

**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

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➤ Committee Hearings ... CH

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ 03hr\_sb0227\_pt04

➤ Miscellaneous ... Misc

➤ \*\*

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

To: Senator Carol Roessler 608 266-00  
From: Darold A. Treffert, M.D.  
Fax 920 426-893

**DAROLD A. TREFFERT, M.D.**

W 4065 Maplewood Lane  
Fond du Lac, WI 54935  
Phone: (920) 921-9381  
E-mail: dtreffert@pol.net

web site: www.savantsyndrome.com  
web site: http://members.authorsguild.net/treffert/

Carol,

My deep apologies for missing the hearing this AM. I had it on my calendar for the 10<sup>th</sup>, and fully intended to testify vigorously on behalf of both bills. My call to Sarah J. this AM was to prepare more written testimony, and I was astounded to learn from Jennifer the hearing was this AM. I had e mailed Sarah her last week asking for the fiscal note information, but received no reply. I understand she has moved to Arizona. Somehow since I hadn't heard back I thought the matter was still a ways away.

Are you still interested in written testimony from me, and is that still relevant? Part of the problem with my testimony (although it would not necessarily deter me) is that I am no longer on the MEB so could not speak for MEB as I did last time these bills were up for consideration. Also, I understand WMS is having the President testify on its behalf so I would not have that official auspices. But I can speak as immediate past chair of MEB, and as someone who, along with you, served on Tony Earl's task force, which is the last time DRL really had a close look.

My position: I support both bills. I can provide more elaborate written testimony if you wish. But this is very quick overview.

1. I suggest the Massachusetts model for the web-site information and I can supply examples of that if you wish. That could be a rather simple addition to the ~~DRL~~ present website, and should not require any huge fiscal note. There could be some coordination with the WMS website as well. I did send Sarah a copy of the Federation of Medical Examining Boards position paper on that issue which was very comprehensive, and supportive, of the effort embodied in this WI bill.
2. Regarding the other bill I support its provisions as well with one huge caveat— That whatever fee increases might be put in place to support more swift priority for MEB cases be specifically, and only, DEDICATED RESOURCES so the funds don't disappear into the black hole of DRL and DOA as has happened in the past. I still have not been able to find the 3.5 positions the legislature granted specifically to MEB several sessions ago. The really best way to assure that would be to have an MEB as a stand-alone agency as is the case in 6 other states, and as is the case with the attorneys in this state. I still have some reservations about 'therapeutic-related deaths' as being too broad a category but that is really a coroner's problem. The other changes you made in this bill are useful.

Finally, Carol, be aware that the MEB was not given these bills for action by DRL. Dr. Johnson, on his own, did pass out the bills to the MEB last session, but MEB did not have time to take a position on them. That still is important, I think.

Carol  
again, my apologies  
if written testimony is still worthwhile, let me know  
Darold

**Halbur, Jennifer**

---

**From:** Seaquist, Sara  
**Sent:** Monday, September 29, 2003 11:31 AM  
**To:** Halbur, Jennifer  
**Subject:** FW: Letter from Joanne Huelsman re: Discipline of health care professionals



Roessler.doc

CR email...

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

**From:** Joanne Huelsman [mailto:joanne@bergmanagement.com]  
**Sent:** Monday, September 29, 2003 11:06 AM  
**To:** Sen.Roessler@legis.state.wi.us  
**Subject:** Letter from Joanne Huelsman re: Discipline of health care professionals

Hopefully my letter will be attached to this. If any problems, please email me at Joanne@bergmanagement.com

235 W. Broadway Suite 210  
Waukesha, WI 53186  
Sept. 29, 2003

Honorable Carol Roessler  
State Capitol  
Madison, WI

Dear Carol,

Thank you for the opportunity to comment on Senate Bill 227, and some of these comments also refer to Senate Bill 226.

I served as Chairperson of the Joint Legislative Council's Special Committee on Discipline of Health Care Professionals during the 1998-99 session. That committee was an outgrowth of legislative consideration in the 1997 session of medical malpractice and physician discipline issues.

The quality of the Committee's membership was excellent; it was also active and strong-willed. This made for some difficult but spirited discussion of certain issues, not all of which were resolved. This reflects, I believe, the changing nature of health care in this country and the continuing evolution of the appropriate role of the state in regulating health care professionals.

Senate Bill 227 contains provisions that apply to disciplinary procedures for health care professionals generally, and provisions that are specific to physician discipline. The provisions included will allow a patient or client to obtain more information from the Medical Examining Board and will authorize the Medical Examining Board to utilize additional disciplinary methods when dealing with a credential holder.

I urge your committee to give these bills favorable consideration and look forward to them finally being enacted into law.

If any of your committee members have further questions, please contact me at 262-521-9965.

Thank you again for considering these bills.

Sincerely,

Joanne Huelsman

Ruth Boerth  
1540 Forest Glen Rd.  
Oregon, WI 53575

October 7, 2003

OCT 15 2003


Senator Carol Roessler  
P.O. Box 7882  
Madison, WI 53707

Dear Senator Roessler,

Speaking from recent experience with the Department of Regulation and Licensing, I would like to endorse the passage of ~~Senate Bill 227~~. I filed a complaint against a physician on August 22, 2000 and was finally able to have an investigation opened two years later. A serious flaw in the present system is that the doctor is sent a copy of the complaint, but the complainant never sees the doctor's response. In my case I was able to prove that the doctor had been untruthful in his response to the DRL, but not everyone has this opportunity.

Passage of this bill would result in the beginning of a more equitable process for Wisconsin citizens who have been harmed by the actions of the physicians who have abused their trust.

Sincerely,



Ruth Boerth



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2003 Senate Bill 227**

**Senate  
Amendment 1**

*Memo published: October 20, 2003*

*Contact: Laura Rose, Deputy Director (266-9791)*

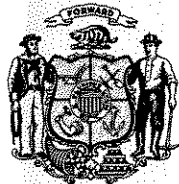
Senate Bill 227 relates to revising procedures relating to the discipline of health care professionals; adding public members to the Medical Examining Board; creating parallel state reporting requirements for reports submitted to the National Practitioner Data Bank; and requiring coroners and medical examiners to report to the Department of Regulation and Licensing (DRL) regarding therapeutic-related deaths. One of the provisions of the bill requires DRL to develop a system of "markers" for identifying health care professionals who may warrant further evaluation before an incident of unprofessional conduct occurs.

Senate Amendment 1 deletes the provision of the bill requiring DRL to develop the system of "markers."

On October 7, 2003, the Senate Committee on Health, Children, Families, Aging and Long-Term Care recommended introduction and adoption of Senate Amendment 1 by a vote of Ayes, 9; and Noes, 0, and recommended passage of the bill, as amended, by a vote of Ayes, 7; and Noes, 2.

LR:tlu

WISCONSIN STATE SENATE



**Carol Roessler**  
STATE SENATOR

October 28, 2003

James Vanbommel  
259 North Park Avenue  
Fond du Lac, WI 54935-3540

Dear James,

Thank you for your sending Dr. William Plested's article, relating to health care in the United States.

