



ROBIN J. VOS

SPEAKER OF THE WISCONSIN STATE ASSEMBLY

**Testimony on Assembly Bill 1
Assembly Committee on Health
January 5, 2021**

Thank you Chair Sanfelippo and members of the Assembly Committee on Health for holding a hearing today on Assembly Bill 1, the COVID-19 relief bill. As we battle a faceless enemy, I ask for your support on a bill that will provide much needed relief to the citizens of our state.

COVID-19 has affected every citizen of our state, from our loved ones who have become ill to the hospital staff working long hours with overflowing beds, to the parents who have become teachers, and businesses who are struggling to stay afloat. Even with the distribution of a vaccine, our state is still in need of relief.

The bill before you is noticeably different from the version my caucus proposed late last year. I know Republicans continue to support these items and we will bring them to the floor in the future. For now, we have removed them in a good faith effort to compromise with Governor Evers in order to get a bill to his desk he will sign.

Over the past few months, I have worked with Governor Evers and Senator LeMahieu in an effort to create a bipartisan bill that will help Wisconsinites during this difficult time. I am proud to say the bill before you will accomplish our goal. There are 44 provisions, including access to \$100 million to fight COVID-19.

These provisions were requested after discussions with those battling the virus on the front lines. The bill provides medical assistance for hospitals experiencing overflow, in need of a place to house nursing home residents, and better provides vital outpatient procedures. This bill allows ambulances to travel over state lines to ensure patients receive immediate care. Pharmacists and dentists will be able to utilize their training to administer the vaccine to reach as many people as safely possible.

Our previous proposal required Governor Evers to create a vaccine distribution plan. Last month, the Governor made it clear the bill would not be signed if the provision remained and so it was removed. This morning, the Journal Sentinel stated only 1.2% of people in our state have received the vaccine, ranking us 10th out of the 12 Midwestern states. Wisconsin is lacking in our response and the Governor needs to act now.

Under this bill, parents will have the ability to transfer school districts, providing their children with the opportunity of in-person learning. In addition, school boards will have to vote every two weeks in order to remain virtual, giving parents much needed stability. While parents will benefit from these provisions, so will students. The bill will allow students who have transferred schools to waive their waiting period and participate in sports.

This bill will protect schools and businesses under reasonable liability measures allowing them the opportunity to stay open while following safety guidelines. Due to a drafting error, we will be adding tribes to the list of those covered under this protection in a floor amendment. These same measures passed in bipartisan states, voted on by Republicans and signed by a Democrat. I believe we can achieve the same level of protection for small businesses, schools and nonprofits in Wisconsin.

Small businesses have been devastated over the past year, experiencing mass closures and capacity restrictions. Elected officials should vote on any order that would force someone to close their doors or restrict their capacity. As a compromise to Governor Evers, local health officers will be able to continue to close or restrict businesses but only for 14 days. Once the 14-day period is up, the local governmental unit will vote as to whether or not the order may continue. They will do so on a continuing basis.

Those who are still suffering under an unemployment system that has failed them will have hope as the Department of Workforce Development will be required to be open 12 hours a day, seven days a week in order to handle claims. The Governor will also be required to provide a plan on how he will bring claims numbers back to where they were before the mandated closures of businesses last year. My colleagues and I continue to receive calls from struggling constituents across the state. While I acknowledge progress has been made, there is more work that needs to be done.

As we all strive to slow the spread and return to our lives, the Governor must do the same. The bill requires him to create a plan for when state buildings will open and employees with in-person required positions will return to work.

The State of Wisconsin and its citizens are fighting to overcome the unpredictable and slow the spread of a worldwide pandemic. This bill gives our communities the tools they need to be successful. I ask the committee to join me in supporting this bill and providing Wisconsinites with the relief they need.

Providing the Governor with the tools to slow the spread

- \$100 million in funding for COVID-19
- Collection and reporting of public health emergency data - public health dashboard (Act 185)

Making sure Wisconsinites have access to necessary medication, vaccines, and COVID tests

- Extending the elimination of copayments for COVID tests and vaccines (Act 185)
- Allowing for early refills of prescription drugs (Act 185)
- Authorizing pharmacists to extend needed prescription orders without doctor authorization (Act 185)
- Coverage for out-of-network providers and protection for patients from surprise bills (Act 185)
- Coverage for vaccinations under SeniorCare (Act 185)

Providing support to our hospitals dealing with COVID surges and building up workforce capacity and other critical areas in need

- Providing MA reimbursements for hospitals, aligning with Medicare:
 - Reimbursements for hospitals who are providing skilled nursing facility (SNF) beds to patients who cannot return to a nursing home
 - Reimbursements for hospital outpatient procedures that have been moved to another facility to free up space for COVID patients
 - Reimbursements for swing beds - an option hospitals can use to create more space for COVID patients
- Permanently allowing out-of-state health providers to practice in this state to help fill workforce shortages on the front lines, as well as through telehealth
- Rehiring retirees in critical positions (Act 185)
- Enable Wisconsin hospitals to participate in the recently announced CMS Hospital at Home Program which provides alternative hospital care options for patients in their home
- Allowing deaths that have been labeled as COVID to be cremated within the 48 hour requirement (Act 185)
- Liability insurance for physicians and nurse anesthetists (Act 185)
- Provide hospitals with information to improve Medicaid patient outcomes and help analyze the impacts of COVID-19

Creating an “all-hands-on-deck” approach to vaccinations

- Allowing pharmacy students to utilize their training to provide vaccinations - regardless of their level in school - and ensuring they get reimbursed for their administration of COVID tests and vaccines
- Allowing dentists to administer COVID and flu vaccines
- Creating a temporary license to ensure distribution of vaccines from a local facility

Ensuring families can safely visit their loved ones in nursing homes and assisted living facilities to provide needed support for those struggling in isolation

- Aligning with CMS guidance to allow a resident to label someone as an “essential visitor” so they may enter the nursing home to assist with things like emotional distress or weight loss due to lack of family support

Protecting Wisconsinites from government overreach during a difficult time

- Legislative oversight of any new COVID dollars
- Creating liability laws to ensure good actors are protected from frivolous lawsuits
- Prohibiting employers, DHS, and local health officers from mandating the vaccine
- Local health officers may only close or restrict capacity of a business for 14 days after which the local governing unit must vote to continue the decision. The vote must be by 2/3rds of the members and it must occur every 14 days for the order to continue
- Local public health officers and DHS may not close places of worship
- Governor must provide a plan to reopen state buildings and return employees to work
- Legislative oversight of federal dollars for the Child Care and Development Fund Block Grant for child welfare services

Providing parents with options and stability to ensure their children receive the best education in the safest environment

- Easing the open enrollment process so if a student is accepted by a neighboring school district they may transfer
- WIAA must allow students who attend a virtual charter to participate in athletics in their resident school district
- WIAA must allow a student who has transferred to another school to participate in sports
- Requiring school boards to vote every 14 days on their decision to go virtual
- Requiring a school who has gone virtual to report to the legislature every semester they are not in person until 2021-2022 school year

Requiring DWD to eliminate the UI backlog

- Governor must provide a plan to address claims backlog - returning to February 2020 numbers
- Continuing work-share programs (Act 185)
- Continuing one week waiting periods (Act 185)
- UI - Benefit charging (Act 185)

Providing relief during a difficult time

- Allowing BCPL to offer loans to ensure that a municipal utility is able to maintain liquidity (Act 185)
- A dwelling unit may be occupied prior to an inspection and granted an occupancy permit if the dwelling unit later passes final inspection
- A person who has received a covered approval relating to challenged permit or challenge plat or survey may obtain a term or duration extension
- Local taxable districts may waive any interest charges and penalties for late payments received before October 1, 2021 (Act 185)



January 5, 2021

Representative Joe Sanfelippo, Chair and Members of the Assembly Health Committee
Room 314 North
State Capitol
PO Box 8953
Madison, WI 537081-4-2021

RE: Wisconsin Nurses Association Submitted Written Testimony on AB 1 - The COVID-19 pandemic relief package.

Dear Chairperson Sanfelippo and Members of the Assembly Health Committee,

On behalf of the Wisconsin Nurses Association (WNA) I want to thank you for holding a public hearing on AB 1. The WNA is the organization representing the interests of Wisconsin's 90,000 registered nurses. WNA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on health care issues that affect nurses and the public. WNA is at the forefront of improving the quality of health care for all. We have been actively engaged in supporting the education, practice, safety, and health of Wisconsin's nurses throughout this COVID-19 public health emergency.

WNA's Public Policy Council members have reviewed the language in AB 1 submitted by Speaker Vos. WNA would like to share our nursing perspective on the benefits of AB 1 and our two concerns. WNA supports the following concepts found in AB 1:

1. Creation of statutes that allow for the issuance of temporary licenses for out of state nurses and other members of the health care team. This supports patient access to quality care which is needed for acute, long-term, home health and public health services. Wisconsin needs nurses to administer the vaccinations and without assistance from out of state nurses Wisconsin will not achieve its immunization goals. The current emergency orders have increased the nursing workforce by 94. Registered Nurses = 68, Licensed Practical Nurses = 5, Nurse Midwife = 1, and Advanced Practice Nurse Prescribers = 21. (Source: DSPS, 12/2/2020.
<https://dsps.wi.gov/Documents/BoardCouncils/NUR/20201210NUR%20Additional%20Materials.pdf>
2. Expand the type of health care providers and settings where individuals can be vaccinated for COVID-19 including dentists and pharmacist-related personnel and student is very innovative.
3. Allowing out-of-state Nurse Anesthetists practicing in Wisconsin to be covered under the Injured Patients and Families Compensation Fund will support those areas in Wisconsin where there is a lack of anesthesia providers.

2820 Walton Commons West
Suite 136
Madison, WI 53718
<http://www.wisconsinnurses.org>

4. Insurance coverage of COVID -19 vaccination and testing without a copay will improve access, cost and quality of the healthcare related issues to this highly communicable disease.
5. Coverage of vaccine administration for Wisconsin's older adults is very important to maintaining the health of this vulnerable population.

WNA would like to share our two concerns regarding the current language in AB 1.

1. Continue to utilize the current statute that allow for vaccination exemption which are, medial, religious or personal conviction. WNA supports of the concepts and principles related to immunizing as many individuals as possible so as to promoting a healthy Wisconsin workforce. The impact of the COVID-19 pandemic has created a yo-yo effect for Wisconsin businesses and the individuals they hire. Employers continue to experience workforce shortages due to employees contracting or being exposed to COVID. This is very evident when we see hospital capacity reduced because of nurses contracting and being exposed to COVID.
2. Support the role of Wisconsin's Local Public Health Officers by recognizing their expertise regarding management of public health emergencies. The Public Health Officer should be viewed as a team member of the local boards and is acting in the best interest of the population.

I would like to thank you Chairperson Sanfelippo for holding this public hearing. WNA would like to thank Speaker Vos for sponsoring this legislation as it supports access to care and health services for Wisconsinites.

Please feel free to contact me if you have any questions or concerns.

Sincerely

Gina Dennik-Champion, MSN, RN, MSHA
Executive Director
Wisconsin Nurses Association
gina@wisconsinnurses.org



January 5, 2021

**TO: Members
Assembly Committee on Health**

**FR: Brian Dake
Legislative Director
Wisconsin Independent Businesses**

RE: 2021 Assembly Bill (AB) 1 relating to: state government actions to address the COVID-19 pandemic, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority

Chair Sanfelippo and committee members my name is Brian Dake, Legislative Director for Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of 2021 Assembly Bill (AB) 1.

By way of background, Wisconsin Independent Businesses (WIB) was formed in 1977 to provide small, independent businesses with an effective voice in the legislative and regulatory activities of state government. Today, we proudly represent thousands of small businesses throughout Wisconsin. Most of our members (approximately 85%) own and operate businesses that fit within the legal definition of a small business – fewer than 25 employees and/or annual gross revenues of less than \$5 million. We represent manufacturers, service sector providers, wholesalers and retailers.

For the sake of brevity, my testimony is focused on the provisions of AB 1 which have a beneficial bottom-line impact on Wisconsin small businesses.

COVID-19 Liability Exemption for Businesses

Operating safely and responsibly has been a top priority for Wisconsin small businesses since the onset of the COVID-19 pandemic. They have complied with an array of federal laws and regulations, state laws and regulations as well as emergency orders issued by Governor Evers, the Wisconsin Department of Health Services and local public health departments.

Beyond that, small businesses have followed the guidelines recommended by the federal Centers for Disease Control and Prevention, the Wisconsin Departments of Health Services, Agriculture, Trade and Consumer Protection, and Safety and Professional Services as well as the Wisconsin Economic Development Corporation.

For small business owners, compliance with these laws, regulations, emergency orders, and guidelines has been, and continues to be, challenging, costly and time-consuming. Nonetheless, they have done so because operating safely and responsibly is of paramount importance. Small business owners care deeply about the health, safety and welfare of their employees, their customers, and their community. Many of these hometown businesses are family-owned and operated. Like everyone else, they want to do their part to control the spread of COVID-19.

