

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on  
Insurance  
(AC-In)

(Form Updated: 11/20/2008)

**COMMITTEE NOTICES ...**

➤ Committee Reports ... CR

\*\*

➤ Executive Sessions ... ES

\*\*

➤ Public Hearings ... PH

\*\*

➤ Record of Comm. Proceedings ... RCP

\*\*

**INFORMATION COLLECTED BY COMMITTEE  
FOR AND AGAINST PROPOSAL ...**

➤ Appointments ... Appt

\*\*

Name:

➤ Clearinghouse Rules ... CRule

\*\*

➤ Hearing Records ... HR (bills and resolutions)

\*\*

➤ Miscellaneous ... Misc

**05hr\_AC-In\_Misc\_pt02**

**(misc. to/from correspondence)**



## MILLIMAN & ROBERTSON, INC.

Actuaries and Consultants

Suite 400  
15700 Bluemound Road  
Brookfield, Wisconsin 53005-6069  
Telephone: 414/784-2250  
Fax: 414/784-6388

### MEMORANDUM

**Date:** January 18, 1995

**To:** Danford C. Bubolz  
Chief, Patients Compensation Fund

**From:** Robert L. Sanders

**Subject:** IMPACT OF A CAP ON NON-ECONOMIC DAMAGES

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On Thursday, January 19 the Office of the Commissioner of Insurance has been asked to testify at a hearing regarding proposed legislation that would introduce a cap on non-economic damages for medical malpractice claims in Wisconsin. In preparation for that hearing, you have asked Milliman & Robertson to estimate the impact of a cap on the Patients Compensation Fund. In particular, you have asked us to estimate:

- The initial impact on Fund fees;
- The initial impact on the Fund deficit; and
- The impact on Fund fees in subsequent years.

#### **INITIAL IMPACT ON FUND FEES**

To illustrate the initial impact of a cap on Fund fees, we have assumed that the cap would have been effective June 30, 1994. The Fund fees adopted for the July 1, 1994-95 fiscal year were based on the "break-even" fee level as reflected in our annual actuarial report on the Fund dated February 17, 1994. The table below compares the indicated break-even fees by major provider group under various levels of a cap:

Albany • Atlanta • Boston • Chicago • Cincinnati • Dallas • Denver • Hartford • Houston  
Indianapolis • Irvine • Los Angeles • Milwaukee • Minneapolis • New York • Omaha • Philadelphia • Phoenix  
Portland • St. Louis • Salt Lake City • San Diego • San Francisco • Seattle • Tokyo • Washington, D.C.

Internationally WOODROW MILLIMAN

Argentina • Australia • Austria • Belgium • Bermuda • Canada • Channel Islands • Denmark  
France • Germany • Ireland • Italy • Japan • Mexico • Netherlands • New Zealand  
Philippines • Spain • Sweden • United Kingdom • United States • West Indies

Break-Even Fund Fees for July 1, 1994-95				
Fund Class	No Cap	\$250,000 Cap	\$500,000 Cap	\$1,000,000 Cap
1	\$ 3,150	\$ 2,552	\$ 2,717	\$ 2,912
2	6,300	5,103	5,434	5,824
3	15,750	12,758	13,585	14,560
4	18,900	15,309	16,302	17,472
Acute Care Bed	208	168	179	192

The estimated percentage reductions in break-even fee levels are shown below:

Cap on Non-Economic Damages	Indicated Reduction In Break-Even Fee Levels
\$ 250,000	19.0%
500,000	13.7
1,000,000	7.6

It is our understanding that the Fund's fee income for the July 1, 1994-95 fiscal year will be \$55,262,000. Based on this, the indicated break-even fee levels are shown below:

Cap on Non-Economic Damages	Estimated July 1, 1994-95 Break-Even Fee Income
No Cap	\$55,262,000
\$ 250,000	44,762,000
500,000	47,691,000
1,000,000	51,062,000

### INITIAL IMPACT ON FUND DEFICIT

The impact that a cap on non-economic damages would have on the Fund deficit is contingent upon whether the cap is to be applied to any action *occurring* on or after its effective date, or any action *filed* on or after the effective date.

In the case of the proposed cap applying only prospectively - that is, only to claims *occurring* on or after the effective date - the cap would have no impact on reserves currently held by the Fund for unpaid claims, and hence would have no impact on the Fund deficit.

In the case of the proposed cap applying to any claim *filed* on or after the effective date, the cap would have an impact on the reserves held by the Fund for claims that have been incurred but not reported (IBNR). Again, to illustrate the impact, we assumed that the proposed cap would have been effective June 30, 1994. At that time, the Fund's balance sheet reflected a reserve for IBNR claims of \$406.9 million on an undiscounted basis. The table below shows the estimated reduction in the Fund's IBNR reserve as of June 30, 1994 under various levels of a cap:

Cap on Non-Economic Damages	Indicated Reduction In Fund IBNR Reserve @ June 30, 1994
\$ 250,000	\$22,120,000
500,000	14,625,000
1,000,000	10,969,000

The impact on the Fund deficit would be identical to the reduction in IBNR reserve shown above.

### IMPACT IN SUBSEQUENT YEARS

The preceding sections discussed the impact that a cap would initially have on Fund fees and the Fund deficit. To illustrate the projected impact of a cap in subsequent years, the table below compares the projected break-even fee levels over the next five fiscal years under various levels of a cap. As before, we assumed that a cap would have been effective June 30, 1994:

Projected Break-Even Fee Income			
Fiscal Year	No Cap	\$250,000 Cap	\$1,000,000 Cap
July 1, 1994-95	\$ 55,262,000	\$ 44,762,000	\$ 51,062,000
July 1, 1995-96	60,854,000	48,885,000	55,528,000
July 1, 1996-97	66,769,000	53,298,000	60,395,000
July 1, 1997-98	72,921,000	57,841,000	65,453,000
July 1, 1998-99	79,421,000	62,596,000	70,500,000
Total	\$335,228,000	\$267,382,000	\$302,938,000

The table below summarizes the indicated reductions in break-even fee levels over the five year period:

Cap on Non-Economic Damages	Indicated Reduction In Break-Even Fee Income
\$ 250,000	\$67,846,000
1,000,000	32,290,000

This comparison is based on an assumption that the cap introduced on June 30, 1994 would remain fixed over time. It is our understanding that consideration is being given to indexing the cap to reflect an annual adjustment for inflation based on the consumer price index. While we have not estimated the projected impact of an inflation index on the cap, this would dampen the projected reduction in break-even fee levels. That is, the Fund's break-even fee income would be increased beyond those shown above if the cap is indexed for inflation.

Dan, this memo is intended only as a summary of our analysis. For reference, we have attached a May 20, 1994 memo to the Special Committee of the Fund's Board of Governors, which provides further details on the assumptions and methodology underlying our analysis.