I most appreciate the statement, "They forget that every country that has a government only health care system is experiencing catastrophic problems due to lack of innovation, lack of technology, physician dissatisfaction, patient dissatisfaction and massive rationing."

I have enclosed two bills that have been introduced this session that I think may be of interest to you: Senate Bill 227, which relates to the discipline of health care professionals and Senate Bill 238 relating to the purpose and integrity of the patient's compensation fund.

Thank you again for your contact. Please feel free to contact me further with questions and concerns.

Sincerely,

CAROL ROESSLER  
State Senator  
18th Senate District

CR:/jhs\DOCS\Jennifer\10-28-03 vanbommel ltr.doc

Vanbommel, James

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## Wisconsin 3rd lowest in disciplining doctors

SB  
22

By Anita Weier  
October 30, 2003

Wisconsin had the third lowest rate of serious disciplinary actions by state medical boards against doctors in 2002, according to Public Citizen's Health Research Group.

The organization, in a report released today, also accused the Wisconsin Medical Examining Board of failing to discipline doctors sufficiently when it did act.

A total of 518 disciplinary actions were taken against 384 Wisconsin doctors from 1992 through 2001, Public Citizen reported.

The doctors were disciplined for incompetence, mis-prescribing drugs, sexual misconduct, criminal convictions, substandard care, ethical lapses and other offenses. But most were allowed to continue practicing, the organization said.

"For a number of the offenses committed by Wisconsin doctors, the disciplinary actions have been dangerously lenient," said Dr. Sidney Wolfe, director of Public Citizen's Health Research Group. "Most Wisconsin doctors who committed one or more of the five most serious offenses weren't required to stop practicing even temporarily."

Doctors who were disciplined but still allowed to practice included one who failed to diagnose and treat a patient who died as a result of thyroid cancer. The medical board placed a restriction on the doctor's license, according to Public Citizen.

Reacting to the report, Dr. Sidney Johnson, who chairs the state Medical Examining Board, said, "That's their opinion. We have a lot of disciplines that they do not count. If we



reprimand a doctor or send a doctor off for additional training, or put a limit on their license, they don't count that. So we don't believe their statistics."

Johnson said that a Medicare Quality Assurance study that was done nationwide ranked Wisconsin eighth or ninth in the quality of health care, in a study published in the Journal of the American Medical Association.

"Some states that ranked worse in this quality study, Public Citizen thought were just wonderful," Johnson said.

"They think we should take everybody's license away. The Medical Examining Board's function is to protect the people of Wisconsin. Our doctors rank high in overall quality. There are many ways to protect the public, and that includes carefully screening of who we give a license to in this state."

Public Citizen disagrees.

The organization ranked Wisconsin 49th on doctor discipline among the 50 states and the District of Columbia, with a rate of 1.4 serious disciplinary actions per 1,000 doctors in 2002. Only Delaware with 1.35 and Hawaii with 1.07 were lower. The national average was 3.56.

Wisconsin's highest ranking during the previous nine years was 27th in 1993.

The highest-ranked state in 2002 was Wyoming, with 11.87 serious disciplinary actions per 1,000 doctors. North Dakota, Alaska, Kentucky and Oklahoma rounded out the top five.

Nationally, 2,864 serious disciplinary actions were taken by state medical boards in 2002. Wisconsin, which has 14,241 doctors, had 20.

Information was obtained from the Federation of State Medical Boards and individual state medical boards.

"These data again raise serious questions about the extent to which patients in many states with poor records of serious doctor discipline are being protected from physicians who might well be barred from practice in states with board that are doing a better job of disciplining physicians," Public

Citizen, a public interest group headed by activist Ralph Nader, said in a written statement.

Public Citizen suggested that adequate funding and staffing are vital if state medical authorities are to do their job well, and that investigations should be proactive instead of merely following up on complaints.

This is not the first time complaints have been raised about Wisconsin's level of doctor discipline. Wisconsin Citizen Action complained earlier this year that less than 10 percent of complaints filed with the Wisconsin Medical Examining Board in the past five years ended in disciplinary action.

However, Public Citizen did give the Wisconsin board a B for its Web site, and an A for the user-friendliness of the site.

*E-mail: aweier@madison.com*

Published: 9:41 AM 10/30/03

Return to story

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The Capital Times October 30, 2003

# Wisconsin 3rd lowest in disciplining doctors

By Anita Weier

The Capital Times

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SB 227

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The Capital Times October 30, 2003

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E-mail: [awsier@madison.com](mailto:awsier@madison.com)

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**Senate Bill 227...Relating to:** priorities, completion guidelines, and notices required for health care professional disciplinary cases; identification of health care professionals in possible need of investigation; additional public members for the Medical Examining Board; Authority of the Medical Examining Board to limit credentials and impose forfeitures; reporting requirements for reports submitted to the National Practitioner Data Bank; inclusion of health care professionals who practice alternative forms of health care on panels of health care experts established by the Department of Regulation and Licensing; reports by coroners and medical examiners regarding therapeutic-related deaths; providing an exemption from rule-making procedures; requiring the exercise of rule-making authority; and providing a penalty.

**BILL SPONSORS** Introduced by Senators **Roessler, Schultz** and Risser.  
Cosponsored by Representatives Underheim, Albers, Hundertmark, Gunderson, J. Lehman and Townsend.

**BILL HISTORY** Senate Bill 227 was introduced and referred to the Senate Committee on Health, Children, Families, Aging and Long Term Care on August 13, 2003. A public hearing was held on September 4, 2003. An executive session was held on October 7, 2003. The Committee adopted Senate Amendment 1 by a vote of 9-0.  
  
**The committee recommended SB 227 for passage as amended 7-2 (Kanavas, Welch).**

**LRB ANALYSIS**

**Proposed Changes:**  
This bill makes changes to current law regarding all of the following: 1) disciplinary actions involving certain health care professionals; 2) the authority of the Medical Examining Board; 3) malpractice reports that are required under federal law; and 4) death reports by coroners and medical examiners. These changes are described below.

**Discipline of health care professionals**  
The bill imposes various duties on the Department of Regulation and Licensing (DRL) related to disciplining the following health care professionals that are regulated by DRL or a board in DRL: acupuncturists; audiologists; chiropractors; dental hygienists; dentists; dietitians; hearing instrument specialists; advanced practice prescriber nurses; licensed practical nurses; registered nurses; nurse-midwives; occupational therapists; occupational therapy assistants; optometrists; pharmacists; physical therapists; physicians; physician assistants; podiatrists; private practice school psychologists; psychologists; respiratory care practitioners; and speech-language pathologists.

The bill requires DRL to do all of the following:

1. Develop a system to establish the relative priority of disciplinary cases involving possible unprofessional conduct by health care professionals.  
SB227
2. Promulgate rules establishing a system for identifying health care

professionals who, even if not the subject of a specific allegation of, or specific information relating to, unprofessional conduct, may nonetheless warrant further evaluation and possible investigation.