We believe small businesses that follow the law should receive civil liability protection from COVID-19 lawsuits. For that reason, we support the provisions of AB 1 relating to a COVID-19 liability exemption for Wisconsin businesses and business owners.

Unemployment Insurance Benefit Charging Relief for Wisconsin Employers

2019 Wisconsin Act 185 (Act 185) changed the procedures by which the Wisconsin Department of Workforce Development (DWD) attributes unemployment insurance (UI) benefits to employers.

For benefit weeks occurring after March 12, 2020 and before December 31, 2020, unemployment claims will generally not be attributed to an employer's unemployment account if DWD determines the claims are related to the COVID-19 pandemic. In other words, small businesses will not experience an increase in their unemployment tax rates because of increased unemployment claims that DWD determines are related to the COVID-19 pandemic.

Act 185 also requires employers to indicate whether a claim for UI benefits is related to the COVID-19 pandemic and DWD is required to specify the information that employers must provide and a deadline for employers to submit that information.

The reporting plan put in place by DWD presumes initial claims for UI benefits that began on or after March 15, 2020 through May 16, 2020 are due to the COVID-19 pandemic. For initial UI claims for weeks after May 16, 2020, employers may qualify for UI benefit charging relief by completing and submitting Form UCB-18823-E (Form) to DWD. This Form requires employers to indicate the reason that best describes why the layoff of the employee(s) is related to the COVID-19 pandemic. In turn, DWD uses this information to determine whether to grant charging relief.

AB 1 makes two beneficial changes to the procedures by which DWD attributes UI benefits to employers. First, AB 1 extends the UI benefit charging relief through the week ending March 13, 2021. That date is significant.

The federal CARES Act created three new federally funded UI benefit programs - Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC). The recently approved Consolidated Appropriations Act of 2021 extended funding and access to these programs to eligible claimants for an 11-week period ending March 14, 2021.

Extending the period of UI benefit charging relief will provide much-needed tax relief for Wisconsin employers. Moreover, by matching the deadline for UI benefit charging relief to the deadline for unemployed workers to claim federally funded UI benefits, AB 1 treats employers and unemployed workers impacted by the COVID-19 pandemic equally.

Second, AB 1 requires DWD to presume that initial claims for UI benefits beginning on or after March 15, 2020, through March 13, 2021 are due to the COVID-19 pandemic thereby relieving Wisconsin employers of the need to request UI benefit charging relief from DWD.

Since the onset of the COVID-19 pandemic, Wisconsin small business owners have spent a considerable amount of time and money filling out government-required paperwork. Reducing this red-tape burden is a step in the right direction.

We respectfully request your support of 2021 Assembly Bill 1.

Thank you in advance for your consideration.



1425 Corporate Center Drive Sun Prairie, WI 53590-9109 608.834.4500 wppienergy.org

**WPPI Energy Testimony on Assembly Bill 1
Assembly Committee on Health
January 5, 2021**

Good Morning Chairman Sanfelippo, Ranking Member Subeck and members of the Assembly Committee on Health, my name is Joseph Owen and I serve as the Director of Government Affairs for WPPI Energy, a not for profit wholesale power provider to 51 utilities across Wisconsin, Michigan and Iowa. Thank you for the opportunity to testify on behalf of WPPI Energy and our 41 Wisconsin based member utilities in support of a provision included in Assembly Bill 1 intended to help ensure financial stability for municipal electric utilities during the COVID-19 public health emergency. This provision was included in 2019 Wisconsin Act 185, but has since expired and we greatly appreciate the intent to re-establish the BCPL municipal loan program as an option of last resort to ensure municipal utility liquidity. Our member utilities provide safe, reliable, affordable and critical power throughout the State of Wisconsin and the provision in Section 9101 of AB 1 would guarantee WPPI Energy members have access to Board of Commissioners of Public Lands (BCPL) trust fund loans to meet emergency liquidity needs. Access to these BCPL loans, if needed, will ensure the continuity of a critical service during the public health emergency and in the economic recovery period afterward.

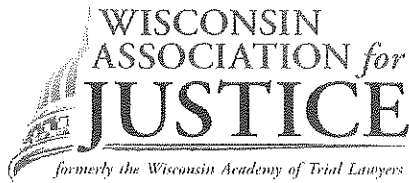
For background, on March 22, 2020, Governor Tony Evers issued Emergency Order #11 to address the COVID-19 pandemic. The Order, combined with subsequent action by the Public Service Commission, modified certain PSCW rules to ensure no customer is left without utility service during this public health emergency. A variation of this PSCW order is still in place today. Additionally, many municipal utilities serve large commercial and industrial customers whose monthly bills comprise a substantial portion of monthly utility revenue. Those businesses have not been immune to the economic impact of COVID-19 and a detrimental financial impact to the business often corresponds to difficulty in paying for utility services.

Though we support the continuation of electric service to homes and businesses across Wisconsin during this public health emergency and very much understand the PSCW's decision, we are concerned about potential liquidity issues for municipal utilities arising from both suspending disconnections for utility service (which has been in place in some form since October 31 of 2019) and the COVID-19 economic hardships faced by homes and businesses across the state. As a result of these factors, municipal utilities have experienced reduced revenues without a corresponding decrease in utility expenses. Municipal utilities have no desire to disconnect a customer during this public health emergency, but the impact of this moratorium and COVID-19 hardship has been significant: on average, Wisconsin utilities had about 12.2% of their customers in arrears in 2019 and that number rose to 31.3% in 2020.

These decreases in revenues require municipal utilities to tap into financial reserves to meet utility operating costs each month, costs which haven't decreased. Municipal utilities have less cash available to fund emergency system repairs and important capital projects to ensure reliable electricity supply. Our concern is that this will lead to untenable financial and operational conditions for municipal utilities providing critical service during a public health emergency. I am happy to report this has not happened

yet, but we view the BCPL municipal utility loan provision contained in AB 1 as a “break glass in case of emergency” backstop to ensure municipal utilities have critical financial resources if needed.

Municipal utilities do not qualify for federal SBA loans as we are not classified as a business or a private, non-profit and municipal utilities have not received direct federal assistance like other sectors even as we provide critical power to essential services across the country. In order to ensure municipal utilities are able to pay vendors and operate as they need to during this crisis and as the State recovers, it will be necessary for municipal utilities to have timely and certain access to funding to maintain liquidity. The provision included in AB 1 ensures we will. Thank you for your time and your consideration.



**Wisconsin Association for Justice
Testimony on AB-1
January 5, 2021
Before the Assembly Committee on Health**

JAY A. URBAN
PRESIDENT, MILWAUKEE

KRISTIN M. CAFFERTY
PRESIDENT-ELECT, RACINE

KEVIN R. MARTIN
VICE-PRESIDENT, OAK CREEK

AMY M. RISSEEUW
SECRETARY, APPLETON

ALLAN M. FOECKLER
TREASURER, BROOKFIELD

BEVERLY WICKSTROM
PAST-PRESIDENT, EAU CLAIRE

BRYAN M. ROESSLER
EXECUTIVE DIRECTOR

Chairman Sanfelippo and members of the committee, thank you for the opportunity to testify today. It is always an honor to appear before this committee.

My name is Heath Straka, I am a partner at Axley Brynelson, LLP in Madison. I am a Past President and current Legislative Chair for the Wisconsin Association for Justice (WAJ). Our organization was founded to support the rights of citizens and businesses to have their legal disputes fairly adjudicated by an impartial justice system. With that in mind, I wanted to use my testimony today to address the provisions in AB-1 dealing with legal immunity.

The question before the Legislature is quite simple: should it enact policies that encourage responsible and safe behavior or policies that discourage it?

In normal times, our association believes strongly that big government should not pick winners and losers when it comes to legal disputes. The Founders believed this was the role for an independent judiciary and took special care to preserve a role for a jury of one's peers. This is the heart of limited and restrained government. This is why our organization has consistently advocated against various immunity proposals over the years.

Of course, these are not normal times. In the midst of a global pandemic, WAJ believes that citizens and businesses that follow the rules and take reasonable steps to ensure the health and safety of their employees and customers should not have to fear litigation.

Unfortunately, AB-1 takes things a dangerous step further. As currently proposed, this legislation will actually discourage citizens and businesses from taking basic safety precautions. Further, it protects bad actors that put their employees and customers in danger—specifically carving out protection for those who refuse to abide by public health orders limiting capacity and encouraging safe practices. This is more aggressive than anything that has been proposed and passed in other states. We therefore ask that the immunity language be removed before advancing this legislation any further.

We understand that the fear of litigation is real. Many of our own members are small business owners themselves. If there was evidence of lawsuits being filed over people being exposed to COVID-19 that were a legitimate source of instability for businesses in Wisconsin, we would be here arguing for a solution that worked for all sides. The reality, however, is that this simply not happening in Wisconsin or anywhere else.

The most recent data from the Department of Health Services shows that nearly a half a million Wisconsinites have been diagnosed with COVID-19. Of those, almost 5,000 have died. And yet, to our knowledge, not a single workplace safety lawsuit has been filed in Wisconsin. If the actual prevalence of litigation matched the fears of litigation described by some today, you would see hundreds or even thousands of lawsuits already filed. And yet, they have not been.

The simple truth is that our system's current safeguards, which require plaintiffs to prove that a specific exposure led to infection are more than sufficient to protect businesses from fear—if they are taking steps to keep people safe.

Nearly all people have multiple exposure points in their daily life, rendering it nearly impossible to meet this burden.

While there is no real need to provide legal immunity, there is a real need to keep Wisconsinites safe. Safety is: encouraging folks to get vaccinated for the common flu and COVID-19. Safety is not: encouraging folks to ignore public health orders. Unfortunately, as currently written, this legislation does not encourage safety, and will only work to further delay our restaurants, bars and small businesses from getting fully opened again.

There are many things in this bill that will provide relief and comfort to individuals and businesses throughout Wisconsin. As the legislature considers the necessary steps forward from this pandemic, we should not take a step backwards by encouraging dangerous behavior as we enter what we all hope are the final months.

Thank you again for your time today. I'm happy to answer any questions.

Testimony before the Assembly Committee on Health

2021 Assembly Bill 1

Jim DeMay

Director of Pfizer State Government Affairs in the Midwest

January 5th, 2021

My name is Jim DeMay, Director of Pfizer State Government Affairs in the Midwest, covering Wisconsin. Pfizer is pleased to employ over 200 people in Wisconsin. We have two facilities in the State of Wisconsin:

1. Middleton WI Manufactures blood products.
2. Pleasant Prairie WI A Pfizer distribution center.

I am here today to speak about Pfizer's Pleasant Prairie facility. Pfizer employs about 100 personnel in the distribution facility, up about 20 employees since COVID-19 vaccination distribution started. Pfizer invested several million dollars in improvements at Pleasant Prairie in 2018-19 to make it one of two state of the art distribution facilities at Pfizer- the other one is in Memphis.

We have been successfully distributing COVID-19 vaccines out of the Pleasant Prairie facility and will continue to do so. At present, we ship deep frozen containers of the Pfizer vaccine to vaccination facilities.

As we move forward, Pfizer will need additional licensing to ensure legal delivery of certain products for administering the Pfizer vaccine. In order to provide these additional products that I will refer to as a "vaccination kit," we will need the State of Wisconsin to grant us a 3PL license to allow for vaccination kits to be sent along with shipments of the Pfizer Covid-19 vaccine. The kits will contain other medical devices, which are not made by Pfizer. Because Pfizer will be shipping third-party product along with the Pfizer vaccine, certain states require that Pfizer obtain an additional license for our Pleasant Prairie facility, known as a "third-party logistics provider" license. The State of Wisconsin currently does not license third-party logistics providers, which means that third-party logistics providers can operate in Wisconsin, but do not need to obtain a license to do so.

Under the Drug Supply Chain and Security Act (DSCSA), enacted in 2013, the US Food and Drug Administration (FDA) was directed to issue regulations by 2015 establishing national licensing standards for third-party logistics providers (3PLs) who are not required to be licensed in the state(s) in which they do business (see section 584(a) and (d) of the Federal Food, Drug, and Cosmetic Act).

The FDA has yet to issue such regulations. Until such time as those regulations become effective, DSCSA provided that any 3PL shall be considered "licensed" (as defined by DSCSA) provided FDA has not made a finding that the 3PL does not utilize good handling and distribution practices (section 582(a)(7)).

The key takeaway here is that while 3PLs may be considered "licensed" by FDA, because FDA has not issued regulations permitting licensure of 3PLs there is no physical license issued to a 3PL.

This creates a barrier to drug distribution when the Wisconsin 3PL must obtain a license to distribute into a state, but that state requires proof of licensure from Wisconsin. In California, for example, licensure of the business entity as a 3PL in its home state is a prerequisite to issuance of a 3PL license.

Given that WI does not have a 3PL licensing construct, it creates obstacles to licensing our Pleasant Prairie, WI logistics center. As a result, we are not able to provide 3PL services out of our Pleasant Prairie, WI logistics center in some states.

Pfizer presently has acquired 3PL licenses for our Pleasant Prairie facility in several states and asks Wisconsin to enact a mechanism for issuing a 3PL license. We fully acknowledge that Wisconsin did not create this licensing issue, although we do need the state to help us fix it.

