

2003 DRAFTING REQUEST

Senate Amendment (SA-SB44)

Received: **05/30/2003**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Carabell**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - medical assistance**

Extra Copies: **DAK**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

LFB:.....Carabell -

Topic:

Prescription drugs; prior authorization

Instructions:

motion 178, item w. and attachment 1

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>
/?							
/P1	rryan 06/02/2003	kgilfoy 06/03/2003 kgilfoy 06/04/2003	chaskett 06/03/2003	_____	lemery 06/03/2003		
/P2			jfrantze	_____	amentkow		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			06/04/2003	_____	06/04/2003		
/P3	rryan 06/06/2003	kgilfoy 06/06/2003	chaugen 06/08/2003	_____	sbasford 06/09/2003		
/P4	rryan 06/16/2003	kgilfoy 06/16/2003	chaugen 06/16/2003	_____	sbasford 06/16/2003		

FE Sent For:

<END>

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/P2		1/P4 - 6/16 KMG	jfrantze	_____	amentkow		

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/P3	rryan 06/06/2003	kgilfoy 06/06/2003	chaugen 06/08/2003 _____		sbasford 06/09/2003		

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		kgilfoy 06/04/2003		_____			

/P2			jfrantze	_____	amentkow		
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Handwritten notes:
 /P3 6/6
 King 6/6
 JFRS
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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			06/04/2003 _____		06/04/2003		

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<END>

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Senate Amendment (SA-SB44)

Received: 05/30/2003

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Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Carabel

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Health - medical assistance

Extra Copies: DAK

Submit via email: YES

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

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1/?	rryan	1-6/3 King	1-6/3 cph	rs/cph 6/3			

FE Sent For:

<END>

ATTACHMENT 1

Changes in the Process DHFS Uses to Require Prior Authorization for Prescription Drugs

Prescription Drug Prior Authorization Committee – Rename and Modify Responsibilities.

Rename the current Prescription Drug Prior Authorization Committee, the Prescription Drug Prior Authorization and Therapeutics Committee and require the committee to advise DHFS on issues relating to the research, development and approval of any preferred drug list for MA's fee-for-service program, BadgerCare and SeniorCare.

Require DHFS to consider the recommendations of the committee before it requires prior authorization for any prescription drug or determines whether a drug would be included or excluded from a preferred drug list.

Composition of Committee. Require the DHFS Secretary to appoint at least five physicians to the committee, including: (a) one with expertise in the area of family practice, (b) one with expertise in the area of pediatrics; (c) one with expertise in the area of geriatrics; (d) one with expertise in the area of psychiatric medicine; and (e) one with expertise in the area of internal medicine and who specializes in the treatment of diabetes. This requirement would replace the current requirement that DHFS Secretary appoint two physicians who are currently in practice to the committee.

Specify that a member of the committee could not be employed by or under contract with the state or a pharmaceutical manufacturer or labeler, but: (a) exempt physicians or pharmacists employed by the University of Wisconsin Hospital and Clinics Authority; (b) specify that providers certified to provide services under MA, BadgerCare, SeniorCare, or the health insurance risk-sharing plan (HIRSP) would not be considered under contract with the state; and (c) physicians or pharmacists that receive grant funding from a pharmaceutical manufacturer for the purpose of research would not be prohibited from membership on the committee, but such individuals would be required to disclose any such grants to DHFS before they are appointed to the committee.

Committee's Operating Procedures. Require the committee to meet: (a) upon the call of the chair of the committee; and (b) at least annually. Specify that the chairperson of the committee must serve for a term of one year and must be elected from the committee's membership at the committee's first meeting each calendar year. Specify that the recommendations of the committee would be determined by an affirmative vote of a majority of a quorum of members.

Reports to the Governor and Legislature. Require DHFS to report by January 1, 2004 to the Governor, the Joint Committee on Finance, and the appropriate standing committees of the Legislature, the names and therapeutic classes of all drugs that require prior authorization under MA, BadgerCare and SeniorCare and describe the criteria for approving prior authorization requests for each of these drugs or drug classes.

Require DHFS, by January 1 of each subsequent calendar year, to report to the Governor, the Joint Committee on Finance, and the appropriate standing committees of the Legislature on any changes in its prior authorization policies related to drugs purchased under MA, BadgerCare, and SeniorCare, including: (a) the name and therapeutic class of any drugs for which changes in prior authorization policies were made; (b) the criteria for approving prior authorization requests for each drug or therapeutic class of drugs, to which a change in policy has been made; and (c) an identification of how these changes differ, if at all, from the recommendations of the prior authorization committee, including a summary of the clinical and scientific reasoning behind DHFS' decision to implement criteria that differs from the recommendations of the committee.