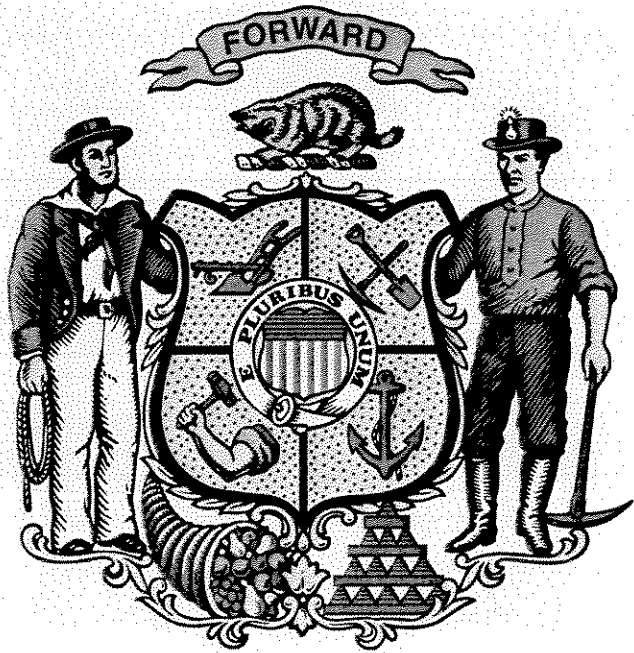
Let me know if you need anything further.

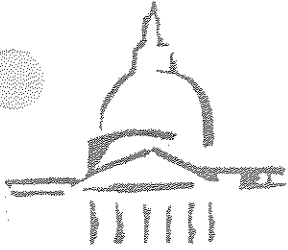
RLS/rep

cc: Susan Ezalarab  
Wayne Ashenberg  
James Fox

Pete Wick  
Chad Karls  
Darren Sveom







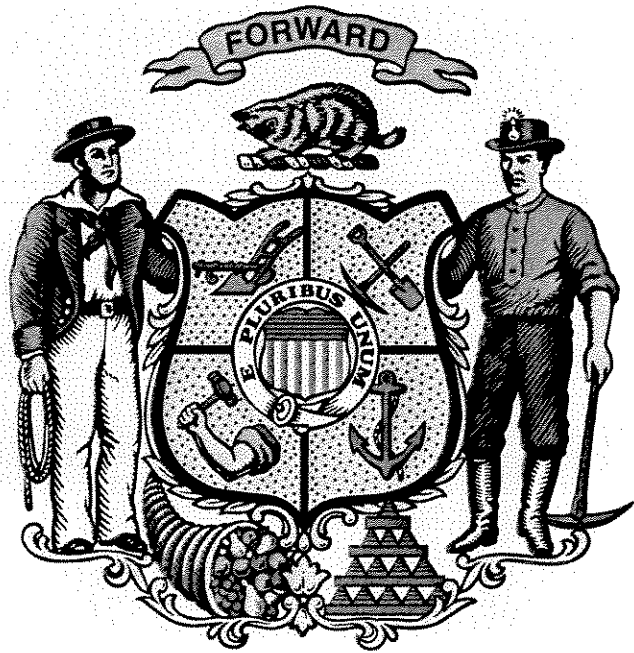
**Rick Skindrud**  
 SERGEANT-AT-ARMS  
 WISCONSIN STATE ASSEMBLY

**Anne Tonnon Byers**  
 DEPUTY SERGEANT-AT-ARMS

# Memo

**To:** ALL ASSEMBLY LEGISLATORS  
**From:** Rick Skindrud  
**Date:** 01/14/05  
**Re:** Committee Room Number Assignments 2005-2006 Session

Tuesday Even		Wednesday Even		Thursday Even	
Southeast WI Freeways (6) <i>Honadel</i> <i>Cullen</i>	225NW	Labor (9) <i>Nass</i> ✓	225NW	Aging & Long Term Care (10) <i>Townsend</i>	225NW
Forestry (6) <i>Friske</i> ✓	300NE	Ways & Means (13) <i>Wood</i>	300NE	Campaigns & Elections (6) <i>Freese</i>	300NE
State Affairs (9) <i>Fitzgerald</i> ✓	328NW	Rural Development (8) <i>M. Williams</i>	328NW	Children & Families (8) <i>Kestell</i>	328NW
Economic Development (9) <i>McCormick</i>	400NE	Highway Safety (8) <i>Petrowski</i>	400NE	Family Law (6) <i>Owens</i>	400NE
Health (13) <i>Underheim</i>	GAR	Military Affairs (8) <i>Musser</i>	GAR	Agriculture (15) <i>Ott</i>	GAR
Energy & Utilities (11) <i>Montgomery</i> <i>Stokman</i>	415NW	Natural Resources (15) <i>Gunderson</i>	415NW	Financial Institutions (16) <i>Hundertmark</i>	415NW
Tuesday Odd		Wednesday Odd		Thursday Odd	
Colleges & Universities (12) <i>Kreibich</i>	225NW	Government Operations & Spending Limitations (6) <i>Lasee</i>	225NW	Judiciary (8) <i>Gundrum</i>	225NW
Tourism (12) <i>Pettis</i>	300NE	Property Rights & Land Management (6) <i>Albers</i>	300NE	Rural Affairs & Renewable Energy (9) <i>Hahn</i>	300NE
Budget Review (6) <i>Kerkman</i>	328NW	Education Reform (9) <i>Vukmir</i>	328NW	Insurance (15) <i>Nischke</i>	328NW
Veteran Affairs (8) <i>Loeffelholz</i>	400NE	Corrections & the Courts (10) <i>Bies</i>	400NE	Housing (6) <i>Wieckert</i>	400NE
Education (12) <i>Towns</i>	GAR	Criminal Justice & Homeland Security (12) <i>Suder</i>	GAR	Transportation (15) <i>Ainsworth</i>	GAR
Small Business (8) <i>VanRoy</i>	415NW	Public Health (8) <i>Hines</i>	415NW	Workforce Development (12) <i>Krawczyk</i>	415 NW
Urban & Local Affairs (8) <i>LeMahieu</i>	NHR	Medicaid Reform (8) <i>Gielow</i>	NHR	State-Federal Relations (6) <i>Lothian</i>	NHR





## **Communication between Committee Clerks and the Majority Leaders office**

In an effort to more effectively track legislation moving through the committee process during the busy weeks and months ahead of us, I am asking all committee clerks to work with us by following the steps below. These procedures will increase communication and save all of us from unnecessary work and confusion.