We would like to thank Representative Samantha Kerkman, Assembly Speaker Robin Vos, Senator Van Wanggaard, Senate Majority Leader Devin LeMahieu, Governor Tony Evers' office and the leadership at the Department of Safety and Professional Services for their support and assistance in working with us to address this matter.

Thank you.

James DeMay
James.demay@pfizer.com

Testimony Before the Assembly Committee on Health COVID-19 Legislation – 2021 Assembly Bill 1

Dr. Narayana Murali, Chief Clinical Strategy Officer
Marshfield Clinic Health System

January 5, 2021

Good Afternoon Chairman Sanfelippo and members of the Assembly Committee on Health, my name is Dr. Narayana Murali and I am the Chief Clinical Strategy Officer for the Marshfield Clinic Health System (MCHS).

MCHS is an integrated health system serving northern, central and western Wisconsin. Our 1,475 providers accommodate 3.5 million patient encounters each year across our 9 hospitals and almost 60 clinical sites. The Marshfield Clinic Research Institute is the largest private medical research institute in Wisconsin with more than 30 Ph.D. and M.D. scientists and 150 physicians engaged in medical research. We also are a teaching health system, providing over 1,300 students with over 2,300 educational experiences throughout our system. We are a leader in rural healthcare, providing care in some of the most rural portions of our state.

As Eric Borgeding mentioned in his testimony on behalf of the Wisconsin Hospital Association, I am testifying in support of the provision in 2021 Assembly Bill 1 related to “hospital services provided in a home setting.”

Since 2016, MCHS has run a Home Recovery Program, operated through the Personalized Recovery Care, LLC, that seeks to take patients out of the inpatient setting whenever appropriate and allow them to be treated for over 100 conditions at home through home visiting and telehealth services. This program has been effectively deployed in our service area, demonstrated high rates of patient satisfaction, and improved outcomes and meaningful reductions in costs. In fact, it was highlighted in the August New England Journal of Medicine Catalyst.

In order to increase capacity for the care of patients across our system because of the COVID-19 pandemic, MCHS requested and with bipartisan support from the congressional delegation that represents our service territory (attached) was granted a Section 1135 waiver from CMS to more broadly implement the Acute Hospital Care at Home program. MCHS was one of the first 9 health care institutions in the country granted this waiver by CMS.

The Acute Hospital Care at Home program is an expansion of the CMS *Hospital Without Walls* initiative launched in March 2020 as a part of a comprehensive effort to increase hospital capacity, maximize resources, and combat COVID-19 to keep Americans safe. This program creates additional flexibility that allows for certain health care services to be provided outside of a traditional hospital setting and within a patient’s home.

CMS believes that their *Acute Hospital Care at Home* program can work well for more than 60 different acute conditions, such as asthma, congestive heart failure, pneumonia and chronic

obstructive pulmonary disease (COPD) which can be treated safely at home with proper monitoring and treatment protocols.¹

The *Acute Hospital Care at Home* program is not a replacement or substitute for home health care. The program's requirements and quality review processes are extensive, far broader in scope and depth than a traditional home health care service line. The Acute Hospital Care at Home program provides hospital-level care in patients' homes through use of telehealth, in-home nursing visits, and virtual visits by hospitalist after ascertaining needs for durable medical equipment, home safety check, arranging for home meals, physical blocks of time for nursing care and prompt availability.

Medical research demonstrates the efficacy of treating patients in their homes utilizing the home hospitalization clinical model.

- 44% reduction in readmissions
- 50% reduction in ED visits
- 35% reduced length of Stay
- 22% increase in patient satisfaction

These strong clinical outcomes are largely due to rigorous safety protocols and procedures incorporated into the care model to ensure patient safety is always at the highest standard. Escalations/changes in condition are identified early with care coordination calls, incoming patient calls, and from remote monitoring alerts/trends. Care coordinators manage concerns with the treating provider based on individual escalation concerns. Our care team is equipped with tools to provide best practice support for change in condition and easy access to treating providers for more urgent needs. Care team members have established protocols for identifying urgency of presenting symptoms and are able to engage support as indicated. Mobile phlebotomy, imaging, and urgent visiting nurses are all utilized to support patient needs in the home.

Thank you in advance for your consideration and support of this provision that will allow us to create additional capacity options for our hospitals by utilizing technology to care for someone in their home and the regulatory certainty this clarification provides that our system will not be in conflict with any other state laws or regulations, specifically those associated with home health care agencies, if they are providing hospital-level services in someone's home, as approved and regulated by Medicare.

¹ Centers for Medicare and Medicaid Services. (2020, November 25). *CMS Announces Comprehensive Strategy to Enhance Hospital Capacity Amid COVID-19 Surge* [Press Release]. Retrieved from: <https://www.cms.gov/newsroom/press-releases/cms-announces-comprehensive-strategy-enhance-hospital-capacity-amid-covid-19-surge>

Congress of the United States
Washington, DC 20510

July 22, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
US Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Verma:

We write to you today on behalf of the Marshfield Clinic Health System to gain clarity on the Center for Medicare and Medicaid Services' (CMS) guidance related to the provision of medical care in the home during the COVID-19 pandemic.

Marshfield Clinic Health System (MCHS) is a fully integrated health system serving northern, central and western Wisconsin. Its service area incorporates over 40,000 square miles, and over 80% of Wisconsin's rural residents live in the geography that MCHS serves.

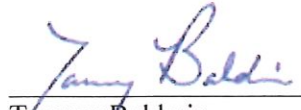
Since 2016, MCHS has offered a Home Recovery Program that seeks to take patients out of the inpatient setting, when appropriate, and allows them to be treated for over 100 conditions at home through home-visitation and telehealth services. The program has demonstrated high rates of patient satisfaction, improved outcomes and reductions in costs, and was endorsed by the Physician-Focused Payment Model Technical Advisory Committee (PTAC) in 2018. An August 2019 issue of the New England Journal of Medicine's Catalyst highlighted the program, noting that "Providing home-based acute care improves patient satisfaction and care quality while reducing costs." Furthermore, the program has achieved the goal of reducing the number of patients who are admitted to the hospital, freeing up resources and staff's attention for other patients that may have more acute conditions. In the current COVID-19 pandemic, this ability to increase hospital capacity is even more important. However, to date, it is unclear whether the Marshfield Clinic Home Recovery program and others like it are eligible for the regulatory flexibilities issued by CMS.

On March 30, when CMS issued the first round of "Hospital Without Walls" blanket 1135 waivers, there was no specific guidance that could be applicable to a Home Recovery type arrangement. When a second round of waivers were published on April 30, there were a number of provisions that allowed for Medicare to reimburse for outpatient care in a patient's home, however, there was no specific language in the waivers allowing for inpatient care at a patient's home. Yet, in an ancillary document issued by CMS, there was an example used of providing inpatient care at a patient's home. (Slide 10 of attached document.) To date, Marshfield Clinic and its partners have not been able to identify specific 1135 waiver language associated with this example.

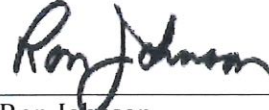
The Home Recovery program has successfully created new opportunities to provide eligible patients with the care they need in the comfort of their own homes. In order to build on the success of this program and provide Wisconsinites with the care they need in the right setting, we request that you clarify whether the MCHS Home Recovery program would be eligible for Medicare reimbursement under the existing 1135 flexibilities issued by CMS. If it is not in fact allowed under existing rules, we respectfully urge you to consider expanding the current flexibilities to permit such a scenario.

Thank you in advance for your time and consideration of these requests. We look forward to hearing from you in the near future.

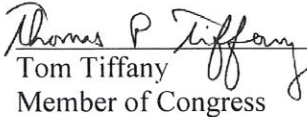
Sincerely,



Tammy Baldwin
United States Senator



Ron Johnson
United States Senator



Tom Tiffany
Member of Congress



Ron Kind
Member of Congress

Testimony of the Wisconsin Bankers Association
Mike Semmann, Executive Vice President/ Chief Operations Officer, WBA

Assembly Committee on Health

January 5, 2021

Chairman Sanfelippo and Members of the Committee:

My name is Michael Semmann, Executive Vice President and Chief Operations Officer for the Wisconsin Bankers Association, the state's largest financial industry trade association. WBA represents 225 commercial banks and savings institutions, their nearly 2,300 branch offices and 28,000 employees.

On behalf of its membership, WBA supports 2021 Assembly Bill 1, specifically the provisions protecting Wisconsin businesses from liability claims related to contraction or exposure to COVID-19 in the workplace.

Wisconsin's financial institutions are on the economic frontlines of this crisis and have been since its inception. Before government programs were even developed, financial institutions across the state were already proactively engaging with their customers to determine the impact the COVID-19 pandemic was having on their financial well-being.

Over the course of the last ten months, and from the moment emergency health declarations were made at the state and federal level, WBA began hearing concerns from customers about their financial stresses. WBA continues to hear stories of economic hardship as people continue to take steps both on their own and in response to various actions to help mitigate the spread of the virus.

The pandemic has indeed created challenging situations for individuals and businesses. Banks, as a steadfast and essential industry, have worked overtime as a resource in these uncertain times, especially through the execution of the Paycheck Protection Program (PPP). Wisconsin banks helped facilitate nearly 90,000 loans to small businesses worth over \$9.9 billion – ranking the state as 18th best in the country by volume. Throughout the pandemic, drive-thru lanes and lobbies have remained open and staffed by personnel dedicated to customer service.

Wisconsin's banks have a unique perspective in the state economy and admirably stepped up to help Wisconsin consumers. They have been part of the solution to the hardships this pandemic has created. A key component of our state's economic recovery is for banks to continue to serve their customers smoothly and help them maintain access to their finances in the months ahead. If banks are taking the necessary precautions and actions to keep their customers and employees safe, they should be shielded from predatory lawsuits. AB 1 accomplished this and many other goals.

WBA appreciates the efforts by the committee to address liability retroactively without affecting suits which have already been filed, and extend protection of individuals, businesses, schools, and universities from liabilities related COVID-19. We applaud the efforts to ensure compliance with applicable statutes, rules, and guidance should be substantial and not absolute.

Those who aid in the state and the public during a pandemic or other emergency should have assurance that their actions and good intentions are met with in-kind action by government. Wisconsin businesses, non-profits, schools, and homeowners need a measure of consistency and security as we turn the page to 2021 and look to emerge from the COVID-19 pandemic.

I want to thank the members of this committee, along with the other members in the Assembly and Senate for working on this important legislation to ensure everyone in Wisconsin can move forward with confidence.

For more information, contact WBA's Mike Semmann at 608-441-1206, msemmann@wisbank.com or John Cronin at 608-441-1215, jcronin@wisbank.com.



2801 Fish Hatchery Road | Madison, WI 53713 | (608) 270-9950 | (800) 589-3211 | FAX (608) 270-9960 | www.wirestaurant.org

January 5, 2021

TO: Assembly Committee on Health
Rep. Joe Sanfelippo, Chair

FR: Kristine Hillmer, President and CEO

RE: Testimony on Assembly Bill 1

Thank you Mr. Chairman and members of the Assembly Health Committee for hearing our testimony today.

The Wisconsin Restaurant Association represents over 7,000 restaurant locations statewide. Our organization represents all segments of the restaurant and hospitality industry; our membership includes food establishments of all types and sizes, such as seasonal drive-ins, supper clubs, diners, locally owned franchisees, fine-dining and hotels/resorts. Over 75 percent of our membership are independent restaurants. Regardless of ownership type, all restaurants are the cornerstones of their neighborhoods and communities. Restaurants not only provide great food, drink and hospitality, they support schools, teams, charities and churches with fundraising and donations. They provide meeting places to celebrate, mourn and organize, or just provide a safe, tasty meal for a busy family.

I am sure you all know the toll the COVID-19 pandemic has taken on the entire hospitality and tourism industry. The vast majority of restaurants have seen steep declines in their sales, increases in supplies and services and in some places, severe restrictions on their ability to be open and safely serve customers. It seems like every time we turn on the news or read publications, public health officials across the country are scapegoating restaurants and other public facing businesses as places to avoid, or even worse, close in order to protect the public. What is not mentioned by public health or the media is there is no proof linking restaurants that enact COVID-19 mitigation best practices are sources of COVID-19 outbreak clusters. Our industry has become the major fall guy for this pandemic – which also makes us a major target for frivolous lawsuits over exposure to COVID-19.

Restaurants are highly regulated at the federal, state, and local level for food safety, hygiene, and sanitation — and in some parts of Wisconsin, additional government incentives are being implemented to further mitigate the spread of COVID-19. As an example - in Milwaukee, a restaurant with a robust, city approved COVID mitigation plan can be open at higher capacities than establishments without plans. This incentive program rewards establishments that are implementing best practices so they can remain open at larger capacities AND protect employees and customers.