Current Law. Under current law, the DHFS Secretary must create a Prescription Drug Prior Authorization Committee to advise DHFS on issues related to prior authorization decisions concerning prescription drugs on behalf of MA enrollees. The Secretary appoints members to the committee, including at least: (a) two physicians who are currently in practice; (b) two pharmacists; and (c) one advocate for MA enrollees who has sufficient medical background, as determined by DHFS, to evaluate a drugs' clinical effectiveness. The Committee must accept information and commentary from representatives of the pharmaceutical manufacturing industry in its review of prior authorization policies.

RLR
*
w/ Attach 1

RC
w.

First, increase funding in the bill by \$4,809,400 (\$2,000,000 GPR and \$2,809,400 FED) in 2003-04 to reflect a delayed implementation of prior authorization for prescription drugs known as selective serotonin reuptake inhibitors (SSRIs). Prohibit DHFS from requiring prior authorization for prescription drugs used to treat mental illness, including depression, psychosis and bipolar disorder, except that DHFS could require prior authorization for new prescriptions for SSRIs, but not sooner than March 15, 2004. (Prescriptions for patients already stabilized on an SSRI would not require prior authorization). In addition, adopt the language included in Attachment 1 to this motion that relates to the current committee that advises DHFS on prior authorization issues regarding prescription drugs.

RC

Second, increase funding in the bill by \$2,207,800 (\$911,800 GPR and \$1,296,000 FED) in 2003-04 and \$2,452,500 (\$1,013,100 GPR and \$1,439,400 FED) in 2004-05 to restore funding for supplemental dispensing fees paid to pharmacies for repackaging and relabeling unused quantities of drugs that were initially dispensed using compliance aids, such as pill minders or blister packaging;

RC

x. *MA Payments -- Adjustments for Rural Hospitals (LFB Summary -- p. 217, #8):* provide \$2,253,200 (\$937,000 GPR and \$1,316,200 FED) in 2003-04 and \$2,252,900 (\$937,000 GPR and \$1,315,900 FED) in 2004-05 to restore funding for supplemental payments for inpatient services provided by rural hospitals and retain current statutory provision regarding the supplemental payments.

RC

y. *MA Services -- Eliminate Community-Based Psychosocial Benefit (LFB Summary -- Page 221, #17).* Delete the Governor's provision. Consequently, community-based psychosocial services, including case management services, provided by the staff of a certified community support program, would be a service covered under the state's MA program.

PJK
*

In addition, authorize DHFS to promulgate emergency rules regarding: (a) standards for eligibility, scope of services and certification requirements; and (b) conditions for MA coverage of these services. Provide that the emergency rules could remain in effect until the date on which permanent rules take effect.

JLS

z. *MA Eligibility -- Spousal Impoverishment Asset Limit (LFB Summary -- p. 227, #26):* Delete the Governor's provision that would change the state's community spouse resource allowance to a single standard of \$50,000. Increase funding by \$111,000 (\$46,200 GPR and \$64,800 FED) in 2003-04, and by \$333,300 (\$138,600 GPR and \$194,700 FED) in 2004-05.

PJK
*

Other MA-Related Items

RC

aa. *Milwaukee County General Assistance Medical Program:* Increase funding in the bill by \$5,139,400 (\$2,139,400 PR and \$3,000,000 FED) in 2004-05 to increase IGT funding provided by Milwaukee County to support MA payments to hospitals in Milwaukee County, which is used to support the costs of Milwaukee County's general assistance medical program.

RC
b 1292

bb. *Long-Term Care Insurance Premiums and SeniorCare.* Specify that premiums paid for long-term care insurance can count towards an enrollees' spenddown requirement under

RLR
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add to others



State of Wisconsin
2003 - 2004 LEGISLATURE

✓
PI
LRBb02932
RLR:.....
king

LFB:.....Carabel – Prescription drugs; prior authorization

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO 2003 SENATE BILL 44

RMF

D-note

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 615, line 11: after that line insert:

3 (3) "SECTION 1392^{RP}. 49.45 (49) (a) (intro.) of the statutes is renumbered 49.45 (49)
4 (bm) and amended to read:

5 49.45 (49) (bm) The secretary shall exercise his or her authority under s. 15.04
6 (1) (c) to create a prescription drug prior authorization and therapeutics committee
7 to advise the department on issues related to prior authorization decisions made
8 concerning prescription drugs on behalf of medical assistance recipients.—The
9 ~~secretary shall appoint as members at least all of the following:~~ and to advise the
10 department on the research, development, and approval of any preferred drug list
11 for the Medical Assistance program or the program under s. 49.665 or 49.668.