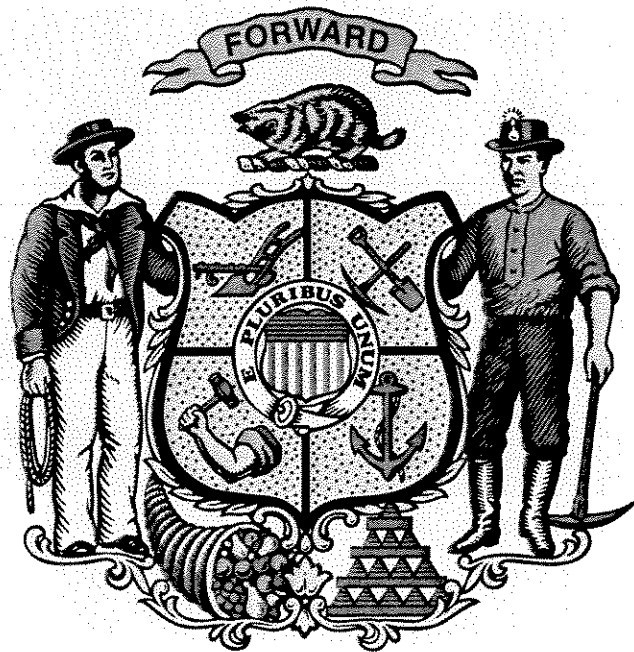
Please e-mail or call Bob Karius in my office with the following information:

- 1) Notice of the bills your committee will be hearing and or execing as many days prior to sending out the public notice as possible.
- 2) The record of proceedings for each bill voted out of your committee as soon as possible after an executive session.
- 3) The vote on passage specifying the "no" votes as soon as possible (especially if the record of proceedings will not be forthcoming).
- 4) Notice of any possible problems that materialize with the bill or any amendments in order to avoid problems later in the process.
- 5) Please don't hesitate to call my office with any questions.

Thank you for your cooperation. If anyone has suggestions we will be glad to consider them.

Mike Huebsch  
Majority Leader

01/18/05



Packet

TO: Committee Clerks  
FROM: Melanie Hubbard for Representative Vrakas  
DATE: January 19, 2005  
RE: Bill Summary Procedure

In an effort to deliver quality bill summaries to our members in a timely fashion, adopting the following procedures will help ensure our success.

***Distribution***

Committee Clerks are responsible for the quality and content of each bill summary. Please be diligent about deadlines and please put in as much thought and effort that is required to ensure our members are knowledgeable and feel comfortable voting on each bill.

***Scheduling and Deadlines***

Like with most everything in our work at the capitol, scheduling bills is a very fluid process. In some instances you may receive less than a day's notice that your bill summary will be due. In addition, there may be some days when you may have a number of summaries due, which makes it very important that you work on them throughout the committee process.

The following is the schedule for submitting bill summaries:

Tuesday session bills – in by Friday noon  
Wednesday session bills – in by Monday noon  
Thursday session bills – in by Tuesday noon

To help expedite the distribution of the summaries, please send each one to me as soon as you complete them. For example, when you have several summaries due on a particular session day; please send each one as soon as it is finished.

***Templates and Formatting***

The template to be used in completing your bill summaries is located on the P drive (P:) under the committee clerk folder. Follow this template closely to ensure consistency in all our bill summaries. Please pay special attention to the following two items:

*As Amended By Committee* – If an amendment passes a committee please incorporate the amendment into the summary of the bill.

*Pro's and Con's* – This section, should include pro's and con's discussed at the bill's hearing, and should be objective. Complete sentences should be used, rather than fragments, and should look similar to talking points.

Please give me a call (4-8668) if you have any questions.

# Assembly Republican Majority Bill Summary

**Contact:** Jane Doe, Office of Rep. Joe Schmoe

## **AB 100: Brief Description of Bill**

Relating to:

By (Representative, Senator, or by Committee)

**Date:** Date of Scheduled Floor Action

### **BACKGROUND**

Under current law, . . .

### **SUMMARY OF AB 100**

Assembly Bill 100 . . .

**NOTE:** If the proposal was amended by committee, the following should appear after the above heading: **(AS AMENDED BY COMMITTEE)**. Also, the amendments should be incorporated into the new summary of the bill.

### **AMENDMENTS**

**Assembly Amendment 1** to Assembly Bill 100 ..... [adopted 10-1-1 (Rep. Smith voted no, Rep. Johnson was absent)].

### **FISCAL EFFECT**

A fiscal estimate prepared by the (enter the appropriate Department) indicates . . .

**NOTE:** If a fiscal estimate is not required simply state, "A fiscal estimate was not required for Assembly Bill XXX."

### **PROS**

1.

2.

### **CONS**

1.

2.

### **SUPPORTERS**

Rep. Joe Schmoe, author; Sen. Jane Schmoe, lead co-sponsor; Jane Doe, National Lobbying Organization; . . .

## OPPOSITION

John Smith, Local Organization; Bob Jones, Corporation for a Better Life; . . .

**NOTE:** If no one registered or testified please state, "No one registered or testified in opposition to Assembly Bill XXX."

## HISTORY

Assembly Bill 100 was introduced on (insert date here), and referred to the Assembly Committee on (list committee). A public hearing was held on (insert date here). On (insert date here), the Committee voted (insert committee vote) [(insert names of no votes and absent legislators)] to recommend passage of AB 100 as amended.

**If the bill is a Senate Bill, the history should look like this:**

Senate Bill 100 was introduced on (insert date here), and referred to the Senate Committee on (list committee). On (insert date here), the Committee voted (insert committee vote) to recommend SB 100 for passage. On (insert date here), the Senate passed SB 100 on a (insert Senate vote here) vote. Senate action on SB 100 was messaged to the Assembly, and SB 100 was referred to the Assembly Committee on (list committee). A public hearing was held on (insert date here). On (insert date here), the Committee voted (insert committee vote) [(insert names of no votes and absent legislators)] to recommend concurrence of SB 100 as amended.

# **Assembly Republican Majority Bill Summary**

## **AB 90: Standard Seatbelt Enforcement**

Relating to: enforcement of motor vehicle safety belt violations and providing a penalty.

By Representatives Ainsworth, Hebl, Bies, Freese, Hines, McCormick, Pope-Roberts, Stone and Townsend, sponsored by Senators Brown, Risser and George.

**Date:** March 9, 2004

### **BACKGROUND**

Under current law, the use of safety belts is required in certain motor vehicles. With specific exceptions, no person may drive a motor vehicle unless he or she is properly restrained by a safety belt and unless he or she reasonably believes that each passenger between the ages of four and fifteen years old is properly restrained by a safety belt. No person who is at least four years old may be a passenger in the front seat of a motor vehicle unless that person is properly restrained by a safety belt. Current law prohibits a law enforcement officer from stopping or inspecting a motor vehicle solely to determine compliance with safety belt use requirements. The officer may, however, issue a citation for a violation observed in the course of a stop or inspection made for other purposes. A law enforcement officer may not take a person into physical custody solely for a violation of safety belt use requirements.

