

2003-04 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Senate Committee on
Health, Children,
Families, Aging and
Long Term Care
(SC-HCFALTC)

Sample:

Record of Comm. Proceedings ... RCP

- 03hrAC-EdR_RCP_pt01a
- 03hrAC-EdR_RCP_pt01b
- 03hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ 03hr_ab0560_pt03

➤ Miscellaneous ... Misc

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **



January 26, 2004

The Honorable Senator Ted Kanavas
Room 20 South, State Capitol
Madison, WI 53707-7882

Dear Senator Kanavas:

On behalf of Dean Health System, we would like to explain our opposition to Assembly Bill 560 and Senate Bill 276, relating to the use of federal registration numbers required for prescribers of controlled substances.

These companion bills sound simple and their goals are admirable. AB 560/SB 276 prohibit any person from requiring that a practitioner include his or her Drug Enforcement Agency (DEA) number on a prescription for a drug or device that is not a controlled substance. It is our understanding that some believe this number is being used to target marketing materials for various pharmaceuticals.

Even if this is the case, this legislation would not address our situation. Why not? The answer is simple: because we use the DEA number for internal quality, cost management and claims processing purposes only. We do NOT distribute this information externally nor do we use it for marketing purposes.

The DEA number is a natural tracking mechanism to measure prescribing patterns, credential physicians and efficiently facilitate claims processing. It allows us to determine if physicians are prescribing drugs appropriately, from both treatment and cost perspectives. We use the DEA number for disease management programs to ensure that patients with chronic illness are receiving the medication they need. Without the DEA number, we would lose this valuable tool and be forced to incur significant new expenses to develop a new system. This completely contradicts our efforts to achieve cost savings and to improve quality that patients, employers and the Legislature are demanding.

Additionally, this legislation anticipates federal action related to HIPAA (Health Insurance Portability and Accountability Act). While HIPAA will establish unique provider identifiers, it is unclear what restrictions will be placed on this new number. Moreover, there has been no information indicating that the DEA number will simply wither away or be further restricted in its use. It is premature for the State to act regarding the DEA numbers before the federal government establishes its policies. This is literally years away.

A small amendment (attached) allowing our use of the DEA number for internal purposes only would resolve this issue. Again, we are not distributing this information and in fact have incentives to prevent such release.

Thank you for your consideration. If you would like additional information, please contact Michael Heifetz, our Director of Governmental Affairs, at (608) 250-1225.

Sincerely,

Mark Kaufman, MD
Medical Director, Dean Health Plan

Donald C. Logan, MD
Chief Medical Officer

Cady, Dean

From: Tom Engels [tome@pswi.org]
Sent: Monday, February 02, 2004 11:39 AM
To: 'Cady, Dean'
Subject: RE: AB 560 - amendment

Thanks Dean, I am in the process of drafting a memo to the Assembly with PSW's support for the amendment and bill. I appreciate Representative Vukmir's willingness to address our concern.

Tom Engels
Vice President of Public Affairs
Pharmacy Society of Wisconsin
(608) 827-9200 (office)
(608) 827-9292 (fax)
(608) 576-2662 (cell)
tome@pswi.org

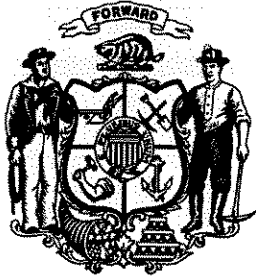
-----Original Message-----

From: Cady, Dean [mailto:Dean.Cady@legis.state.wi.us]
Sent: Monday, February 02, 2004 11:33 AM
To: 'tome@pswi.org'
Subject: AB 560 - amendment

Good morning Tom. As we discussed, attached please find a pdf of the amendment Leah plans on offering on the floor that would move the initial applicability date to March 2008. And, that would be cool if you circulated that memo - would it be possible to Email Leah a copy?

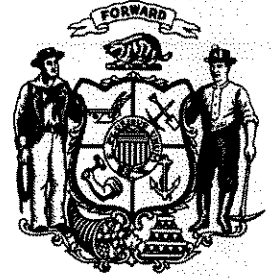
thankx again Tom.
cheers,
deano

<<2062>>



State of Wisconsin

ASSEMBLY CALENDAR



Tuesday, February 3, 2004

1. Call of the Roll.
2. Introduction, first reading and reference of proposals.
3. Committee reports and subsequent reference of proposals.
4. Messages from the senate, and other communications.
5. Consideration of conference committee reports and vetoes.
6. Consideration of senate action on proposals approved by the assembly.

Assembly Bill 519

Relating to: the feeding of deer and elk.

By Representatives Gunderson, M. Williams, Albers, Bies, Gronemus, Grothman, Krawczyk, Musser, Nass, Olsen, Pettis, Seratti, Sherman and J. Wood; cosponsored by Senators Welch, Brown, Decker and Lazich.

Received from Senate amended and concurred in as amended (Senate amendment 1, Senate amendment 2 and Senate amendment 3 adopted). Placed on calendar 2-3-2004 by committee on Rules.

7. Making and consideration of motions for reconsideration of passage, indefinite postponement, concurrence, or nonconcurrence.
8. Consideration of resolutions.

Senate Joint Resolution 49

Relating to: the life and patriotic service of Christopher Glenn Mueller.

By Senators Kanavas, Lazich, Darling, Reynolds, Carpenter, S. Fitzgerald, Zien, Welch, Brown and A. Lasee; cosponsored by Representatives Nischke, Turner, Lothian, LeMahieu, Ainsworth, McCormick, Jeskewitz, Ladwig, M. Lehman, Jensen, Gunderson, Owens, Plouff, Van Roy, Vrakas and Musser.

Placed on calendar 2-3-2004 by committee on Rules.

Senate Joint Resolution 53

Relating to: commending the life and public service of Officer Richard A. Meyer.

By Senators Ellis, Zien, Brown, Darling, Kanavas, Hansen, Schultz, S. Fitzgerald, A. Lasee, Kedzie, Lassa, Stepp, Roessler and Decker; cosponsored by Representatives Kaufert, McCormick, Olsen, LeMahieu, Krawczyk, Jeskewitz, Underheim, Vruwink, Bies, Van Roy, Lothian, Boyle, Krug, Ziegelbauer, Molepske, Musser, Ladwig, M. Lehman, Suder, Taylor, Miller, Gunderson, Weber, Plouff and Owens.

Placed on calendar 2-3-2004 by committee on Rules.

9. Third reading of assembly proposals.

QUESTION: Having been read three times, shall the proposal be passed?

10. Third reading of senate proposals.

QUESTION: Having been read three times, shall the proposal be concurred in?

11. Second reading and amendment of assembly proposals.

QUESTION: Shall the proposal be ordered engrossed and read a third time?

Assembly Bill 474

Relating to: notice for child abuse, vulnerable adult, and harassment injunctions.

By Representatives Pettis, Hahn, Albers, Van Roy, Coggs, Hundertmark, F. Lasee, Kreibich and Bies; cosponsored by Senator Lassa.

Report Assembly Amendment 1 adoption, Ayes 6, Noes 1, passage as amended recommended by committee on Children and Families, Ayes 7, Noes 0. Placed on calendar 2-3-2004 by committee on Rules.

Assembly Bill 533

Relating to: contracts with persons who take depositions.

By Representatives Gard, Ainsworth, LeMahieu, Towns, Albers, Rhoades, Freese, Hahn, Nischke, Petrowski, Kestell, Bies, Friske, F. Lasee, J. Wood, Huebsch, Hundertmark, Gunderson, Ott, Lothian, Montgomery, McCormick, Hebl, Ladwig, Cullen, Powers and Staskunas; cosponsored by Senators Leibham, Cowles, Lazich, George and Risser.

Report passage recommended by committee on Corrections and the Courts, Ayes 9, Noes 1. Placed on calendar 2-3-2004 by committee on Rules.

Assembly Bill 560

Relating to: use of federal registration numbers required for prescribers of controlled substances and providing a penalty.

By Representatives Vukmir, Underheim, Wasserman, Gielow, Schneider, Hahn, Van Roy, M. Lehman, Owens, Powers, Ainsworth, Huebsch, D. Meyer, Gundrum, Ward, Balow, Suder, Montgomery, Gottlieb, Nass, Cullen, Kreibich, Gronemus, Hundertmark, Petrowski, Pettis, Stone, Hines, Friske, Towns, Bies and Townsend; cosponsored by Senators Kanavas and Darling.

Report passage recommended by committee on Health, Ayes 14, Noes 1. Placed on calendar 2-3-2004 by committee on Rules.

Assembly Bill 608

Relating to: making changes to the comprehensive planning statute known as Smart Growth. (FE)

By Representatives Albers, Berceau, Freese, Gronemus, Gunderson, Hines, Jensen, M. Lehman, Musser, Pettis, Powers, Plouff and Olsen; cosponsored by Senators Stepp and Lazich.

Report passage recommended by committee on Property Rights and Land Management, Ayes 7, Noes 0. Placed on calendar 2-3-2004 by committee on Rules.

Assembly Bill 615

Relating to: operating certain vehicles with a prohibited blood alcohol concentration. (FE)

By Representatives Musser, Pettis, Schneider, M. Lehman, Hines, Boyle, F. Lasee, Hahn, Plouff, Grothman, Owens, Gronemus, Seratti and Van Roy; cosponsored by Senators A. Lasee, Breske and Decker.

Report Assembly Amendment 1 adoption, Ayes 11, Noes 4, passage as amended recommended by committee on Transportation, Ayes 11, Noes 4. Placed on calendar 2-3-2004 by committee on Rules.

Assembly Bill 673

Relating to: the deceptive or misleading use of the name of a state-chartered bank, savings bank, savings and loan association, or credit union, the deceptive or misleading use of a name that is deceptively similar to the name of a state-chartered bank, savings bank, savings and loan association, or credit union, and providing a penalty. (FE)

By Representatives Montgomery, Van Roy, Towns, Jeskewitz, Weber, Olsen, Richards, Johnsrud, Shilling, Huebsch, Molepske, Kreibich, Krawczyk, Hundertmark, Townsend, Hines, Cullen, Hahn, Suder, Freese, Ott and J. Lehman; cosponsored by Senators Schultz, Reynolds, S. Fitzgerald, Lazich, Erpenbach, Leibham, M. Meyer, Breske, Carpenter, Kedzie, Hansen and Cowles.

Report Assembly Amendment 1 adoption, Ayes 16, Noes 0, passage as amended recommended by committee on Financial Institutions, Ayes 16, Noes 0. Placed on calendar 2-3-2004 by committee on Rules.

Assembly Bill 678

Relating to: the reorganization, modernization, and modification of chapters 80 and 81.

By Joint Legislative Council.