3. Notify a health care professional's hospital, place of practice or employment, or defined network plan, such as a health maintenance organization or preferred provider plan, when a formal complaint alleging unprofessional conduct by the health care professional is filed.

4. Give notice to a complainant and health care professional when any of the following occurs regarding a disciplinary case of possible unprofessional conduct: a) the case is closed following screening for a possible investigation; b) the case is opened for investigation; or c) the case is closed after investigation. In addition, DRL must provide a copy of the notices under b) or c) to an affected patient or the patient's family members.

5. Give a patient or client of a health care professional who has been adversely affected by conduct of the health care professional that is the subject of a disciplinary proceeding an opportunity to confer with DRL's prosecuting attorney.

6. Establish guidelines for the timely completion of each stage of the health care professional disciplinary process. The guidelines are exempt from rule-making procedures that are otherwise applicable.

Also, the bill requires that, if DRL establishes panels of health care experts to review complaints against health care professionals, DRL must attempt to include on the panels health care professionals who practice alternative forms of health care to assist in evaluating cases involving alternative health care.

The bill also requires DRL to submit to the legislature by May 1, 2005, a report on disciplinary process time lines that were implemented by DRL as guidelines in February 1999.

### **Medical Examining Board**

Current law allows the Medical Examining Board, under specified circumstances, to suspend summarily a professional credential issued by the board, pending a disciplinary hearing, for a limited period of time. This bill also allows the Medical Examining Board to limit summarily a credential under the same circumstances and for the same period of time. As a result, under the bill, the Medical Examining Board may limit a credential holder to specified practice areas, rather than completely suspending the credential holder's right to practice, pending a disciplinary hearing.

Also under current law, the Medical Examining Board has no authority to impose a forfeiture against a credential holder found guilty of unprofessional conduct. This bill authorizes the Medical Examining Board to assess a forfeiture of not more than \$1,000 for each violation against a credential holder found guilty of unprofessional conduct. However, this authority does not extend to a violation that constitutes negligence in treatment.

In addition, the bill adds two public members to the Medical Examining Board. As a result, under the bill, the Medical Examining Board has the following 15 members: five public members, nine physician members, and one member who is a doctor of osteopathy.

### **Malpractice and disciplinary reports**

Under current federal law, certain entities are required to report information on physicians to a national practitioner data bank maintained by the U.S. Department of Health and Human Services. Insurance companies and other entities must report to the data bank information about payments made under an insurance policy or in settlement of a malpractice claim. Also, state boards, such as the Medical Examining Board, must make reports regarding disciplinary actions taken against physicians. In addition, hospitals, health maintenance organizations, group medical practices, professional societies, and other health care entities must report the following: 1) professional review actions that adversely affect the clinical privileges of a physician for longer than 30 days; 2) the surrender of a physician's clinical privileges while the physician is under investigation or in return for not investigating the physician; and 3) a professional review action that restricts membership in a professional society.

Current federal law requires the reports to be made within specified deadlines and imposes penalties for not complying with the requirements.

This bill creates a requirement under state law to comply with the reporting requirements described above. A person who violates this requirement is subject to a forfeiture under state law of not more than \$10,000 for each violation.

**Death reports**

Current law requires a coroner or medical examiner to be notified if a homicide, suicide, or accidental death occurs, or if a death occurs under specified circumstances, including unexplained, unusual, or suspicious circumstances. A coroner or medical examiner who receives such a notification must immediately notify a district attorney about the death.

This bill also requires a coroner or medical examiner who receives such a notification to also report the death to DRL, if the coroner or medical examiner determines that the death was a therapeutic-related death. The bill defines a "therapeutic-related death" as one resulting from complications of surgery, drug use, or other medical procedures for disease or traumatic conditions, or resulting from a therapeutic misadventure in which medical procedures were done incorrectly or drugs were given in error.

**AMENDMENT**

**Senate Amendment 1 to SB 227:**

Senate Bill 227 relates to revising procedures relating to the discipline of health care professionals; adding public members to the Medical Examining Board; creating parallel state reporting requirements for reports submitted to the National Practitioner Data Bank; and requiring coroners and medical examiners to report to the Department of Regulation and Licensing (DRL) regarding therapeutic-related deaths. One of the provisions of the bill requires DRL to develop a system of "markers" for identifying health care professionals who may warrant further evaluation before an incident of unprofessional conduct occurs.

**Senate Amendment 1** deletes the provision of the bill requiring DRL to develop the system of "markers."

**FISCAL  
IMPACT**

\*\*\*Please note that this fiscal note does not reflect the amendment adopted by the Committee. The amendment should significantly reduce the fiscal effect of this bill.

**Department of Regulation and Licensing**

<b>IMPACT</b>	<p>Increase costs-May not be able to absorb within agency's budget.  <b>\$939,750 PRO/PRS</b></p> <p><b>Department of Health and Family Services</b>  Increase costs-May be possible to absorb within agency's budget.</p>
<b>SUPPORT</b>	<p><b>The following people appeared in favor of this bill:</b> (1) Senator Carol Roessler; (2) Scott Froehlke, WI. Academy of Trial Lawyers, Madison; and (3) Kathy Bollig, Self, Cottage Grove.</p> <p><b>The following person registered in favor of this bill:</b> (1) Carolyn Castore, WI Citizen Action.</p>
<b>OPPOSITION</b>	<p><b>No one appeared or registered in opposition to this bill.</b></p>
<b>INFORMATION</b>	<p><b>The following people appeared for information only:</b> (1) Ty Bollerud, Janesville; (2) Dr. Paul Wertsch, Wisconsin Medical Society, Madison; (3) Gary Radloff, Department of Health and Family Services; and (4) Secretary Donsia Strong Hill, Department of Regulation and Licensing.</p>
<b>CONTACT</b>	<p><b>Jennifer Halbur, Senator Carol Roessler, 266-5300</b></p>
<b>DATE</b>	<p><b>October 30, 2003</b></p>



11-4-03

Michael Heifitz  
SB 227 issue

- Don't notify employer @ the time a formal complaint alleging unprofessional conduct by the health care professional is filed.

Rather - maybe follow what the National Practitioner Data Bank do:

- They don't notify employer until
  - ① Privileges are lost
  - ② Judgment against has been made.

## Halbur, Jennifer

---

**From:** Tormey, Jessica  
**Sent:** Thursday, November 06, 2003 2:44 PM  
**To:** Halbur, Jennifer  
**Subject:** RE: Senate Bill 227

Hi Jennifer, and thanks for the e-mail. I'll make sure the chairs/leadership looks at this for scheduling on Wed. and keep you posted about what I hear.

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

**From:** Halbur, Jennifer  
**Sent:** Thursday, November 06, 2003 1:58 PM  
**To:** Tormey, Jessica; Ottman, Tad; Hogan, Rebecca  
**Subject:** Senate Bill 227

Hi,

Senate Bill 227 is a priority bill for Senator Roessler and she would like to get it on the calendar for next week.

