

8/29/03

Chris Klein

Reg+Lic

SB 225, SB 226, SB 227

-The Dept. will testify on all of those bills on Sept 4th.

SB 225 Cont. Education for Dentists

- Support with the assumption that the Dept. will be doing random audits. Currently, for various things, either random audits ~~are~~ done or complaint audits.
- The Secretary does not see the point of the bill if they aren't going to check on people. Given that people don't typically file complaints against dental hygienists ... the Dept. supports the use of Random audits. (more costly).
- Some objection to Section 4 ... uncompensated voluntary hours.

SB 226

- Chris needs to know why Carol has link to Medical Society in bill. 3 Key words ... in place of.
- Expensive, even though bill says the Dept can increase fees, the Dept. believes it will need additional staff as well.

SB 227 →

- Do we know how expensive this has been for other states ... how long to implement?

SENATE COMMITTEE ON HEALTH, CHILDREN,
FAMILIES, AGING AND LONG TERM CARE
SEPTEMBER 4, 2003
411 SOUTH
SENATE BILLS 226 AND 227

DR Discipline

- Hal Hanlon
- Dr. David Tresselt
mid-
elph
DEB
Chair
PSMS

FIVE YEARS AGO, THE JOINT LEGISLATIVE COUNCIL'S SPECIAL COMMITTEE ON DISCIPLINE OF HEALTH CARE PROFESSIONALS WAS DIRECTED TO STUDY PROCEDURES FOR IMPOSITION OF DISCIPLINE FOR ALLEGED CASES OF PATIENT NEGLECT OR UNPROFESSIONAL CONDUCT BY HEALTH CARE-RELATED EXAMINING BOARDS AND AFFILIATED CREDENTIALING BOARDS IDENTIFIED BY THE SPECIAL COMMITTEE.

AS A RESULT OF THEIR FINDINGS, THE COMMITTEE RECOMMENDED TWO LEGISLATIVE PROPOSALS. IN THE PREVIOUS TWO SESSIONS, PUBLIC HEARINGS WERE HELD ON THE LEGISLATION, BUT THEY WERE NEVER VOTED ON IN THE STATE SENATE.

Last session
Fiscal note:
Cost: \$529,572
Revenue: \$671,929

NOW IS THE TIME TO MOVE FORWARD AND ADDRESS THESE NECESSARY CHANGES IN DISCIPLINARY PROCEDURES.

THERE HAVE BEEN NUMEROUS REPORTS THAT WISCONSIN LAGS IN THE DISCIPLINE OF HEALTH CARE PROFESSIONALS. I FEEL THESE BILLS ARE IMPORTANT BOTH TO PATIENTS AND TO THE INTEGRITY OF THE MEDICAL PROFESSION.

SENATE BILL 227 CONTAINS PROVISIONS THAT APPLY TO DISCIPLINARY PROCEDURES FOR HEALTH CARE PROFESSIONALS GENERALLY, AND PROVISIONS THAT ARE SPECIFIC TO PHYSICIAN DISCIPLINE. PROVISIONS THAT APPLY TO HEALTH CARE PROFESSIONALS GENERALLY INCLUDE:

- REQUIRING THE DEPARTMENT OF REGULATION AND LICENSING TO:
 - DEVELOP A SYSTEM TO ESTABLISH THE RELATIVE PRIORITY OF CASES INVOLVING UNPROFESSIONAL CONDUCT;
 - DEVELOP A SYSTEM FOR IDENTIFYING HEALTH CARE PROFESSIONALS WHO MAY WARRANT FURTHER EVALUATION AND POSSIBLE INVESTIGATION;

- ESTABLISH GUIDELINES FOR THE TIMELY COMPLETION OF DISCIPLINE CASES;

- GIVE NOTICE TO COMPLAINANTS, PATIENTS AND HEALTH CARE PROFESSIONALS AND THEIR PLACES OF PRACTICE, WHEN SPECIFIED STAGES OF THE DISCIPLINARY PROCESS ARE OPENED OR CLOSED;

- REQUIRE THAT A PATIENT OR CLIENT WHO HAS BEEN ADVERSELY AFFECTED BY A HEALTH CARE PROFESSIONAL'S CONDUCT BE GIVEN AN OPPORUTUNITY TO CONFER WITH THE DEPARTMENT'S PROSECUTING ATTORNEY.