Report Assembly Amendment 1 adoption, Ayes 16, Noes 0, Assembly Amendment 2 adoption, Ayes 16, Noes 0, Assembly Amendment 3 adoption, Ayes 16, Noes 0, Assembly Amendment 4 adoption, Ayes 16, Noes 0, Assembly Amendment 5 adoption, Ayes 16, Noes 0, passage as amended recommended by committee on Transportation, Ayes 16, Noes 0. Placed on calendar 2-3-2004 by committee on Rules.

Assembly Bill 681

Relating to: requirements for recommendations made by insurers and insurance intermediaries to senior consumers in annuity transactions; committees of the board of directors of domestic stock and mutual corporations; annuity minimum nonforfeiture amount; merger of town mutual and domestic mutual insurance corporation into a town mutual; the insurance security fund; other miscellaneous changes to the insurance provisions; and granting rule-making authority.

By Representative Ladwig; cosponsored by Senator Schultz, by request of Office of the Commissioner of Insurance.

Report passage recommended by committee on Insurance, Ayes 14, Noes 0. Placed on calendar 2-3-2004 by committee on Rules.

Assembly Bill 683

Relating to: the selection of one or more financial institutions to serve as vendors of the college savings program and granting rule-making authority. (FE)

By Representatives Montgomery, Stone, Ainsworth, Ladwig, Olsen, Schooff, Musser, Bies, Jensen, Hines, F. Lasee, Vrakas, Gottlieb, Weber, Petrowski, Ott, Seratti, Lothian,

Suder, Krawczyk, Loeffelholz, Zepnick and Taylor; cosponsored by Senators Reynolds, Robson, Stepp and Schultz.

Report Assembly Amendment 1 adoption, Ayes 15, Noes 0, passage as amended, recommended by committee on Financial Institutions, Ayes 15, Noes 0. Placed on calendar 2-3-2004 by committee on Rules.

Assembly Bill 755

Relating to: electronic transactions and records.

By Representatives Nischke, Ladwig, Olsen, Kerkman, McCormick, Ott, Owens, Jensen, Miller, Montgomery and Hahn; cosponsored by Senators Kanavas, Cowles, Risser, S. Fitzgerald and Roessler.

Report passage recommended by committee on Financial Institutions, Ayes 8, Noes 7. Placed on calendar 2-3-2004 by committee on Rules.

Assembly Bill 247

Relating to: chaperoning pupils on school-sponsored trips.

By Representatives Berceau, Underheim, Stone, Musser, J. Wood, Albers, Boyle, Morris, F. Lasee, J. Lehman, Weber and Miller; cosponsored by Senator Risser.

Report Assembly Amendment 1 adoption, Ayes 15, Noes 0, passage as amended recommended by committee on Education, Ayes 15, Noes 0. Placed on calendar 2-3-2004 by committee on Rules.

12. Second reading and amendment of senate proposals.

QUESTION: Shall the proposal be ordered to a third reading?

13. Motions may be offered.

14. Announcements.

15. Adjournment.

From: Tom Engels [tome@pswi.org]
Sent: Tuesday, February 03, 2004 9:15 AM
To: tome@pswi.org
Subject: Assembly Bill 560

To: Members of the Wisconsin Assembly
From: Tom Engels,
Re: Assembly Bill 560

Assembly Calendar has AB560 scheduled for floor debate on February 3, 2004. Rep. Leah Vukmir will be offering an amendment to Assembly 560 that the Pharmacy Society of Wisconsin (PSW) supports. The amendment will address a problem identified by PSW that left unchanged could pose unintended patient consumer hardship.

Throughout the discussion of AB 560, PSW has consistently urged legislators to wait for the final federal rules and regulations that require the use of unique identifier for health care providers. Those final rules and regulations enabling the process by which the "unique identifier" called National Provider Identifier (NPI) were published last week in the **Federal Register / Vol. 69, No. 15 / Friday, January 23, 2004 / Rules and Regulations**. These state in part:

- 1) **DEPARTMENT OF HEALTH AND HUMAN SERVICES Office of the Secretary 45 CFR Part 162 [CMS-0045-F] RIN 0938-AH99**
HIPAA Administrative Simplification: Standard Unique Health Identifier for Health Care Providers
AGENCY: Centers for Medicare & Medicaid Services, HHS. **ACTION:** Final rule.
Effective(emphasis added) DATE: May 23, 2005, except for the amendment to § 162.610, which is effective on January 23, 2004. Healthcare providers may apply for NPIs beginning on, but no earlier than, May 23, 2005.
- 2) **§ 162.404 Compliance dates of the implementation of the standard unique health identifier for health care providers.**
 - (a) *Health care providers.* A covered health care provider must comply with the implementation specifications in § 162.410 no later than May 23, 2007.
 - (b) *Health plans.* A health plan must comply with the implementation specifications in § 162.412 no later than one of the following dates:
 - (1) A health plan that is not a small health plan—May 23, 2007.
 - (2) A small health plan—May 23, 2008.
 - (c) *Health care clearinghouses.* A health care clearinghouse must comply with the implementation specifications in § 162.414 no later than May 23, 2007.

However, ASSEMBLY BILL 560 reads in part:

"SECTION 1. 146.87 of the statutes is created to read:

146.87 Federal registration numbers for prescribers of controlled substances. (1) In this section:

(2) Beginning on the first day of the 12th month beginning after the **effective(emphasis added)** date of a U.S. Department of Health and Human Services regulation under 42 USC1320d-2 (b)

that requires use of a unique identifier for health care providers, no person may do any of the following: ...

Because AB 560 links these two documents together we believe that it is necessary for the "effective date" to be changed.

Rep. Vukmir's amendment will change the bill to read: "Beginning on the first day on which small health plans are required to comply with a U.S. Department of Health and Human Services regulation under 42 USC..." Because the Federal rule became effective on January 23rd, 2004, the provisions of AB 560 would become effective on January 23rd, 2005. Wisconsin pharmacies will have to use a federally assigned identifier number which prescribers can not even apply for until May 23rd, 2005 nor small health plans need not comply with until May 23, 2008. Without a Federal NPI, pharmacies will not be able to file patient insurance claims and this will cause a consumer crisis to occur.

We urge the State Assembly to adopt Rep. Vukmir's amendment and to pass AB 560.

Tom Engels
Vice President of Public Affairs
Pharmacy Society of Wisconsin
(608) 827-9200 (office)
(608) 827-9292 (fax)
(608) 576-2662 (cell)
tome@pswi.org

John Straube
2nd of Feb
ASST
THURS

clean
up
Hearings
LEB

WNOZ
PSTTS
Krachok
FEB 05 2004

AB 560

LEAH VUKMIR

STATE REPRESENTATIVE

MEMORANDUM

DATE: February 5, 2004
TO: Senator Roessler, Chair
Committee on Health, Children, Families, Aging and Long Term Care
FROM: Representative Vukmir
14th Assembly District
RE: Assembly Bill 560 / Senate Bill 276

Chairman Roessler, I respectfully request that Assembly Bill 560 be referred to the Senate Committee on Committee on Health, Children, Families, Aging and Long Term Care.

Briefly, last fall on October 6th, 2003 I introduced AB 560, it was given an initial reading and referred to the Assembly Committee on Health. Specifically, this legislation concerns the "use of federal registration numbers required for prescribers of controlled substances;" it seeks to prohibit the current practice in the health industry of requiring certain medical professionals from disclosing their federal identification number for purposes that are inconsistent with federal law.

A public hearing was held, October 14th, 2003, and an executive session was held January 6th, 2004; the Bill was passed out of the Health Committee on a 14-1 vote, with no amendments formally introduced.

The bill, as passed in committee, became effective based on a time-frame established by federal HIPAA regulations which had not yet been published. The final regulations were published on January 23rd, 2004. I drafted an amendment (AA1) to clarify the effective date.

The bill and the amendment passed in the Assembly on a voice vote on February 3rd, 2004 and has been messaged to the Senate.

It is my hope that AB 560 can replace the Senate companion bill, SB 276 and be considered at the public hearing before your committee on February 12th.

I do appreciate your attention and the Committee's consideration regarding Assembly Bill 560. If you should have any questions or require further information please let me know.

cc:
Senator Mary Panzer, Majority Leader

Dr. Constituent - frustrating
De & wife soc. sec. #
- process claims
controlled subst
- Drop Henry Clark
- Dr. no claims
getting #

STATE CAPITOL
P.O. Box 8953 • MADISON, WISCONSIN 53708-8953
(608) 266-9180 • (888) 534-0014 • FAX: (608) 282-3614

Annex
notice

Made
Changes
to
prescription
numbers.

How HIPAA's
would be
used
3 yrs to
consider
All MA
Providers
Issued an
advis
Problems not
occurred
w/ MA
LPPA #
2-3 yr
Completed
Everyone Over
LPPA #



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2003 Assembly Bill 560	Assembly Amendment 1
<i>Memo published:</i> February 5, 2004	
<i>Contact:</i> Richard Sweet, Senior Staff Attorney (266-2982)	

Assembly Bill 560 prohibits certain activities with respect to a practitioner's federal Drug Enforcement Administration (DEA) number, which is used for purposes of prescribing, dispensing or taking other actions regarding controlled substances. Under current law, a practitioner is a person who is licensed to prescribe and administer drugs. The bill provides that no person may do any of the following:

- Require that a practitioner include his or her DEA number on a prescription order for a drug or device that is not a controlled substance.
- Disclose a practitioner's DEA number without the practitioner's consent for any purpose other than complying with or enforcing federal or state law related to controlled substances.
- Use a DEA number to identify or monitor the prescribing practices of a practitioner, except for the purpose of complying with or enforcing federal or state law related to controlled substances.

Under the bill, the above prohibitions apply beginning on the first day of the 12th month beginning after the effective date of a U.S. Department of Health and Human Services (DHHS) regulation under the Health Insurance Portability and Accountability Act (HIPAA) that requires use of a unique identifier for health care providers.

Assembly Amendment 1 states that the above prohibitions apply beginning on the first day on which small health plans are required to comply with a DHHS regulation under HIPAA that requires use of a unique identifier for health care providers. The final federal regulation on unique identifiers for health care providers has been published in the Federal Register and small health plans will be required to comply with that regulation by May 23, 2008. [Federal Register, Vol. 69, No. 15, p. 3434, January 23, 2004.] Therefore, under the amendment, the prohibitions in the bill will apply beginning on May 23, 2008.

Legislative History

Assembly Amendment 1 was introduced by Representative Leah Vukmir. On February 3, 2004, the Assembly adopted the amendment, and passed the bill as amended, both by voice votes.

RNS:rv:jal

History of Assembly Bill 560

ASSEMBLY BILL 560

LC Amendment Memo

An Act to create 146.87 of the statutes; relating to: use of federal registration numbers required for prescribers of controlled substances and providing a penalty.