As we work to keep our doors open and serve local communities, we face unique vulnerabilities from fraudulent or frivolous lawsuits over exposure to COVID-19. The financial risk of being dragged into court is leading many restaurants to consider shutting down, or diverting resources away from rehiring staff or expanding service options for customers. Because the COVID-19 crisis is a global pandemic, and not caused or spread by any one type of business or employee, Wisconsin should enact liability protections for businesses, schools and other groups. These protections should still allow for claims based on willful misconduct by bad actors as well as for violations of food, safety and workplace laws. The restaurant

industry will not gain back customer confidence in dining out if “bad actors” are not complying with current laws.

COVID-19 Liability protections can help provide certainty and predictability for restaurants as they work to regain solid footing.

The WRA also supports this bill’s provisions to further help employers who have been forced to lay off employees due to COVID-19’s harm to the economy. The proposed changes to streamline the intended relief provided in 2019 Wisconsin Act 185 relating to benefit charging will be of great help to small businesses. Extending the non-charging period to March 12, 2021 and removing any requirements to request the charging relief will ensure that employers will not be penalized for laying off their employees due to forces beyond their control. Removing the paperwork and red tape for businesses to have their UI accounts restored will be a great relief as they work to recover.

We are also encouraged by this bill’s provision to put some oversight by locally governing bodies on orders issued by local health officers. WRA believes some local health officers have taken their powers to place restrictions on businesses too far and for too long, without any scientific data to back up the restrictions. As I mentioned earlier in our testimony, restaurants are used by many officials as a scapegoat for surges and health officers place restrictions on our industry that have no proven positive effect on reducing COVID cases. Many health officers only report to county executives or mayors, so this provision to require local councils and county boards to approve orders is a positive step to ensure local health officers receive input from a larger group of elected officials.

Thank you for this opportunity and I entertain any questions you may have.

TO: Members, Assembly Committee on Health
Members, Senate Committee on Health
Speaker Robin Vos
Majority Leader Devin LeMahieu
FROM: Tim Lundquist, Wisconsin Association of Health Plans
RE: Assembly Bill 1
DATE: January 5, 2021

Since the outset of the global pandemic, Wisconsin's community-based health plans have demonstrated that they are deeply committed to addressing COVID-19 and continuing to provide stable, high quality health insurance coverage. Health plans have acted to ensure individuals have timely access to diagnostic testing and treatment, supported vulnerable populations, provided direct financial assistance, and encouraged and expanded the use of telehealth.

As the Legislature considers additional action in response to COVID-19, we appreciate the opportunity to provide comment on 2021 Assembly Bill 1. We are committed to working with you to continue Wisconsin's fight against this pandemic. Please consider us resources and partners as we all continue to navigate this period.

Assembly Bill 1 includes multiple provisions that impact community-based health plans. Several provisions reactivate expired sections of 2019 Act 185. At the time Act 185 was under consideration, community-based health plans expressed concern regarding provisions related to: surprise billing prohibitions; COVID-19 testing and coverage mandates; and prohibitions on prescription drug refill limitations.

We remain concerned about reactivating these provisions, as explained below. Other provisions in AB 1 impacting Medicaid payment and data collection are new. As the bill draft was released on January 4, member health plans are still evaluating the impact of these issues, and the Association may provide subsequent comment at a later date.

No Cost Sharing for COVID-19 Testing and Vaccination (Page 43, Section 56)

Even before recent federal laws were passed, Wisconsin health plans proactively committed to covering, without cost-sharing or prior authorization, COVID-19 diagnostic laboratory testing. In addition, even while treatment protocols specific to COVID-19 were being developed (and are still developing), health insurance providers covered COVID-19 treatment just like any infectious disease.

Beyond these proactive industry steps, federal law requires that COVID-19 diagnostic testing be covered without cost-sharing. This requirement also applies to all provider, telehealth, urgent care, and emergency room visits that lead to COVID-19 testing. In addition, under federal law, a COVID-19 vaccine and associated costs for vaccine administration will be covered without cost-sharing like any other preventive service.

There is no need for additional state action mandating coverage of COVID-19 testing and vaccines, as health insurance providers are already complying with existing federal requirements.

Prescription Drug Limits (Page 43, Section 57)

Health insurance providers have taken action to help ensure patients, especially high-risk patients, have needed access to prescription drugs. Health insurance providers have relaxed their policies to allow for earlier refills and many have also increased supply limits of certain prescription drugs. Finally, health insurance providers are working to expedite formulary exception requests during the COVID-19 pandemic.

Based on their experience with this provision before its expiration, health insurance providers remain concerned that general prohibitions on refill limitations could lead to stockpiling, drug shortages, and increased costs. These outcomes could harm Wisconsin patients.

Surprise Billing (Page 41-42, Sections 53-55)

Community-based health plans are committed to maintaining sufficient provider networks so patients who need care have the peace of mind they can be properly treated by in-network providers. And health insurance providers understand the desire that patients be held financially harmless if they must be seen by an out-of-network provider for COVID-19 diagnosis and/or treatment.

However, extending the requirement that insurers pay 225% of the Medicare rate for out-of-network charges sets payment rates too high. For example, under their surprise billing laws, Michigan's rate generally for uncomplicated patients receiving out-of-network services is 150% of Medicare or the median in-network rate and California uses 125% of Medicare or the average contract rate, whichever is higher. Regulators in Massachusetts set their reimbursement rate for out-of-network providers at 135% of Medicare for COVID-related services. More recently, the federal Interim Final Rule requires insurers reimburse in and out-of-network providers for the administration of the COVID vaccine at a reasonable amount compared to prevailing market rates.

If the Legislature is committed to a Medicare-based payment benchmark, we recommend lowering the payment standard to 200% of the Medicare rate. We also recommend maintaining an explicit requirement the rate be accepted as payment in-full, with no balance bills sent to the patient, regardless of whether it is the insurer or the provider who attempts to balance bill.

If you have any questions, please do not hesitate to contact me at 608-255-0921.



ADVOCATE. ADVANCE. LEAD.

5510 Research Park Drive
P.O. Box 259038
Madison, WI 53725-9038
608.274.1820 | FAX 608.274.8554 | www.wha.org

Testimony Before the Assembly Committee on Health COVID-19 Legislation – Assembly Bill 1

Eric Borgerding, President/CEO
Wisconsin Hospital Association

January 5, 2021

Chairman Sanfelippo, Ranking Member Subek and members of the Assembly Committee on Health. My name is Eric Borgerding and I am the President/CEO of the Wisconsin Hospital Association (WHA). We appreciate this opportunity to testify.

WHA represents 140 member hospitals and health systems of all shapes and sizes, from all across the state. 2020 marked WHA's 100th anniversary, and we have never been prouder of our team or the members we serve than we have been during this past year. Our team has been working seven days a week for the past ten months to assist Wisconsin's hospitals and health systems, which, under immensely difficult circumstances, have all done a remarkable job for Wisconsin. For everyone in health care this has been and remains the single largest challenge they've ever faced and hopefully ever will face ... and they have unhesitatingly answered the call despite the challenges both inside and outside the walls of their hospitals.

We understand, very well, that this pandemic has been stressful, not just politically, but also among families, businesses, customers, constituents, patients and health care providers. We are mindful of the impacts COVID has had on them all. We have had the honor of being invited to brief both Assembly caucuses on COVID, and are well aware of the differing opinions, policies and politics permeating nearly everything COVID-related, even within your caucuses, yet we have worked extremely hard to find balance and common ground wherever possible, with the goal of moving forward and putting COVID safely behind us as soon as possible.

WHA continues to focus on how we can move forward together, in both public policy and public messaging. On the latter, we have led a diverse coalition from all segments of the economy to share a common message around slowing the spread of COVID-19. WHA, along with the WI Counties Association, Wisconsin Grocers Association, WMC and the Wisconsin Restaurant Association, created the *Stop the COVID Spread!* coalition. The group now counts over 125 organizations as members, including the Green Bay Packer, Milwaukee Brewers and Milwaukee Bucks. Since October, we aired six different safe practices ads on TV, radio and digital platforms that have been viewed, seen or heard an estimated 30 million times. We believe this work, as well as similar efforts by the state and many others, including many of our elected officials, these efforts, along with other factors, have helped slow down the spread of COVID-19 in Wisconsin. We thank many of you and your colleagues

for amplifying that message and we thank so many of the people of our great state for listening. *But we cannot stop now.*

On the public policy front, again, thank you for the legislation that is before us today, and thank you to the Governor for the legislation he has also put forward. WHA and our team remain in daily communication with the Legislature and the Evers' Administration. As evidenced by some of the provisions included in both bills, we appreciate, very much, that the voices of WHA and our members are being heard, and we remain as committed as ever to helping find and craft common ground and moving forward.

To that point, on November 19, I wrote to Governor Evers and leaders in the Senate and Assembly asking for their help and urging them to come together. While the situation in Wisconsin has improved since mid-November, we make no assumptions about where COVID is headed and the pressure on our state's hospital capacity and staff remains. Today, even though we have seen a welcome drop in COVID hospitalizations, they are still three times higher than the daily average this past summer. We must remain vigilant and prepared in our response to this pandemic, and that includes adopting legislation that will allow our state and health care providers to do so.

As noted, we have been in regular dialogue with our state's elected leaders, and are very pleased to see the framework for agreement on important new policies. Initiatives that will help create additional capacity for both COVID and non-COVID care in hospital outpatient settings, provide resources to hospitals when Medicaid patient is ready for discharge but no post-acute care provider is willing or able to take them, and permanently streamline licensure processes for out-of-state providers in good standing. We want to recognize that these proposals received support from Governor Evers, Speaker Vos and Senate Majority Leader LeMahieu - and are now incorporated into AB 1. We ask for your support of these provisions, as well, and believe we can do more.

One of the underappreciated benefits of the pandemic has been expediting, out of necessity, certain temporary regulatory reforms. As time has passed, there has been a realization that many of these reforms are working work well and should either be made permanent or become the basis for more changes.

The most recent example comes from the federal Centers for Medicare and Medicaid Services (CMS), which on November 25 announced new Medicare regulatory and payment flexibilities allowing hospitals to continue providing hospital care in a patient's home, prior to discharge from an inpatient service. CMS believes that their *Acute Hospital Care at Home* program can work well for more than 60 different acute conditions, such as asthma, congestive heart failure, pneumonia and chronic obstructive pulmonary disease (COPD), which can be treated safely at home with proper monitoring and treatment protocols.¹

The purpose of this program is to create additional capacity options for our hospitals by utilizing technology to provide a higher level of care for someone in their home. Besides the surge planning benefits of this model, CMS also recognizes the added benefits of allowing non-COVID patients to be visited by more family members safely at home, and also thus eliminating the risk of virus transmission within the walls of a hospital.

¹ Centers for Medicare and Medicaid Services. (2020, November 25). *CMS Announces Comprehensive Strategy to Enhance Hospital Capacity Amid COVID-19 Surge [Press Release]*. Retrieved from: <https://www.cms.gov/newsroom/press-releases/cms-announces-comprehensive-strategy-enhance-hospital-capacity-amid-covid-19-surge>

This program is not a replacement or substitute for home health care. The program's requirements and quality review processes are extensive, far broader in scope and depth than traditional home health, as they should be for a program that is designed to continue hospital level care in a patient's very own home.

So far, Wisconsin has [two Medicare-approved Acute Hospital Care at Home](#) programs, with more likely on the way. Testimony submitted by Marshfield Clinic Health System, one of the state's two CMS-approved programs, describe how the program can help create capacity in surge situations and how patients can benefit from the programs' flexible design today and in the future.

Some Wisconsin hospitals and health systems have been hesitant to implement this federal program due to perceived uncertainty in related state law, and they are eagerly awaiting clarification. The legislation before you provides that clarity, assuring that as hospitals seek innovative ways to expand and improve care that they will not be in conflict with any other state laws or regulations, specifically those associated with home health care agencies.

While many of you know WHA for our advocacy work, since COVID many more have become familiar with our work in health care data. The Wisconsin Hospital Association Information Center (WHAIC) has been a trusted source for health care data and analytics for nearly two decades. WHAIC is the organization that brought us the nationally-acclaimed [WHA COVID-19 dashboard](#); a resource that many of you, like me, check daily, use to track the status of COVID in Wisconsin and have shared on social media with your constituents.

The WHAIC dashboard team collects, proofs and uploads 12 separate data elements from 155 hospitals into the dashboard ... *every single day, including Thanksgiving, Christmas and New Years Day*. Entirely staffed and funded by WHAIC, the COVID dashboard has now been viewed over 830,000 times and has become a trusted, "go to" daily information staple for legislators and many others monitoring the status and impact of COVID in Wisconsin.

The Information Center is regulated under Ch. 153 of the Wisconsin statutes and for over 18 years has collected and disseminated all Wisconsin hospital and ambulatory surgery center discharge data and has done so under a contract with the state executed in 2003. It runs transparency websites PricePoint, CheckPoint, has received no state dollars, has been entirely self-sufficient since day one, and is an excellent example of public-private partnership.

In the summer of 2016, only four months after enabling legislation was signed into law, the WHA Information Center quickly stood-up the state's inpatient mental health bed tracker, an initiative advanced by WHA and that has proven a critical tool in improving access for patients in need of inpatient mental health care.

The legislation before you today includes an important new data tool for the Information Center known as Medicaid claims data. Just as we have been able to inform decision making with the COVID dashboard, the WHA Information Center can use Medicaid claims data to improve care for the Medicaid population inside and outside the walls of the hospital.

