wisconsin.

I expect that the cost of the state providing such liability coverage will be quite small. It is difficult to estimate exactly, but I think this proposal would apply to a relatively small number of psychiatrists, probably around thirty and certainly fewer than fifty (this does not include Milwaukee), depending on the number who end up providing small amounts of part-time work around the state. I am not aware of any psychiatrist working in the community part of the mental health system who has been successfully sued as part of their public sector work during the past ten years. There may have been such suits, but if they were frequent or were for large amounts, I believe I and other public sector psychiatrists would have heard about them. It seems that public patients rarely sue, that some of the most common causes of suits (sexual impropriety, etc.) are much less of an issue in the public sector, and there is more group consultation, etc., all of which decreases law suits.

If there is concern about the potential cost, it might be worth including a provision to review the record of successful suits. I am convinced that experience will bear out the low cost of the coverage.

Thank you again for holding this hearing. We appreciate the strong support this committee gave this bill last session and hope you will be able to act quickly in support of SB 313.



**STATE BAR  
of WISCONSIN**

5302 Eastpark Blvd.  
P.O. Box 7158  
Madison, WI 53707-7158

**MEMORANDUM**

**To:** Senate Health, Utilities, Veterans and Military Affairs Committee  
Members

**From:** Atty. Jim Fergal, State Bar of Wisconsin Litigation Law Section Chair  
Cory Mason, Government Relations Coordinator

**Date:** February 9, 2000

**Re:** SB313—state agent status for certain psychiatrists who provide services  
under certain county contracts.

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**The Litigation Law Section of the State Bar of Wisconsin opposes SB313, which limits liability for psychiatrists to \$250,000 under certain county contracts.**

The Section feels that limiting liability of psychiatrists could unnecessarily put the public at risk with no recourse.

If a psychiatrist incorrectly makes a diagnosis, inappropriately discharges a patient, suggests the wrong treatment, or any number of potentially harmful actions, the public's ability to respond within the legal system will be greatly diminished if not eliminated.

If the state wants to hire psychiatrists, they should do so outright. In addition, the Section feels that those psychiatrists who work for the state should have the same privileges as well as the same responsibilities as those who practice in the private sector.

*For more information on the Litigation Section's position on this bill, please feel free to contact Atty. Jim Fergal at 414/271-0900 or Cory Mason, the State Bar of Wisconsin Government Relation Coordinator, at 1-800/444-9404 x6128 or email at 'cmason@wisbar.org'.*

