



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2007 Senate Bill 129**

**Assembly Amendment 1**

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### **SENATE BILL 129**

#### **Requirements on Hospitals**

Senate Bill 129 requires a hospital that provides emergency services to a sexual assault victim (as defined) to: (1) provide the victim medically and factually accurate and unbiased written and oral information about emergency contraception and its use and efficacy; (2) orally inform the victim of: (a) her option to receive emergency contraception at the hospital; (b) her option to report the sexual assault to a law enforcement agency; and (c) any available options for her to receive an examination to gather evidence regarding the sexual assault; and (3) immediately provide the victim, upon her request, emergency contraception in accordance with instructions approved by the federal Food and Drug Administration. If the medication is taken in more than one dosage, the hospital must provide all subsequent dosages to the victim for later self administration.

In addition to the above, the bill requires a hospital that provides emergency care to sexual assault victims to ensure that each hospital employee who provides care to a victim has available medically and factually accurate and unbiased information about emergency contraception.

The bill defines “emergency contraception” as “a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device that is approved by the federal food and drug administration and that prevents a pregnancy after sexual intercourse.” The term expressly does not include “a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device of any nature that is prescribed to terminate the pregnancy of a female.”

#### **Exception**

Senate Bill 129 provides that no hospital may be required to provide emergency contraception to a sexual assault victim who is pregnant, as indicated by a test for pregnancy.

### **Enforcement**

The Department of Health and Family Services (DHFS) is required under the bill to respond to any complaint it receives concerning noncompliance by a hospital with the above-described requirements. Further, the department is directed to periodically review hospital procedures to determine whether a hospital is in compliance with the requirements.

A hospital that violates a requirement under the bill is subject to a forfeiture of not less than \$2,500 nor more than \$5,000 for each violation. DHFS may directly assess a forfeiture, subject to the right of the hospital to contest the assessment by requesting a hearing with the state Division of Hearing and Appeals.

### **ASSEMBLY AMENDMENT I**

#### **As the Amendment Applies to Hospitals**

Under the amendment:

1. No hospital may be required to comply with a requirement of the bill if compliance is contrary to a policy of the hospital that is based on moral or religious grounds.
2. No hospital is liable for civil damages resulting from a refusal to comply with a requirement of the bill if the refusal is based on the hospital policy described above.
3. The receipt of any grant, contract, loan, or loan guarantee under any state or federal law does not authorize any court, any public official, or other public authority to require a hospital to do any of the following:
  - a. Make hospital facilities available for an action otherwise required under the bill if taking the action in such facilities is contrary to the hospital policy described above.
  - b. Provide personnel to take an action otherwise required by the bill if the action by such personnel is contrary to the above-described hospital policy.

#### **As the Amendment Applies to Individuals**

Under the amendment, no physician or any other individual who is a member of or associated with a staff of a hospital, employee of a hospital, or individual with whom a hospital contracts:

1. May be required to take an action required of a hospital under the bill if taking the action is contrary to the individual's religious beliefs or moral convictions.
2. Is not liable for civil damages resulting from a refusal to take an action required of a hospital under the bill if the refusal is based on the individual's religious beliefs or moral convictions.

Further, the receipt of any grant, contract, loan, or loan guarantee under any state or federal law does not authorize any court, any public official, or other public authority to require an individual

described above to take an action required of a hospital under the bill if taking the action is contrary to the individual's beliefs or moral convictions.

Finally, the amendment prohibits a hospital from discriminating against an individual with regard to hiring, firing, or contracting with or otherwise discriminate with respect to terms, conditions, or privileges of employment or contract by reason of fact that the individual refuses to take an action required of a hospital under the bill if the refusal is based on the individual's religious beliefs or moral convictions.

**Legislative History**

Assembly Amendment 1 was offered by Representative Gundrum. The Assembly Committee on Judiciary and Ethics recommended adoption of the amendment by a vote of Ayes, 6; Noes, 4. The committee recommended concurrence in the bill, as amended, by a vote of Ayes, 6; Noes, 4.

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