****NOTE: I assume that you want to maintain the committee's current duty to advise the department on issues related prior authorization decisions made concerning

prescription drugs on behalf of Medical Assistance recipients. With respect to advising the department on preferred drug lists, the draft does not specify the fee-for-service part of MA is that ok? If you want to specify fee-for-service under MA, do you also want to specify fee-for-service under Badger Care?

1 SECTION 1392p. 49.45 (49) (ag) of the statutes is created to read:

2 49.45 (49) (ag) In this subsection: *→ 1392rj*

3 1. "Labeler" means a person who receives prescription drugs from a
4 manufacturer or wholesaler and repackages those drugs for later retail sale, and has
5 a labeler code issued by the federal food and drug administration under 21 CFR
6 207.20 (b).

7 2. "Manufacturer" means a person who is engaged in the production,
8 preparation, propagation, compounding, conversion, or processing of prescription
9 drugs.

10 3. "Physician" has the meaning given in s. 448.01 (5). ✓

11 SECTION 1393q. 49.45 (49) (a) 1. of the statutes is repealed.

12 SECTION 1393r. 49.45 (49) (a) 2. and 3. of the statutes are renumbered 49.45
13 (49) (c) 6. and 7.

14 SECTION 1393s. 49.45 (49) (b) of the statutes is renumbered 49.45 (49) (g) and
15 amended to read:

16 49.45 (49) (g) The prescription drug prior authorization and therapeutics
17 committee shall accept information or commentary from representatives of the
18 pharmaceutical manufacturing industry in the committee's review of prior
19 authorization policies.

20 SECTION 1393t. 49.45 (49) (c), (d), (e), (f), (h) and (i) of the statutes are created
21 to read:

22 49.45 (49) (c) The secretary shall appoint as members of the prescription drug
23 prior authorization and therapeutics committee at least all of the following:

- 1 1. A physician who has expertise in family practice.
- 2 2. A physician who has expertise in pediatrics.
- 3 3. A physician who has expertise in geriatrics.
- 4 4. A physician who has expertise in psychiatry.
- 5 5. A physician who has expertise in internal medicine and specializes in the
- 6 treatment of diabetes.

7 ~~19.45 MA~~ (d) A person who is employed by or under contract with a
 8 manufacturer, a labeler, or the state may not serve as a member of the prescription
 9 drug prior authorization and therapeutics committee, except that the following
 10 agreements do not bar a person from serving as a member of the committee:

- 11 1. An agreement with the department to comply with the requirements for
- 12 provider certification under sub. (2) (a) 11.
- 13 2. An agreement between a physician or pharmacist and a manufacturer for
- 14 the physician or pharmacist to conduct research in return for grant funding from a
- 15 manufacturer.

****NOTE: The UW Hospital and Clinics Authority is not a unit of state government
 so no exception is needed for employees of the Authority. (See for example, ss. 20.921 (1)
 (a) 3., 45.35 (6), and 165.40 (4) (h), which differentiate the authority from a unit of state
 government. Since a provider of services under MA, Badger Care, Senior Care, and
 HIRSP must be a certified MA provider, the draft simply refers to the certification
 provision for the exception to state contracts.

16 (e) Any physician or pharmacist who is a candidate for membership on the
 17 prescription drug prior authorization and therapeutics committee and who receives
 18 grant funding from a manufacturer to conduct research must disclose such grant
 19 funding to the department before the secretary appoints the person as a member of
 20 the committee.

****NOTE: Should the disclosure requirement be ongoing or only prior to
 appointment?

1 (f) During the first meeting of the prescription drug prior authorization and
 2 therapeutics committee in each calendar year, the committee shall elect a member
 3 to serve as the chairperson of the committee for a one-year term. The committee
 4 shall meet at least once annually and on the call of the chairperson. A majority of
 5 the committee constitutes a quorum to do business. Recommendations of the
 6 committee shall be determined by majority vote.

that ******NOTE:** A quorum is the number of *the* people necessary *to be* to conduct business. I assume you want to require ~~that~~ a majority of members ~~are~~ present in order for the committee to vote, and ~~that~~ a majority of those who vote *to require* ~~must~~ approve a measure in order for it to be adopted as a recommendation. *to*

7 (h) The department shall consider all relevant recommendations of the
 8 prescription drug prior authorization and therapeutics committee before requiring
 9 prior authorization for a prescription drug under the Medical Assistance *✓* program or
 10 under s. 49.665 or 49.668.