### **SUMMARY OF AB 90 (AS AMENDED BY COMMITTEE)**

Assembly Bill 90 authorizes a law enforcement officer to stop or inspect a vehicle solely to determine compliance with safety belt use requirements, if the officer has probable cause to believe that a violation has occurred. The bill also increases the penalty for violating this state's laws requiring the use of safety belts from \$10 to \$25 for a first offense and to not less than \$50 nor more than \$75 for the second and each later offense committed within three years. As under current law, violators pay no additional costs, fees, or assessments.

Assembly Bill 90 provides an exemption to the seat belt requirement for persons who qualify for special registration plates for: (1) disabled veterans; (2) nonveteran disabled person; (3) a licensed driver whom a disabled person is regularly dependent; and (4) an employer provided vehicle for a disabled person. Also, an exemption is provided for persons who are physically disabled and have a special identification card.

### **AMENDMENTS**

**Assembly Amendment 1** to Assembly Bill 90 provides an exemption to the seat belt requirement for persons who qualify for special registration plates for: (1) disabled veterans; (2) nonveteran disabled person; (3) a licensed driver whom a disabled person is regularly dependent; and (4) an employer provided vehicle for a disabled person. Also, an exemption is provided for persons who are physically disabled and have a special identification card [adopted 12-0-4 (Reps. Van Roy, Sherman, Staskunas and Gronemus were absent)].

### **FISCAL EFFECT**

A fiscal estimate was not required for Assembly Bill 90.

### PROS

1. States that upgrade to standard enforcement typically experience a 15-percentage point increase in seat belt use. Assuming this same trend in Wisconsin – the state could save an additional 76 lives and prevent an additional 1,968 injuries **annually**.
2. Wisconsin set a 22-year high in 2003 with 840 traffic fatalities – approximately 60% of the people killed were not buckled up. Studies done in other states have proven that the single most significant way to improve these figures is to pass standard seatbelt enforcement legislation.
3. The National Highway Traffic Safety Administration estimates that Wisconsin could save as much as \$196 million **annually** in medical costs and lost time for the state, businesses and people of Wisconsin by passing standard seatbelt enforcement.
4. The President's SAFETEA proposal includes a primary seatbelt law incentive grant program. Under the proposed program, any state that enacts a primary seatbelt law between December 31, 2002 and December 31, 2008 would be eligible for a one-time grant equal to five-times the FFY 2003 Section 402 appropriation. In Wisconsin, this would translate to a one-time grant of \$16,039,100.
5. Wearing your seatbelt in Wisconsin is already the law. A.B. 90 just allows the law to be enforced like all of Wisconsin's other traffic and vehicle equipment laws.

### CONS

1. The Government should not interfere in a person's right to choose whether or not to wear a seatbelt.
2. Some feel that not wearing a seatbelt will allow them to more easily escape from the vehicle in the event of a crash, than if they were buckled in.
3. Opponents feel that police could use standard enforcement as a tool to harass motorists.

### SUPPORTERS

Rep. John Ainsworth, author; Sen. Ron Brown, lead co-sponsor; Richard Healing, National Transportation Safety Board; Danielle Roeber, National Transportation Safety Board; Dr. Timothy Corden, Wisconsin American Academy of Pediatrics; Alice O'Connor, Wisconsin Medical Society; Dr. Wayne Moore, Meharry Medical College; Dennis Kruger, Wisconsin Troopers Association; Mike Witter, National Highway Traffic Safety Administration; Thelma Kuska, National Highway Traffic Safety Administration; Mary Reinhart, self; Rose Rose; MADD WI; Kari Kinnard, MADD WI; Ernie Stetenfeld, AAA/Wisconsin Safety Belt Coalition; George Solverwood, Madison Police Department; Katie Rezin, General Motors; Peter Annis, Wisconsin Highway Safety Coordinators Association; Erin Wolff, Richland Safe Community Coalition; Representative Garey Bies, 1<sup>st</sup> Assembly District; Pam Ebel, Chippewa Valley Safe Kids/Sacred Heart Hospital; Kate Nolan, MADD; Nan Peterson, Madison Safe Kids Coalition/American Trauma Society – Wisconsin Chapter; Michael Vaughn, Wisconsin Chiefs of Police Association; Robert Wall, self; Chet Gerlach, State Farm Insurance; Lisa Bullard Hawthorne, self; Senator Fred Risser, 26<sup>th</sup> Senate District; Dr. Stephen Hargarten, self; Amy Boyer, Alliance of Automobile Manufacturers; Theresa Hottenroth, Academy of Emergency Physicians; Joe Handrick, Wisconsin Society of Anesthesiologists; Bob Wierenga, Wisconsin County Police Association; Terry Rieder, Milwaukee Deputy Sheriffs Association; Bernadette Galvez, City of Madison Fire Department; Eric Englund, Wisconsin Insurance Alliance.

## **OPPOSITION**

Rep. Gene Hahn, (against AB 90 prior to amendment); Mark Halter, self; Eric Skrum, National Motorists Association; Deb Sybell, Individual Rights and Responsibilities Section – State Bar of Wisconsin.

## **HISTORY**

Assembly Bill 90 was introduced on February 20, 2003, and referred to the Assembly Committee on Transportation. A public hearing was held on April 24, 2003. On April 24, 2003, the Committee voted 8-4-4 [Rep. Petrowski, Suder, Friske and Vruwink voted no, Reps. Van Roy, Sherman, Staskunas and Gronemus were absent] to recommend passage of AB 90 as amended.

**CONTACT:** Kristina Boardman, Office of Rep. John Ainsworth



# Assembly Republican Majority Bill Summary

**AB 370: Giving County Sheriffs the Right to Serve Eviction Notices for Drug and Gang Activity**  
Relating to: termination of a tenancy if notice given regarding drug or criminal gang activity.

By Rep. Wieckert, Grothman, Pettis, Hines, Krawczyk, Ladwig, Olsen, McCormick, Nass, Townsend, Musser, Weber, Ott, Seratti, Gunderson, Hundertmark, Vrakas, Loeffelholz, Van Roy, Hahn, Bies, Jeskewitz, Stone, Turner, Morris and Staskunas, cosponsored by Senators Stepp, Zien, Schultz, Lassa, Roessler, Hansen and Darling.

Date: November 5, 2003

## BACKGROUND

Under current law, if a property owner receives notice from a law enforcement agency of a city, town, or village that a rental unit is a nuisance because the unit is being used to facilitate the delivery, distribution, or manufacture of a controlled substance or is being used to facilitate the activities of a criminal gang, the property owner may terminate the tenancy by giving the tenant written notice requiring the tenant to vacate on or before a date at least five days after the giving of the notice. Currently, the city, town, or village, and officers and employees of those municipalities who act in good faith, are immune from liability for acts or omissions related to the provision of a notice that a rental unit is a public nuisance.