2003

- 10-06. A. Introduced by Representatives Vukmir, Underheim, Wasserman, Gielow, Schneider, Hahn, Van Roy, M. Lehman, Owens, Powers, Ainsworth, Huebsch, D. Meyer, Gundrum, Ward, Balow, Suder, Montgomery, Gottlieb, Nass, Cullen, Kreibich, Gronemus, Hundertmark, Petrowski, Pettis, Stone, Hines, Friske, Towns, Bies and Townsend; cosponsored by Senators Kanavas and Darling.
- 10-06. A. Read first time and referred to committee on Health 420
- 10-14. A. Public hearing held.

2004

- 01-06. A. Executive action taken.
- 01-09. A. Report passage recommended by committee on Health, Ayes 14, Noes 1 599
- 01-09. A. Referred to committee on Rules 599
- 01-28. A. Placed on calendar 2-3-2004 by committee on Rules.
- 02-03. A. Read a second time 668
- 02-03. A. Assembly amendment 1 offered by Representative Vukmir 668
- 02-03. A. Assembly amendment 1 **adopted** 668
- 02-03. A. Ordered to a third reading 668
- 02-03. A. Rules suspended 669
- 02-03. A. Read a third time and passed 669
- 02-03. A. Ordered immediately messaged 669
- 02-04. S. Received from Assembly 597
- 02-04. S. Read first time and referred to committee on Health, Children, Families, Aging and Long Term Care 598

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2-10-04

HIRSP

Ladwig - Commerce self insured bill -

- Removes all consumer protections.
- No OCZ Oversight.
- Managed care law does not apply
- Exp. in other states - low prem. to start + then it sky rockets, consumer is then kicked it.
- Businesses are split on issue.

AB560

Dean H.C. Amendment to exempt disease mgmt.

Kennecus - if support is there - he'll let it go.

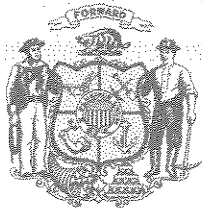
options delete (C) or add on exempt disease mgmt.

Schultz - is receptive

- not trying to kill bill.
 - worried about implementation not occurring as planned.
- enormous undertaking - took yrs to just get the rule out.

wait until after new system in place - but if need bill now, adopt amend. as safeguard.

Rebecca
Verifying



LEAH VUKMIR FEB 10 2004
STATE REPRESENTATIVE

MEMORANDUM

DATE: February 10, 2004

TO: Senator Roessler, Chair
Committee on Health, Children, Families, Aging and Long Term Care

FROM: Representative Vukmir
14th Assembly District

RE: **The objections cited by The Wisconsin Association of Health Plans and Dean Health Systems regarding AB 560.**

On February 3rd, the Wisconsin Association of Health Plans and Dean Health Systems submitted memoranda expressing their objections to AB 560. Neither organization testified at the public hearing before the Assembly's Committee on Health on October 14th, nor did they submit any written testimony.

In November, I arranged a meeting to address the concerns of Louie Schubert from the Wisconsin Association of Health Plans. I included Chairman Underheim and Legislative Council's Richard Sweet in the meeting so that we could address the concerns fairly and with clarity. The concerns, which are addressed in this memo, were heard and dismissed.

The lobbying efforts continued through the executive session of the Health Committee on January 6th. Rep. Gielow was the only member to vote against passage out of committee. He had been sufficiently persuaded by these arguments; however, he never removed his name as a co-sponsor and he brought no further objections to the caucus. In fact no one in the caucus raised any concerns or objections. The bill passed on a voice vote on January 29th.

What follows is a summary of the concerns raised by The Wisconsin Association of Health Plans and Dean Health Systems and my response to each:

Replacing the DEA number with a new identifier will require the complete reprogramming of systems at a substantial cost.

HIPAA requires all players in the health care industry to transition to the National Provider System (NPS). The NPS requires the use of a federally assigned National Provider Identifier (NPI) by May 23rd, 2008. The system provides very specific and detailed requirements for electronic record keeping, data processing and transmitting information.

The industry has anticipated this since HIPAA was enacted in 1996. The form of the NPI has been known for years and in fact has already been implemented as required by federal law for all transactions involving medical assistance programs. Our own DHFS made this transition in October in order to comply with HIPAA.

STATE CAPITOL

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AB 560 does not force a change to the procedures and systems used by the industry in Wisconsin, federal law does.

The bill contradicts efforts to achieve cost savings and improve quality. Prohibiting the use of the DEA number will "severely hamper" a health plan's ability to operate efficiently. This will only increase the pressure on rising health care costs.

HIPAA already makes this conversion mandatory. The NPI will be the only permissible unique identifier for health care practitioners. Implementing NPS may indeed increase costs in the short-term. The enactment of AB 560 will have no additional impact on the health care industry because it does not create a new process or standard, it merely relies on the federal requirements for a transition to the NPI.

The idea that this conversion hampers quality improvement efforts or the efficient operations of a health care provider is more a product of imagination than reality. The final NPS regulations published the public commentary, which includes many of these same arguments. The U.S Department of Health and Human Services rejected them.

The DEA number is a natural tracking mechanism to measure prescribing patterns and to determine if physicians are prescribing drugs appropriately both from a treatment and cost perspective. The bill creates a barrier that prevents sound quality management techniques.

It is true that over the last 30 years the DEA number has become the industry's standard identifier for practitioners. It was in fact a 'natural tracking mechanism'. The NPI will be the mandatory standard replacement.

Once again, the question of a barrier is a false assertion. In fact, it is easily dismissed when one considers that because not every practitioner prescribes controlled substances, not every practitioner actually has obtained a DEA number. Under the NPS, every practitioner will have an NPI. It stands to reason, therefore, that management practices will be vastly improved by the federal requirements.

The DEA number is used in disease management programs to ensure patients with chronic illness are receiving the medication they need. Without the DEA number, disease management and quality improvement efforts will be "significantly less effective."

The implementation of the NPS will provide a significant improvement in disease management because every prescribing practitioner will have an NPI, while not all have a DEA number. The NPI will yield a more complete and larger base of patient data. Continuing the practice of using the DEA number after the industry has made the transition would not only be less effective, but illogical.

The DEA number is utilized for claims processing. Without it, pharmacies may face major problems processing patients' insurance, thus jeopardizing patient access to their prescriptions.

Under the final regulations, a pharmacy will not be able to submit a claim without using a valid NPI. The NPI is mandatory. The DEA number will no longer have any relevance for claims processing.

The Pharmacy Society of Wisconsin withdrew their objections to this bill. One would have to wonder about this claim based on that fact alone. Additionally, the National Associations of Boards of Pharmacy have endorsed the "*Consensus Statement to Eliminate the Improper Use of Drug Enforcement Administration Registration Numbers.*" Specifically, the statement encourages legislation that prohibits "the improper use of DEA registration number(s) by insurance companies and/or other health care providers for identification purposes."

The U.S. Department of Commerce sells a DEA database, thus the impact of AB 560 will be limited.

The numbers are indeed available from the U.S. Department of Commerce. The database costs thousands of dollars and is intended for use by the health care industry and providers to validate participants who manufacture, purchase, distribute and dispense controlled substances.

AB 560 won't solve the problem overnight but it will reduce the proliferation that occurs in the industry. Right now, everyone from a filing clerk to a data entry person has access to the numbers because it is used routinely. Once the NPI has been implemented, this availability will be reduced. It took 35 years for the DEA number to proliferate and it will take some time to return the integrity back into the system.

HIPAA establishes unique provider identifiers but also provides a mechanism for its continued use. There is no indication in the federal regulations that the DEA number's use will be further restricted. The rules are unclear on how DEA numbers will be used upon the implementation of the unique identifiers.

The federal regulations do not pretend to restrict the use of the DEA number. That is the purpose of AB 560. The final published regulations anticipate a need to transition from the current practice of using the DEA number. The regulation states:

"We recognize that mapping between DEA numbers and NPI's is very important for the conversion of retail pharmacy files during NPI implementation. Therefore, we will collect the DEA number in the 'Other provider identifier' field if it is reported on the NPI application/update form and will carry the fact that it is a DEA number by setting the 'Other provider identifier type code' to indicate that."

It is clear from this section that a conversion period will be necessary and the DEA number may be provided for the purpose of conversion. The larger point is that the "Other provider identifier type code" can be provided, but it is an optional field and can contain any type of secondary identifier, including the DEA number. The NPS has no requirement for the DEA number other than for transactions that involve controlled substances.

The legislation should be delayed until the unique identifier system has been fully implemented and the impact of the new system on health care operations can be determined.

Concerns about the NPS should be addressed to the federal government. There is a possibility that the implementation of the NPS will not occur by 2008 because the Secretary of HHS has the authority to delay the compliance date. AB 560 anticipates this possibility by not setting a specific compliance date; rather AB 560 becomes applicable when the NPI is mandatory for all health plans.

February 10, 2004

Page 4

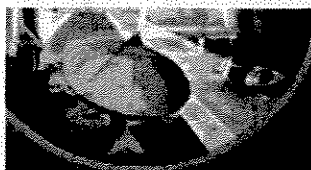
The time for AB 560 is now. The health care industry in Wisconsin is already planning a transition to the NPI. The passage of AB 560 in 2004 works with this transition by providing a longer period of notice. The industry needs to have a period of time to phase out the current practice. Waiting only adds to the uncertainty.

We have been working on a compromise that would allow us to continue using the DEA number for legitimate purposes such as treatment, disease management, health care operations and payment of claims.

There was never a need for a compromise because virtually no one has found these arguments to be valid. The NPI allows health care providers to perform these functions more effectively, and efficiently. The federal government realized this fact; while not every practitioner has a DEA number, once the NPS is in place, *every* practitioner will be required to have an NPI.

If the health care industry in Wisconsin is allowed to continue using the DEA number as an identifier for the "purposes of treatment, disease management, health care operations and payment of claims," this bill will have no effect at all. Most importantly, these very practices are not considered legitimate by the DEA. The DEA has been actively urging states to adopt legislation such as AB 560 and encouraging doctors to refuse to provide their DEA number for any other purpose. The DEA strongly opposes the utilization of a DEA number for other than its intended purpose of providing certification of registration in transactions involving controlled substances.





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We Welcome Your
Comments

Drug Enforcement Administration (DEA)

The products advertised on this Web site contain the complete official DEA database of person organizations certified to handle controlled substances under the Controlled Substances Act. I the use of this database, and the inclusion of any individual or organization in the database, a entity's registration with the DEA.