PROVISIONS OF THE BILL SPECIFIC TO THE PHYSICIAN DISCIPLINARY PROCESS INCLUDE:

- ADDING TWO PUBLIC MEMBERS TO THE MEDICAL EXAMINING BOARD, RESULTING IN A 15 MEMBER BOARD

WITH FIVE PUBLIC MEMBERS, NINE MEDICAL DOCTORS AND ONE DOCTOR OF OSTEOPATHY;

- AUTHORIZING THE MEDICAL EXAMINING BOARD TO SUMMARILY LIMIT, ANY CREDENTIAL ISSUED BY THE BOARD, PENDING A DISCIPLINARY HEARING;
- AUTHORIZING THE MEDICAL EXAMINING BOARD TO ASSESS A FORFEITURE OF NOT MORE THAN \$1,000 AGAINST A CREDENTIAL HOLDER FOUND GUILTY OF UNPROFESSIONAL CONDUCT; AND
- REQUIRING THAT REPORTS ON MEDICAL MALPRACTICE PAYMENTS AND ON PROFESSIONAL REVIEW ACTIONS BY HEALTH CARE ENTITIES, WHICH CURRENTLY MUST BE SUBMITTED TO THE NATIONAL PRACTITIONER DATA BANK, MUST ALSO BE SUBMITTED TO THE MEDICAL EXAMINING BOARD. THE BILL CREATES A PENALTY FOR FAILURE TO SUBMIT SUCH REPORTS.

FINALLY, SENATE BILL 227 PROVIDES THAT WHEN A CORONER OR MEDICAL EXAMINER RECEIVES A REQUIRED REPORT OF A DEATH AND SUBSEQUENTLY DETERMINES THAT THE DEATH WAS "THERAPEUTIC-RELATED," AS DEFINED IN THE BILL, THE CORONER OR MEDICAL EXAMINER MUST INDICATE THAT DETERMINATION ON THE DEATH CERTIFICATE AND FORWARD THE INFORMATION TO THE DEPARTMENT OF REGULATION AND LICENSING.

THE SECOND BILL BEFORE YOU, SENATE BILL 226, DIRECTS THE MEDICAL EXAMING BOARD TO MAKE SPECIFIED INFORMATION AVAILABLE FOR DISSEMINATION TO THE PUBLIC IN A FORMAT ESTABLISHED BY THE BOARD. THAT INFORMATION RELATES TO A PHYSICIAN'S EDUCATION, PRACTICE, MALPRACTICE HISTORY, CRIMINAL HISTORY AND DISCIPLINARY HISTORY.

THE COSTS INCURRED BY THE DEPARTMENT OF REGULATION AND LICENSING IN CONNECTION WITH MAKING THE INFORMATION AVAILABLE TO THE PUBLIC WOULD BE FUNDED

BY A SURCHARGE ON LICENSE RENEWAL FEES PAID
BIENNIALLY BY PHYSICIANS LICENSED IN THE STATE.

THE LEGISLATIVE COUNCIL COMMITTEE CONCLUDED THAT
MAKING INFORMATION ON INDIVIDUAL PHYSICIANS
AVAILABLE AT ONE SOURCE WILL BE CONVENIENT AND
USEFUL FOR THE PUBLIC AND, BY INCLUDING THE
INFORMATION SPECIFIED IN THE BILL, WILL PROVIDE A
BALANCED PHYSICIAN PROFILE.

I URGE THE COMMITTEE TO GIVE THESE BILLS FAVORABLE
CONSIDERATION.

**DISCIPLINE OF HEALTH CARE PROFESSIONALS,
SPECIAL COMMITTEE ON**

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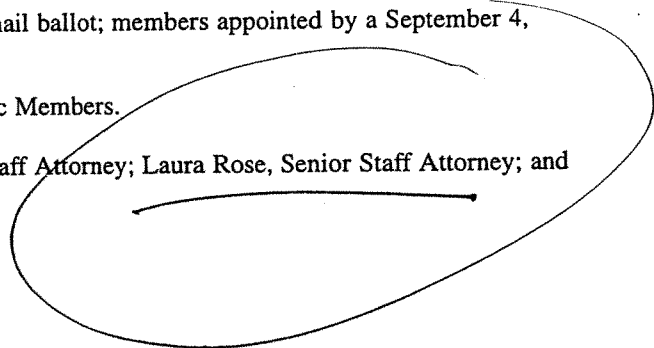
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STUDY ASSIGNMENT: The Committee is directed to study procedures for imposition of discipline for alleged cases of patient neglect or unprofessional conduct by health care-related examining boards and affiliated credentialing boards identified by the Special Committee, for the purpose of ensuring that such procedures are effective, fair and consistent. The Special Committee shall report its recommendations to the Joint Legislative Council by May 1, 1999. [Based on Assembly Amendment 3 to Assembly Substitute Amendment 1 to 1997 Assembly Bill 549.]