## SUMMARY OF AB 370 (AS AMENDED BY COMMITTEE)

Assembly Bill 370 expands the law enforcement agencies that may give notice to a property owner that a rental unit is a nuisance to include any law enforcement agency of the state or of a political subdivision of the state and provides immunity to those additional entities and their officers and employees. ~~A provision in the bill allows the Milwaukee County Sheriffs to be exempted from having to provide written notice to evicted tenants. As Amended by Committee, the provision, which exempted the sheriffs of Milwaukee County from having to provide written notice under the public nuisance provisions was removed.~~

## AMENDMENTS

**Assembly Amendment 1** to Assembly Bill 370, as originally introduced the bill had a provision that exempted Milwaukee County from having to provide written notice to evicted tenants. This amendment eliminates that provision. [adopted 5-0-1 (Rep. Morris was absent)].

## FISCAL EFFECT

~~No apparent fiscal effect.~~

A fiscal estimate was not required for Assembly Bill 370.

PROS

AB

*Bill*

1. It allows for an option of greater efficiency of local units of government taxpayer resources since county sheriffs could provide all apartment tenant eviction notice serving for a county.
2. In 2001 legislative session, this bill (Assembly Bill 208) passed the State Assembly by a bi-partisan vote of 96-0.
3. This bill provides another ~~local~~ option for local governments to use county sheriffs, not a mandate that they must use county sheriffs and have to alter their current eviction process.

**CONS**

None apparent.

**SUPPORTER**

→ Rep. Steve Wieckert, author; Sen. Cathy Stepp, lead co-sponsor; Steven Werner, Wisconsin Professional Police Association, Gary Goyke, Wisconsin Apartment Association/Wisconsin Rental Housing Legislative Council; Michael Miller, City of Milwaukee; Robert Wierchga, Wisconsin County Police Association; Gerald Rieden, Milwaukee Deputy Sheriff's Association ~~X~~.

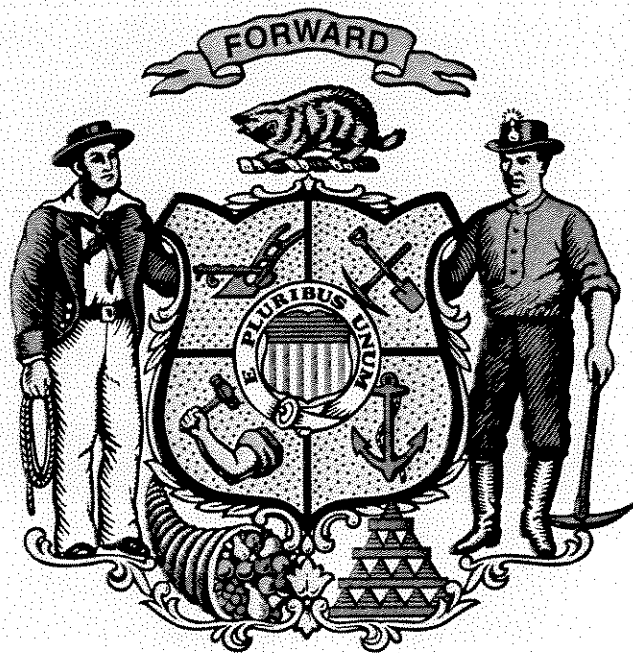
**OPPOSITION**

*No one registered or testified in opposition*  
 No one appeared against the bill at the hearing.

**HISTORY**

Assembly Bill 370 was introduced on May 29, 2003, and referred to the Assembly Committee on  
 A public hearing was held on June 10, 2003. On August 28, 2003, the Committee voted ~~5-0-1~~  
 [(Rep. Morris was absent)] to recommend passage of AB 370 as amended.

↓  
**CONTACT:**



**Rosenak, Mary Jan**

**From:** RJ Pirlot [rjpirlot@wmc.org]  
**Sent:** Thursday, January 27, 2005 8:27 AM  
**To:** Rosenak, Mary Jan  
**Subject:** FW: Arkansas HSA tax

Mary Jan,

FYI, below. Recent action on similar legislation in Arkansas, whose legislature is controlled by Democrats

I shared this with Bob Delaporte, too.

R.J. Pirlot

Director of Legislative Relations  
 Wisconsin Manufacturers & Commerce  
 Direct: 608-661-6935  
 Mobile: 608-658-0817  
 Fax: 608-258-3413

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

**From:** Watson, Josh [mailto:jpwatson@goldenrule.com]  
**Sent:** Thursday, January 27, 2005 8:01 AM  
**To:** Chad Zuleger (chad.zulerger@eams.com); Dan Schwartz (dans@gdinet.com); J. P. Wieske (JP Wieske [jpwieske@cahi.org]); Katie Boycks; Pat Osborne; RJ Pirlot  
**Subject:** Arkansas HSA tax

Hi Everyone,

R.J. asked me about this bill last night. Here is the status and attached is the bill itself. Both the House and the Senate in Arkansas are controlled by the Democrats. This bill passed with 98 yeas, 0 nays and 2 no votes. It now awaits its turn in the Senate.

Josh

**Bill Status: HB1064**

**Sponsor: Bond**

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ALLOWS AN INCOME TAX DEDUCTION FOR CONTRIBUTIONS MADE TO A HEALTH SAVINGS ACCOUNT.

---

- Senate - Jan 19 2005 3:13:22 - Read first time, rules suspended, read second time, referred to Senate Committee on Revenue and Taxation
- Senate - Jan 19 2005 3:13:16 - Received from the House.
- House - Jan 19 2005 1:41:47 - EMERGENCY CLAUSE ADOPTED -
- House - Jan 19 2005 1:40:27 - Read the third time and passed and ordered transmitted to the Senate.
- House - Jan 18 2005 10:49:45 - Returned by the Committee Do Pass
- House - Jan 14 2005 9:26:02 - REPORTED CORRECTLY ENGROSSED

01/27/2005

- House - Jan 14 2005 8:28:58 - Amendment No. 1 read and adopted and the bill ordered engrossed.
- House - Jan 14 2005 8:28:28 - Placed on second reading for the purpose of amendment.
- House - Jan 11 2005 9:38:16 - Read the first time, rules suspended, read the second time and referred to the Committee on REVENUE & TAXATION- HOUSE
- House - Jan 10 2005 4:43:32 - Filed.

Amendments - House Amend.1

Senate Amend. 1

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

*As Engrossed: H1/14/05*

## A Bill

HOUSE BILL 1064

5 By: Representatives Bond, Key, J. Martin, Lamoureux  
6  
7

### For An Act To Be Entitled

8 AN ACT TO ALLOW AN INCOME TAX DEDUCTION FOR  
9 CONTRIBUTIONS MADE TO A HEALTH SAVINGS ACCOUNT;  
10 TO EXEMPT THE INTEREST EARNED ON THE ACCOUNT FROM  
11 INCOME TAX; TO MAKE CONFORMING AMENDMENTS TO  
12 EXISTING LAW; AND FOR OTHER PURPOSES.  
13  
14

### Subtitle

15 ALLOWS AN INCOME TAX DEDUCTION FOR  
16 CONTRIBUTIONS MADE TO A HEALTH SAVINGS  
17 ACCOUNT.  
18  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code Title 26, Chapter 51, Subchapter 4 is amended  
24 to add a new section as follows:

25 26-51-453. Health savings accounts.