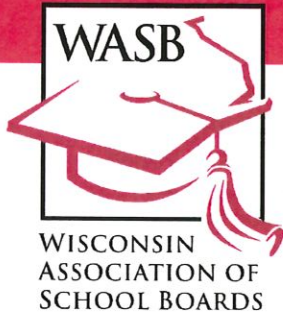
I want to thank two members of this committee, Representative Joe Sanfelippo and Representative Daniel Riemer who, in 2016, worked together in a bipartisan fashion with WHA to enact the Health

Care Data Modernization Act, greatly improving our ability to analyze hospital and ambulatory surgery center discharge data. This legislation was a critical step for the Information Center to use data to help providers “put water where the fire is”, to quote Rep. Sanfelippo, as we all strive to improve population health, deliver better care outcomes and lower Medicaid costs.

AB1’s provision on Medicaid claims data is the next critical step to help better understand the care patients receive across the continuum, better understand social determinants of care, direct resources where needed most, and improve care outcomes in all circumstances, including during a pandemic. It will better inform strategies to prevent birth complications, reduce hospital readmission rates for patients discharged to post-acute care facilities and reduce the number of patient’s using a hospital emergency department as their primary mental health care provider, to name a few examples.

It should be noted that the federal Medicare program has already recognized the value of providing claims data to organizations like WHAIC, and in October 2019, WHAIC was named a Medicare Qualified Entity for the purpose of receiving Medicare claims data. It is now time for the state to do the same with Medicaid data.

We respectfully request your support of these and other provisions in AB 1.



122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 • TOLL-FREE: 877-705-4422
FAX: 608-257-8386 • WEBSITE: WWW.WASB.ORG

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members, Assembly Committee on Health
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: February 12, 2020
RE: Testimony on ASSEMBLY BILL 1, relating to: state government actions to address the COVID-19 pandemic, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.

Mr. Chairman and members of the committee. Thank you for the opportunity to provide testimony on Assembly Bill 1.

The Wisconsin Association of School Boards (WASB) is a voluntary membership association representing all 421 of Wisconsin's locally elected public school boards.

From the outset we wish to point out that because Assembly Bill 1 contains provisions that the WASB supports and well as provisions the WASB opposes, the WASB takes no position on the bill itself. Further, we confine our comments to the provisions in the bill that directly relate to or impact public K-12 education.

The WASB supports the civil liability provisions of Assembly Bill 1. We appreciate that these provisions do not impact the existing limited governmental immunity that public schools already have against tort claims. That existing limited immunity provides some needed relief but still leaves school districts vulnerable to claims, including claims not based on merit but brought for their settlement value. Assembly Bill 1 creates an *additional* type of immunity that a school district could raise as an affirmative defense if, for example, a student contracts COVID-19 and then files a lawsuit against the school.

There are, however, a number of other provisions in Assembly Bill 1 that the WASB finds to be problematic.

For example, the bill would provide that starting next Monday (January 11, 2021), a school board may not provide virtual instruction to pupils instead of in-person instruction unless such virtual instruction is approved by a two-thirds vote of the members of the school board. The bill further provides that each school board approval of virtual instruction is valid for 14 days and a school board may reauthorize the virtual instruction only by subsequent two-thirds votes of the school board members.

Not only does this provision interfere with local control, substituting the prerogatives of lawmakers in Madison for the judgment of local school board members, elected by their communities, but 14 days is an arbitrary time period that may be divorced from sound medical advice and guidance or the school district's ability to adequately staff its school buildings for in-person instruction. The arbitrary requirement for a two-thirds vote of the board could allow a minority of board members to force a district into an instructional model that may not be in the best interest of the district and its staff.

When this particular proposal was first unveiled roughly a month ago, the WASB expressed concern about the effect it would have on pre-empting local school board decision-making and setting unique voting requirements pertaining to educational programming decisions. While the WASB is appreciative that the present bill does not include provisions that would penalize districts for decisions made in the interest of public safety, we remain concerned about attempts by the legislature to micromanage local decision making.

The WASB is also concerned about changes to the full-time open enrollment application process that could allow for wholesale migration of students from one district to another in the middle of a school year. Given the amount and persistence of legislative comments about how challenging the next biennial budget will be for public school funding and the reality that open enrollment students bring with them a substantial amount of funding, we are concerned that this provision may cause certain districts to focus an inordinate amount of attention on the financial implications of accepting full-time open enrollment students and pit school districts against one another.

Finally, the WASB is concerned about provisions in Assembly Bill 1 that would impact interscholastic athletics and extracurricular activities and usurp local school board decision making. The WASB opposed similar provisions last session.

Athletics and other extra-curricular activities offered in public schools are, as the name suggests, intended to supplement the school curriculum. In this regard, sports, music, forensics, and other activities are viewed as an extension of the classroom and of the school day and are specific to each respective school or district.

Public schools provide athletics and other extracurricular activities because they have educational value and create incentives for students to enroll in and remain in public schools and perform well enough to remain eligible to participate in those activities. These opportunities reduce truancy, reduce discipline referrals, boost students' grades (GPA), increase graduation rates, and keep students engaged in school offerings and interested in their education. In this regard, school-based athletic programs are not community or recreational youth sports programs and are not designed to provide the general public with programming like a YMCA or community-based recreation program.

The WASB believes it should be up to the discretion of local school boards to determine who is eligible to participate in athletics and other extra-curricular activities offered by the school district. We do not think it is the Legislature's job to make these decisions for local school boards. We also oppose legislative attempts to regulate private organizations such as the WIAA by restricting school districts' ability to participate in the WIAA or its activities unless they follow such legislative mandates.

Thank you for the opportunity to share our viewpoints with you. Please feel free to contact me if you have questions or would like additional information. I can be reached at drossmiller@wasb.org or (608) 512-1720.



WISCONSIN MANUFACTURERS & COMMERCE

To: Assembly Committee on Health

From: Corydon Fish, General Counsel

Date: January 5, 2021

Re: **Testimony in Support of Section 59 of 2021 Assembly Bill 1**

Thank you Chair Sanfelippo and members of the Assembly Committee on Health for taking the time to hear Wisconsin Manufacturers and Commerce's (WMC) testimony in favor of Section 59 in 2021 Assembly Bill 1 (AB 1). WMC would also like to thank Senator Kapenga, Representative Born and Representative Knodl for championing the issue of COVID-19 liability reform.

WMC is the state chamber of commerce, manufacturers association, and largest general business association in Wisconsin. We were founded over 100 years ago, and are proud to represent approximately 4,000 member companies of all sizes, and from every sector of our economy. Our mission is to make Wisconsin the most competitive state in the nation in which to do business.

The legislature and governor can work together to help make Wisconsin's business climate more competitive by providing job creators with as much certainty as they can during these uncertain times. Our members have consistently told us that the single best way the legislature and governor can work together to provide this certainty is by enacting clear, meaningful, and easy-to-access COVID-19 related liability reform. In fact, WMC's membership has repeatedly said it is their number one priority the state government can act on.

This bill contains just such a reform in Section 59. WMC strongly supports this provision which creates a liability shield protecting responsible entities from predatory trial attorneys. This provision will help Wisconsin communities begin their return to normalcy by protecting all entities—including businesses, schools, universities, non-profits, and others—from frivolous COVID-19 related lawsuits.

The provision creates a liability shield, which will shelter entities from civil liability due to an alleged injury or death from COVID-19 in the courses of or through the performance of the entity's functions or services. The entity loses the immunity if the entity acted in a reckless, wonton, or intentional manner to spread COVID-19. In other words, if the entity is a "bad actor" it would not receive the immunity. This immunity is retroactive to March 1, 2020 (approximately the beginning of community spread in Wisconsin). This provision is easy for small businesses to understand and obtain, provided the business acts in a responsible manner.

The enactment of a liability shield is serious business for the business community. In the midst of one of the worst economic downturns and public health crises in our nation's history, the business community is now faced with an epidemic of largely frivolous lawsuits. Trial lawyer advertisements soliciting plaintiffs for COVID-19 related mass tort lawsuits are up.¹ Several waves of lawsuits have already hit the business community. While initial suits were focused on cruise lines, and producers of certain products such as hand sanitizer, the scope of suits have broadened to all kinds of manufacturers and commercial businesses.² Risk analysis firms believe lawsuits targeting job creators could cost tens of billions of dollars.³ While many of these lawsuits will ultimately be unsuccessful because of their frivolous nature, this deluge of lawsuits will be prohibitively costly for many businesses to defend in the midst of the dual pandemic and economic crisis. Many businesses will be forced to settle these meritless suits, causing further strain on their budgets and our economy, rather than pay the six and seven figure legal fees necessary to defend against them. Businesses need to be protected from these harmful—possibly bankruptcy inducing—lawsuits.

There is significant support across the political and policy spectrum for this reform. The broader business community has called on the legislature and governor on several occasions over the past nine months in support of this reform. Most recently, in a letter (attached) on December 10, 2020 where over seventy organizations representing tens of thousands of businesses across the state wrote to Governor Evers and the legislature urging bipartisan action on the issue.

Further, polling has shown that creating a liability shield for businesses is a major issue for small businesses and the general public. According to a US Chamber of Commerce poll, 84-percent of respondents believe that essential businesses, and 82-percent of respondents believe that all businesses, should be protected from lawsuits related to the coronavirus.⁴ Similarly, according to an NFIB survey, nearly 70-percent of small business owners are concerned about increases in liability claims.⁵

Wisconsin would be in good company if the legislature passed and governor enacted this provision. At least 21 states have enacted some sort of COVID-19 related liability shield. At least four states with split government—North Carolina, Louisiana, Nevada, and Kansas—have enacted a liability shield similar to the one proposed in AB 1 in a bipartisan manner.

¹ <https://legalnewsline.com/stories/528905168-lawyer-ads-in-2020-are-talking-less-about-roundup-more-about-coronavirus>; <https://www.reuters.com/article/lawyers-advertising/mass-tort-tv-advertising-jumps-amid-coronavirus-pandemic-idUSL1N2ED0FQ>

² <https://www.reuters.com/article/us-health-coronavirus-usa-lawsuits/take-home-lawsuits-over-covid-infections-could-be-costly-for-u-s-employers-idUSKBN26J1H8>

³ *Id.* This does not include estimates for “business interruption insurance” lawsuits, which could cost insurers an additional tens of billions of dollars. <https://www.wsj.com/articles/companies-hit-by-covid-19-want-insurance-payoffs-insurers-say-no-11593527047>

⁴ <https://instituteforlegalreform.com/ilr-national-survey-covid-19-liability/>

⁵ <https://go.heartlandpaymentsystems.com/nfib>

WMC respectfully urges the Assembly Committee on Health to stand with businesses, schools, universities, and non-profits—the pillars of their community—and support Section 59 of AB 1. Thank you again Chair Sanfelippo and committee members for the opportunity to submit this testimony today.

December 10, 2020

Governor Evers and Wisconsin State Legislature:

As the COVID-19 pandemic continues, the threat of predatory lawsuits, seeking possibly bankruptcy causing damages, for alleged COVID-19 exposures is a major concern of small businesses and many other entities, even if they “did everything right” by complying with public health orders and taking all necessary precautions.

We appreciate the past efforts of the legislature and Governor Evers at the beginning of the pandemic to protect healthcare workers and those businesses that donate personal protective equipment. We also are happy to see Speaker Vos proposing liability reforms, as outlined in a December 1 Legislative Fiscal Bureau memorandum. That memo contains some encouraging concepts and we are interested in providing input on the statutory language to ensure that struggling Wisconsin businesses, non-profits, schools, and homeowners receive meaningful—and easy to comply with—protections from predatory lawsuits, provided they take adequate precautions to keep their premises safe.

In the same vein, the undersigned organizations encourage the legislature to pass, and governor to sign, meaningful liability reforms based off of LRB-6434/2 authored by Senator Kapenga, Representative Born, and Representative Knodl. The legislation would create a safe harbor for all property owners/occupants who are good actors against frivolous lawsuits alleging a plaintiff was infected with COVID-19 at a specific premises. *The bill is not business community specific and would protect homeowners, non-profits, schools, universities, and any other premises including outdoor events and festivals.* The safe harbor would not protect bad actors. An entity would lose the liability exemption if they knowingly violated a public health order or spread COVID-19 by acting in a reckless, wanton, or intentional manner.

Wisconsin is not alone in enacting premises liability protections. At least 13 other states have also done so, including neighboring states Iowa and Michigan. The legislature and governor need to act quickly to protect businesses, schools, non-profits, and individuals doing the right thing.

The signatories respectfully urge the legislature and governor to work together to pass and enact substantive liability protections like LRB-6434/2, which will help rebuild Wisconsin’s communities and economy.