- The Drug Enforcement Administration (DEA), as part of its efforts to control the abuse and misuse of controlled substances and chemicals used in producing some over-the-counter drugs, maintains databases of individuals registered to handle these substances.
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U.S. Department of Commerce

Record Content For DEA Controlled Substances Act Registration Database

Raw Data File Specifications

The following information is contained in each record in the DEA Registration Database:

- **DEA Registration Number**
 - **Business Activity Code (BAC)***
 - **Drug Schedules**
 - **Expiration Date**
 - **Name of Company or Individual**
 - **Street Address**
 - **City, State, and Zip Code**
 - **Business Activity Sub-Code**
- *Every record is assigned one of the following Business Activity Codes:*
- A - Pharmacy*
 - B - Hospital/Clinic*
 - C - Practitioner*
 - D - Teaching Institution*
 - E - Manufacturer*
 - F - Distributor*
 - G - Researcher*
 - H - Analytical Lab*
 - J - Importer*
 - K - Exporter*
 - M - Mid Level Practitioner*
 - N, P, R, S, T, U - Narcotic Treatment Programs*

CLOSE WINDOW

Vote Record

Committee on Health, Children, Families, Aging and Long Term Care

Date: 2-12-04

Moved by: Jauch

Seconded by: CR

SB
 500

AB _____

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

adopted amendment

Amendment Jauch

Be recommended for:

- Passage
 Adoption
 Confirmation
 Concurrence
 Indefinite Postponement
 Introduction
 Rejection
 Tabling
 Nonconcurrency

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Carol Roessler, Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ted Kanavas	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Welch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dale Schultz	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Judith Robson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Charles Chvala	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Jauch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>2</u>	<u>7</u>	_____	_____

Motion Carried

Motion Failed

Vote Record

Committee on Health, Children, Families, Aging and Long Term Care

Date: 2/12

Moved by: 8 OK

Seconded by: SK

SB
560
Passage

AB _____ SB _____ Clearinghouse Rule _____

AJR _____ SJR _____ Appointment _____

AR _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Carol Roessler, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ted Kanavas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Welch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dale Schultz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Judith Robson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Charles Chvala	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Jauch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>7</u>	<u>2</u>	_____	_____

Motion Carried

Motion Failed

AB 560

2/12/04
Rupik
Harms

Rep. Vukmir - has written testimony

- Concerned that current ~~law~~^{practice} is weakening the federal DEA act.
- Abuse consistently occurs over the internet.
- Feels say responsibility of ensuring the DEA #'s are used properly is the state's responsibility.
- '96 Congress passed HIPAA. Providers must adopt the national physician network. A HIPAA # will be used for record keeping. This eliminates the need to use the DEA # for anything other than to track narcotics.
- Oct '03 DHHS has already begun requiring the new HIPAA #.

CR mentioned that opponents are expressing concerns about the effective date.

Response - fed law requires #s to be implemented by May 2008.

Jauch

Question: Does H.C. use the DEA # to track internal functions - prescription drugs. Her thoughts on using # internally only. Not avail. to public.

Rep. Vukmir - internal doesn't mean that only physicians will use / see the #'s. This usage still gets the # out to the public domain.

Kueh

Concerned about implementation of HIPPA moving forward smoothly.

Vukmir

Opponents have tried to get someone to intro. an amendment that would allow use of the DEA #'s for internal use only.

She has been told several times by leg. Council that this amendment will weaken the bill.

Kueh

So you acknowledge that if law says that this # can only be used internally that any citizen can still obtain #?

Vukmir

Diverted ~~answer~~ quest. by reiterating that providers need to adapt. the fed. #'s. They don't have a choice. If after 4 yrs. people are having problems implementing the new HIPPA #'s, the Sec. of HHS can adjust. time lines etc. as necessary.

Testimony submitted

Mark Kuffman / Mike Heifitz Dean H.C.

- Opposes bill
- 2nd to last paragraph in testimony.

CR

In 2008, when HIPAA becomes effective - you'll be using # that #?

Mark

Not clear that HIPAA will be functional by 2008.

Complex - having skeptical view due to issues they've had w/ getting answers relating to HIPAA

CR

If # is not functional in 2008, it will be a national problem. The leg. could @ that time extend effective date further.

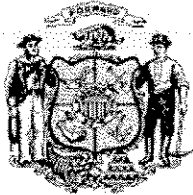
Mike Heifitz

- an amendment will be introduced to allow DEA # to be used internally.

Ron Hermes Med Co. Health Solutions

Opposed

Supports amendment to allow internal use of #.



LEAH VUKMIR

STATE REPRESENTATIVE

AB 560 SENATE TESTIMONY

February 12, 2004

Thank you Chairman Roessler and members for taking up AB 560. I introduced this legislation at the request of a constituent, Dr. Robert Kettler. Dr. Kettler and other doctors are greatly concerned that current industry practices are weakening the impact of the federal Controlled Substances Act and putting the public at risk.

Simply put, AB 560 prohibits the use of Drug Enforcement Agency (DEA) numbers for purposes other than those intended by the agency and provides a penalty for those who do not comply.

In order to explain this bill I must first give you a bit of background history. In 1970, in an effort to combat illicit drug trafficking, the federal government enacted the Controlled Substance Act. This act empowered the Drug Enforcement Agency (DEA) to issue license numbers, commonly known as DEA registration numbers or DEA numbers. The DEA numbers are a crucial part of establishing a closed system of distribution of controlled substances from the point of manufacture to the point at which they are dispensed to the ultimate user. A number is assigned to every participant in this system from physician to pharmacist to distributor.

In order for this system to effectively curb drug trafficking, confidentiality is paramount. Controlled substances are some of the most abused and addictive drugs. It is for this reason that a closed system of control was created. Prescription fraud and theft in the supply chain became far easier to detect and track when everyone in the process was a verifiably registered agent.

Unfortunately, over time, the medical industry gradually adopted the DEA number as a unique identification number and began requiring it for a variety of purposes including processing medical claims. The widespread use of DEA numbers for processing insurance claims and as a form of general identification has undermined the confidentiality of the registration number. The danger with this widespread disclosure is the potential for the numbers to be accessible in the public domain, thereby increasing the potential for abuse. According to the U.S. Drug Enforcement Administration, a typical scenario involving abuse of these numbers occurs over the Internet where individuals pose as medical professionals and illegally buy and sell the substances.

The DEA is concerned with the improper use of the DEA number and has labeled this practice as "not legitimate." The DEA has also been actively urging states to adopt legislation such as AB 560 and encouraging doctors to refuse to provide their DEA number for any other purpose. ***The DEA strongly opposes the utilization of a DEA number for other than its intended purpose of providing certification of registration in transactions involving controlled substances.***

STATE CAPITOL

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I would like to refer the committee to a memo from the Arizona Department of Insurance. It was addressed to the state's health care industry – urging them to develop alternatives to using the DEA number as a universal identifier. I provide this reference primarily for you to see the DEA's characterization of the problem and also to demonstrate that this is not a new problem. The memo is dated April of 1992.

The American Medical Association also opposes the use of the DEA number for any purpose other than for prescribing and dispensing controlled substances. In fact, AB 560 is based on model legislation developed by the AMA and encouraged by the DEA.

So why has this practice continued and why hasn't the DEA stepped in? The federal government has stopped short of prohibiting this practice in large part because the authority to determine who may prescribe controlled substances resides with the states and therefore the responsibility of restricting the use of these numbers also rests with the states.

One measure recently adopted by the federal government offers a solution to the problem. In 1996 Congress passed the Health Insurance Portability and Accountability Act (HIPAA).

Among other provisions, this act mandates that all players in the health care industry adopt the National Provider System (NPS). This system creates an entire methodology and standards system for electronic data interchange. From a doctor's office to the insurance companies, hospitals to pharmacies, every type of transaction will be communicated in a defined and structured way and every communication must include the new identifier known as the "National Provider Identifier" or NPI. The NPI will become the exclusive universal and mandated standard for claims processing, reporting and virtually every other aspect of electronic record keeping in the medical industry. In short, this new numbering system will eliminate the need for using the DEA number for anything other than the purpose of dispensing controlled substances.

The pending changes have been well known to the industry since 1996 when the act was passed and the final standards for the numbering system were published on January 23rd of this year. In fact I amended the bill so that the compliance date of AB 560 runs in conjunction with the NPI compliance date. If the industry nationally cannot comply – the Secretary of Health and Human Services can delay this time frame – AB 560 works in conjunction with these provisions.

In fact, the only testimony provided in opposition to this bill in the Assembly hearing was submitted by the Pharmacy Society of Wisconsin. With the technical amendment, they withdrew their opposition and now "urge" passage of AB 560. While a few others may have brought concerns – they have yet to register in opposition to this bill. In the Assembly, they managed to convince no one – though they spent a considerable amount of time in their attempts. The bottom line to their complaints – whether they would like it or not – the Federal regulations make the DEA number obsolete as a unique identifier – it becomes unnecessary except for the original purpose it was intended for.

The reality is that the industry will have had 12 years to prepare for the federal conversion. If there are any legitimate concerns about this process they should be brought up with DHHS and the federal government.

With or without AB 560, Wisconsin's medical community will comply with HIPAA standards and utilize the NPI. AB 560 does not place a new burden on health care companies and will have no additional fiscal impact whatsoever. At best, AB 560 creates a prohibition but not a mandate and even with the prohibition, a medical practitioner can release the DEA number to third-parties at their own discretion. Regardless of the passage of AB 560 – HIPAA and the NPI will displace the DEA number as a unique identification number. In fact, the HIPAA requirements for all federal medical assistance programs took effect in October of 2003. Wisconsin's DHFS has already begun requiring HIPAA numbers for claims processing pursuant to federal requirements.

In closing, let me share with you a memo that I received from the chief liaison in the Office of Diversion Control at the DEA. She describes the problem very well and also included a copy of the "Consensus Statement to Eliminate the Improper Use of Drug Enforcement Administration Registration Numbers". I encourage you to review the statement and the list of supporters. I would also encourage you to consider the remedial action they recommend – in fact I think that it is important enough to read it to the committee and for the benefit of the others present today:

*It is therefore agreed to and affirmed by the listed entities that the use of the DEA number for uses other than its original intention should be eliminated through appropriate public policy initiatives, which include, but are not limited to: voluntary actions by individual firms or groups; **revised state laws or regulations**; Congressional mandates and/or federal legislation. We encourage the Secretary of Health and Human Services to **accelerate** efforts to implement the national provider identifier system. It is a solution to the problems identified above and it is mandated by law.*

I urge the committee to support this bill and to agree with the Department of Justice's Drug Enforcement Agency – it is a simple and logical solution to a serious problem in Wisconsin and across the nation. We have the opportunity here to set an example for other states to follow.

**TESTIMONY TO SENATE COMMITTEE ON HEALTH, CHILDREN, FAMILIES,
AGING AND LONG TERM CARE**

To: Senate Committee

From: Mark Kaufman, MD
Chief Medical Officer
Dean Health Plan, Inc.

Date: February 12, 2004

Good morning, Senator Roessler and members of the committee. I am Dr. Mark Kaufman and very much appreciate the opportunity to appear before the Committee. I have practiced medicine in the Dean/St. Mary's system for the past 24 years. I am also the Chief Medical Officer of Dean Health Plan which provides health insurance and managed care services to over 200,000 Wisconsin citizens.