26 (a) Subdivisions (a) - (d), (e)(2), (f), and (g) of § 223 of the  
27 Internal Revenue Code of 1986, as in effect on January 1, 2005, regarding a  
28 deduction from income for amounts deposited to health savings accounts, is  
29 adopted for purposes of computing Arkansas income tax liability.

30 (b) A health savings account is exempt from tax under this chapter  
31 unless it no longer meets the requirements of subsection (a) of this section.  
32

33 SECTION 2. Arkansas Code § 26-51-404(b), pertaining to the definition  
34 of "gross income" for purposes of the Arkansas Income Tax Act of 1929, is  
35 amended to add a new subdivision to read as follows:

36 (26) Contributions by an employer to an employee's health



1 savings account within the limitations established in § 26-51-453 shall not  
2 be included in the employee's gross income.  
3

4 SECTION 3. Arkansas Code § 26-51-404(b)(12), pertaining to exclusions  
5 from gross income, is amended to read as follows:

6 (12) Section 129 of the Internal Revenue Code of 1986, as in  
7 effect on ~~January 1, 1997~~ January 1, 2005, regarding the exclusion from  
8 income for dependent care assistance, is hereby adopted for the purpose of  
9 computing Arkansas income tax liability. However, no amounts excluded from  
10 gross income pursuant to this subdivision (b)(12) shall be taken into account  
11 in computing the dependent care credit contained in § 26-51-502;  
12

13 SECTION 4. Arkansas Code § 26-51-414(a)(1), pertaining to income tax  
14 treatment of deferred compensation plans, is amended to read as follows:

15 (a)(1) Sections 72, 219, 401-404, 406-416, and 457 of the Internal  
16 Revenue Code of 1986, as in effect on ~~January 1, 2002~~ January 1, 2005,  
17 relating to annuities, retirement savings, and employee benefit plans,  
18 respectively, are hereby adopted for the purpose of computing Arkansas income  
19 tax liability, except Arkansas capital gains treatment, and the Arkansas tax  
20 rates shall apply.  
21

22 SECTION 5. Arkansas Code § 26-51-436 is amended to read as follows:

23 26-51-436. Deductions - Limitations.

24 Notwithstanding any other provision of this act with regard to  
25 deductions allowed in computing net income:

26 (1) Section 465 of the Internal Revenue Code of 1986, as in  
27 effect on January 1, 1987, is adopted to limit deductions claimed under this  
28 act to the amount the taxpayer has at risk, as that term is used in the  
29 federal income tax law;

30 (2) Section 469 of the Internal Revenue Code of 1986, as in  
31 effect on January 1, 1997, regarding the limitations on deductibility of  
32 passive activity losses and credits, is hereby adopted for the purpose of  
33 computing Arkansas income tax liability;

34 (3) Subsections (a),(b),(c), and (d) of § 280F of the Internal  
35 Revenue Code of 1986, as in effect on January 1, 1999, regarding investment  
36 tax credit and depreciation for luxury automobiles, is hereby adopted for

1 purposes of computing Arkansas income tax liability;

2 (4) Section 68 of the Internal Revenue Code of 1986, as in  
3 effect on January 1, 1995, is adopted to limit itemized deductions;

4 (5) Section 220 of the Internal Revenue Code of 1986, as in  
5 effect on ~~January 1, 2003~~ January 1, 2005, regarding the deductibility from  
6 income of contributions made to a medical savings account by the taxpayer or  
7 the taxpayer's employer, is hereby adopted for the purpose of computing  
8 Arkansas income tax liability; and

9 (6) Section 264 of the Internal Revenue Code of 1986, as in  
10 effect on January 1, 1999, regarding premium and interest deductions on life  
11 insurance of officers and employees, is adopted for the purpose of computing  
12 Arkansas income tax liability.

13  
14 SECTION 6. EFFECTIVE DATE. This act shall apply to tax years  
15 beginning on or after January 1, 2004.

16  
17 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the  
18 General Assembly of the State of Arkansas that that health savings accounts  
19 allow taxpayers to better control their healthcare expenses; that Congress  
20 has provided for income tax benefits to taxpayers utilizing health savings  
21 accounts; and that Arkansas taxpayers cannot receive similar state income tax  
22 benefits until this act becomes effective. Therefore, an emergency is  
23 declared to exist and this act being immediately necessary for the  
24 preservation of the public peace, health, and safety shall become effective  
25 on:

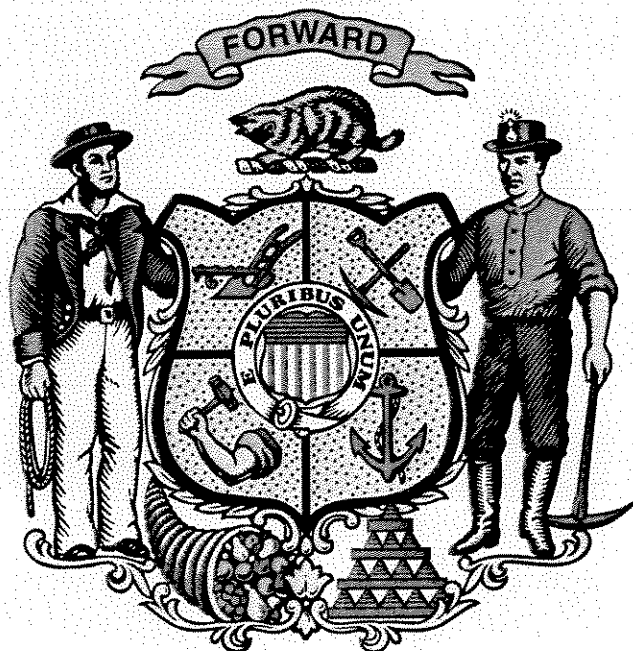
26 (1) The date of its approval by the Governor;

27 (2) If the bill is neither approved nor vetoed by the Governor,  
28 the expiration of the period of time during which the Governor may veto the  
29 bill; or

30 (3) If the bill is vetoed by the Governor and the veto is  
31 overridden, the date the last house overrides the veto.

32  
33 /s/ Bond, et al  
34  
35  
36





ANN   
**Nischke**

www.RepNischke.com

TO: MEMBERS  
ASSEMBLY COMMITTEE ON INSURANCE

From: Representative Ann Nischke, Chair  
Committee on Insurance

Date: February 14, 2005

**RE: Committee Meeting Dates**

The Assembly Insurance Committee will hold a meeting on the dates and times listed below. A meeting notice will be published closer to the meeting date.