Sincerely,

Wisconsin Manufacturers & Commerce
National Federation of Independent Business – Wisconsin
Wisconsin Civil Justice Council
Wisconsin Association of Independent Colleges and Universities
Wisconsin Technology Council

Wisconsin Association of School Boards
Wisconsin Insurance Alliance
Wisconsin Builders Association
Wisconsin Bankers Association
Wisconsin Property Taxpayers, Inc.
Midwest Food Products Association
Wisconsin Restaurant Association
Fox Cities Chamber of Commerce
Marinette Menominee Area Chamber of Commerce
Greater Wausau Chamber of Commerce
Stoughton Chamber of Commerce
Portage County Business Council, Inc.
Metropolitan Milwaukee Association of Commerce
Associated Builders and Contractors of Wisconsin
Marshfield Area Chamber of Commerce and Industry
The Wisconsin Credit Union League
Burlington Chamber of Commerce
Wisconsin Institute of CPAs
Greater Green Bay Chamber of Commerce
Bowling Centers Association of Wisconsin
Waukesha County Business Alliance
Wisconsin Dairy Business Association
Wisconsin Defense Council
American Property Casualty Insurance Association
Muskego Area Chamber of Commerce
Wisconsin Petroleum Marketers and Convenience Store Association
Commercial Association of REALTORS Wisconsin
Wisconsin Agri-Business Association
Venture Dairy Cooperative
Eau Claire Area Chamber of Commerce
Racine Area Manufacturers and Commerce
Beaver Dam Area Chamber of Commerce
Oshkosh Chamber of Commerce
Wisconsin Cheese Makers Association
Wisconsin Convention and Visitor Bureaus
Mosinee Area Chamber of Commerce
Wisconsin Hotel & Lodging Association
Wisconsin Grocers Association
Wisconsin Farm Bureau Federation
Independent Insurance Agents of Wisconsin
Wisconsin Dairy Alliance
The Plumbing and Mechanical Contractors Association of Milwaukee
The Sheetmetal and Air Conditioning Contractors Association of Milwaukee

Wisconsin REALTORS Association
Wisconsin Motor Carriers Association
Wisconsin Transportation Builders Association
Professional Insurance Agents of Wisconsin, Inc.
West Bend Area Chamber of Commerce
Wisconsin Association of Textile Services
Wisconsin Amusement and Music Operators
Wisconsin Automatic Merchandising Council
Tool, Die & Machining Association of Wisconsin
Associated General Contractors
Independent Business Association of Wisconsin
Wisconsin Veterinary Medical Association
Wisconsin Potato & Vegetable Growers Association
Wisconsin Soybean Association
Wisconsin State Cranberry Growers Association
Wisconsin Cattlemen Association
Wisconsin Association of Professional Agricultural Consultants
Germantown Area Chamber of Commerce
Sun Prairie Chamber of Commerce
Hartford Area Chamber of Commerce
Whitewater Area Chamber of Commerce & Tourism
Oregon Area Chamber of Commerce
Menominee Area Chamber of Commerce & Visitor Center
Envision Greater Fond du Lac, Inc.
Alliance of Wisconsin Retailers



January 5, 2021

Representative Joe Sanfelippo
Chair, Assembly Committee on Health
Wisconsin State Capitol

Dear Members of the Assembly Committee on Health,

My name is Erin Longmire and I am the Executive Director of the Funeral Service & Cremation Alliance of Wisconsin, which is a professional trade association representing funeral directors and funeral homes throughout the state. I am here today to support AB 1, specifically the language within the bill that would ease regulations relating to the disposition of human remains.

The funeral profession is facing an unprecedented amount of deaths right now. Wisconsin is not only seeing an increased number of deaths relating to COVID-19, but the overall death rate is also up. For example, the amounts of suicides and overdose deaths are 15% greater than they were in 2019. This has caused a strain on mortuary services in the state. Funeral directors across Wisconsin are experiencing issues related to both throughput and the storage of bodies. Throughput is the process by which a deceased individual goes from death to final disposition. When there is an increase in the death rate, there is an increased stress on the throughput of individuals in the system. This increase then creates issues related to the storage of bodies. Our funeral homes are at or over capacity for storage in all areas of the state, which causes a strain on the system.

AB 1 would help to eliminate some of the requirements that can slow throughput and therefore create issues relating to body storage. Specifically, the bill would require that if any physician, coroner, or medical examiner has signed the death certificate of a deceased person and listed COVID-19 as the underlying cause of death, a coroner or medical examiner shall issue a cremation permit to cremate the corpse of that deceased person without viewing the corpse. The bill would also require that if a physician, coroner, or medical examiner has signed the death certificate of a deceased person and listed COVID-19 as the underlying cause of death, a coroner or medical examiner shall issue, within 48 hours after the time of death, a cremation permit for the cremation of a corpse of a deceased person. These provisions were both included in Act 185 during the 2019-2020 legislative session and are necessary to maintain public health while still providing dignity to the decedent and their loved ones during these unprecedented times.

At a time when it is imperative that our state's mortuary system works, AB 1 will help ease on the constraints currently in place. On behalf of Wisconsin's funeral professionals, we ask that you please again pass this language.

Sincerely,

Erin Longmire
FSCA Executive Director

FSCA

PO Box 67, Madison, WI 53717
www.fsawisconsin.org

608-444-6214
608-237-2299 (F)



Written testimony submitted on behalf of SEIU Healthcare Wisconsin and SEIU Wisconsin State Council to the Assembly Committee on Health in re Assembly Bill 1, for public hearing on January 5, 2021.

My name is Julie Zugenbuehler. I'm a nurse at a Madison hospital, where I have worked for almost 39 years. I'm also a proud union member of SEIU Healthcare Wisconsin. I submit this testimony on behalf of my fellow union members and behalf of every healthcare worker across our state.

For the last 32 years, I've been in the same department of my hospital, caring for post-anesthesia patients as they come out of surgery. My whole career, I've committed to becoming the best nurse I can be. I put my heart and soul into caring for patients. That's never been more true than during this deadly pandemic. I put everything on the line because that's what it means to do my job.

Every day I spent at the hospital in close contact with patients and co-workers, I was at higher risk, risks that increased due to the lack of adequate PPE available.

Despite taking every possible precaution and practicing social distancing, I contracted COVID-19 myself. Within several days, my symptoms became more serious. It is only due to the exceptional care of my fellow healthcare workers in the ICU that I am still alive today.

As far too many Americans have come to learn, recovery from COVID is difficult and can take time. But, even though I am sure I contracted COVID while at work, I was denied workers' compensation under Wisconsin law.

It felt like a kick in the teeth. If you work in a healthcare setting, if you care for people who potentially have COVID, getting COVID should be considered a workplace injury. For frontline workers who have pushed through fatigue, stress, and fear to be there for our patients, it is not too much to ask that if we contract this highly contagious virus, we have the time and support we need to recover.

Instead, as I figured out my own recovery from this devastating virus, my husband and I also had to struggle just to stay afloat.

Even worse — because my recovery has taken “too long,” I no longer have my job to return to — in the middle of a national nurse shortage crisis, in an uncontrolled pandemic, in a state with one of the highest infection rates.

When I needed support from my employer and lawmakers the most, I was left on my own to navigate this crisis. Far too many healthcare workers across our state have similar stories.

As our hospitals fill up and our nursing homes endure the worst outbreaks, healthcare workers have gone above and beyond to ensure the best possible care for our patients, risking our own health and safety.

Since the start of the pandemic, employers and lawmakers alike called essential workers heroes, but we have yet to see action taken to back up those words.

At the moment when Wisconsin is finally taking steps on a COVID relief bill, it is outrageous to learn that this proposed legislation does not address the needs of healthcare workers and first responders.

This bill does nothing to address the needs of front line healthcare workers to ensure that we have what we need to make it safely through this crisis.

For months, healthcare workers have been telling you exactly what we need, and today, we implore you to heed our calls.

We need a COVID response package that provides critical support for frontline healthcare workers and first responders. Any relief bill must expand workers' compensation and ensure that all healthcare workers have fully paid sick time, pandemic pay, and no-cost COVID health care coverage during the pandemic.

There are other steps lawmakers should take to provide needed COVID relief and a comprehensive response plan to address the pandemic and to help Wisconsin recover, but these are the things that absolutely need to happen to get healthcare workers through this pandemic

Every day, we show up to jobs without the support, adequate protection, tools or policies we need. But we show up anyway, because our patients depend on us.

We know our work is essential. And this legislature does too. So why are we, as healthcare workers, being treated as if we don't matter?

Healthcare workers need care, just as much as the people we're serving. We need a bill that addresses the needs of healthcare workers on the front lines. Show us through action that you value the healthcare heroes who keep the public safe.

As legislators, you are tasked with protecting the health, safety and economic wellbeing of those you were elected to represent.

On behalf of every healthcare worker in our state, I urge this body to set aside partisan differences and do what is necessary to pass a COVID relief bill that meets the needs of healthcare workers and first responders.



January 5, 2021

Honorable Joe Sanfelippo
Room 314 North
State Capital
PO Box 8953
Madison, WI 53708

Representative Sanfelippo and Members of the Assembly Committee on Health:

The Fox Cities Chamber of Commerce is dedicated to the economic growth and prosperity of the Fox Cities region. On behalf of our 1,000 members, I write to express our support for the civil liability protections contained within Assembly Bill 1.

Earlier this year, businesses across Wisconsin voluntarily shut down to help address the public health crisis presented by COVID-19. Some of these businesses never opened back up, and many others are struggling to stay open. Reopening our economy has proven to be difficult and doesn't appear to be getting easier the longer the pandemic continues.

For many local businesses and other main street institutions like non-profits, schools, and universities, a major concern is whether they are vulnerable to lawsuits for COVID-19 outbreaks beyond their control or otherwise for which they are not responsible. Businesses working to bring back family-supporting jobs and serve their customers during these unprecedented times shouldn't be at risk of potentially bankruptcy causing litigation. Simply put, businesses, schools, and universities need liability protection for outbreaks they did not cause.

Assembly Bill 1 would establish a civil liability protection for entities (businesses, associations, governmental entities, schools, institutions of higher education or nonprofits) against accidental exposure to the coronavirus at a specific premise. These protections would not protect bad actors. An entity would lose the protection if they knowingly violated a public health order or spread COVID-19 by acting in a reckless, wanton, or intentional manner.

I respectfully urge you to co-sponsor and support Assembly Bill 1.

Sincerely,

A handwritten signature in black ink that reads 'Jayme Sellen'.

Jayme Sellen
VP, Economic Development & Government Affairs

Testimony before the Assembly Committee on Health

2021 Assembly Bill 1

Jim DeMay

Director of Pfizer State Government Affairs in the Midwest

January 5th, 2021

My name is Jim DeMay, Director of Pfizer State Government Affairs in the Midwest, covering Wisconsin. Pfizer is pleased to employ over 200 people in Wisconsin. We have two facilities in the State of Wisconsin:

1. Middleton WI Manufactures blood products.
2. Pleasant Prairie WI A Pfizer distribution center.

I am here today to speak about Pfizer's Pleasant Prairie facility. Pfizer employs about 100 personnel in the distribution facility, up about 20 employees since COVID-19 vaccination distribution started. Pfizer invested several million dollars in improvements at Pleasant Prairie in 2018-19 to make it one of two state of the art distribution facilities at Pfizer- the other one is in Memphis.

We have been successfully distributing COVID-19 vaccines out of the Pleasant Prairie facility and will continue to do so. At present, we ship deep frozen containers of the Pfizer vaccine to vaccination facilities.

As we move forward, Pfizer will need additional licensing to ensure legal delivery of certain products for administering the Pfizer vaccine. In order to provide these additional products that I will refer to as a "vaccination kit," we will need the State of Wisconsin to grant us a 3PL license to allow for vaccination kits to be sent along with shipments of the Pfizer Covid-19 vaccine. The kits will contain other medical devices, which are not made by Pfizer. Because Pfizer will be shipping third-party product along with the Pfizer vaccine, certain states require that Pfizer obtain an additional license for our Pleasant Prairie facility, known as a "third-party logistics provider" license. The State of Wisconsin currently does not license third-party logistics providers, which means that third-party logistics providers can operate in Wisconsin, but do not need to obtain a license to do so.

Under the Drug Supply Chain and Security Act (DSCSA), enacted in 2013, the US Food and Drug Administration (FDA) was directed to issue regulations by 2015 establishing national licensing standards for third-party logistics providers (3PLs) who are not required to be licensed in the state(s) in which they do business (see section 584(a) and (d) of the Federal Food, Drug, and Cosmetic Act).

The FDA has yet to issue such regulations. Until such time as those regulations become effective, DSCSA provided that any 3PL shall be considered "licensed" (as defined by DSCSA) provided FDA has not made a finding that the 3PL does not utilize good handling and distribution practices (section 582(a)(7)).

The key takeaway here is that while 3PLs may be considered "licensed" by FDA, because FDA has not issued regulations permitting licensure of 3PLs there is no physical license issued to a 3PL.

This creates a barrier to drug distribution when the Wisconsin 3PL must obtain a license to distribute into a state, but that state requires proof of licensure from Wisconsin. In California, for example, licensure of the business entity as a 3PL in its home state is a prerequisite to issuance of a 3PL license.

Given that WI does not have a 3PL licensing construct, it creates obstacles to licensing our Pleasant Prairie, WI logistics center. As a result, we are not able to provide 3PL services out of our Pleasant Prairie, WI logistics center in some states.