Established and Chairperson appointed by a June 24, 1998 mail ballot; members appointed by a September 4, 1998 mail ballot.

16 MEMBERS: 2 Senators; 5 Representatives; and 9 Public Members.

LEGISLATIVE COUNCIL STAFF: Don Dyke, Senior Staff Attorney; Laura Rose, Senior Staff Attorney; and Kathy Follett, Administrative Staff.



5. Requires that a patient or client who has been adversely affected by a health care professional's conduct that is the subject of a state disciplinary proceeding be given opportunity to confer with the DRL's prosecuting attorney concerning the disposition of the case and the economic, physical and psychological effect of the unprofessional conduct on the patient or client.

6. Requires the DRL to establish guidelines for the timely completion of each stage of the health care professional disciplinary process.

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

8. Requires, by May 1, 2001, the DRL to submit to the Legislature a report on the disciplinary process time lines which were implemented by the department as guidelines in February 1999.

9. Adds two public members to the Medical Examining Board (MEB), resulting in a 15-member MEB with five public members, nine medical doctor members and one member who is a doctor of osteopathy.

10. Authorizes the MEB to summarily limit any credential issued by the MEB pending a disciplinary hearing.

11. Authorizes the MEB to assess a forfeiture of not more than \$1,000 for each violation against a credential holder found guilty of unprofessional conduct (not including negligence in treatment).

12. Creates a state requirement that reports on medical malpractice payments and on professional review actions by health care entities, which currently must be submitted to the National Practitioner Data Bank (NPDB), must also be submitted to the MEB in accordance with the time limits set forth in federal law. A person or entity who violates the state requirement is subject to a forfeiture of not more than \$10,000 for each violation.

13. Provides that when a coroner or medical examiner receives a report of a death under s. 979.01, Stats., and subsequently determines that the death was therapeutic-related, as defined, the coroner or medical examiner must indicate that determination on the death certificate and forward the information to the DRL.

• Votes

Senate Bill 317 consists of several proposals that were acted on separately by the Special Committee on Discipline of Health Care Professionals. The separate proposals that were combined into Senate Bill 317 and the votes on those proposals by the Special Committee on

↑
2003 SB 227

Discipline of Health Care Professionals for recommendation to the Joint Legislative Council for introduction in the 1999-2000 Session of the Legislature are set forth below.

WLCS: 0014/1, relating to directing the DRL to establish priority discipline cases for health care professionals, factors to identify health care professionals in possible need of investigation and time lines for the health care professional disciplinary process and requiring notice to health care professionals and their places of employment and to complainants, patients and clients in connection with the disciplinary process (as amended): Ayes, 11 (Sens. Huelsman; Reps. Underheim, Urban and Wasserman; and Public Members Clifford, Freil, Newcomer, Noack, Roberts, Schultz and Schulz); Noes, 0; and Absent, 5 (Sen. Risser; Reps. Cullen and Seratti; and Public Members Rosenberg and Wolverton).

WLCS: 0060/2 relating to changing the composition of the MEB: Ayes, 9 (Sen. Huelsman; Reps. Cullen, Underheim and Urban; and Public Members Clifford, Freil, Noack, Schultz and Schulz); Noes, 3 (Rep. Wasserman; and Public Members Newcomer and Roberts); and Absent, 4 (Sen. Risser; Rep. Seratti; and Public Members Rosenberg and Wolverton).

WLCS: 0067/1, relating to authorizing the MEB to summarily limit a credential granted by the board: Ayes, 9 (Sens. Huelsman and Risser; Rep. Wasserman; and Public Members Newcomer, Noack, Rosenberg, Schultz, Schulz and Wolverton); Noes, 0; and Absent, 7 (Reps. Underheim, Cullen, Seratti and Urban; and Public Members Clifford, Freil and Roberts).

WLCS: 0068/1, relating to authorizing the MEB to impose a civil forfeiture in certain cases of unprofessional conduct: Ayes, 13 (Sen. Huelsman; Reps. Underheim, Cullen, Seratti, Urban and Wasserman; and Public Members Clifford, Freil, Newcomer, Noack, Roberts, Schultz and Schulz); Noes, 0; and Absent, 3 (Sen. Risser; and Public Members Rosenberg and Wolverton).