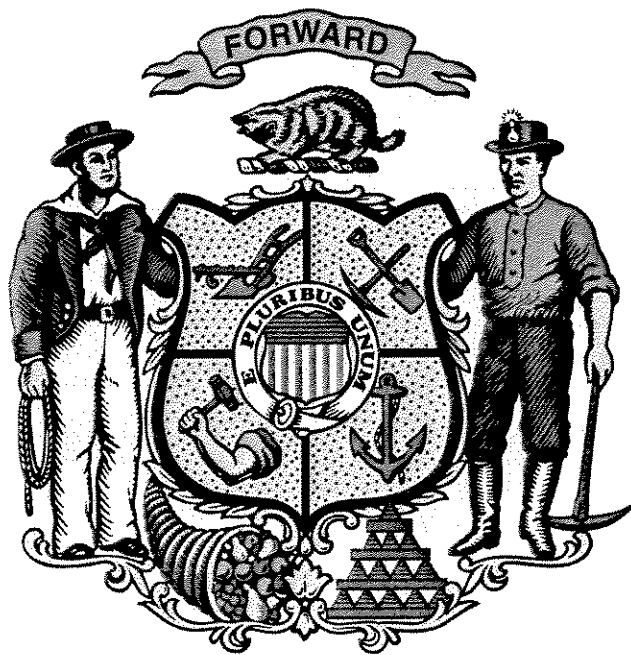
February 22, 2006, 10 AM (Joint Meeting)  
February 23, 2006, Before Session

It is possible that the committee will meet additional times during February due to the end of session approaching. Please let my office know if you are not available on those dates or any other time during February.

Thank you in advance for your flexibility and patience. If you have any other questions, please contact the committee clerk, Adam Peer.

AMN:asp

*Will go to Fed?*





WISCONSIN ASSOCIATION  
OF PROVIDER NETWORKS

4600 American Parkway • EastPark One • Ste. 208 • Madison, WI 53718

(608) 243-1007 • Fax (608) 241-7790

March 9, 2005

Commissioner Jorge Gomez  
Office of the Commissioner of Insurance  
P.O. Box 7873  
Madison, Wisconsin 53707-7873

Dear Commissioner Gomez:

Thank you for the opportunity to provide comment on your most recent draft of Ins 9, and for providing a forum for interactive discussion relative to the rule. This process has been refreshing to see, as it allows for clear communication between all interested parties and provides more opportunity for compromise and resolution of differences. It is in this spirit that I provide our comments in preparation for our next meeting on March 10<sup>th</sup>.

**Ins 9.01 (15) – Page 4**

As you know, WAPN has been concerned with an expanded definition of Preferred Provider Plans, and in particular, with what we feel is broad language relative to pre-authorization. Your latest version of Ins 9 includes language which provides more clarity than prior drafts. However, WAPN is objecting to this provision as it expands the statutory definition of these same plans. While WAPN might agree to language addressing valid concerns relative to pre-authorization and the intent to prevent insurers from using any pre-authorization as a means of steering, we cannot agree to have such a provision be included in an expansion of a statutory definition. We respectfully ask the OCI to remove this added language from Ins 9.01 (15) and propose language in a different section of the regulation.

*Does Dept have data?*

**Ins 9.33 (1)(a)(b) – Page 10 & 11**

The establishment of a minimum coverage level is certainly not something either the industry or the legislature even considered in the legislative changes to Chapter 609, nor is there statutory authority for the department to develop such minimum coverage levels. However, our group has agreed to talk about addressing your issues relative to this provision. We agree in principal that some coverage is equal to no coverage, but your proposal for a 60% floor and no differential in deductible and co-payments would eliminate just about every PPO benefit design currently purchased today. This is neither acceptable, nor is it good public policy. WAPN would suggest a 50% coinsurance floor with no regard to deductibles or co-payments. This compromise is not only fair, but would also appear to be in line with your normal plan approval process, where you currently do not approve plans with less than a 50% coinsurance limit.

*will take lots of Co's out of compliance*

*(Goes beyond what other states have done)*

*\*then what happens to the insured?!*

*Insurer pays - ultimately causes price info and essentially types of plan*

**WAPN**

**Ins 9.34 (2)(a) 4. - Page 15 & 16**

Similar to the minimum coverage issue above, the legislature has never contemplated the establishment of the Emergency Services provision found in your latest draft of Ins 9. While you have raised valid points relative to the need for discussion surrounding this issue, WAPN believes this is clearly a public policy issue that would need to be debated before the legislature. With that said, WAPN has reviewed the proposed language discussed at the last meeting. For clarity, such language currently reads:

Section 16. INS 9.34 (2)(a) 4. and (b) are created to read.  
9.34 (2)(a) 4. Provide as a covered benefit the emergency services rendered during the treatment of an emergency medical condition, as defined by s. 632.85, Stats., by a nonparticipating provider at the same level as a participating provider, if the insurer provides coverage for the emergency medical service and the insured cannot reasonably reach a preferred provider or, as a result of the emergency, is admitted for inpatient care, subject to any restriction which may govern payment by a preferred provider for the emergency services.

WAPN suggests that any such language include a clear definition, or time frame for emergency services. Looking at language from Nebraska, the following should be added to any provision that would require PPP's to pay for emergency services at the in network benefit level:

Emergency services mean health care services necessary to screen and stabilize a covered person in connection with an emergency medical condition. Stabilize means when, with respect to transfer to another facility, the examining physician at a hospital emergency department where an individual has sought treatment for an emergency medical condition has determined, within reasonable medical probability: (a) With respect to an emergency medical condition, that no material deterioration of the condition is likely to result from or occur during a transfer of the individual from the facility; and (b) The receiving facility has available space and qualified personnel for the treatment of the individual and has agreed to accept transfer of the individual and provide appropriate medical treatment.

**Ins 9.34 (2)(b) - Page 16**

Unlike Emergency Services, the issue of Access Standards is an issue that was clearly debated among the legislature. The original provisions found in Chapter 609 did attempt to regulate PPO's in a similar fashion to HMO's. What the legislature determined was that the original statute failed to differentiate these plans and failed to recognize that access for PPO's is entirely different to access for HMO's. The legislature recognized this fact and made changes to the existing statute clarifying that PPO's provide adequate access, as coverage exists outside of the network providers. These statutory changes also recognized that the relationship between the provider and PPO networks are completely different than the relationship between providers and HMO networks. HMO providers allow management of care provisions by contract, whereas PPO providers do not allow the networks to manage the care of their patients. Providers who contract with PPO's have only bargained to provide discounts.