Pfizer presently has acquired 3PL licenses for our Pleasant Prairie facility in several states and asks Wisconsin to enact a mechanism for issuing a 3PL license. We fully acknowledge that Wisconsin did not create this licensing issue, although we do need the state to help us fix it.

We would like to thank Representative Samantha Kerkman, Assembly Speaker Robin Vos, Senator Van Wanggaard, Senate Majority Leader Devin LeMahieu, Governor Tony Evers' office and the leadership at the Department of Safety and Professional Services for their support and assistance in working with us to address this matter.

Thank you.

James DeMay

James.demay@pfizer.com

Congress of the United States
Washington, DC 20510

July 22, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
US Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Verma:

We write to you today on behalf of the Marshfield Clinic Health System to gain clarity on the Center for Medicare and Medicaid Services' (CMS) guidance related to the provision of medical care in the home during the COVID-19 pandemic.

Marshfield Clinic Health System (MCHS) is a fully integrated health system serving northern, central and western Wisconsin. Its service area incorporates over 40,000 square miles, and over 80% of Wisconsin's rural residents live in the geography that MCHS serves.


Since 2016, MCHS has offered a Home Recovery Program that seeks to take patients out of the inpatient setting, when appropriate, and allows them to be treated for over 100 conditions at home through home-visitation and telehealth services. The program has demonstrated high rates of patient satisfaction, improved outcomes and reductions in costs, and was endorsed by the Physician-Focused Payment Model Technical Advisory Committee (PTAC) in 2018. An August 2019 issue of the New England Journal of Medicine's Catalyst highlighted the program, noting that "Providing home-based acute care improves patient satisfaction and care quality while reducing costs." Furthermore, the program has achieved the goal of reducing the number of patients who are admitted to the hospital, freeing up resources and staff's attention for other patients that may have more acute conditions. In the current COVID-19 pandemic, this ability to increase hospital capacity is even more important. However, to date, it is unclear whether the Marshfield Clinic Home Recovery program and others like it are eligible for the regulatory flexibilities issued by CMS.

On March 30, when CMS issued the first round of "Hospital Without Walls" blanket 1135 waivers, there was no specific guidance that could be applicable to a Home Recovery type arrangement. When a second round of waivers were published on April 30, there were a number of provisions that allowed for Medicare to reimburse for outpatient care in a patient's home, however, there was no specific language in the waivers allowing for inpatient care at a patient's home. Yet, in an ancillary document issued by CMS, there was an example used of providing inpatient care at a patient's home. (Slide 10 of attached document.) To date, Marshfield Clinic and its partners have not been able to identify specific 1135 waiver language associated with this example.

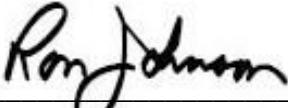
The Home Recovery program has successfully created new opportunities to provide eligible patients with the care they need in the comfort of their own homes. In order to build on the success of this program and provide Wisconsinites with the care they need in the right setting, we request that you clarify whether the MCHS Home Recovery program would be eligible for Medicare reimbursement under the existing 1135 flexibilities issued by CMS. If it is not in fact allowed under existing rules, we respectfully urge you to consider expanding the current flexibilities to permit such a scenario.

Thank you in advance for your time and consideration of these requests. We look forward to hearing from you in the near future.

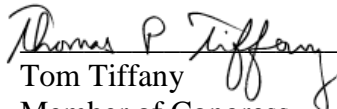
Sincerely,



Tammy Baldwin
United States Senator



Ron Johnson
United States Senator



Tom Tiffany
Member of Congress



Ron Kind
Member of Congress

Testimony Before the Assembly Committee on Health COVID-19 Legislation – 2021 Assembly Bill 1

Dr. Narayana Murali, Chief Clinical Strategy Officer
Marshfield Clinic Health System

January 5, 2021

Good Afternoon Chairman Sanfelippo and members of the Assembly Committee on Health, my name is Dr. Narayana Murali and I am the Chief Clinical Strategy Officer for the Marshfield Clinic Health System (MCHS).

MCHS is an integrated health system serving northern, central and western Wisconsin. Our 1,475 providers accommodate 3.5 million patient encounters each year across our 9 hospitals and almost 60 clinical sites. The Marshfield Clinic Research Institute is the largest private medical research institute in Wisconsin with more than 30 Ph.D. and M.D. scientists and 150 physicians engaged in medical research. We also are a teaching health system, providing over 1,300 students with over 2,300 educational experiences throughout our system. We are a leader in rural healthcare, providing care in some of the most rural portions of our state.

As Eric Borgeding mentioned in his testimony on behalf of the Wisconsin Hospital Association, I am testifying in support of the provision in 2021 Assembly Bill 1 related to “hospital services provided in a home setting.”

Since 2016, MCHS has run a Home Recovery Program, operated through the Personalized Recovery Care, LLC, that seeks to take patients out of the inpatient setting whenever appropriate and allow them to be treated for over 100 conditions at home through home visiting and telehealth services. This program has been effectively deployed in our service area, demonstrated high rates of patient satisfaction, and improved outcomes and meaningful reductions in costs. In fact, it was highlighted in the August New England Journal of Medicine Catalyst.

In order to increase capacity for the care of patients across our system because of the COVID-19 pandemic, MCHS requested and with bipartisan support from the congressional delegation that represents our service territory (attached) was granted a Section 1135 waiver from CMS to more broadly implement the Acute Hospital Care at Home program. MCHS was one of the first 9 health care institutions in the country granted this waiver by CMS.

The Acute Hospital Care at Home program is an expansion of the CMS *Hospital Without Walls* initiative launched in March 2020 as a part of a comprehensive effort to increase hospital capacity, maximize resources, and combat COVID-19 to keep Americans safe. This program creates additional flexibility that allows for certain health care services to be provided outside of a traditional hospital setting and within a patient’s home.

CMS believes that their *Acute Hospital Care at Home* program can work well for more than 60 different acute conditions, such as asthma, congestive heart failure, pneumonia and chronic

obstructive pulmonary disease (COPD) which can be treated safely at home with proper monitoring and treatment protocols.¹

The *Acute Hospital Care at Home* program is not a replacement or substitute for home health care. The program's requirements and quality review processes are extensive, far broader in scope and depth than a traditional home health care service line. The Acute Hospital Care at Home program provides hospital-level care in patients' homes through use of telehealth, in-home nursing visits, and virtual visits by hospitalist after ascertaining needs for durable medical equipment, home safety check, arranging for home meals, physical blocks of time for nursing care and prompt availability.

Medical research demonstrates the efficacy of treating patients in their homes utilizing the home hospitalization clinical model.

- 44% reduction in readmissions
- 50% reduction in ED visits
- 35% reduced length of Stay
- 22% increase in patient satisfaction

These strong clinical outcomes are largely due to rigorous safety protocols and procedures incorporated into the care model to ensure patient safety is always at the highest standard. Escalations/changes in condition are identified early with care coordination calls, incoming patient calls, and from remote monitoring alerts/trends. Care coordinators manage concerns with the treating provider based on individual escalation concerns. Our care team is equipped with tools to provide best practice support for change in condition and easy access to treating providers for more urgent needs. Care team members have established protocols for identifying urgency of presenting symptoms and are able to engage support as indicated. Mobile phlebotomy, imaging, and urgent visiting nurses are all utilized to support patient needs in the home.

Thank you in advance for your consideration and support of this provision that will allow us to create additional capacity options for our hospitals by utilizing technology to care for someone in their home and the regulatory certainty this clarification provides that our system will not be in conflict with any other state laws or regulations, specifically those associated with home health care agencies, if they are providing hospital-level services in someone's home, as approved and regulated by Medicare.

¹ Centers for Medicare and Medicaid Services. (2020, November 25). *CMS Announces Comprehensive Strategy to Enhance Hospital Capacity Amid COVID-19 Surge [Press Release]*. Retrieved from: <https://www.cms.gov/newsroom/press-releases/cms-announces-comprehensive-strategy-enhance-hospital-capacity-amid-covid-19-surge>



Wisconsin Medical Society

TO: Assembly Committee on Health
Representative Joe Sanfelippo, Chair

FROM: Mark Grapentine, JD – Chief Policy and Advocacy Officer

DATE: January 5, 2021

RE: 2021 Assembly Bill 1

On behalf of more than 10,000 physician members statewide, thank you for this opportunity to testify on 2021 Assembly Bill 1, which responds to the COVID-19 pandemic. Physicians have been on the front lines of this generational event and appreciate all efforts to combat the virus and bolster health care's ability to continue the fight.

The Society **supports** the following provisions of Assembly Bill 1:

- **Civil liability exemption; exposure to the novel coronavirus SARS-CoV-2 or COVID-19** (sec. 59).
Physicians and others on the health care team have dealt with extraordinary challenges ever since COVID-19 first arrived in early 2020. Health care has continued to learn more about the virus and its transmission, incorporating new treatments and medicines as the science has developed. The Society supports civil liability protections for those health care workers who have acted appropriately based on information known at the time and believe the liability thresholds of reckless or wanton conduct or intentional misconduct are appropriate lines to draw for that immunity. This will protect the public while preventing opportunistic and unfair litigation.
- **Insurance coverage of COVID-19 testing and vaccination with no cost sharing** (sec. 56).
The Society supports ensuring that vaccination costs are not subject to insurance copays or coinsurance, similar to already-enacted provisions related to COVID-19 testing costs.
- **Coverage of vaccinations under SeniorCare** (sec. 9119, p. 50, line 11).
With seniors disproportionately affected by the COVID-19 pandemic, it makes good policy sense to ensure the state's SeniorCare program covers and reimburses COVID-19 vaccinations.

The Society **opposes** the following provisions of Assembly Bill 1:

- **Mandatory vaccination for employment prohibited** (sec. 15).
Employers strive to create a safe working environment for employees and members of the public who interact at that workplace. Health care facilities face special challenges in treating patients while minimizing the potential spread of disease. The current pandemic involves an extremely virulent SARS-CoV-2 virus; health care employers should continue to have the option to decide whether employee and public safety necessitates any vaccine requirement.

- **Government powers to order vaccinations** (secs. 27 and 29).
One lesson we have learned from the current pandemic is the need to bolster our public health infrastructure. Vaccinations are safe, effective and are often the best tool to combat harmful disease – and in some cases can eliminate those maladies nearly completely. The Society supports current law allowing the Department of Health Services secretary and local public health officials to require vaccinations when necessary to protect the public health.

Thank you again for this opportunity to provide the Society's feedback on various elements of Assembly Bill 1 and prioritizing the fight against COVID-19 as we begin the 2021-22 biennial session. Please feel free to contact the Society with any questions on this or other health care issues.



DATE: January 5, 2021
TO: The Assembly Committee on Health
FROM: The Wisconsin Association of Local Health Departments and Boards (WALHDAB)
The Wisconsin Public Health Association (WPHA)
RE: Restrictions on Public Health Orders in Assembly Bill 1

WALHDAB is the statewide organization of city, county and tribal local board of health members and health department administrators. WALHDAB members provide a unified forum for public health leadership development, advocacy, education, and forging of community partnerships for the improvement of public health at the local level.

WPHA is the largest statewide association of public health professionals in Wisconsin. WPHA was established in 1948 and serves as the collective voice for public health in Wisconsin and is committed to building a healthier, safer state through policy, partnership and professional development of our members.

Together, WPHA and WALHDAB represent over 1,200 public health professionals in communities across Wisconsin, striving to prevent, promote, and protect the health of Wisconsin citizens.

WALHDAB and WPHA are deeply concerned about provisions in LRB-2232/1 or Assembly Bill 1 which will unnecessarily make it more difficult for local health departments to effectively manage their statutory responsibility to prevent and suppress disease during this pandemic. Most notable are the changes listed on page 8 of the Legislative Reference Bureau Analysis which:

- modifies long-standing statutes which grant authority to issue orders,
- prohibits closures in designated facilities, and
- prohibits the authority to require vaccination with designated exemptions.

The changes in the bill are based on an assumption that local response throughout the state has been unilateral and exceeded the statutory expectation that actions are “reasonable and necessary”. The bill further assumes actions are made without the required investigation and reporting to locally elected governing bodies. The reality is our local health officers have worked closely within their local units of government and with their locally elected officials to determine the best course of action necessary to protect their communities. While some of the decisions and actions may be unpopular among some, these decisions are evidence-based and made in real-time. In addition, there has been an extraordinary emphasis on community outreach and education to help support voluntary compliance with recommended best practices. As a result, the number of orders that have been issued by local health officers have been limited in quantity, supported by locally elected officials and supported by the majority of the public.

Wisconsin Chapter 252.03 was approved with overwhelming bi-partisan support and has functioned for over 4 decades. These legislators established a mechanism in statute that would provide the authority necessary to combat unprecedented and unimaginable threats to our public health. In recent months, public opinion has affirmed this same position. On Election Day 2020, a Brown County advisory referendum asked voters whether there should be county board approval of orders issued by local health officers. Over fifty-five percent said no, confirming support of current practice and current law.