11 (i) By January 1 ~~of each year~~ *annually*, the department shall submit a report to the
 12 governor, the members of the joint committee on finance, *✓* and the appropriate
 13 standing committees of the legislature under s. 13.172 (3), *on any changes* *that*
 14 department made in the previous 12 months to department policies related to prior
 15 authorization for prescription drugs under the Medical Assistance program or the
 16 program under s. 49.665 or 49.668, and shall include all of the following in the report:

- 17 1. The name and therapeutic class for each prescription drug *✓* for which the
 18 department changed prior authorization policies.
- 19 2. The criteria for approving a prior *✓* authorization request for any prescription
 20 drug identified under ~~subdivision 1.~~ *subd. 1.*
- 21 3. Identification of any differences between the policies adopted by the
 22 department and relevant recommendations of the prescription drug prior

1 authorization and therapeutics committee and, if applicable, the clinical and
2 scientific reasons for diverging from the committee's recommendations."

3 ✓ 2. Page 616, line 12: after that line insert:

4 "(cg) The department shall consider all relevant recommendations of the
5 prescription drug prior authorization and therapeutics committee before including
6 a prescription drug on, or excluding a prescription drug from, a list under paragraph
7 (c) 1. ✓

8 (cr) 1. Except as provided in ^{subd.} subdivision 2., the department may not require
9 prior authorization for a prescription drug under s. 49.46 (2) (b) 6. ^{h.} that is
10 prescribed to treat a mental illness. ✓

11 2. The department may require prior authorization for a selective serotonin
12 reuptake inhibitor that is first prescribed for a person on or after March 1, 2005." ✓

13 ✓ 3. Page 107⁷, line 1⁴: after that line insert: ✓ ✓

14 "(10) ^{8 W} PRESCRIPTION DRUG PRIOR AUTHORIZATION REPORT. By January 1, 2004, the
15 department of health and family services shall report to the governor, the members
16 of the joint committee on finance, and, in the manner provided under section 13.172
17 (3) of the statutes, the appropriate standing committees of the legislature on all of
18 the following:

19 (a) The name and therapeutic class of each prescription drug for which the
20 department requires prior authorization under the Medical Assistance [✓] program or
21 the program under section 49.665 or 49.668 [✓] of the statutes.

22 (b) The criteria for approving prior [✓] authorization requests for each prescription
23 drug identified under paragraph (a)."

24 ✓ 4. Page 1132, line 2¹⁷: after that line insert:

Text: Treat

1

8w
①

PRESCRIPTION DRUG PRIOR AUTHORIZATION REPORT. The treatment of section
49.45 (49) (i) of the statutes takes effect on January 1, 2005.”

2

3

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0293/P1dn

RLR: *KMG*

Rachel:

This is the draft for motion number 178, item w. ✓

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBb0293/P1
RLR:kmg:cph

2

LFB:.....Carabell – Prescription drugs; prior authorization

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO 2003 SENATE BILL 44

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2 1. Page 615, line 11: after that line insert:

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4 (bm) and amended to read:

5 49.45 (49) (bm) The secretary shall exercise his or her authority under s. 15.04
6 (1) (c) to create a prescription drug prior authorization and therapeutics committee
7 to advise the department on issues related to prior authorization decisions made
8 concerning prescription drugs on behalf of medical assistance recipients. The
9 secretary shall appoint as members at least all of the following: and to advise the
10 department on the research, development, and approval of any preferred drug list
11 for the Medical Assistance program or the program under s. 49.665 or 49.668.

****NOTE: I assume that you want to maintain the committee's current duty to advise the department on issues related prior authorization decisions made concerning

prescription drugs on behalf of Medical Assistance recipients. With respect to advising the department on preferred drug lists, the draft does not specify the fee-for-service part of MA; is that OK? If you want to specify fee-for-service under MA, do you also want to specify fee-for-service under Badger Care?

1 **SECTION 1392q.** 49.45 (49) (a) 1. of the statutes is repealed.

2 **SECTION 1392r.** 49.45 (49) (a) 2. and 3. of the statutes are renumbered 49.45
3 (49) (c) 6. and 7.

4 **SECTION 1392rj.** 49.45 (49) (ag) of the statutes is created to read:

5 49.45 (49) (ag) In this subsection:

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7 manufacturer or wholesaler and repackages those drugs for later retail sale, and has
8 a labeler code issued by the federal food and drug administration under 21 CFR
9 207.20 (b).

10 2. “Manufacturer” means a person who is engaged in the production,
11 preparation, propagation, compounding, conversion, or processing of prescription
12 drugs.

13 3. “Physician” has the meaning given in s. 448.01 (5).

14 **SECTION 1392s.** 49.45 (49) (b) of the statutes is renumbered 49.45 (49) (g) and
15 amended to read:

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18 pharmaceutical manufacturing industry in the committee’s review of prior
19 authorization policies.

20 **SECTION 1392t.** 49.45 (49) (c), (d), (e), (f), (h) and (i) of the statutes are created
21 to read:

22 49.45 (49) (c) The secretary shall appoint as members of the prescription drug
23 prior authorization and therapeutics committee at least all of the following:

- 1 1. A physician who has expertise in family practice.
- 2 2. A physician who has expertise in pediatrics.
- 3 3. A physician who has expertise in geriatrics.
- 4 4. A physician who has expertise in psychiatry.
- 5 5. A physician who has expertise in internal medicine and specializes in the
- 6 treatment of diabetes.