As a practicing physician, I support the intent of this bill which is to prevent the DEA number from ending up in the wrong hands and being used to obtain narcotic medications. However, I am here today to testify **in opposition** to Assembly Bill 560, relating to restrictions on the use of DEA numbers. My concern with this bill is the prohibition on using a practitioner's DEA number without consent "to identify or monitor the practitioner's prescribing practices for purposes other than complying with or enforcing federal or state law related to controlled substances".

Why is this provision a significant concern? Health plans currently use the DEA number as a unique identifier to pay pharmacy claims, monitor individual practitioner prescribing practices, screen for aberrant patterns of narcotic prescribing within the credentialing process, and for quality improvement and disease management initiatives.

Disease management programs identify populations of patients with expensive, chronic conditions for which opportunities exist to improve the quality of care delivered and to lower health care costs as well. Most disease management programs attempt to correct the **underutilization** of pharmaceuticals which, if appropriately prescribed, can improve patients' lives, reduce the burden of disease, and lower health care costs. Use of the DEA number is the critical underpinning of being able to identify when patients are not receiving the care they need. Let me describe for you three real world examples from Dean Health Plan's current disease management efforts.

1. Each year, Dean Health Plan sends practitioners an individual performance report which focuses on chronic disease management. This report highlights if a practitioner's patients with asthma or congestive heart failure are receiving the appropriate medications to control the disease process. Patients who are not on the appropriate medication are much more likely to remain ill, visit the emergency room, and be hospitalized. We provide to the practitioner the percentage of his/her patients receiving the correct medications and

make available the specific names of individual patients who potentially lack the appropriate medications. None of this is possible without use of the DEA number.

2. Hypertension, or high blood pressure, is a very significant health problem for Wisconsin citizens. Dean Health Plan alone insures over 25,000 members who have high blood pressure. Patients often do not take their medications appropriately, or stop taking their medications without informing their practitioner. Dean Health Plan has developed a medication compliance report for patients on medication to control high blood pressure. Because we have access to pharmacy claims information based on the prescribing physician's DEA number, Dean Health Plan can tell if a patient is not refilling his/her medication regularly or if he/she has altogether completely stopped the medication. The practicing physician is not able to detect this. Each year, Dean Health Plan provides to each practitioner a report listing those patients who have stopped their medications or who are not refilling them as prescribed. Practitioners have found this information very useful. This report is not possible without use of practitioners' DEA numbers.
3. Dean Health Plan employs a Provider Education Pharmacist whose job it is to meet with physicians and discuss an important clinical topic. A typical example is control of cholesterol in patients with heart disease. The pharmacist will discuss "best practice" based upon the scientific literature and then provide the practitioner with a personal profile of his/her prescribing practices related to the clinical subject. These interventions have been shown to improve the quality of care delivered and can also reduce health care costs. The information shared in these sessions depends on our ability to monitor prescribing patterns by individual physicians. Again, this is only possible by using the DEA number to monitor and measure prescribing patterns.

The examples described above are only a few of Dean Health Plan's current quality improvement and disease management efforts. Many more exist. But all are dependent on our use of the DEA number to monitor practitioners' prescribing practices. Unfortunately, these initiatives will no longer be possible if AB 560 passes.

I realize that this bill's prohibitions do not go into effect until 12 months after the effective date of the HIPAA regulation that requires the use of a new unique identifier for health care providers. Theoretically, this unique identifier could replace the DEA number for pharmacy claims processing, quality improvement projects, credentialing, and disease management. However, at this time, no one knows how functional this new unique identifier will be, how quickly the health care industry will be able to adopt it, and how costly the transition from DEA number to this new identifier will be.

Because of these unknowns, we are seeking a small amendment to allow our quality management programs to continue using the DEA number. Without such an amendment, I believe that it is premature to pass this legislation and place at risk important tools for improving care and managing health care costs.

Thank you very much for your consideration.

Not possible currently w/ DEA #

*Wisconsin Association
of Health Plans*

AB
560
2/12/04
Hearing
testimony

February 12, 2004

TO: Members, Senate Committee on Health, Children,
Families, Aging & Long Term Care

FROM: Louie Schubert, Director of Government Affairs

RE: Assembly Bill 560, Prohibition on the Use of DEA Numbers

The Wisconsin Association of Health Plans opposes Assembly Bill 560 unless amended to allow the internal use of Drug Enforcement Agency (DEA) numbers to identify and monitor the prescribing practices of practitioners.

DEA numbers, which show provider prescribing practices, are the health care industry's most effective tool in developing disease management and quality improvement initiatives for patients.

Supporters of Assembly Bill 560 indicate that the use of the DEA number for quality purposes will not be necessary due to a recently published federal Health Insurance Portability and Accountability Act (HIPAA) rule creating unique identifiers for health care providers. **However, the rule is unclear on how DEA numbers will be used upon implementation of the national provider identifiers.** While a delayed effective date improves the bill, the Association remains concerned that significant problems may arise.

The Association believes the most prudent course of action is to delay any legislative action until the HIPAA unique identifiers are fully implemented and the impact of the new system on health care operations can be determined. If legislation is passed, however, an exception should be made to allow the continued use of DEA numbers for disease management.

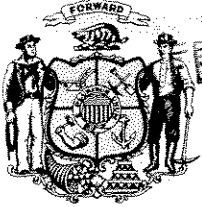
The Association further believes the legislation will fail to accomplish its priority goal of restricting the external use of DEA numbers to curb direct marketing to providers and limit opportunities for fraud. The National Technological Information Service of the U.S. Department of Commerce currently sells the DEA registration lists to the public, which cannot be prohibited by Wisconsin law. Therefore, obtaining DEA numbers will still be possible after this bill goes into effect. **Unfortunately, while the bill will fall short of its goal, it will prevent health plans from using the number internally to control costs and improve quality of care.**

Despite these reservations, the Association has worked with legislators and other interested parties to find a compromise that creates exceptions for the legitimate internal use of the DEA number without jeopardizing the bill's priority goal. The Association believes that objective is achieved by amending the bill to delete the language:

“(c) Use of a federal registration number to identify or monitor the prescribing practices of a practitioner, except for the purpose of complying with or enforcing federal or state law related to controlled substances.” (page 3, lines 1-3)

By eliminating this section, the legislation will still prohibit a DEA number from being disclosed externally without consent, but will still allow health plans to internally monitor prescribing practices for cost control and quality improvement.

The Wisconsin Association of Health Plans respectfully requests your opposition to Assembly Bill 560 unless this compromise amendment is added. With the compromise amendment, the Wisconsin Association of Health Plans will remove its opposition to the bill.



FEB 17 2004

LEAH VUKMIR
STATE REPRESENTATIVE

AB 560

MEMORANDUM

DATE: February 17, 2004
TO: Majority Leader Panzer, Chair
Senate Committee on Organization
FROM: Representative Vukmir
14th Assembly District
RE: **Assembly Bill 560**

Majority Leader Panzer, I respectfully request that Assembly Bill 560 be placed on the Senate calendar and subsequently scheduled for action on the Senate Floor prior to the end of the regular Senate floor period.

Specifically, this legislation concerns the "use of federal registration numbers required for prescribers of controlled substances;" it seeks to prohibit the current practice in the health industry of requiring certain medical professionals from disclosing their federal identification number for purposes that are inconsistent with federal law.

AB 560 was given a public hearing by the Assembly Committee on Health, October 14th, 2003, followed by an executive session on January 6th, 2004; the Bill was passed out of the Health Committee on a 14-1 vote and passed unopposed out of the Assembly, February 3, 2004. Following passage in the Assembly, AB 560 was immediately messaged to the Senate; it was received on February 4, 2004 and referred to the Senate Committee on Health, Children, Families, Aging and Long Term Care. Senator Roessler then held a public hearing concerning this legislation on February 12, 2004. Executive session was also held the same day and AB 560 passed out of the Committee on a 7 - 2 vote.

It is my desire that Assembly Bill 560 be scheduled and taken up by the full Senate as soon as possible.

I do appreciate your attention and the Committee's consideration regarding Assembly Bill 560. If you should have any questions or require further information please let me know.

cc:

Senator Roessler
Senator Darling
Senator Kanavas
Representative Foti

AB 560

M. J. CR -

2/19/04



LEAH VUKMIR
STATE REPRESENTATIVE

Dear Carol,

FEB 20 2004

Thanks for all your help
& guidance during the deliberations
on AB 560 (DEA Bill). Your support
was greatly appreciated.

I look forward to working
with you in the future!

Best,
Leah

I like
Carol
lots of
fun

Assembly Bill 560...Relating to: use of federal registration numbers required for prescribers of controlled substances and providing a penalty.

BILL SPONSORS

Introduced by Representatives Vukmir, Underheim, Wasserman, Gielow, Schneider, Hahn, Van Roy, M. Lehman, Owens, Powers, Ainsworth, Huebsch, D. Meyer, Gundrum, Ward, Balow, Suder, Montgomery, Gottlieb, Nass, Cullen, Kreibich, Gronemus, Hundertmark, Petrowski, Pettis, Stone, Hines, Friske, Towns, Bies and Townsend.

Cosponsored by Senators **Kanavas** and **Darling**.

BILL HISTORY

On October 6, 2003, Assembly Bill 560 was introduced and referred to the Assembly Committee on Health. A public hearing was held on October 14, 2003. An executive session was held on January 6, 2004. The Committee recommended passage of AB 560 on a vote of 14-1 (Gielow). The Assembly adopted Assembly Amendment 1 and passed AB 560 as amended (voice vote).

On February 4, 2004, AB 560 was referred to the Senate Committee on Health, Children, Families, Aging and Long Term Care. A public hearing was held on February 12, 2004.

On February 17, 2004, the Committee recommended concurrence on a vote of 7-2 (Chvala, Jauch).

LRB ANALYSIS

Current Law:

Federal law requires certain people and entities that manufacture, distribute, prescribe, dispense, or administer controlled substances to register with the federal Drug Enforcement Administration (DEA) and obtain a DEA number. Controlled substances include opiates, hallucinogenic substances, depressants, stimulants, and narcotics. Under federal law, a person who prescribes a controlled substance must include his or her DEA number on the prescription. Federal law prohibits a pharmacist from dispensing a controlled substance if the prescriber's DEA number is not included on the prescription for the controlled substance.

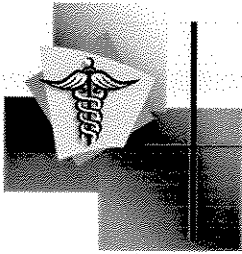
Also under federal law, the U.S. Health Insurance Portability and Accountability Act, commonly known as "HIPAA," requires the U.S. Department of Health and Human Services to adopt a unique identifier that health care providers will be required to use.