WLCS: 0101/1, relating to requiring reports which must be submitted to the NPDB to be submitted to the MEB and providing a penalty (as amended): Ayes, 13 (Sen. Huelsman; Reps. Underheim, Cullen, Seratti, Urban and Wasserman; and Public Members Clifford, Freil, Newcomer, Noack, Roberts, Schultz and Schulz); Noes, 0; and Absent, 3 (Sen. Risser; and Public Members Rosenberg and Wolverton).

WLCS: 0104/P1, relating to including health care professionals who practice alternative forms of health care in panels of health care experts established by the DRL: Ayes, 10 (Sen. Huelsman; Reps. Underheim, Cullen and Seratti; and Public Members Clifford, Freil, Noack, Roberts, Schultz and Schulz); Noes, 2 (Reps. Urban and Wasserman); and Absent, 4 (Sen. Risser; and Public Members Newcomer, Rosenberg and Wolverton).

WLCS: 0021/2, relating to requiring coroners and medical examiners to indicate on certificates of death when a death is therapeutic-related and to provide this information to the DRL: Ayes, 13 (Sen. Huelsman, Reps. Underheim, Cullen, Seratti, Urban and Wasserman; and Public Members Clifford, Freil, Newcomer, Noack, Roberts, Schultz and Schulz); Noes, 0; and Absent, 3 (Sen. Risser; and Public Members Rosenberg and Wolverton).

At its September 23, 1999 meeting, the Joint Legislative Council voted to introduce 1999 Senate Bill 317 (WLCS: 0147/1) by a vote of Ayes, 15 (Reps. Kelso, Bock, Foti, Freese, Huber, Jensen, Schneider, Seratti and Stone; and Sens. Risser, Burke, Cowles, Erpenbach, Grobschmidt and Robson); Noes, 0; and Absent, 7 (Reps. Gard and Krug; and Sens. Chvala, Ellis, George, Rosenzweig and Zien).

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JB226

B. SENATE BILL 318, RELATING TO MAKING AVAILABLE TO THE PUBLIC INFORMATION ON THE EDUCATION, PRACTICE AND DISCIPLINARY HISTORY OF PHYSICIANS, REQUIRING RULES OF THE DEPARTMENT OF HEALTH AND FAMILY SERVICES TO INCLUDE PROCEDURES AFFORDING HEALTH CARE PROVIDERS OPPORTUNITY TO CORRECT HEALTH CARE INFORMATION AND GRANTING RULE-MAKING AUTHORITY

• **Key Provisions**

1. Directs the MEB to make available for dissemination to the public, in a format established by the board, specified information concerning a physician's education, practice, malpractice history, criminal history and disciplinary history. The costs incurred by the DRL in connection with making physician information available to the public is funded by a surcharge on the license renewal fee paid biennially by physicians licensed in this state.

2. Requires administrative rules of the Department of Health and Family Services (DHFS) to include procedures affording health care providers the opportunity to correct health care information collected under ch. 153, Stats.

• **Votes**

Senate Bill 318 combines two drafts separately considered by the Special Committee on Discipline of Health Care Professionals. One of the drafts, WLCS: 0015/1, was voted on by the Special Committee at its April 20, 1999 meeting; subsequent to that meeting, two remaining issues related to the draft were resolved by the adoption of two amendments by mail ballot. The other draft included in WLCS: 0015/2 is WLCS: 0034/P1. The votes by the Special Committee on Discipline of Health Care Professionals to recommend the two drafts that were combined to create WLCS: 0015/2 to the Joint Legislative Council for introduction in the 1999-2000 Legislature are set forth below.

WLCS: 0034/P1, relating to procedures to provide an opportunity to correct certain health care information and providing rule-making authority: Ayes, 10 (Sens. Huelsman and Risser; Reps. Urban and Wasserman; and Public Members Newcomer, Noack, Rosenberg, Schultz, Schulz and Wolverton); Noes, 0; and Absent, 6 (Reps. Underheim, Cullen and Seratti; and Public Members Clifford, Freil and Roberts).