7 (d) A person who is employed by or under contract with a manufacturer, a
8 labeler, or the state may not serve as a member of the prescription drug prior
9 authorization and therapeutics committee, except that the following agreements do
10 not bar a person from serving as a member of the committee:

- 11 1. An agreement with the department to comply with the requirements for
12 provider certification under sub. (2) (a) 11.
- 13 2. An agreement between a physician or pharmacist and a manufacturer for
14 the physician or pharmacist to conduct research in return for grant funding from a
15 manufacturer.

****NOTE: The UW Hospital and Clinics Authority is not a unit of state government so no exception is needed for employees of the authority. *See*, for example, ss. 20.921 (1) (a) 3., 45.35 (6), and 165.40 (4) (h), which differentiate the authority from a unit of state government. Since a provider of services under MA, Badger Care, Senior Care, and HIRSP must be a certified MA provider, the draft simply refers to the certification provision for the exception to state contracts.

16 (e) Any physician or pharmacist who is a candidate for membership on the
17 prescription drug prior authorization and therapeutics committee and who receives
18 grant funding from a manufacturer to conduct research must disclose such grant
19 funding to the department before the secretary appoints the person as a member of
20 the committee.

****NOTE: Should the disclosure requirement be ongoing or only prior to appointment?

1 (f) During the first meeting of the prescription drug prior authorization and
2 therapeutics committee in each calendar year, the committee shall elect a member
3 to serve as the chairperson of the committee for a one-year term. The committee
4 shall meet at least once annually and on the call of the chairperson. A majority of
5 the committee constitutes a quorum to do business. Recommendations of the
6 committee shall be determined by majority vote.

****NOTE: A quorum is the number of people necessary to conduct business. I
assume that you want to require a majority of the members to be present in order for the
committee to vote, and to require a majority of those who vote to approve a measure in
order for it to be adopted as a recommendation.

7 (h) The department shall consider all relevant recommendations of the
8 prescription drug prior authorization and therapeutics committee before requiring
9 prior authorization for a prescription drug under the Medical Assistance program or
10 under s. 49.665 or 49.668.

11 (i) By January 1 annually, the department shall submit a report to the governor,
12 the members of the joint committee on finance, and the appropriate standing
13 committees of the legislature under s. 13.172 (3), on any changes that the
14 department made in the previous 12 months to department policies related to prior
15 authorization for prescription drugs under the Medical Assistance program or the
16 program under s. 49.665 or 49.668, and shall include all of the following in the report:

17 1. The name and therapeutic class for each prescription drug for which the
18 department changed prior authorization policies.

19 2. The criteria for approving a prior authorization request for any prescription
20 drug identified under subd. 1.

21 3. Identification of any differences between the policies adopted by the
22 department and relevant recommendations of the prescription drug prior

1 authorization and therapeutics committee and, if applicable, the clinical and
2 scientific reasons for diverging from the committee's recommendations.”.

3 **2.** Page 616, line 12: after that line insert:

4 “(cg) The department shall consider all relevant recommendations of the
5 prescription drug prior authorization and therapeutics committee before including
6 a prescription drug on, or excluding a prescription drug from, a list under ~~the~~ *the par.*

7 (c) 1.

8 (cr) 1. Except as provided in subd. 2., the department may not require prior
9 authorization for a prescription drug under s. 49.46 (2) (b) 6. h. that is prescribed to
10 treat a mental illness.

11 2. The department may require prior authorization for a selective serotonin
12 reuptake inhibitor that is first prescribed for a person on or after March 1, 2005.”.

13 **3.** Page 1077, line 14: after that line insert:

14 “(8w) PRESCRIPTION DRUG PRIOR AUTHORIZATION REPORT. By January 1, 2004, the
15 department of health and family services shall report to the governor, the members
16 of the joint committee on finance, and, in the manner provided under section 13.172
17 (3) of the statutes, the appropriate standing committees of the legislature on all of
18 the following:

19 (a) The name and therapeutic class of each prescription drug for which the
20 department requires prior authorization under the Medical Assistance program or
21 the program under section 49.665 or 49.668 of the statutes.

22 (b) The criteria for approving prior authorization requests for each prescription
23 drug identified under paragraph (a).”.

24 **4.** Page 1132, line 17: after that line insert:

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0293/P1dn
RLR:kmg:cph

June 3, 2003

Rachel:

This is the draft for motion number 178, item W.