Simply stated, Chapter 252.03 is a necessary and essential tool, not a hinderance, in protecting public health. Local health officers follow science to protect health and safety. They rely on their education, training, and all available data to make objective, evidence-based decisions. And they are accountable to their local board of health, the elected official(s) who appointed them, and their communities.

In addition, we request legislators to consider previous requests to include language to protect local health department staff. We ask the legislature to follow the lead of 35 other states by establishing penalties against those who harass and interfere with the work of our local health department staff. Failure to include this protection further complicates the local health department response and suggests a lack of consideration for these public employees work on our behalf.

The middle of a pandemic is no time to limit the work of local health officers. We need to support of local health officers and remain committed to the local decision-making as the keys to governance in Wisconsin. State leaders from both parties and all branches of state government have described the importance of local response to this unprecedented pandemic. We ask your support to provide the same tools our local health officers need to continue their work.



ADVOCATE. ADVANCE. LEAD.

5510 Research Park Drive
P.O. Box 259038
Madison, WI 53725-9038
608.274.1820 | FAX 608.274.8554 | www.wha.org

Testimony Before the Assembly Committee on Health COVID-19 Legislation – Assembly Bill 1

Eric Borgerding, President/CEO
Wisconsin Hospital Association

January 5, 2021

Chairman Sanfelippo, Ranking Member Subek and members of the Assembly Committee on Health. My name is Eric Borgerding and I am the President/CEO of the Wisconsin Hospital Association (WHA). We appreciate this opportunity to testify.

WHA represents 140 member hospitals and health systems of all shapes and sizes, from all across the state. 2020 marked WHA's 100th anniversary, and we have never been prouder of our team or the members we serve than we have been during this past year. Our team has been working seven days a week for the past ten months to assist Wisconsin's hospitals and health systems, which, under immensely difficult circumstances, have all done a remarkable job for Wisconsin. For everyone in health care this has been and remains the single largest challenge they've ever faced and hopefully ever will face ... and they have unhesitatingly answered the call despite the challenges both inside and outside the walls of their hospitals.

We understand, very well, that this pandemic has been stressful, not just politically, but also among families, businesses, customers, constituents, patients and health care providers. We are mindful of the impacts COVID has had on them all. We have had the honor of being invited to brief both Assembly caucuses on COVID, and are well aware of the differing opinions, policies and politics permeating nearly everything COVID-related, even within your caucuses, yet we have worked extremely hard to find balance and common ground wherever possible, with the goal of moving forward and putting COVID safely behind us as soon as possible.

WHA continues to focus on how we can move forward together, in both public policy and public messaging. On the latter, we have led a diverse coalition from all segments of the economy to share a common message around slowing the spread of COVID-19. WHA, along with the WI Counties Association, Wisconsin Grocers Association, WMC and the Wisconsin Restaurant Association, created the *Stop the COVID Spread!* coalition. The group now counts over 125 organizations as members, including the Green Bay Packer, Milwaukee Brewers and Milwaukee Bucks. Since October, we aired six different safe practices ads on TV, radio and digital platforms that have been viewed, seen or heard an estimated 30 million times. We believe this work, as well as similar efforts by the state and many others, including many of our elected officials, these efforts, along with other factors, have helped slow down the spread of COVID-19 in Wisconsin. We thank many of you and your colleagues

for amplifying that message and we thank so many of the people of our great state for listening. *But we cannot stop now.*

On the public policy front, again, thank you for the legislation that is before us today, and thank you to the Governor for the legislation he has also put forward. WHA and our team remain in daily communication with the Legislature and the Evers' Administration. As evidenced by some of the provisions included in both bills, we appreciate, very much, that the voices of WHA and our members are being heard, and we remain as committed as ever to helping find and craft common ground and moving forward.

To that point, on November 19, I wrote to Governor Evers and leaders in the Senate and Assembly asking for their help and urging them to come together. While the situation in Wisconsin has improved since mid-November, we make no assumptions about where COVID is headed and the pressure on our state's hospital capacity and staff remains. Today, even though we have seen a welcome drop in COVID hospitalizations, they are still three times higher than the daily average this past summer. We must remain vigilant and prepared in our response to this pandemic, and that includes adopting legislation that will allow our state and health care providers to do so.

As noted, we have been in regular dialogue with our state's elected leaders, and are very pleased to see the framework for agreement on important new policies. Initiatives that will help create additional capacity for both COVID and non-COVID care in hospital outpatient settings, provide resources to hospitals when Medicaid patient is ready for discharge but no post-acute care provider is willing or able to take them, and permanently streamline licensure processes for out-of-state providers in good standing. We want to recognize that these proposals received support from Governor Evers, Speaker Vos and Senate Majority Leader LeMahieu - and are now incorporated into AB 1. We ask for your support of these provisions, as well, and believe we can do more.

One of the underappreciated benefits of the pandemic has been expediting, out of necessity, certain temporary regulatory reforms. As time has passed, there has been a realization that many of these reforms are working work well and should either be made permanent or become the basis for more changes.

The most recent example comes from the federal Centers for Medicare and Medicaid Services (CMS), which on November 25 announced new Medicare regulatory and payment flexibilities allowing hospitals to continue providing hospital care in a patient's home, prior to discharge from an inpatient service. CMS believes that their *Acute Hospital Care at Home* program can work well for more than 60 different acute conditions, such as asthma, congestive heart failure, pneumonia and chronic obstructive pulmonary disease (COPD), which can be treated safely at home with proper monitoring and treatment protocols.¹

The purpose of this program is to create additional capacity options for our hospitals by utilizing technology to provide a higher level of care for someone in their home. Besides the surge planning benefits of this model, CMS also recognizes the added benefits of allowing non-COVID patients to be visited by more family members safely at home, and also thus eliminating the risk of virus transmission within the walls of a hospital.

¹ Centers for Medicare and Medicaid Services. (2020, November 25). *CMS Announces Comprehensive Strategy to Enhance Hospital Capacity Amid COVID-19 Surge* [Press Release]. Retrieved from: <https://www.cms.gov/newsroom/press-releases/cms-announces-comprehensive-strategy-enhance-hospital-capacity-amid-covid-19-surge>

This program is not a replacement or substitute for home health care. The program's requirements and quality review processes are extensive, far broader in scope and depth than traditional home health, as they should be for a program that is designed to continue hospital level care in a patient's very own home.

So far, Wisconsin has [two Medicare-approved Acute Hospital Care at Home](#) programs, with more likely on the way. Testimony submitted by Marshfield Clinic Health System, one of the state's two CMS-approved programs, describe how the program can help create capacity in surge situations and how patients can benefit from the programs' flexible design today and in the future.

Some Wisconsin hospitals and health systems have been hesitant to implement this federal program due to perceived uncertainty in related state law, and they are eagerly awaiting clarification. The legislation before you provides that clarity, assuring that as hospitals seek innovative ways to expand and improve care that they will not be in conflict with any other state laws or regulations, specifically those associated with home health care agencies.

While many of you know WHA for our advocacy work, since COVID many more have become familiar with our work in health care data. The Wisconsin Hospital Association Information Center (WHAIC) has been a trusted source for health care data and analytics for nearly two decades. WHAIC is the organization that brought us the nationally-acclaimed [WHA COVID-19 dashboard](#); a resource that many of you, like me, check daily, use to track the status of COVID in Wisconsin and have shared on social media with your constituents.

The WHAIC dashboard team collects, proofs and uploads 12 separate data elements from 155 hospitals into the dashboard ... *every single day, including Thanksgiving, Christmas and New Years Day*. Entirely staffed and funded by WHAIC, the COVID dashboard has now been viewed over 830,000 times and has become a trusted, "go to" daily information staple for legislators and many others monitoring the status and impact of COVID in Wisconsin.

The Information Center is regulated under Ch. 153 of the Wisconsin statutes and for over 18 years has collected and disseminated all Wisconsin hospital and ambulatory surgery center discharge data and has done so under a contract with the state executed in 2003. It runs transparency websites PricePoint, CheckPoint, has received no state dollars, has been entirely self-sufficient since day one, and is an excellent example of public-private partnership.

In the summer of 2016, only four months after enabling legislation was signed into law, the WHA Information Center quickly stood-up the state's inpatient mental health bed tracker, an initiative advanced by WHA and that has proven a critical tool in improving access for patients in need of inpatient mental health care.

The legislation before you today includes an important new data tool for the Information Center known as Medicaid claims data. Just as we have been able to inform decision making with the COVID dashboard, the WHA Information Center can use Medicaid claims data to improve care for the Medicaid population inside and outside the walls of the hospital.

I want to thank two members of this committee, Representative Joe Sanfelippo and Representative Daniel Riemer who, in 2016, worked together in a bipartisan fashion with WHA to enact the Health

Care Data Modernization Act, greatly improving our ability to analyze hospital and ambulatory surgery center discharge data. This legislation was a critical step for the Information Center to use data to help providers “put water where the fire is”, to quote Rep. Sanfelippo, as we all strive to improve population health, deliver better care outcomes and lower Medicaid costs.

AB1’s provision on Medicaid claims data is the next critical step to help better understand the care patients receive across the continuum, better understand social determinants of care, direct resources where needed most, and improve care outcomes in all circumstances, including during a pandemic. It will better inform strategies to prevent birth complications, reduce hospital readmission rates for patients discharged to post-acute care facilities and reduce the number of patient’s using a hospital emergency department as their primary mental health care provider, to name a few examples.

It should be noted that the federal Medicare program has already recognized the value of providing claims data to organizations like WHAIC, and in October 2019, WHAIC was named a Medicare Qualified Entity for the purpose of receiving Medicare claims data. It is now time for the state to do the same with Medicaid data.

We respectfully request your support of these and other provisions in AB 1.



WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

Officers & Members

President – Bill G. Smith
*National Federation of
Independent Business*

Vice President -
Scott Manley
*Wisconsin Manufacturers
and Commerce*

Treasurer -
Andrew Franken
*Wisconsin Insurance
Alliance*

Secretary - Brad Boycks
*Wisconsin Builders
Association*

John Mielke
*Associated Builders
& Contractors*

Gary Manke
*Midwest Equipment
Dealers Association*

Jason Culotta
*Midwest Food Products
Association*

William Sepic
*Wisconsin Automobile &
Truck Dealers
Association*

John Holevoet
*Wisconsin Dairy Business
Association*

Brian Doudna
*Wisconsin Economic
Development Association*

Eric Borgerding
*Wisconsin Hospital
Association*

Mark Grapentine
*Wisconsin Medical
Society*

Neal Kedzie
*Wisconsin Motor
Carriers Association*

Matthew Hauser
*Wisconsin Petroleum
Marketers &
Convenience Store
Association*

Kristine Hillmer
*Wisconsin Restaurant
Association*

To: Chairperson Sanfelippo, Assembly Committee on Health
Members, Assembly Committee on Health

From: Bill G. Smith, President
R.J. Pirlot, Executive Director

Date: January 5, 2021

Subject: 2021 Assembly Bill 1, please support civil liability protections for
certain entities relating to COVID-19 claims.

Since the beginning of the COVID-19 pandemic, as an invisible virus has circulated our planet, the threat of predatory lawsuits alleging liability for COVID-19 exposures has been a major concern of businesses, schools, non-profits and many other entities, even if the entity “did everything right” by taking necessary precautions to protect the health and safety of their employees, customers, and other guests.

Across Wisconsin, as the COVID-19 public health crisis grew, businesses shut down and workers went without paychecks as the state’s private sector was largely shuttered. Our economy has taken a severe blow, the worst since the Great Depression. Thankfully, parts of Wisconsin’s economy are reopening and multiple vaccines are becoming available to fight this virus, but the road to recovery will not be easy.

For many Wisconsin businesses, a major concern as they reopen is the threat of frivolous lawsuits from potential COVID-19 outbreaks beyond their control, and for which they may not be responsible. Businesses, large and small, are working hard to bring back family-supporting jobs and serve their customers. Frivolous lawsuits shouldn’t make their job harder.

2021 Assembly Bill 1 (AB 1), authored by Assembly Speaker Vos, would create reasonable protections for such entities from civil liability caused by an act or omission resulting in exposure to COVID-19. Such protections would *not* apply if the entity engaged in reckless or wanton conduct or intentional misconduct. In short, protections from liability would only apply to those who take adequate precautions to keep their facilities safe.

The protections in AB 1 are *exactly* the kind of “safe harbor” businesses, schools, non-profits and other entities need. Speaker Vos’s proposal will help ensure these entities are implementing protocols to protect public health and welfare by affording those who do so protections from potentially bankruptcy-causing lawsuits. Speaker Vos’s proposal will also

give businesses a needed level of certainty that they will be protected from such liability and will help ensure Wisconsin businesses are comfortable reopening and staying open.

On behalf of our members, we thank Speaker Vos for his leadership on this issue. We also thank Sen. Kapenga and Rep. Born for circulating their earlier draft to create liability protections for Wisconsin businesses, schools, and others. Along with over 70 other organizations we support their legislation, and we support Speaker Vos's bill, too. If Wisconsin lawmakers take quick action on Speaker Vos's proposal, the road to recovery still won't be easy, but it will be better, and we will be better positioned to rebuild our state's economy.