

2001 DRAFTING REQUEST

Assembly Amendment (AA-AB850)

Received: 03/07/2002

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Suder (608) 267-0280**

By/Representing: **Ann (aide)**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact:

Addl. Drafters:

Subject: **Health - public health**

Extra Copies: **RPN**

Submit via email: **YES**

Requester's email: **Rep.Suder@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Provide informed consent to all persons who must receive vaccination

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kenneda 03/07/2002	csicilia 03/07/2002		_____			
/1			jfrantze 03/07/2002	_____	lrb_docadmin 03/07/2002	lrb_docadmin 03/07/2002	

FE Sent For:

<END>

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/?	kenneda	1 cjs 3/7 02	23/7	3/7 3/7			

FE Sent For:

<END>

TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE: 3/7
CONVERSATION WITH: Ann
OF: Rep. Sudek's Office
TELEPHONE NO: 7-0280
REGARDING LRB # OR DRAFT TOPIC: AB 850
INSTRUCTIONS: Am dt

Informed consent before vaccination -
warn all of side effects, etc.

Kennedy, Debora

From: Emerson, Anne
Sent: Thursday, March 07, 2002 11:02 AM
To: Kennedy, Debora
Subject: FW: Fax received (3p) from:'2024675787' on ID:2823669



176E3000.tif

Here is the language for the Voluntary informed consent as well as parental consent.

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

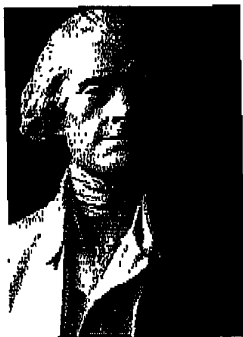
From: Faxination
Sent: Thursday, March 07, 2002 10:51 AM
To: Emerson, Anne; Suder, Scott
Subject: Fax received (3p) from:'2024675787' on ID:2823669

Incoming Fax:
Description:

Explanation:
Sent to:'2823669' CSID:2024675787 (0)