Tad...do you think there is a possibility of moving the bill next week? I have two amendments that Sen. Roessler would like the JFC to adopt. The amendments are in response to concerns heard at the Senate Health Committee public hearing.

- The first amendment removes language relating to "therapeutic-related death." Therefore, Page 12 lines 5 to 16 are deleted.

The WI Medical Society had the following concern with keeping the "therapeutic-related death" language in the bill: *Requiring a Medical Examiner or Coroner to put in essence a "red flag" on a death due to "complications" from surgery, prescription drug use or the like is in our opinion extremely vague. For example, if a patient has an unexpected reaction to cardiac drugs, does tha warrant a DRL notification? Or if post-surgery a patient gets an infection that does not respond to normal, within-the-practice treatment? The existing language of SB 227 could be interpreted to say that any death not clearly "natural" could qualify as a complication.*

Dean Health Systems is also opposed to the "therapeutic-related death" language staying in the bill.

- The second amendment would only require an employer to be notified if a physician loses privileges or judgment is made against the physician. The bill currently requires an employer to be notified within 30 days after a formal complaint alleging unprofessional conduct by a health care professional is filed.

Dean Health Systems (Michael Heifetz) is planning to provide me with amendment language relating to this ASAP.

Let me know what you think.

Thank you!

Jennifer

Halbur, Jennifer

SB 227

From: michael.heifetz@deancare.com  
Sent: Friday, November 07, 2003 3:45 PM  
To: Halbur, Jennifer  
Subject: Re: Senate Bill 227



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pic02161.pcx



pic05535.gif



pic20450.pcx

Jennifer:

Thanks for the opportunity to provide a recommendation on the "notice" portion of this bill. In consultation with our legal counsel, we believe it is only necessary to inform the physician's employer(s) when the license has been limited, suspended or revoked, or the license holder has been warned or reprimanded. This language is included in section 448.02(3)(c) of current law attached below (the blue, bold, underlined material).

Such language could be included in a new paragraph under the proposed s. 440.037 (5)(a), on page 7 of the bill. However, the experts at the LRB/LFB can determine how to structure this.

I hope this is what you need. Again, thanks for your willingness to address our concerns. If you need additional info or have questions, please contact me.

448.02(3)(c) (Embedded image moved to file: pic07129.gif) (Embedded image moved to file: pic02161.pcx) (Embedded image moved to file: pic05535.gif) (Embedded image moved to file: pic20450.pcx)  
(c) Subject to par. (cm), after a disciplinary hearing, the board may, when it determines that a panel established under s. 655.02, 1983 stats., has unanimously found or a court has found that a person has been negligent in treating a patient or when it finds a person guilty of unprofessional conduct or negligence in treatment, do one or more of the following: warn or reprimand that person, or limit, suspend or revoke any license, certificate or limited permit granted by the board to that person. The board may condition the removal of limitations on a license, certificate or limited permit or the restoration of a suspended or revoked license, certificate or limited permit upon obtaining minimum results specified by the board on one or more physical, mental or professional competency examinations if the board believes that obtaining the minimum results is related to correcting one or more of the bases upon which the limitation, suspension or revocation was imposed.

Michael Heifetz  
Director of Governmental Affairs  
Dean Health System/SSM Health Care of Wisconsin  
Phone: (608) 250-1225  
Fax: (608) 250-1020  
Email: michael.heifetz@deancare.com

**Halbur, Jennifer**

---

**From:** Michael Seitzinger [mseitz@vbe.com]  
**Sent:** Tuesday, November 11, 2003 9:16  
**To:** Roessler, Carol  
**Subject:** Re: duty to refer

Dear Ms.Roessler;

Thank you for responding to my e-mail.My home address is:

Michael Seitzinger, MD  
W 1960 Belle Mapps Ct.  
Green Lake, WI 54941

(920) 572-3493 (cell)

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

**From:** Roessler, Carol  
**To:** 'Michael Seitzinger'  
**Sent:** Tuesday, November 11, 2003 3:39 PM  
**Subject:** RE: duty to refer

Thank you for your email. Due to the volume of emails I am currently receiving, I ask that all emails contain a home mailing address. This ensures constituents receive the highest priority. Thank you for your assistance. I look forward to hearing from you.

Sincerely,

CAROL ROESSLER

State Senator

18th Senate District

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

**From:** Michael Seitzinger [mailto:mseitz@vbe.com]  
**Sent:** Monday, November 10, 2003 10:10 PM  
**To:** sen.roessler@legis.state.wi.us  
**Subject:** duty to refer

Dear Senator Roessler,

I am in favor of allowing Chiropractic Physicians the 'duty to refer' in that 'only to inform patients' will , in my mind, open a huge gate to negligence if the patient fails to follow up

11/11/2003

Also talked to Mark -  
He will draft.

Halbur, Jennifer

To: Kunkel, Mark  
Subject: FW: Senate Bill 227



pic07129.gif



pic02161.pcx



pic05535.gif



pic20450.pcx

Mark,

I am sorry if you are getting this twice. I started an e-mail to you and now it is gone. Below is the language I mentioned in my voicemail. She doesn't want a healthcare professional's employer to be made aware of a filing of a formal complaint against the health care professional. She wants the employers to be made aware after disciplinary action is determined. The fear is that an employer would be made aware of the filing of a formal complaint but then the health care professional may be found not guilty. I hope that makes sense. Please let me know if you have any questions.

Page 7 line 16 of the bill is where the "Notice of Pending Complaint..." language begins.

Thank you,

Jennifer

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

From: michael.heifetz@deancare.com [mailto:michael.heifetz@deancare.com]  
Sent: Friday, November 07, 2003 3:45 PM  
To: Halbur, Jennifer  
Subject: Re: Senate Bill 227

Jennifer:

Thanks for the opportunity to provide a recommendation on the "notice" portion of this bill. In consultation with our legal counsel, we believe it is only necessary to inform the physician's employer(s) when the license has been limited, suspended or revoked, or the license holder has been warned or reprimanded. This language is included in section 448.02(3)(c) of current law attached below (the blue, bold, underlined material).

Such language could be included in a new paragraph under the proposed s. 440.037 (5)(a), on page 7 of the bill. However, the experts at the LRB/LFB can determine how to structure this.

I hope this is what you need. Again, thanks for your willingness to address our concerns. If you need additional info or have questions, please contact me.