1/2
*makes a technical
correction on
page 5, line 6*

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0293/P2dn
RLR:kmg:jf

June 4, 2003

Rachel:

This /2 draft makes a technical correction on page 5, line 6.

Robin Ryan
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State of Wisconsin
2003 - 2004 LEGISLATURE

P3
LRBb0293/P2
RLR:kmg:jf

LFB:.....Carabell – Prescription drugs; prior authorization
FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO 2003 SENATE BILL 44

Rmk

1 At the locations indicated, amend the bill as follows:
2 1. Page 615, line 11: after that line insert:
3 "SECTION 1392p. 49.45 (49) (a) (intro.) of the statutes is renumbered 49.45 (49)
4 (bm) and amended to read:
5 49.45 (49) (bm) The secretary shall exercise his or her authority under s. 15.04
6 (1) (c) to create a prescription drug prior authorization and therapeutics committee
7 to advise the department on issues related to prior authorization decisions made
8 concerning prescription drugs on behalf of medical assistance recipients. The
9 secretary shall appoint as members at least all of the following: and to advise the
10 department on the research, development, and approval of any preferred drug list
11 for the Medical Assistance program or the program under s. 49.665 or 49.668.

~~NOTE: I assume that you want to maintain the committee's current duty to advise the department on issues related prior authorization decisions made concerning~~

prescription drugs on behalf of Medical Assistance recipients. With respect to advising the department on preferred drug lists, the draft does not specify the fee-for-service part of MA; is that OK? If you want to specify fee-for-service under MA, do you also want to specify fee-for-service under Badger Care?

1 **SECTION 1392q.** 49.45 (49) (a) 1. of the statutes is repealed.

2 **SECTION 1392r.** 49.45 (49) (a) 2. and 3. of the statutes are renumbered 49.45
3 (49) (c) 6. and 7.

4 **SECTION 1392rj.** 49.45 (49) (ag) of the statutes is created to read:

5 49.45 (49) (ag) In this subsection:

6 1. “Labeler” means a person who receives prescription drugs from a
7 manufacturer or wholesaler and repackages those drugs for later retail sale, and has
8 a labeler code issued by the federal food and drug administration under 21 CFR
9 207.20 (b).

10 2. “Manufacturer” means a person who is engaged in the production,
11 preparation, propagation, compounding, conversion, or processing of prescription
12 drugs.

13 3. “Physician” has the meaning given in s. 448.01 (5).

14 **SECTION 1392s.** 49.45 (49) (b) of the statutes is renumbered 49.45 (49) (g) and
15 amended to read:

16 49.45 (49) (g) The prescription drug prior authorization and therapeutics
17 committee shall accept information or commentary from representatives of the
18 pharmaceutical manufacturing industry in the committee’s review of prior
19 authorization policies.

20 **SECTION 1392t.** 49.45 (49) (c), (d), (e), (f), (h) and (i) of the statutes are created
21 to read:

22 49.45 (49) (c) The secretary shall appoint as members of the prescription drug
23 prior authorization and therapeutics committee at least all of the following:

- 1 1. A physician who has expertise in family practice.
- 2 2. A physician who has expertise in pediatrics.
- 3 3. A physician who has expertise in geriatrics.
- 4 4. A physician who has expertise in psychiatry.
- 5 5. A physician who has expertise in internal medicine and specializes in the
- 6 treatment of diabetes.

7 (d) A person who is employed by or under contract with a manufacturer, a
 8 labeler, or the state may not serve as a member of the prescription drug prior
 9 authorization and therapeutics committee, except that the following agreements do
 10 not bar a person from serving as a member of the committee:

- 11 1. An agreement with the department to comply with the requirements for
- 12 provider certification under sub. (2) (a) 11.
- 13 2. An agreement between a physician or pharmacist and a manufacturer for
- 14 the physician or pharmacist to conduct research in return for grant funding from a
- 15 manufacturer.

****NOTE: The UW Hospital and Clinics Authority is not a unit of state government so no exception is needed for employees of the authority. See, for example, ss. 20.921 (1) (a) 3., 45.35 (6), and 165.40 (4) (h), which differentiate the authority from a unit of state government. Since a provider of services under MA, Badger Care, Senior Care, and HIRSP must be a certified MA provider, the draft simply refers to the certification provision for the exception to state contracts.

INS

16 (e) Any physician or pharmacist who is a candidate for membership on the
 17 prescription drug prior authorization and therapeutics committee and who receives
 18 grant funding from a manufacturer to conduct research must disclose such grant
 19 funding to the department before the secretary appoints the person as a member of
 20 the committee.