Items received: 3
Duration: 83 seconds Transmission speed: 14400 baud
Gateway ID: 0 Job Reference: 176E4

~~~~~



**American  
Legislative  
Exchange  
Council**

*Health and Human Services Task Force*

**To:** Anne Emerson  
Office of Rep. Scott Suder

**DATE:** 3/7/02

**Fax:** 608-282-3669

**Number of Pages (including cover):** 3

**From:** **Jennifer King**  
Director, HHS Task Force  
ALEC  
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Washington, DC 20006  
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Fax: (202) 466-3801  
E-mail: [jking@alec.org](mailto:jking@alec.org)

**RE: CA amendments regarding informed consent and parental notification**

**Comments:**

Anne:

As per our discussion, following is some proposed language from CA. I marked the relevant sections—they are II and III (o).

Let me know if you have any other questions.

Thank you.

**California Bill AB 1763 (Richman R-38) - as introduced 1/8/02**  
**State of Emergency Health Powers Act**  
Main areas of concern to be addressed by proposed amendments<sup>1</sup>

**I. Re. page 7, lines 12-18**

Please amend proposed HSC § 130354(b) by deleting the wording indicated by the strikethrough below.

(b) "Health care provider" means any person or entity that provides health care services including, but not limited to, a hospital, medical clinic or office, special care facility, medical laboratory, physician, ~~pharmacist,~~ dentist, physician assistant, nurse practitioner, registered nurse, or other nurse, paramedic, emergency medical or laboratory technician, or ambulance or emergency medical worker.

Consistent with DHS's 10/5/01 draft California Hospital Bioterrorism Response Planning Guide, pharmacists should not be considered "health care providers." While pharmacists may play a role in identifying a potential bioterrorist attack, their role in the proposed Emergency Health Powers Act is different from that of any of the other positions identified as a health care provider. Also, the data pharmacists have available to report is different from that of the other positions identified as health care providers.

**II. Re. page 9, after line 37**

Please amend proposed chapter 1 of Part 1 of this act by adding new Section 130369 with the wording indicated by underscore below.

130369. For purposes of this Act, "voluntary informed consent" means making a decision to consent to a specific action after the following conditions have been met:

(a) An explanation of all benefits or potential detrimental side effects, including any contraindications, that affect the decision has been provided.

(b) An opportunity to ask questions of and providing understandable answers to those questions by a competent authority who is knowledgeable of the subject and of the circumstances or conditions involving the consent has been provided.

(c) Information and answers to questions in the language commonly spoken by and in terms understandable to the individual having the responsibility to evaluate the information and the authority to make the decision or to give or withhold consent has been provided.

(d) A reasonable period of time for the individual to make a fully voluntary decision free from any form of coercion has been provided.

(e) The voluntary informed consent with the signature of the individual having the authority to make the decision or to give or withhold consent has been documented.

(f) Acknowledging the right of the individual to withdraw their consent has been provided in writing prior to the person giving consent.

<sup>1</sup> Proposed deletions from AB 1763 are indicated by strikethroughs.  
Proposed additions to AB 1763 are indicated by underscores.

III. Re: page 10, line 11 to page 11, line 18

Please amend proposed HSC § 130372, page 11, after line 16 by inserting subdivisions (o) through (t) as noted by the underscoring below and changing the current subdivision (o) to subdivision (u).

130372. The Public Health Emergency Planning Commission shall, within six months of its appointment, prepare and deliver to the Governor the Public Health Emergency Plan for responding to a public health emergency that includes provisions or guidelines concerning all of the following:

(o) Informing custodial parents, legal guardians and adult individuals or their conservators of the benefits and potential detrimental side effects involved with any medical examination, test, vaccination or treatment, including any contraindications and requiring that the voluntarily informed consent in accordance with Section 130369 be received by the government authorities or their agents before any examination, test, vaccination, or treatment for their minor child, ward, conservatee, or themselves is administered.

(p) Priority shall be given to keeping individuals together who regularly live together or where one provides essential support for another:

(1) family members shall be allowed to stay together when they have been living together in the same residence or when one family member regularly requires the assistance of another.

(2) minor siblings who have no surviving custodial parent, and who may be either quarantined or isolated, shall be either quarantined or isolated together.

(3) custodial parents, legal guardians, or conservators of minor children, wards, or conservatees who may be either quarantined or isolated shall be allowed to remain with their minor children, wards, or conservatees in either quarantine or isolation.

(5) custodial parents, legal guardians, and conservators, who are to be placed in quarantine or isolation shall determine where their minor children, wards, or conservatees, who are not to be placed in quarantine or isolation, will live.

(q) Ensuring the protection of each person's civil liberties and private property through constitutional due process of law.

(r) Providing administrative and judicial recourse for timely appeal of actions affecting individuals, or their families, businesses or property.

(s) Providing an explanation of the provisions of this Act, the rules and regulations implementing this Act, and each individual's rights and responsibilities under this act, including but not limited to the following:

(1) procurement of private property by the state, including the process by which property may be procured, under what conditions that property may or may not be returned, and the procedures by which any compensation due may sought by and paid to individuals from whom property was procured, pursuant to Sections 130394 and 130472 and all other applicable California and Federal laws.

(2) quarantine, or isolation of individuals, including but not limited to Article 3 (commencing with Section 130490) and :

(3) medical examination and testing, vaccination, and treatment, including an explanation of the individual's right to provide voluntary informed consent pursuant to Section 130369.

(t) The interaction of this Act with previously enacted laws and regulations addressing states of emergency.

(u) Other measures necessary essential to carry out the purposes of this act.

Requiring voluntary informed consent for testing, examination, vaccination and treatment is reasonable and consistent with current law and practice. The integrity of the family and the protective parent-child relationship must be maintained, especially in adverse circumstances such as the unstable and fluctuating conditions during a public health emergency.





UNOW  
State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBa1516/8

DAK:.....

95

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT,  
TO 2001 ASSEMBLY BILL 850

no CS

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 13, line 18: after that line insert:
- 3 "SECTION 27M. 252.01 (9) of the statutes is created to read:
- 4 252.01 (9) "Voluntary informed consent" means making a decision to consent
- 5 to a specific medically-related action after all of the following conditions are met:
- 6 (a) The decision maker has been provided an explanation of all benefits or
- 7 potential detrimental side effects, including any contraindications, that affect the
- 8 decision.
- 9 (b) The decision maker has been provided an opportunity to ask questions and
- 10 receive understandable answers to the questions, in the language commonly spoken
- 11 by and in terms understandable to him or her, from a competent authority who is

1 knowledgeable about the subject and the circumstances or conditions involving the  
2 consent.

3 (c) The decision maker has received a reasonable period of time to make a fully  
4 voluntary decision free of any form of coercion.

5 (d) The consent, with the signature of the decision maker, has been  
6 documented.

7 (e) The decision maker has received, in writing, acknowledgement of his or her  
8 right to withdraw his or her consent.”

9 **2.** Page 14, line 4: after “may” insert “,after having first complied with sub.  
10 (1m),”.

11 **3.** Page 14, line 10: after that line insert:

Plain

12 **(1m)** (a) Except as specified in par. (b), the department shall provide to each  
13 individual sufficient information about a proposed vaccination to enable the  
14 individual to provide a voluntary informed consent to the vaccination and shall  
15 receive from the individual the voluntary informed consent before the vaccination is  
16 administered.

17 (b) If the individual under par. (a) is one of the following, the department shall  
18 provide the information specified under par. (a) to and obtain the voluntary informed  
19 consent from the following applicable person:

- 20 1. If a minor, the minor’s parent, guardian, or legal custodian.
- 21 2. If adjudicated incompetent under ch. 880, the individual’s guardian.
- 22 3. If incapacitated and the principal of a health ~~care~~ **care** power of attorney, the agent

23 under the health care power of attorney. ))  
24 (END) ↑ ↑