448.02(3)(c) (Embedded image moved to file: pic07129.gif) (Embedded image moved to file: pic02161.pcx) (Embedded image moved to file: pic05535.gif) (Embedded image moved to file: pic20450.pcx)  
(c) Subject to par. (cm), after a disciplinary hearing, the board may, when it determines that a panel established under s. 655.02, 1983 stats., has unanimously found or a court has found that a person has been negligent in treating a patient or when it finds a person guilty of unprofessional conduct or negligence in treatment, do one or more of the following: warn or reprimand that person, or limit, suspend or revoke any license, certificate or limited permit granted by the board to that person. The board may condition the removal of limitations on a license, certificate or

limited permit or the restoration of a suspended or revoked license, certificate or limited permit upon obtaining minimum results specified by the board on one or more physical, mental or professional competency examinations if the board believes that obtaining the minimum results is related to correcting one or more of the bases upon which the limitation, suspension or revocation was imposed.

Michael Heifetz  
Director of Governmental Affairs  
Dean Health System/SSM Health Care of Wisconsin  
Phone: (608) 250-1225  
Fax: (608) 250-1020  
Email: michael.heifetz@deancare.com

**Halbur, Jennifer**

---

I am a public member on the Dentistry Examining Board. I was unaware of Senate Bill 227 until our Board meeting this Wednesday. I agree with many provisions of this bill, including the addition of 2 more public members on the Medical Board for a Total of 5 public members. This is excellent!

My concern is that the Dentistry Examining Board has only two public members. When the last change to the DEB composition was made, we had 5 DDS, 1 DH and 2 public members. After the change we had 6 DDS, 3 DH and still only 2 Public Members. Our percentage of representation on the Board was significantly reduced! I would greatly appreciate consideration of increasing the number of Public Members on the Dentistry Examining Board.

I appreciate your attention to this matter.

Judith Ficks, Public Member

10848 N. Pebble Lane, Mequon, WI 53092

262-241-3034

**Halbur, Jennifer**

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**From:** Klein, Christopher

**Sent:** Thursday, November 13, 2003 4:17

**To:** Halbur, Jennifer

Jennifer, this is the suggested subpoena language that the Senator and Secretary spoke about.

Christopher P. Klein  
Executive Assistant  
Department of Regulation & Licensing  
608-266-8608



SB 227

**Halbur, Jennifer**

**From:** SLonergan@weatrust.com  
**Sent:** Friday, November 14, 2003 3:40 PM  
**To:** Jennifer.Halbur@legis.state.wi.us  
**Subject:** Fwd: Questionable Doctors in

Hi Jennifer,  
 Knowing of Carol's interest in consumer protection issues, I thought you and she may find this interesting.  
 Sandy

Sandra Lonergan  
 WEA Trust  
 External Relations Specialist  
 608-661-6774 (direct)  
 608-469-0793 (cell)  
 608-276-9119 (fax)

X-Mailer: Novell GroupWise Internet Agent 6.0.2  
 Date: Fri, 31 Oct 2003 15:33:09 -0500  
 From: "Public Citizen Member Services" <member@citizen.org>  
 Subject: Questionable Doctors in Wisconsin  
 X-MailScanner: Found to be clean, Found to be clean

Oct. 30, 2003

Public Citizen Releases Database With Names of 384 "Questionable Doctors" in Wisconsin  
 Consumers Can Search Online for Their Doctor

WASHINGTON, D.C. - The consumer advocacy group Public Citizen today released new information about 384 physicians who have been disciplined by Wisconsin's state medical board for incompetence, misprescribing drugs, sexual misconduct, criminal convictions, substandard care, ethical lapses and other offenses. Most of the doctors were not required to stop practicing, even temporarily.

Public Citizen has been publishing national and regional editions of its Questionable Doctors database in book form for more than a decade. But now, for the first time, the data about Wisconsin are available on the World Wide Web (the books are no longer available). The Questionable Doctors Online Web site is [www.questionabledoctors.org](http://www.questionabledoctors.org). With today's addition of Wisconsin data (Iowa, Kansas, Kentucky, North Carolina and South Carolina data are also being added today), the site will have information about doctors in 49 states and the District of Columbia. Information about the remaining state, South Dakota, will be added when data become available.

Consumers can search the list of disciplined doctors for free. For \$10, they can view and print disciplinary reports on up to 10 individual doctors over a one-year period in all available states. So far, more than 375,000 people have looked up their doctors on the Web site to see if they are among the 18,000 nationwide who have been disciplined.

The information on the Questionable Doctors site is generally more comprehensive than information on state medical board Web sites. If a doctor has been disciplined in one state, such as Wisconsin, but is

11/14/2003

licensed in multiple states, the Web sites for the other state medical boards will not include the Wisconsin discipline. Similarly, if a Wisconsin-licensed doctor has been disciplined in another state, that information will not show up on the Wisconsin medical board Web site. Questionable Doctors Online includes such cross-references. Questionable Doctors also lists doctors who have been disciplined by federal agencies, such as the U.S. Drug Enforcement Agency - information that state board Web sites do not have.

Even when Wisconsin takes action against a doctor, it usually doesn't stop them from practicing. Doctors who were disciplined but are currently allowed to practice in Wisconsin include a doctor who failed to diagnose and treat a patient who died as a result of thyroid cancer. The medical board merely placed a restriction on the doctor's license.

"For a number of the offenses committed by Wisconsin doctors, the disciplinary actions have been dangerously lenient," said Sidney Wolfe, M.D., director of Public Citizen's Health Research Group. "Most Wisconsin doctors who committed one or more of the five most serious offenses weren't required to stop practicing, even temporarily. Therefore, it is likely that they are still practicing and that their patients are not aware of their offenses."

Counting only the two most serious disciplinary actions taken against a physician in each case, there were 518 disciplinary actions issued against 384 doctors in Wisconsin over the 10-year period covered by the Questionable Doctors Online database (1992-2001). For the five most serious offenses, there were: 32 for misprescribing or overprescribing drugs; 24 for criminal convictions; 44 for substance abuse; 151 for substandard care, incompetence or negligence; and 16 for sexual abuse of or sexual misconduct with a patient.

Of the 151 actions taken against doctors for substandard care, incompetence or negligence, only 24 (16 percent) involved license revocation, suspension or surrender. Similarly, of the 44 actions taken for substance abuse, only 14 (32 percent) involved medical license revocation, suspension or surrender.

"All too often, state medical boards are more concerned about protecting the reputations of doctors than doing their job, which is to protect unsuspecting patients from doctors who may be incompetent or negligent," Wolfe said. "Wisconsin has a poor record of letting serious and sometimes repeat offenders off the hook."

Public Citizen also has published a ranking of state medical boards, based on the number of serious disciplinary actions (license revocations, surrenders, suspensions and probation/restrictions) per 1,000 doctors in each state. In 2002, nationally there were 3.56 serious actions taken for every 1,000 physicians. Wisconsin ranked No. 49 on the list, with 20 serious sanctions levied in a state with 14,241 doctors, for a rate of 1.40 per 1,000 doctors. Ten states - Wyoming, North Dakota, Alaska, Kentucky, Oklahoma, Arizona, Ohio, Colorado, Montana and Utah - disciplined more than four times as many doctors per 1,000 as Wisconsin. (To view the ranking, [click here](#).)