****NOTE: Should the disclosure requirement be ongoing or only prior to appointment?

1 (f) During the first meeting of the prescription drug prior authorization and
2 therapeutics committee in each calendar year, the committee shall elect a member
3 to serve as the chairperson of the committee for a one-year term. The committee
4 shall meet at least once annually and on the call of the chairperson. A majority of
5 the committee constitutes a quorum to do business. Recommendations of the
6 committee shall be determined by majority vote.

~~***NOTE: A quorum is the number of people necessary to conduct business. I
assume that you want to require a majority of the members to be present in order for the
committee to vote, and to require a majority of those who vote to approve a measure in
order for it to be adopted as a recommendation.~~

7 (h) The department shall consider all relevant recommendations of the
8 prescription drug prior authorization and therapeutics committee before requiring
9 prior authorization for a prescription drug under the Medical Assistance program or
10 under s. 49.665 or 49.668.

11 (i) By January 1 annually, the department shall submit a report to the governor,
12 the members of the joint committee on finance, and the appropriate standing
13 committees of the legislature under s. 13.172 (3), on any changes that the
14 department made in the previous 12 months to department policies related to prior
15 authorization for prescription drugs under the Medical Assistance program or the
16 program under s. 49.665 or 49.668, and shall include all of the following in the report:

17 1. The name and therapeutic class for each prescription drug for which the
18 department changed prior authorization policies.

19 2. The criteria for approving a prior authorization request for any prescription
20 drug identified under subd. 1.

21 3. Identification of any differences between the policies adopted by the
22 department and relevant recommendations of the prescription drug prior

1 authorization and therapeutics committee and, if applicable, the clinical and
2 scientific reasons for diverging from the committee's recommendations.”.

3 **2.** Page 616, line 12: after that line insert:

4 “(cg) The department shall consider all relevant recommendations of the
5 prescription drug prior authorization and therapeutics committee before including
6 a prescription drug on, or excluding a prescription drug from, a list under par. (c) 1.

7 (cr) 1. Except as provided in subd. 2., the department may not require prior
8 authorization for a prescription drug under s. 49.46 (2) (b) 6. h. that is prescribed to
9 treat a mental illness.

10 2. The department may require prior authorization for a selective serotonin
11 reuptake inhibitor that is first prescribed for a person on or after March 15, 2004.”.

12 **3.** Page 1077, line 14: after that line insert:

13 “(8w) PRESCRIPTION DRUG PRIOR AUTHORIZATION REPORT. By January 1, 2004, the
14 department of health and family services shall report to the governor, the members
15 of the joint committee on finance, and, in the manner provided under section 13.172
16 (3) of the statutes, the appropriate standing committees of the legislature on all of
17 the following:

18 (a) The name and therapeutic class of each prescription drug for which the
19 department requires prior authorization under the Medical Assistance program or
20 the program under section 49.665 or 49.668 of the statutes.

21 (b) The criteria for approving prior authorization requests for each prescription
22 drug identified under paragraph (a).”.

23 **4.** Page 1132, line 17: after that line insert:

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0293/P3ins
RLR:.....

1 *No 9* If a physician or pharmacist who is a member of the prescription drug prior
2 authorization and therapeutics committee receives any grant funding from a
3 manufacturer to conduct research, the physician or pharmacist must disclose the
4 grant funding to the department.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBb0293/P8
RLR:kmg:jf

LFB:.....Carabell – Prescription drugs; prior authorization

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO 2003 SENATE BILL 44

RMK

1 At the locations indicated, amend the bill as follows:

2 1. Page 615, line 11: after that line insert:

3 “SECTION 1392p. 49.45 (49) (a) (intro.) of the statutes is renumbered 49.45 (49)
4 (bm) and amended to read:

5 49.45 (49) (bm) The secretary shall exercise his or her authority under s. 15.04
6 (1) (c) to create a prescription drug prior authorization and therapeutics committee
7 to advise the department on issues related to prior authorization decisions made
8 concerning prescription drugs on behalf of medical assistance recipients.—The
9 secretary shall ~~appoint as members at least all of the following:~~ and to advise the
10 department on the research, development, and approval of any preferred drug list
11 for the Medical Assistance program or the program under s. 49.665 or 49.668.

12 SECTION 1392q. 49.45 (49) (a) 1. of the statutes is repealed.

1 **SECTION 1392r.** 49.45 (49) (a) 2. and 3. of the statutes are renumbered 49.45
2 (49) (c) 6. and 7.

3 **SECTION 1392rj.** 49.45 (49) (ag) of the statutes is created to read:

4 49.45 (49) (ag) In this subsection:

5 1. “Labeler” means a person who receives prescription drugs from a
6 manufacturer or wholesaler and repackages those drugs for later retail sale, and has
7 a labeler code issued by the federal food and drug administration under 21 CFR
8 207.20 (b).

9 2. “Manufacturer” means a person who is engaged in the production,
10 preparation, propagation, compounding, conversion, or processing of prescription
11 drugs.