Proposed Changes:

This bill prohibits any person from requiring that a person authorized to prescribe drugs (practitioner) include his or her DEA number on a prescription for a drug or device that is not a controlled substance. The bill further prohibits any person from disclosing a practitioner's DEA number without the practitioner's consent for any purpose other than complying with or enforcing federal or state law related to controlled substances. Finally, the bill prohibits any person from using a practitioner's DEA number without the practitioner's consent to identify or monitor the practitioner's prescribing practices for purposes other than complying with or enforcing federal or state law related to controlled substances. Under the bill, these prohibitions are effective 12 months after the effective date of a U.S. Department of Health and Human Services HIPAA regulation that requires use of unique identifiers for health care providers.

Handwritten: A large star symbol and the text "HIPAA" written in a stylized font.

	<p><u>Major Impact</u></p> <p>This bill will not allow DEA numbers to be used for anything other than tracking controlled substances. This bill would not be effective until 12 months after the effective date of a U.S. Department of Health and Human Services HIPAA regulation that requires use of unique identifiers for health care providers.</p>
AMENDMENT	<p><u>Assembly Amendment 1 to AB 560:</u></p> <p>AA1 states that the prohibitions in the bill apply beginning on the first day on which small health plans are required to comply with a DHHS regulation under HIPAA that requires use of a unique identifier for health care providers. The final federal regulation on unique identifiers for health care providers has been published in the Federal Register and small health plans will be required to comply with that regulation by May 23, 2008. [Federal Register, Vol. 69, No. 15, p. 3434, January 23, 2004.] Therefore, under the amendment, the prohibitions in the bill will apply beginning on May 23, 2008.</p>
FISCAL IMPACT	<p>A Fiscal Note was not prepared for this bill.</p>
SUPPORT	<p>The following person appeared in favor of this bill: (1) Representative Leah Vukmir, 14th Assembly District.</p> <p>The following people registered in favor of this bill: Senator Ted Kanavas, 33rd Senate District; (2) Mark Grapentine, Wisconsin Medical Society; (3) Kathryn Kuhn, Medical College of Wisconsin; and (4) Joe Handrick, WI. Society of Anesthesiologists.</p> <p>The following organizations registered their support with the State Ethics Board but did not testify or register at the public hearing: (1) American College of Nurse-Midwives (WI Chapter); (2) Wisconsin Academy of Family Physicians; (3) Wisconsin County Police Association; and (4) Wisconsin Nurses Association.</p>
OPPOSITION	<p>The following people appeared in opposition to this bill: (1) Michael Heifetz, Dean Health Systems, Madison; (2) Mark Kaufman, MD, Self, Madison; (3) Ron Hermes, Med. Co. Health Systems, Madison</p> <p>The following person registered against this bill: (1) Louie Schubert, Wisconsin Association of Health Plans.</p>
NEUTRAL	<p>The following organizations registered as neutral with the State Ethics Board but did not testify or register at the public hearing: (1) Eli Lilly & Company; (2) Pfizer Inc; and (3) Pharmacy Society of Wisconsin.</p> <p>The following organizations registered their intent to lobby with the State Ethics Board but did not take a position: (1) Abbott Laboratories; (2) Dean Health Systems; (3) Froedtert and Community Health; (4) GlaxoSmithKline Inc; (5) Marshfield Clinic; (6) Medco Health Solutions Inc; (7) WEA Insurance Corporation; and (8) Wisconsin Society of Podiatric Medicine.</p>
CONTACT	<p>Jennifer Halbur, Senator Carol Roessler, 266-5300</p>
DATE	<p>February 27, 2004</p>



MAR 02 2004

WISCONSIN SOCIETY OF ANESTHESIOLOGISTS

JOE HANDRICK, GOVERNMENTAL LIAISON

In Support of Assembly Bill 560:

The Wisconsin Society of Anesthesiologists strongly supports Assembly Bill 560 introduced by Representative Leah Vukmir, Senator Ted Kanavas and a bi-partisan group of co-authors.

In short, the bill will prohibit the use of a physician's DEA (short for Drug Enforcement Agency) number for purposes other than the purpose for which the number was created.

Before a physician can prescribe powerful narcotics, he or she must be issued their own DEA number. The DEA number was created to allow the federal government to track the movement of powerful narcotics. It was not created for insurance companies, pharmaceutical manufacturers, and others to use as a publicly distributed physician identifier number for reimbursement or marketing purposes.

Under this bill, consumers and pharmacists would no longer have their prescription claims denied because it does not include a DEA number and there would be less opportunity for physicians to fall prey to identity theft. DEA numbers would once again be used only for their intended purpose.

We view this as an important privacy issue – very similar to the issue you addressed in the mid 1990's relating to improper use of student Social Security numbers by universities.

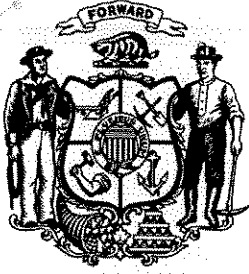
As part of his testimony in support of the bill, Dr. Robert Kettler said,

"Just as identity theft can result in unauthorized use of someone's SSN, a similar type of physician identity theft can result in the unauthorized and inappropriate use of a DEA number. For example, someone could steal a prescription pad, write a prescription for narcotics, forge a physician's signature, and write the stolen DEA number and illegally obtain narcotics."

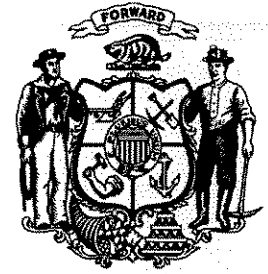
We do recognize that a number of insurance companies and pharmaceutical manufacturers are currently using the DEA number for purposes beyond the intended use of the number. We recognize that if this bill were to take effect immediately, it could cause them administrative and logistical problems.

Representative Vukmir recognizes this too, and that is why the bill has a delayed effective date. As part of HIPPA, every physician will be issued an identifier number by the federal government. The prohibition on improper use of the DEA number does not take effect until after the new HIPPA numbers are put in place.

If you have any questions regarding Assembly Bill 560, please do not hesitate to contact us.



State of Wisconsin SENATE CALENDAR



Revised
Tuesday, March 2, 2004
11:00 A.M.

- First Order.** Call of Roll.
Second Order. Chief clerk's entries.
Third Order. Introduction, first reading and reference of proposals.
Fourth Order. Report of committees.
Fifth Order. Petitions and communications.
Sixth Order. Advice and consent of the Senate.

QUESTION: Shall the appointment be confirmed?

Berkos, Daniel, of Mauston, as a member of the Public Defender Board, to serve for the term ending May 1, 2005. **(Report confirmation recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**

Bradley, Mark, of Wausau, as a member of the Board of Regents, to serve for the term ending May 1, 2010. **(Report confirmation recommended by committee on Higher Education and Tourism, Ayes 5, Noes 0)**

Brennan, James, of Milwaukee, as a member of the Public Defender Board, to serve for the term ending May 1, 2004. **(Report confirmation recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**

Brown, Ritchie J., of Black River Falls, as a member of the Lower Wisconsin State Riverway Board, to serve for the term ending May 1, 2006. **(Report confirmation recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**

Brown, Senn R., of Madison, as a member of the Kickapoo Reserve Management Board, to serve for the term ending May 1, 2006. **(Report confirmation recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**

Cihlar, Sandi M., of Mosinee, as a member of the Land and Water Conservation Board, to serve for the term ending May 1, 2007. **(Report confirmation recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**

Erickson, Larry D., of Hurley, as a member of the Snowmobile Recreational Council, to serve for the term ending July 1, 2006. **(Report confirmation recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**

- Fish, Alan, of Madison, as a member of the Great Lakes Protection Fund, to serve for the term ending October 11, 2006. **(Report confirmation recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**
- Hogan, John, of Rhinelander, as a member of the Public Defender Board, to serve for the term ending May 1, 2005. **(Report confirmation recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**
- Kruger, David, of Madison, as a member of the Wisconsin Housing and Economic Development Authority, to serve for the term ending January 1, 2007. **(Report confirmation recommended by committee on Economic Development, Job Creation and Housing, Ayes 5, Noes 0)**
- Landes, Samuel J., of Dane, as a member of the Snowmobile Recreational Council, to serve for the term ending July 1, 2005. **(Report confirmation recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**
- Levin, Lloyd, of Milwaukee, as a member of the Real Estate Board, to serve for the term ending July 1, 2007. **(Report confirmation recommended by committee on Economic Development, Job Creation and Housing, Ayes 5, Noes 0)**
- Malecki, Andrew F., of Green Bay, as a member of the Snowmobile Recreational Council, to serve for the term ending July 1, 2005. **(Report confirmation recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**
- Miller, Michael R., of West Bend, as a member of the Judicial Commission, to serve for the term ending August 1, 2005. **(Report confirmation recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**
- Morales, Joe, of Racine, as a member of the Public Defender Board, to serve for the term ending May 1, 2006. **(Report confirmation recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**
- Neville, Dallas S., of Eau Claire, as a member of the Judicial Commission, to serve for the term ending August 1, 2004. **(Report confirmation recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**
- Pepper, Pamela, of Shorewood, as a member of the Public Defender Board, to serve for the term ending May 1, 2006. **(Report confirmation recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**
- Sveum, Peter, of Stoughton, as a member of the Real Estate Board, to serve for the term ending July 1, 2006. **(Report confirmation recommended by committee on Economic Development, Job Creation and Housing, Ayes 5, Noes 0)**
- Thorn, Ellen, of West Salem as a member of the Public Defender Board, to serve for the term ending May 1, 2004. **(Report confirmation recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**
- Thusty, Wayne G., of Rib Lake, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2007. **(Report confirmation recommended by committee on Economic Development, Job Creation and Housing, Ayes 5, Noes 0)**

Walsh, David, of Madison, as a member of the Board of Regents, to serve for the term ending May 1, 2008. **(Report confirmation recommended by committee on Higher Education and Tourism, Ayes 5, Noes 0)**

Wettersten, Nancy, of Madison, as a member of the Public Defender Board, to serve for the term ending May 1, 2005. **(Report confirmation recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**

White, Donna Jean, of Cambria, as a member of the Snowmobile Recreational Council, to serve for the term ending July 1, 2006. **(Report confirmation recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**

Wilson, Walter L., of Milwaukee, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2006. **(Report confirmation recommended by committee on Economic Development, Job Creation and Housing, Ayes 5, Noes 0)**

Xiong, Mai Neng, of Wausau, as a member of the Public Defender Board, to serve for the term ending May 1, 2006. **(Report confirmation recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**

Seventh Order. Referrals and receipt of committee reports concerning proposed administrative rules.

Eighth Order. Messages from the Assembly.

QUESTION: Shall the Assembly amendment be concurred in?