WLCS: 0015/1, relating to making available to the public certain information on the education, practice and disciplinary history of physicians and granting rule-making authority (as amended): Ayes, 13 (Sen. Huelsman; Reps. Underheim, Cullen, Seratti, Urban and Wasserman;

and Public Members Clifford, Freil, Newcomer, Noack, Roberts, Schultz and Schulz); Noes, 0; and Absent, 3 (Sen. Risser; and Public Members Rosenberg and Wolverton).

At its September 23, 1999 meeting, the Joint Legislative Council voted to introduce 1999 Senate Bill 318 (WLCS: 0015/2) by a vote of Ayes, 17 (Reps. Kelso, Bock, Foti, Freese, Gard, Huber, Jensen, Seratti and Stone; and Sens. Risser, Burke, Chvala, Cowles, Grobschmidt, Robson, Rosenzweig and Zien); Noes, 2 (Rep. Schneider and Sen. Erpenbach); and Absent, 3 (Rep. Krug; and Sens. Ellis and George).

To: Senator Carol Roessler 608 266-0
From: Darold A. Treffert, M.D.
Fax 920 426-893

DAROLD A. TREFFERT, M.D.

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Carol,

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

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

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

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


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

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



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATOR CAROL ROESSLER
FROM:  Laura Rose, Deputy Director
RE: 2003 Senate Bills 226 and 227, Relating to the Discipline of Health Care Professionals
DATE: September 3, 2003

This memorandum describes 2003 Senate Bills 226 and 227. Senate Bill 226 relates to making information on a physician's education, practice, and disciplinary history available to the public. It also provides a procedure for health care providers to correct health care information. Senate Bill 227 imposes various duties on the Department of Regulation and Licensing (DRL) related to the discipline of health care professionals, expands the disciplinary options available to the Medical Examining Board (MEB), creates state requirements to report certain information to the MEB and penalties for failing to comply with the requirements, and requires coroners and medical examiners to report therapeutic-related deaths to DRL.

The bills do the following:

1. Senate Bill 226:
 - a. Provides that the MEB make available for dissemination to the public, in a format established by the MEB, specified information regarding education, practice, medical malpractice history, disciplinary history, and criminal history of physicians licensed in this state. It further requires that the information made available to the public be reported in nontechnical language that is capable of being understood by the general public, and requires information relating to medical malpractice claims to be accompanied by explanatory information that gives the reported information context.
 - b. Requires physicians to report any information requested by the board that the board determines is necessary to comply with the requirements of the draft. Physicians are to be provided a reasonable time to correct factual inaccuracies that appear in the information before the information is released to the public.