Public Citizen recommends that states promptly make public all of their board disciplinary actions, malpractice payouts and hospital disciplinary actions; strengthen medical practice statutes; restructure their medical boards to sever any links with state medical societies; and increase funding and staffing for medical boards.

Public Citizen has long sought greater consumer access to information about doctors, and there have been recent improvements in making that information available. Most state medical boards now provide some physician information on the Internet, but the information about disciplinary actions varies greatly, is often inadequate and can be difficult for people to access.

Information about doctor discipline, including state sanctions, hospital disciplinary actions and medical malpractice awards is now contained in the National Practitioner Data Bank, but that database is kept secret from the public.

"HMOs, hospitals and medical boards can look at the National Practitioner Data Bank, but consumers cannot," Wolfe said. "It is time we lifted the veil of secrecy surrounding doctors and allowed the people who have the most to lose from questionable doctors to get the information they need to protect themselves and their families."

The information on the site involves disciplinary actions from 1992 through 2001. Information comes from all 50 state medical boards, the District of Columbia, the U.S. Department of Health and Human Services, the U.S. Drug Enforcement Administration and the U.S. Food and Drug Administration.

Using the information from the state and federal agencies, Public Citizen created a database containing the doctor's name, degree, license number, date of birth, location, the disciplinary state or agency, the date of the disciplinary action, the nature of the discipline and available information about the case. Public Citizen asked all the state medical boards to provide information about court actions that may have overruled or changed previous disciplinary actions. Any disciplinary actions that were overturned by courts or for which litigation ended in the doctor's favor were deleted from the database.

###

CONSUMER INFORMATION: Consumers will be able to search for names of disciplined doctors in the online database for free. For a \$10 subscription, they can obtain detailed disciplinary reports on up to 10 physicians over a one-year period in any of the states listed. To order on the Internet, go to [www.questionabledoctors.org](http://www.questionabledoctors.org).

###

Public Citizen is a national, nonprofit consumer advocacy organization based in Washington, D.C. For more information, please visit [www.citizen.org](http://www.citizen.org)

To help support Public Citizen's work go to <http://www.citizen.org/join/>

If you have received this message in error, please accept our apologies. To unsubscribe, just reply to this message - with the word "unsubscribe pmember list" in the subject line.

## Halbur, Jennifer

---

**From:** Christianson, Bruce  
**Sent:** Friday, December 05, 2003 2:29 PM  
**To:** Halbur, Jennifer  
**Subject:** a couple of phone calls

Secretary Stronghill called for CR because they had seen eachother at the AODA meeting and Carol had asked her to call. when I told her the Senator was not in she asked for you. She will not be in the office anymore today but will be back on Monday. Her number is 266-1352.

Matt from Sen. kedzie's office called about sb255. He would like you to call him back @ 6-2635. Thanks, bruce

## Halbur, Jennifer

---

**From:** Mark Grapentine  
**Sent:** Friday, December 05, 2003 3:37 PM  
**To:** Jennifer.Halbur@legis.state.wi.us  
**Subject:** RE: FW:

That's all well and good, but where were they during the public hearing? Or in the six years since this sucker was first introduced?

I certainly believe this is worthy of discussion, but after all the talk we've had on SB 227, this is a pretty big thing to suddenly throw into the mix, don't you think?

>>> "Halbur, Jennifer" <Jennifer.Halbur@legis.state.wi.us> 12/5/03 3:32:55 PM >>>  
Oh no, that does not sound good. I am not surprised though :)

It is my understanding that this language is a combination of the language that gives DHFS and DFI their subpoena authority. I am waiting to hear back from DRL for the exact location of the DFI and DHFS language.

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

**From:** Mark Grapentine [mailto:MarkG@WISMED.ORG]  
**Sent:** Friday, December 05, 2003 2:10 PM  
**To:** Jennifer.Halbur@legis.state.wi.us  
**Subject:** Re: FW:

Holy cow, Jennifer.

>>> "Halbur, Jennifer" <Jennifer.Halbur@legis.state.wi.us> 12/5/03 1:49:08 PM >>>  
Mark,

Here is the amendment language I mentioned. Let me know what you think.

Thanks!!

Jennifer

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

**From:** Klein, Christopher  
**Sent:** Friday, December 05, 2003 1:42 PM  
**To:** Halbur, Jennifer  
**Subject:**

Jennifer, here you go. I'm also still checking out completely your constituent call. I will call you with all the info rather than emailing it.

Thanks.

Christopher P. Klein  
Executive Assistant  
Department of Regulation & Licensing  
608-266-8608

**Halbur, Jennifer**

---

**From:** Mark Grapentine  
**Sent:** Friday, December 05, 2003 3:42 PM  
**To:** Jennifer.Halbur@legis.state.wi.us  
**Subject:** RE: FW:

Sounds like a good time for a separate bill.

>>> "Halbur, Jennifer" <Jennifer.Halbur@legis.state.wi.us> 12/5/03 3:37:54 PM >>>

Good grief...DRL now is telling me it is from OCI and DHFS not DFI. Most of the language was taken from WI Stats. 601.42.

Thanks,  
Jennifer

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

**From:** Mark Grapentine [mailto:MarkG@WISMED.ORG]  
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Christopher P. Klein  
Executive Assistant  
Department of Regulation & Licensing  
608-266-8608

## Halbur, Jennifer

---

**From:** Mark Grapentine [MarkG@WISMED.ORG]  
**Sent:** Friday, December 05, 2003 3:54 PM  
**To:** Jennifer.Halbur@legis.state.wi.us  
**Subject:** RE: FW:

You bet - I have Alice and Mark Adams (our general counsel) looking at it as well, and I should be able to provide you with their feedback by Monday.

Have a great weekend! Thanks for this little tidbit to kick off MY weekend! ;)

>>> "Halbur, Jennifer" <Jennifer.Halbur@legis.state.wi.us> 12/5/03 3:43:14 PM >>>  
I hear ya. I am going to talk to Carol to find out how strongly she feels about this language. I was not involved in the conversation she had on this issue with the Secretary of DRL.

Keep me posted in terms of the problems the WMS has with the amendment.

Thanks!  
Jennifer

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

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**Sent:** Friday, December 05, 2003 3:37 PM  
**To:** Jennifer.Halbur@legis.state.wi.us  
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**Subject:** Re: FW:

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**Subject:**

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Thanks.

Christopher P. Klein

Executive Assistant

Department of Regulation & Licensing

608-266-8608



State Senator  
Carol Roessler



Memorandum

TO: Carol  
FROM: Jennifer  
DATE: December 15, 2003  
SUBJECT: Senate Bill 227 (Your Doctor Discipline Bill)

You wanted to take another look at the language in SB 227 relating to therapeutic deaths, before sending a letter to the Joint Finance Committee.

I have included information below which outlines the language that is currently in the bill as well as reactions that we have heard.