Senate Bill 46. Relating to: the designation and marking of certain highways and bridges. By Senators Zien, Brown, Welch, Roessler, Cowles, Darling and S. Fitzgerald; cosponsored by Representatives Van Roy, Turner, Bies, Albers, McCormick, Kreibich and Balow. **(Assembly amendment 1 pending.)**

Senate Bill 100. Relating to: administrative rule making regarding small businesses, data used by administrative agencies in preparing proposed rules, increasing attorney fees, creating an Internet site for proposed rules, and creating a Small Business Regulatory Review Board. By Senators Welch, Schultz, Roessler, Reynolds, Stepp, Brown, Kanavas, S. Fitzgerald, Lazich and Leibham; cosponsored by Representatives McCormick, J. Fitzgerald, Suder, Krawczyk, Friske, Vrakas, Gunderson, Hundertmark, Seratti, Pettis, Albers, Stone, Hines, Musser, Bies, Hahn, Wieckert, Underheim, Nischke, Staskunas, Ladwig, Kreibich, Olsen, Van Roy, Plale, Ziegelbauer, J. Wood, Powers, Schooff, Ott, Balow and Lassa. **(Assembly substitute amendment 1 pending.)**

Senate Bill 287. Relating to: multiple municipal local health departments in Milwaukee County. By Senators Lazich, Darling, Kanavas, Reynolds and Welch; cosponsored by Representatives Stone, Gundrum, Krusick, Jensen, Kerkman, Seratti, Jeskewitz, Gunderson, Musser, McCormick, LeMahieu, Hines, Hundertmark, Hahn, Ladwig, Gielow, Albers, Petrowski, Bies, Staskunas, Gottlieb, Nass, Krawczyk, Vrakas and F. Lasee. **(Assembly substitute amendment 1 pending.)**

Ninth Order. Special Orders.

Tenth Order. Consideration of motions and resolutions.

Eleventh Order. Second reading and amendments of senate joint resolutions and senate bills.

QUESTION: Shall the joint resolution be adopted?

Senate Joint Resolution 67. Relating to: commending President Katharine C. Lyall for her many years of dedicated service to the University of Wisconsin System and to the state of Wisconsin. By Senators Harsdorf, Panzer, Roessler, Erpenbach, Darling, Risser, Lassa, Kanavas, Wirch and Lazich; cosponsored by Representatives Kreibich, Miller, Lothian, Van Roy, Pocan, Krawczyk, Towns, Turner, Travis, Owens, Jeskewitz, Boyle, M. Lehman, Huber, Stone, Vrakas, Berceau, Krug, Hahn, Olsen, Ladwig, Ott, McCormick and Plouff. **(Report adoption recommended by committee on Senate Organization, Ayes 5, Noes 0)**

QUESTION: Shall the bill be ordered to a third reading?

Senate Bill 71. Relating to: treatment of prescription drug costs, diagnostic testing, and payments under mandated insurance coverage of treatment for nervous and mental disorders and alcoholism and other drug abuse problems, and granting rule-making authority. By Joint Legislative Council. (FE) **(Report passage recommended by committee on Health, Children, Families, Aging and Long Term Care, Ayes 8, Noes 1)**

Senate Bill 120. Relating to: creating a public health council, reimbursement for quarantine costs, intrastate mutual aid, requiring use of the incident command system in an emergency, exemption from liability during a state of emergency, threats to release or disseminate harmful chemical, biological, or radioactive substances, making appropriations, and providing a penalty. By Joint Legislative Council. (FE) **(Report adoption of Senate Amendment 1, Ayes 14, Noes 2, adoption of Senate Amendment 1 to Senate Amendment 1, Ayes 16, Noes 0, passage as amended recommended by joint committee on Finance, Ayes 15, Noes 1) (Senate amendment 2 to Senate amendment 1 pending.)**

Senate Bill 200. Relating to: chelation therapy. By Senator Schultz; cosponsored by Representatives Albers, Seratti and Van Roy. **(Report passage recommended by committee on Health, Children, Families, Aging and Long Term Care, Ayes 8, Noes 1)**

Senate Bill 218. Relating to: the authority of the board of directors of business corporations and corporate committees; corporate shareholder notices and meetings; mergers, conversions, and other business combinations; the transfer of corporate property to certain affiliates; and naming limited partnerships. By Senators Stepp, Kanavas, Darling, Leibham, Roessler, George and Reynolds; cosponsored by Representatives McCormick, Ladwig, Gronemus, Jensen, Suder, Ott, Nischke, Hahn, J. Fitzgerald, Krawczyk, Albers, Gundrum, Weber, Kreibich, Gunderson, Vrakas, Hundertmark and Van Roy. **(Report adoption of Senate Amendment 1, Ayes 5, Noes 0, passage as amended recommended by committee on Economic Development, Job Creation and Housing, Ayes 5, Noes 0)**

Senate Bill 244. Relating to: the regulation of drill holes, water quality, and water systems, related licensing and certification, creating the Council on Well Drilling and Pump

Finance

Installing, granting rule-making authority, making appropriations, and providing penalties. By Senators Kedzie, Brown, Stepp, Schultz and Plale; cosponsored by Representatives Van Roy, LeMahieu, Krawczyk, Gunderson, Jeskewitz, Ott, Kerkman, Musser, Olsen, Nass, Vrakas, Hahn, Hebl, Huber and Gronemus. (FE) **(Report adoption of Senate Amendment 1, Ayes 4, Noes 1, passage as amended recommended by committee on Environment and Natural Resources, Ayes 3, Noes 2)**

Senate Bill 271. Relating to: transferring certain alcohol beverage licenses to premises in another municipality within the same county. By Senators Kanavas, Welch, Zien, Decker, Breske and Lassa; cosponsored by Representatives Petrowski, M. Lehman, Hahn, Bies, Friske, Montgomery, Gunderson, Huber, Van Roy, Hundertmark, Ainsworth and Seratti. (FE) **(Report passage recommended by committee on Homeland Security, Veterans and Military Affairs and Government Reform, Ayes 5, Noes 0)**

Senate Bill 312. Relating to: threats to social service workers, juvenile intake workers, or school employees and providing a penalty. By Senators Brown, A. Lasee, Lassa, Roessler and Stepp; cosponsored by Representatives Ziegelbauer, Bies, Freese, Gunderson, Hahn, Kestell, Kreibich, Molepske, Musser, Olsen, Stone, Van Roy and Vrakas. (FE) **(Report passage recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**

Senate Bill 351. Relating to: the size of the county board of supervisors in certain counties. By Senators Kanavas, Kedzie, Reynolds, Brown and Roessler; cosponsored by Representatives Underheim, Suder, J. Wood, Stone, Albers, Nass, Gunderson and Shilling. **(Report adoption of Senate Amendment 1 to Senate Substitute Amendment 1, Ayes 5, Noes 0, adoption of Senate Substitute Amendment 1, Ayes 5, Noes 0, passage as amended recommended by committee on Homeland Security, Veterans and Military Affairs and Government Reform, Ayes 5, Noes 0)**

~~AB~~
Senate Bill 392. Relating to: the removal by towing services of unregistered, abandoned, or illegally parked vehicles. By Senators Leibham and Breske; cosponsored by Representatives Ainsworth, Berceau, Hines, Ladwig, M. Lehman, LeMahieu, Owens, Petrowski, Seratti, Townsend and Van Roy. (FE) **(Report passage recommended by committee on Transportation and Information Infrastructure, Ayes 5, Noes 0)**

~~Dipped
Proves~~
Senate Bill 399. Relating to: a certificate of birth resulting in stillbirth. By Senators Roessler, Darling, Cowles, Lazich, Schultz and Stepp; cosponsored by Representatives Honadel, LeMahieu, Montgomery, Nischke, Huebsch, Gielow, Gronemus, Albers, Suder, Gundrum, Jensen, Gottlieb, Vukmir, Krawczyk, Musser, Owens, Rhoades, Hines, Kreibich, Jeskewitz, Sinicki, Ziegelbauer, Stone, Nass, McCormick, Gunderson, Ward and Weber. (FE) **(Report passage recommended by committee on Health, Children, Families, Aging and Long Term Care, Ayes 8, Noes 1)**

Senate Bill 407. Relating to: hunting deer in a chronic wasting disease intensive harvest or heard reduction zone without a deer hunting license, the receipt of a deer hunting license during an open season for hunting deer, and granting rule-making authority. By Senators Kedzie, Zien, S. Fitzgerald, Cowles, Roessler, Lassa, Schultz and Stepp; cosponsored by Representatives Johnsrud, Huebsch, Freese, Krawczyk, Ott, Gronemus, Albers, Hines, Hahn, Vrakas, Lothian, J. Lehman, Petrowski, Molepske, Jeskewitz, Suder, Ainsworth,

- Musser, Olsen and Plouff. (FE) **(Report adoption of Senate Amendment 1, Ayes 5, Noes 0, passage as amended recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**
- Senate Bill 416. Relating to: failure to pay for tickets at recreational attractions and providing penalties. By Senators Welch and Kanavas; cosponsored by Representatives Hines, Musser, Krawczyk, Ladwig, Townsend, Stone, Albers, Bies and Gunderson. (FE) **(Report passage recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)**
- Senate Bill 423. Relating to: annual or consecutive month permits for vehicles or combinations of vehicles transporting loads near the Wisconsin-Michigan border. By Senators Leibham, Jauch, Welch, Zien and Breske; cosponsored by Representatives Sherman, Petrowski, Gard, Friske, J. Wood and Suder. (FE) **(Report passage recommended by committee on Transportation and Information Infrastructure, Ayes 5, Noes 0)**
- Senate Bill 426. Relating to: the administration of vaccines by persons supervised by a pharmacist. By Senators S. Fitzgerald, Lassa, Schultz and Reynolds; cosponsored by Representatives Gielow, Hines, Albers, J. Fitzgerald, Krawczyk, McCormick, Hahn, Gunderson, Van Roy and Vrakas. **(Report passage recommended by committee on Health, Children, Families, Aging and Long Term Care, Ayes 8, Noes 1)**
- Senate Bill 434. Relating to: the content of the program of instruction on snowmobile laws and safety. By Senators Stepp, Kedzie, Breske, S. Fitzgerald, Wirch, Welch, Jauch, Kanavas, Hansen, Schultz, Erpenbach and Roessler; cosponsored by Representatives D. Meyer, M. Williams, Gard, Gronemus, Krawczyk, Travis, Towns, Plouff, LeMahieu, Hebl, Grothman, J. Lehman, Hahn, J. Fitzgerald, Huebsch, Ott, Kerkman, Petrowski, McCormick, Albers, M. Lehman, Bies, Gunderson, Ladwig, Ainsworth, Freese, Kreibich, Powers, Gottlieb, Van Roy, Suder, Hines, Seratti, Friske and Vrakas. (FE) **(Report passage recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**
- Senate Bill 440. Relating to: public inland lake protection and rehabilitation district meetings, duties of members of the district's board of commissioners, lake monitoring contracts, and granting rule-making authority. By Senators Kedzie, Kanavas and Cowles; cosponsored by Representatives Nischke, Richards, Hahn, Towns, Albers, Ott, Hines, McCormick and Krawczyk. **(Report passage recommended by committee on Environment and Natural Resources, Ayes 5, Noes 0)**
- Senate Bill 442. Relating to: permitting third-party testers to administer driving skills tests for certain noncommercial motor vehicle drivers. By Senators Leibham, Kanavas, Reynolds, A. Lasee and S. Fitzgerald; cosponsored by Representatives Ainsworth, Kestell, Hines, Montgomery, Albers, Nass, Ott, Hundertmark, Taylor, Townsend and Gunderson. (FE) **(Report passage recommended by committee on Transportation and Information Infrastructure, Ayes 3, Noes 2)**
- Senate Bill 443. Relating to: motor vehicle buyers, granting rule-making authority, and providing a penalty. By Senator Leibham; cosponsored by Representative Freese. (FE) **(Report adoption of Senate Amendment 1, Ayes 5, Noes 0, adoption of Senate Amendment 2, Ayes 5, Noes 0, passage as amended recommended by committee on Transportation and Information Infrastructure, Ayes 5, Noes 0)**

Twelfth Order. Second reading and amendments of assembly joint resolutions and assembly bills.