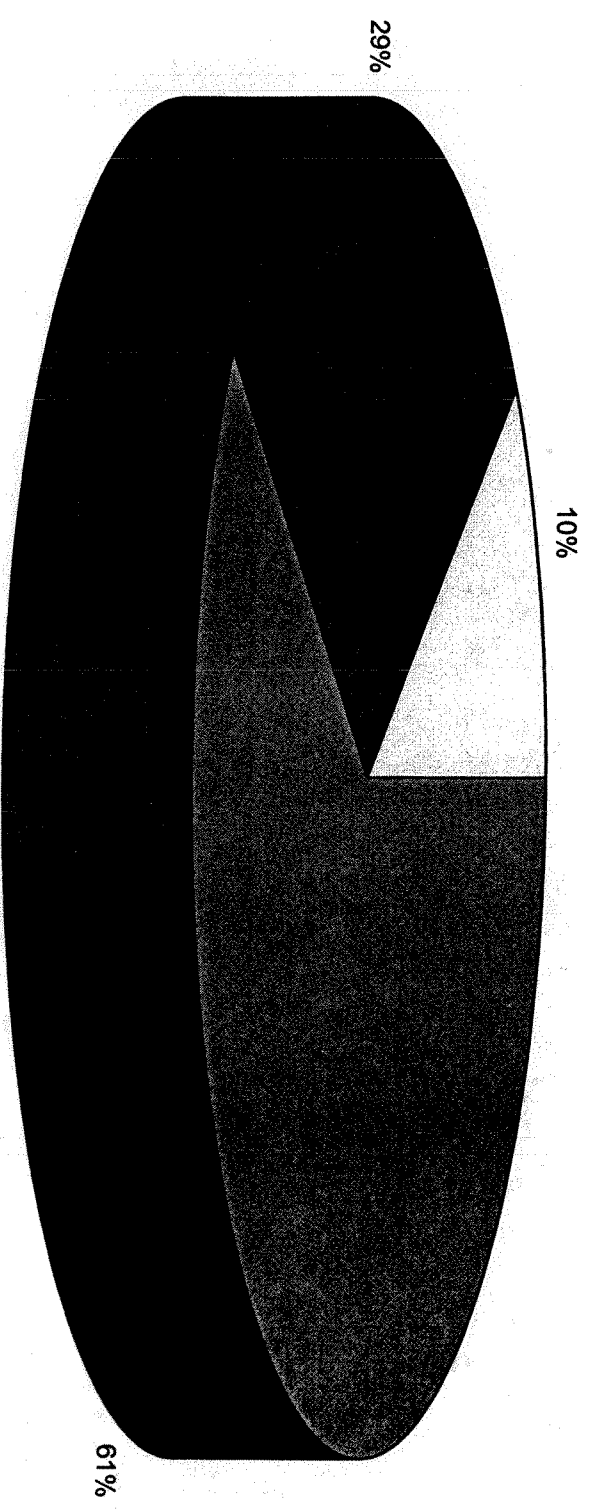
- c. Requires the MEB, if it develops a website, to disseminate the required information by providing a link to the physician directory location on the website of the State Medical Society, in place of providing the information on its own website.
 - d. Provides that the costs incurred by the DRL under the bill are to be funded by a surcharge on the license renewal fee paid biannually by physicians in the state.
2. Senate Bill 227:
- a. Requires DRL to develop a system to establish the relative priority of cases involving possible unprofessional conduct on the part of a health care professional.
 - b. Requires DRL to develop a system of markers, by rule, for identifying health care professionals who, even if not the subject of a specific allegation of unprofessional conduct, may nonetheless warrant further evaluation and possible investigation. This system of markers must be phased in to apply the system to different health care professionals, as determined by the department. Further, before promulgating any rules, the department must consult with: (1) professional and trade associations that, as determined by DRL, represent the interests of health care professionals; and (2) each health care credentialing authority.
 - c. Requires DRL to notify a health care professional's place of practice or employment when a formal complaint alleging unprofessional conduct by the health care professional is filed.
 - d. Requires DRL to give notice to a complainant and a health care professional when: (1) a case of possible unprofessional conduct by the health care professional is closed following screening for a possible investigation; (2) a case of possible unprofessional conduct by the health care professional has been opened for investigation; and (3) a case of possible unprofessional conduct by the health care professional is closed after investigation. In addition, DRL is required to provide a copy of the notices under (2) and (3), above, to an affected patient (when the patient is not also the complainant) or the patient's family members.
 - e. Requires that a patient or client who has been adversely affected by a health care professional's conduct that is the subject of a state disciplinary proceeding be given opportunity to confer with the DRL's prosecuting attorney concerning the disposition of the case and the economic, physical, and psychological effect of the unprofessional conduct on the patient or client.
 - f. Requires the DRL to establish guidelines for the timely completion of each stage of the health care professional disciplinary process.
 - g. Requires, if the DRL establishes panels of health care experts to review complaints against health care professionals, that DRL attempt to include on the panels health care professionals who practice alternative forms of health care to assist in evaluating cases involving alternative health care.

- h. Requires, by May 1, 2005, DRL to submit to the Legislature a report on the disciplinary process time lines which the department implemented as guidelines in February 1999.
- i. Adds two public members to the MEB, resulting in a 15-member MEB with five public members, nine medical doctor members, and one member who is a doctor of osteopathy.
- j. Authorizes the MEB to summarily limit any credential issued by the MEB pending a disciplinary hearing.
- k. Authorizes the MEB to assess a forfeiture of not more than \$1,000 for each violation against a credential holder found guilty of unprofessional conduct (not including negligence in treatment).
- l. Creates a state requirement that reports on medical malpractice payments and on professional review actions by health care entities, which currently must be submitted to the National Practitioner Data Bank (NPDB), must also be submitted to the MEB in accordance with the time limits set forth in federal law. A person or entity that violates the state requirement is subject to a forfeiture of not more than \$10,000 for each violation.
- m. Provides that when a coroner or medical examiner receives a report of a death under s. 979.01, Stats., and subsequently determines that the death was therapeutic-related, as defined, the coroner or medical examiner forward the information to the DRL.

Please contact me at the Legislative Council staff offices if you have any questions. My direct telephone number is 266-9791.

LR:ksm:wu

Medical Examining Board's Record on Handling Complaints 1998-2002



■ Closed After Screening ■ Closed After Investigation □ Disciplinary Actions Taken

Source: Wisconsin MEB