I attached a letter addressed to the Joint Finance Committee chairpersons that does include reference to an amendment to remove the language relating to "therapeutic related death". I think that in addition to costing money, the language could cause cases to unnecessarily be sent to the Department of Regulation and Licensing for review. I agree with Dr. Treffert in that if the language has to stay in the bill, the definitions need to be tightened up. I also think that if you feel strongly about the rest of the bill and would like to see it move forward, the therapeutic related death language will need to be removed from the bill. Please let me know if you feel differently.

**After reviewing this memo and thinking about the issue, let me know if you want to send the attached letter to JFC.**

### SENATE BILL 227

In the bill, "therapeutic-related death" means a death that resulted from any of the following:

- Complications of surgery, prescription drug use, or other medical procedures, performed or given for disease conditions.
- Complications of surgery, prescription drug use, or other medical procedures, performed or given for accidental or intentional traumatic conditions.
- Therapeutic misadventures, when a medical procedure may have been done incorrectly or resulted from an error in dosage or type of drug administered.

If the coroner or medical examiner determines that a death reported under sub. (1) was a therapeutic-related death, the coroner or medical examiner shall report this information to the department of regulation and licensing.

**The Wisconsin Medical Society is opposed to the inclusion of the above-mentioned language in SB 227.**

*Requiring a Medical Examiner or Coroner to put in essence a "red flag" on a death due to "complications" from surgery, prescription drug use and the like is in our opinion extremely vague. For example, if a patient has an unexpected reaction to cardiac drugs, does that warrant a DRL notification? Or if post-surgery a patient gets an infection that does not respond to normal, within-the-practice treatment? The existing language of SB 227 could be interpreted to say that any death not clearly "natural" could qualify as a complication.*

**Dean Care shares the view of WI Medical Society.**

**Dr. Treffort** (comments attached) believes the language to be problematic. He thinks the definition of "therapeutic misadventures" is too broad and will lead to many deaths coming under review without useful purpose.

**The Department of Regulation and Licensing** said in its testimony that, "at a minimum these complaints would require the collection of significant medical records and an analysis of those records. Many would require investigation. It is very difficult to project the number of open cases that would result. The result could also vary greatly from coroner to coroner.

**The Department of Regulation and Licensing indicated in the fiscal note** that the following resources would be needed to handle the additional complaint workload:

*Salary and Fringe*

*2 Consumer Protection Investigators \$180,160*

*1 Paralegal \$47,840*

*1 Program Assistant \$35,360*

*2 Attorneys \$220,480*

*Supplies of \$1,200 per year for 6 staff \$7,200*

**Senator Welch and Senator Kanavas** voted against passage of SB 227 out of Committee because the coroner/therapeutic misadventure language was in the bill. They would support the bill if that language was removed. \*\*\*Keep in mind that both Welch and Kanavas are on JFC and the bill has to pass JFC in order to move forward.

**The March 1999 Special Committee on Discipline of Health Care Professionals** discussion regarding therapeutic misadventures is attached.

and supportive staff to carry out that mission promptly, and must have reasonable control over the assignment and utilization of those resources. In short, if Medical License fees are to be increased to support those activities, and the MEB is to be held accountable for more stringent timelines in processing cases, then there needs to be some assurance DRL will allocate and dedicate such resources to the MEB. No such procedure, or assurance presently exists. In fact, MEB is not directly involved in the budgeting process at all at the present time, nor is it directly involved in resource allocations or personnel assignments--(who works on what cases with which priority). Those determinations are made by DRL (Division of Enforcement) and not by the Medical Examining Board, even though MEB has statutory responsibility (and accountability) for the disciplinary process.

- Dr  
Treasurer
- The portion of SB 227 that requires "*therapeutic-related death*" be reported to DRL is still problematical, in my opinion. In SB 227 the coroner or medical examiner is to report all deaths resulting from "*complications of surgery, prescription drug use or other medical procedures performed or given for disease conditions, or accidental or intentional traumatic conditions*". That definition is far too broad and overly-inclusive to achieve, in my opinion, what I presume was the intended purpose of this portion of the bill—to identify what SB 227 refers to as "*therapeutic misadventures*"—"*when a medical procedure may have been done incorrectly or resulted from an error in dosage or type of drug administered.*" (I reviewed the 2/3/99 materials to the MEMBERS OF THE SPECIAL COMMITTEE ON DISCIPLINE OF HEALTH CARE PROFESSIONALS which essentially authored AB 139, last session. The impetus seemed to be a wish to have the coroner or medical examiner separate out, investigate and report those deaths that were "therapeutic-misadventures" from the broader category of "accidental death". In discussions related to "therapeutic misadventures" one member suggested that term was too judgmental and offered the term "therapeutic-related" as preferable. Is that the genesis of "therapeutic-related death" in the present bill? A 3/11/99 draft of the bill contained both terms). Without a more refined definition of exactly what is considered a "complication" of surgery, medication use or medical procedures many deaths would come for review under this "therapeutic-related death" provision of the law, without useful purpose, in my opinion. I would suggest that the language of this portion of the bill, if this section remains, needs to be refined to better target its apparent specific intent—expanding the accidental death category to have "therapeutic mis-adventures" (there must be a better term than that)—"medical procedures that may have been done incorrectly or resulted from an error in dosage or type of drug administered" as reportable events. That is a much narrower category than "therapeutic-related death".

I hope these comments are useful. I have attached a copy of my October, 2001 testimony for the MEB on these two prior bills since it may put some of these present comments in more detailed perspective.

December 16, 2003

Senator Alberta Darling, Co Chair  
317 East State Capitol  
Madison, WI 53707

Representative Dean Kaufert, Co Chair  
308 East State Capitol  
Madison, WI 53707

Dear Chairpersons Darling and Kaufert,

On November 4, 2003, Senate Bill 227, relating to health care professional disciplinary cases, was referred to the Joint Finance Committee. As the author of this bill, I am requesting that the Committee include Senate Bill 227 on the agenda for the next Committee meeting. *executive vote*

Four years ago, the Joint Legislative Council's Special Committee on Discipline of Health Care Professionals recommended several changes that would make the current state discipline process more effective and responsive. 2001 Senate Bill 139 encompassed these recommendations. A public hearing was held in October 2001, however, an executive session was never held.

Now is the time to move forward and address these necessary changes in disciplinary procedures. There have been numerous reports that Wisconsin lags in the discipline of health care professionals. This bill is important both to patients and to the integrity of the medical profession.

*See which sent*  
Senate Bill 227 passed the Senate Committee on Health, Children, Families, Aging and Long Term Care, as amended, 7-2. ~~Since the time of passage out of the Committee, it has come to light that further refinements that were not considered prior to the Executive Session, should be made to the bill. I have had two amendments drafted that I would like to be considered by the Committee, if you are agreeable. I have detailed the amendments below.~~

- Dissension*  
*aka*
1. Deletes language relating to the creation of the term, "therapeutic-related death," and the requirement that a coroner report that a death was a therapeutic-related death to the Department of Regulation and Licensing.