QUESTION: Shall the joint resolution be concurred in?

Assembly Joint Resolution 54. Relating to: urging that protections of women's equality be maintained and encouraging all Americans to participate in the celebration of Women's Equality Day on August 26, 2003, the 83rd anniversary of the passage of the Nineteenth Amendment to the U.S. Constitution, which gave women the right to vote. By Representative Morris. **(Report concurrence recommended by committee on Senate Organization, Ayes 5, Noes 0)**

QUESTION: Shall the bill be ordered to a third reading?

Assembly Bill 14. Relating to: notification to law enforcement of a sexual offender's residence. By Representatives J. Fitzgerald, Gundrum, Powers, Ainsworth, Albers, Bies, Cogg, Freese, Gielow, Gronemus, Grothman, Gunderson, Hines, Jeskewitz, Kaufert, Krawczyk, Kreibich, LeMahieu, M. Lehman, Musser, Olsen, Ott, Owens, Shilling, Staskunas, Stone, Turner, Underheim, Vukmir, Ward, Vrakas and McCormick; cosponsored by Senators S. Fitzgerald, Leibham, Breske, Kanavas, Kedzie, A. Lasee, Reynolds, Stepp, Roessler and Lazich. (FE) **(Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)** Assembly amendment 1 adopted.

Assembly Bill 423. Relating to: liability for damages caused by dogs, court orders to kill a dog, and providing a penalty. By Representatives Pettis, Hines, A. Williams, Ott and Owens. (FE) **(Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 3, Noes 2)**

Assembly Bill 560. Relating to: use of federal registration numbers required for prescribers of controlled substances and providing a penalty. By Representatives Vukmir, Underheim, Wasserman, Gielow, Schneider, Hahn, Van Roy, M. Lehman, Owens, Powers, Ainsworth, Huebsch, D. Meyer, Gundrum, Ward, Balow, Suder, Montgomery, Gottlieb, Nass, Cullen, Kreibich, Gronemus, Hundertmark, Petrowski, Pettis, Stone, Hines, Friske, Towns, Bies and Townsend; cosponsored by Senators Kanavas and Darling. **(Report concurrence recommended by committee on Health, Children, Families, Aging and Long Term Care, Ayes 7, Noes 2)** Assembly amendment 1 adopted.

Assembly Bill 651. Relating to: parental liability for acts of their minor child, recovery of damages for certain criminal actions, increasing the jurisdictional amount in small claims court, garnishment, attorney fees, exemption from execution of accounts, civil actions by collection agencies, earnings garnishment, retail theft, recovery in actions involving worthless checks, and revocation of fish and game approvals for which payment is made by worthless checks. By Representatives Montgomery, Olsen, Musser, Hines, LeMahieu, Hahn, Gard, Vrakas, Rhoades, Grothman, Bies, Townsend, McCormick, Hundertmark, Owens, Krawczyk, J. Fitzgerald, Kestall, Suder, Albers, Powers and Gunderson; cosponsored by Senators Stepp, Kanavas, Schultz, Lassa, Welch, Breske, Hansen, Roessler and Cowles. (FE) **(Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 3, Noes 2)** Assembly amendment 1 to Assembly substitute amendment 1 and Assembly substitute amendment 1 adopted.

*Main S
Grove
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Assembly Bill 669. Relating to: making various changes in the worker's compensation law and granting rule-making authority. By committee on Labor. (FE) **(Report concurrence recommended by committee on Labor, Small Business Development and Consumer Affairs, Ayes 5, Noes 0)** Assembly amendment 1 adopted.

Assembly Bill 738. Relating to: stalking. By Representatives Huebsch, Suder, Owens, Gronemus, Schneider, Seratti, Jeskewitz, Shilling, F. Lasee, Van Roy, Kreibich, Townsend, Rhoades, Montgomery, Berceau, Staskunas, Turner, Weber, Olsen, Ladwig, Albers, Sinicki and Krawczyk; cosponsored by Senators Roessler, Schultz, Moore, Darling, Brown, A. Lasee and Lassa. (FE) **(Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0)** Assembly amendment 1 adopted.

Assembly Bill 755. Relating to: electronic transactions and records. By Representatives Nischke, Ladwig, Olsen, Kerkman, McCormick, Ott, Owens, Jensen, Miller, Montgomery and Hahn; cosponsored by Senators Kanavas, Cowles, Risser, S. Fitzgerald and Roessler. **(Senate amendments 1 and 2 pending.)** Assembly amendment 1 adopted.

Assembly Bill 771. Relating to: directing the governor to annually proclaim February as African American History and Cultural Heritage Month. By Representatives Morris and Young; cosponsored by Senators Coggs and Moore. **(Report concurrence recommended by committee on Senate Organization, Ayes 5, Noes 0)**

Thirteenth Order. Third reading of joint resolutions and bills.

Fourteenth Order. Motions may be offered.

Fifteenth Order. Announcements, adjournment honors, and remarks under special privilege.

Sixteenth Order. Adjournment.



MSP
FLOOR DISTRIBUTION
AUTHORIZED BY SENATOR
PANZER

Memorandum

DATE: March 2, 2004
TO: Members, Wisconsin State Senate
FROM: Donald C. Logan, MD
Chief Medical Officer
RE: Oppose Assembly Bill 560

Dean Health System opposes Assembly Bill 560, relating to the use of federal registration numbers required for prescribers of controlled substances. The bill sounds simple and its goals are admirable: AB 560 generally restricts the distribution and use of a prescriber's Drug Enforcement Agency (DEA) number. Some believe this number is being used to fraudulently obtain prescription drugs or for marketing purposes.

However, this bill contradicts our efforts to achieve cost savings and to improve quality that patients, employers and the Legislature are rightfully demanding by potentially creating a new barrier preventing sound quality management techniques. This will only increase the pressure on rising health care costs and contradicts recent bipartisan efforts to remove many regulatory barriers.

The DEA number is utilized for internal quality and cost management purposes. We do NOT distribute this information inappropriately nor do we use it for marketing purposes. In fact, we share the goal of restricting access to this number. Such efforts contrast with the U.S. Department of Commerce, which sells a DEA number database on its website. Additionally, federal law still requires the DEA number to be included on prescriptions for controlled substances (such as Vicodin or Oxycontin). This is where most cases of abuse of the DEA number originate. Thus, the impact of state legislation may be quite limited.

The DEA number allows reliable evaluation of prescribing patterns, thus allowing us to determine if physicians are prescribing drugs appropriately from both treatment and cost perspectives. It is also used for disease management programs to ensure patients with chronic illness are receiving the medication they need.

Supporters of this bill believe HIPAA (Health Insurance Portability and Accountability Act) will eliminate the need to use the DEA number for the quality and cost control purposes described above. While HIPAA establishes unique provider identifiers, the rule released on 01/23/04 does NOT eliminate the DEA number. Rather, it includes explicit mechanisms for its continued use. Moreover, there has been no indication the DEA number will simply wither away or be restricted in its use. In fact, an official from the federal Centers for Medicare and Medicaid Services (CMS) indicated that "use of the DEA number is not a HIPAA issue."

The bottom line is this legislation removes a tool for controlling health care costs while anticipating very uncertain federal action. We believe that without an amendment allowing our use of the DEA number for the legitimate purposes described above while maintaining the positive purpose of AB 560, this bill is premature. *Such an amendment would do no harm to the bill; however, if the federal government does not clearly resolve this issue, an amendment would protect a very valuable method of improving treatment and controlling costs.*

Thank you for your consideration. If you would like additional information, please contact Michael Heifetz, our Director of Governmental Affairs, at (608) 250-1225.

M&P

Wisconsin Association of Health Plans

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March 2, 2004

TO: Members, Wisconsin State Senate

FROM: Louie Schubert, Director of Government Affairs

RE: Assembly Bill 560, Prohibition on the Use of DEA Numbers

The Wisconsin Association of Health Plans opposes Assembly Bill 560 unless amended to allow the internal use of Drug Enforcement Agency (DEA) numbers to identify and monitor the prescribing practices of practitioners.

DEA numbers, which show provider prescribing practices, are the health care industry's most effective tool in developing disease management and quality improvement initiatives for patients.

Supporters of Assembly Bill 560 indicate that the use of the DEA number for quality purposes will not be necessary due to a recently published federal Health Insurance Portability and Accountability Act (HIPAA) rule creating unique identifiers for health care providers. **However, the rule is unclear on how DEA numbers will be used upon implementation of the national provider identifiers.** While a delayed effective date improves the bill, the Association remains concerned that significant problems may arise.

The Association believes the most prudent course of action is to delay any legislative action until the HIPAA unique identifiers are fully implemented and the impact of the new system on health care operations can be determined. If legislation is passed, however, an exception should be made to allow the continued use of DEA numbers for disease management.

The Association further believes the legislation will fail to accomplish its priority goal of restricting the external use of DEA numbers to curb direct marketing to providers and limit opportunities for fraud. The National Technological Information Service of the U.S. Department of Commerce currently sells the DEA registration lists to the public, which cannot be prohibited by Wisconsin law. Therefore, obtaining DEA numbers will still be possible after this bill goes into effect. **Unfortunately, while the bill will fall short of its goal, it will prevent health plans from using the number internally to control costs and improve quality of care.**

Despite these reservations, the Association has worked with legislators and other interested parties to find a compromise that creates exceptions for the legitimate internal use of the DEA number without jeopardizing the bill's priority goal.

The Wisconsin Association of Health Plans respectfully requests your opposition to Assembly Bill 560 unless this compromise amendment is added. With the compromise amendment, the Wisconsin Association of Health Plans will remove its opposition to the bill.