*Insurers are incapable of enforcing this - will create hedge fodge of enforcement access states*



March 9, 2005  
Commissioner Jorge Gomez  
Page 3

This clear choice of the type of relationship that exists between HMOs and PPO's is what sets these two plans apart. Roughly 60% of consumers prefer this type of relationship, as they have chosen a PPO plan design. The hours of operation, while important to PPO's, is not a factor the PPO has any control over. If consumers dislike this lack of authority by PPO's, they have the option of purchasing an HMO. Clearly, 60% of consumers have decided they don't want their PPO's to have this type of broad authority over their providers. While WAPN has compromised on many issues, even issues where the OCI has no statutory authority, WAPN cannot agree to this provision requiring PPO's to gain contractual authority over the operation of health care facilities.

The above concerns are not necessarily all inclusive, but represent a summary of the major issues we have with the latest draft of INS 9. We reserve the right to express additional concerns at a later time.

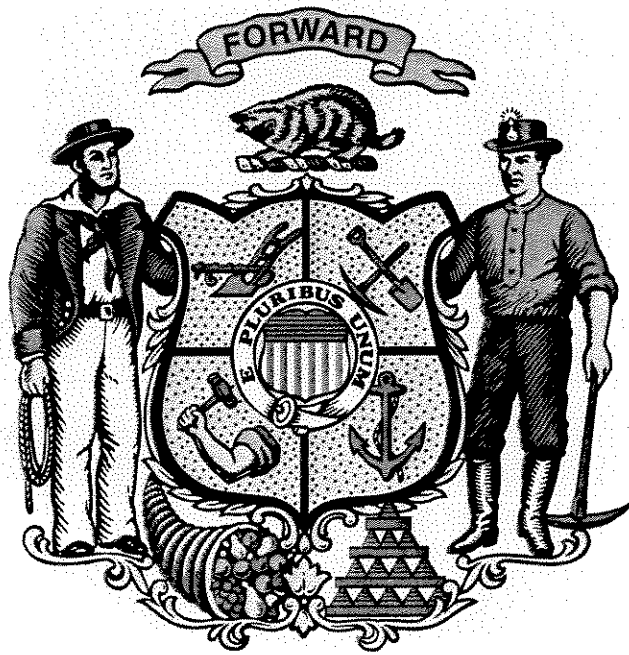
Thank you again for this opportunity to provide productive feedback relative to the development of a revised regulation.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. J. Schwartzer', written over a horizontal line.

Daniel J. Schwartzer  
Executive Director

DJS/jlr





WISCONSIN ASSOCIATION  
OF PROVIDER NETWORKS

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March 9, 2005

Commissioner Jorge Gomez  
Office of the Commissioner of Insurance  
P.O. Box 7873  
Madison, Wisconsin 53707-7873

Dear Commissioner Gomez:

In the revision to Ins 9, your department has indicated a desire to include language to address a concern that PPO's are using pre-authorization as a way to deny access to non-participating providers.

One of our largest members who provides both PPO access and pre-authorization services reviewed their records in 2004. They looked at inpatient admissions and found that the rate of denials is virtually the same between PPO providers and non-PPO providers. The review found that 1.01% of all admission days were denied at PPO facilities, compared to 2.98% of denials at non-PPO facilities. Also, as the attached summary indicates, the total number of days denied in 2004 was only 70 out of a total of 5,286. Of those 70 denials, 45 occurred at PPO facilities and 25 occurred at non-PPO facilities.

As the data clearly indicates, a less than a 2% difference does not indicate any disparity between PPO and non-PPO facilities relative to pre-authorization. Therefore, it would appear to be inappropriate to include language attempting to regulate a problem that does not exist. If you have detailed documentation that shows a different outcome than what we provided, we would hope you would share that with us so that we can better address your concerns relative to this issue.

We respectfully ask that your department consider removing the language currently found in Section 7, under 9.01 (15).

Thank you for your consideration.

Sincerely,

Daniel J. Schwartzer  
Executive Director

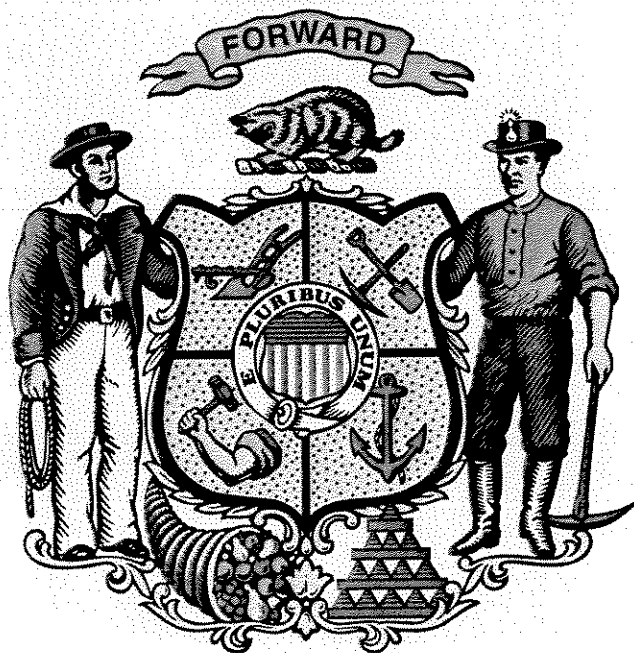
DJS/jlr

Attachments



**Review of Pre-Authorizations  
In-Patient Only  
2004**

Category	Total		Certified		Denied	
	Days	Percentage of Total Days	Days	Percentage of total in category (column A)	Days	Percentage of total in category (column A)
PPO	4447	84.13%	4402	98.99%	45	1.01%
Non-PPO	839	15.87%	814	97.02%	25	2.98%
Total Days	5286	100.00%	5216	98.68%	70	1.32%

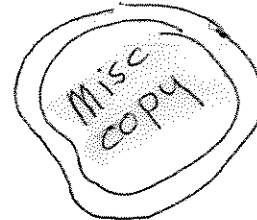


Ab-002  
Pat Camp Fall

TO: MEMBERS  
ASSEMBLY COMMITTEE ON INSURANCE

From: Representative Ann Nischke, Chair  
Committee on Insurance

Date: April 12, 2005



**RE: Committee Meeting Dates**

The Assembly Insurance Committee will hold a meeting on the dates and times listed below. A meeting notice will be published closer to the meeting date.

April 24, 2006 (Afternoon)  
April 25, 2006 (Before Session)

It is possible that the committee will meet additional times during April and May due to the end of session approaching. Please let my office know if you are not available on those dates or any other time during February.

Please be prepared to hear and possibly act on the following proposals or topics:

Assembly Bill 1039  
Substitute Amendment to AB 1039 by Representative Kestell  
Assembly Bill 1178

CHR 05-111

Thank you in advance for your flexibility and patience. If you have any other questions, please contact the committee clerk, Adam Peer.

AMN:asp