2. Deletes language that would require the Department of Regulation and Licensing to notify a health care professional's place of employment after a complaint has been filed alleging unprofessional conduct by the health care professional.

Thank you for your attention to this issue. I hope that you will schedule this bill for the next Joint Committee on Finance hearing.

Sincerely,

CAROL ROESSLER  
State Senator  
18th Senate District

CR:/jhs:\DOCS\Jennifer\2003-05 legislation\12-4-03 letter to JFC sb 227.doc

## Halbur, Jennifer

---

**From:** Mark Grapentine [MarkG@WISMED.ORG]  
**Sent:** Wednesday, December 17, 2003 12:35 PM  
**To:** Jennifer.Halbur@legis.state.wi.us  
**Subject:** Re: Senate Bill 227...Doctor Discipline bill

Thanks, Jen. I forwarded this to Alice too (you actually sent it to me twice)...

>>> "Halbur, Jennifer" <Jennifer.Halbur@legis.state.wi.us> 12/17/03 12:22:41 PM >>>  
Hi,

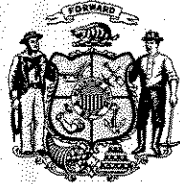
I just want to let you know that Senator Roessler has sent a letter to the JFC co-chairs asking them to move on SB 227 and adopt two amendments:

1. Removal of the therapeutic related death language.
2. Amend the language relating to notification of a healthcare professional's employer to require DRL only to notify after disciplinary action has been determined.

Also, I think I may have mentioned this before, but it looks like we may hold an executive session on AB 67 (conscience clause bill) the third week of January.

Happy Holidays!

Jennifer



**Carol Roessler**  
STATE SENATOR

December 17, 2003

Senator Alberta Darling, Co Chair  
317 East State Capitol  
Madison, WI 53707

Representative Dean Kaufert, Co Chair  
308 East State Capitol  
Madison, WI 53707

*Alberta* *Dean*  
Dear Chairpersons Darling and Kaufert,

On November 4, 2003, Senate Bill 227, relating to health care professional disciplinary cases, was referred to the Joint Finance Committee. As the author of this bill, I am requesting that the Committee include Senate Bill 227 on the agenda for the next Committee meeting and executive vote.

Four years ago, the Joint Legislative Council's Special Committee on Discipline of Health Care Professionals recommended several changes that would make the current state discipline process more effective and responsive. 2001 Senate Bill 139 encompassed these recommendations. A public hearing was held in October 2001, however, an executive session was never held.

Now is the time to move forward and address these necessary changes in disciplinary procedures. There have been numerous reports that Wisconsin lags in the discipline of health care professionals. This bill is important both to patients and to the integrity of the medical profession.

Senate Bill 227 passed the Senate Committee on Health, Children, Families, Aging and Long Term Care, as amended, 7-2 (Welch and Kanavas). The dissenting votes were due to language in the bill relating to "therapeutic related" deaths. After further review, I am in agreement that the bill should be amended to remove this language. It has also come to light that an additional refinement relating to employer notification, that was not considered prior to the Executive Session, should be made to the bill. I have had two amendments drafted to reflect these needed changes and would like the Committee to consider them, if you are agreeable. I have detailed the amendments below.

1. Deletes language relating to the creation of the term, "therapeutic-related death," and the requirement that a coroner report that a death was a therapeutic-related death to the Department of Regulation and Licensing.

2. Amends language that would require the Department of Regulation and Licensing (DRL) to notify a health care professional's place of employment after a complaint has been **filed** alleging unprofessional conduct by the health care professional. The language instead will require DRL to notify a health care professional's place of employment after **disciplinary action** has been determined.

Thank you for your attention to this issue. I hope that you will schedule this bill for the next Joint Committee on Finance meeting and Executive Session.

Sincerely,



CAROL ROESSLER  
State Senator  
18th Senate District

Cc: Joint Finance Committee Members



# Joint Committee on Finance

## Committee Members

<p><u>Senator Alberta Darling</u>, Senate Chair (R)  Room 317 East, State Capitol  Madison, WI 53702  (608) 266-5830</p>	<p><u>Representative Dean Kaufert</u>, Assembly Chair (R)  Room 308 East, State Capitol  Madison, WI 53702  (608) 266-5719</p>
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Committee Clerk:

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12/28/2003 11:09:10 AM

8 **Doyle leads effort to enact harsher punishment for bad doctors**

*Doyle  
Need*

**Eric Lindquist**  
Leader-Telegram Staff

Doctors would have their performance examined more thoroughly under a new regulatory philosophy advocated by Gov. Jim Doyle's administration.

The state Department of Regulation and Licensing has started toughening its approach to disciplining questionable doctors since Doyle took office in January, the governor said in an interview with the Leader-Telegram.

While the state Medical Examining Board makes final decisions on doctor discipline, DRL's Division of Enforcement has stepped up efforts to call for stricter penalties against doctors found to have violated professional standards, said department spokesman Christopher Klein.

"More than has ever been done in the past, we're taking an aggressive prosecution stand," Klein said. "We emphasize that the board always keep in mind that its main purpose is protecting the public, not protecting the doctors."

The shift came as a result of a hard look by DRL Secretary Donsia Strong Hill at the state's discipline of professional license holders, said Doyle, a Democrat.

State Medical Society spokesman Steve Busalacchi said he wasn't aware of the state's new approach.

One of the most effective ways for the administration to bring about tougher sanctions against bad doctors is through the governor's appointments to the medical board, Klein said, noting that Doyle already has appointed four new members.

"I'm going to make sure as I make those appointments that they're people who are going to look out and stand up for the public interest," Doyle said.

The 13-member panel is composed of 10 doctors and three public members.

Public Citizen's Health Research Group has criticized Wisconsin for consistently ranking near the bottom among states for doctor discipline and for failing to impose sufficient penalties when it does act.

In its latest study for 2002, the consumer watchdog group ranked Wisconsin 49th among the 50 states and the District of Columbia, with a rate of 1.4 serious disciplinary actions per 1,000 doctors. Only Delaware with 1.35 and Hawaii with 1.07 were lower. The national average was 3.56.

While DRL officials have questioned the study's methodology, Klein suggested that the department's new approach should address some of the concerns.

"This is just about the governor of the state wanting the citizens of the state to feel comfortable with their health care," Klein said.

Dec-2003 ?

**Halbur, Jennifer**

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**To:** markg@wismed.org; markg@wismed.org; michael.heifetz@deancare.com  
**Subject:** Senate Bill 227...Doctor Discipline bill

Hi,

I just want to let you know that Senator Roessler has sent a letter to the JFC co-chairs asking them to move on SB 227 and adopt two amendments:

1. Removal of the therapeutic related death language.
2. Amend the language relating to notification of a healthcare professional's employer to require DRL only to notify after disciplinary action has been determined.

Also, I think I may have mentioned this before, but it looks like we may hold an executive session on AB 67 (conscience clause bill) the third week of January.

Happy Holidays!

Jennifer