12 3. “Physician” has the meaning given in s. 448.01 (5).

13 **SECTION 1392s.** 49.45 (49) (b) of the statutes is renumbered 49.45 (49) (g) and
14 amended to read:

15 49.45 (49) (g) The prescription drug prior authorization and therapeutics
16 committee shall accept information or commentary from representatives of the
17 pharmaceutical manufacturing industry in the committee’s review of prior
18 authorization policies.

19 **SECTION 1392t.** 49.45 (49) (c), (d), (e), (f), (h) and (i) of the statutes are created
20 to read:

21 49.45 (49) (c) The secretary shall appoint as members of the prescription drug
22 prior authorization and therapeutics committee at least all of the following:

- 23 1. A physician who has expertise in family practice.
- 24 2. A physician who has expertise in pediatrics.
- 25 3. A physician who has expertise in geriatrics.

1 4. A physician who has expertise in psychiatry.

2 5. A physician who has expertise in internal medicine and specializes in the
3 treatment of diabetes.

4 (d) A person who is employed by or under contract with a manufacturer, a
5 labeler, or the state may not serve as a member of the prescription drug prior
6 authorization and therapeutics committee, except that the following agreements do
7 not bar a person from serving as a member of the committee:

8 1. An agreement with the department to comply with the requirements for
9 provider certification under sub. (2) (a) 11.

10 2. An agreement between a physician or pharmacist and a manufacturer for
11 the physician or pharmacist to conduct research in return for grant funding from a
12 manufacturer.

13 (e) If a physician or pharmacist who is a member of the prescription drug prior
14 authorization and therapeutics committee receives any grant funding from a
15 manufacturer to conduct research, the physician or pharmacist must disclose the
16 grant funding to the department. Any physician or pharmacist who is a candidate
17 for membership on the committee and receives such grant funding must disclose the
18 grant funding to the department before the secretary appoints the person as a
19 member of the committee.

20 (f) During the first meeting of the prescription drug prior authorization and
21 therapeutics committee in each calendar year, the committee shall elect a member
22 to serve as the chairperson of the committee for a one-year term. The committee
23 shall meet at least once annually and on the call of the chairperson. A majority of
24 the committee constitutes a quorum to do business. Recommendations of the
25 committee shall be determined by majority vote.

1 (h) The department shall consider all relevant recommendations of the
2 prescription drug prior authorization and therapeutics committee before requiring
3 prior authorization for a prescription drug under the Medical Assistance program or
4 under s. 49.665 or 49.668.

5 (i) By January 1 annually, the department shall submit a report to the governor,
6 the members of the joint committee on finance, and the appropriate standing
7 committees of the legislature under s. 13.172 (3), on any changes that the
8 department made in the previous 12 months to department policies related to prior
9 authorization for prescription drugs under the Medical Assistance program or the
10 program under s. 49.665 or 49.668, and shall include all of the following in the report:

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12 department changed prior authorization policies.

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14 drug identified under subd. 1.

15 3. Identification of any differences between the policies adopted by the
16 department and relevant recommendations of the prescription drug prior
17 authorization and therapeutics committee and, if applicable, the clinical and
18 scientific reasons for diverging from the committee's recommendations.”.

19 **2.** Page 616, line 12: after that line insert:

20 “(cg) The department shall consider all relevant recommendations of the
21 prescription drug prior authorization and therapeutics committee before including
22 a prescription drug on, or excluding a prescription drug from, a list under par. (c) 1.

1 (cr) 1. Except as provided in subd. 2., the department may not require prior
2 authorization for a prescription drug under s. 49.46 (2) (b) 6. h. that is prescribed to
3 treat a mental illness.

4 2. The department may require prior authorization for a selective serotonin
5 reuptake inhibitor that is first prescribed for a person on or after March 15, 2004.”.

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7 “(8w) PRESCRIPTION DRUG PRIOR AUTHORIZATION REPORT. By January 1, 2004, the
8 department of health and family services shall report to the governor, the members
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13 department requires prior authorization under the Medical Assistance program or
14 the program under section 49.665 or 49.668 of the statutes.

15 (b) The criteria for approving prior authorization requests for each prescription
16 drug identified under paragraph (a).”.

17 **4.** Page 1132, line 17: after that line insert:

18 “(8w) PRESCRIPTION DRUG PRIOR AUTHORIZATION REPORT. The treatment of section
19 49.45 (49) (i) of the statutes takes effect on January 1, 2005.”.

20 (END)

, as affected by this act



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBb0293/P4
RLR:kmg:ch

LFB:.....Carabell – Prescription drugs; prior authorization

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19 49.45 (49) (i) of the statutes takes effect on January 1, 2005.”.

20 (END)