

2017 DRAFTING REQUEST

Bill

For: **Patrick Snyder (608) 266-0654**

Drafter: **swalkenh**

By: **Justin**

Secondary Drafters:

Date: **6/13/2017**

May Contact:

Same as LRB: **-4675**

Submit via email: **YES**

Requester's email: **Rep.Snyder@legis.wisconsin.gov**

Carbon copy (CC) to: **sarah.walkenhorstbarber@legis.wisconsin.gov**
tamara.dodge@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Establishment of a palliative care advisory council

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	swalkenh 6/19/2017	jdyer 6/20/2017			
/P1	swalkenh 7/18/2017		lparisi 6/20/2017		State
/P2	swalkenh 7/25/2017	jdyer 7/19/2017	mbarman 7/19/2017		State
/P3	swalkenh 8/8/2017	jdyer 7/25/2017	dwalker 7/25/2017		State
/P4	swalkenh	jdyer	dwalker		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P5	swalkenh 9/19/2017	eweiss 9/19/2017	lparisi 9/19/2017		State
/P6		wjackson 10/10/2017	lparisi 10/10/2017		State
/1				dwalker 10/16/2017	State

FE Sent For:

<END>

→ At
Intro.

2017 DRAFTING REQUEST

changed to Rep. Snyder Per Cmtt

Bill

For: **Ken Skowronski (608) 266-8590** Drafter: **swalkenh**
 By: **Justin** Secondary Drafters:
 Date: **6/13/2017** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Skowronski@legis.wisconsin.gov**
 Carbon copy (CC) to: **sarah.walkenhorstbarber@legis.wisconsin.gov**
tamara.dodge@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Establishment of a palliative care advisory council

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1	swalkenh 7/18/2017		lparisi 6/20/2017		State
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/P3	swalkenh 8/8/2017	jdyer 7/25/2017	dwalker 7/25/2017		State
/P4	swalkenh	jdyer	dwalker		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P5	swalkenh 10/10/2017	eweiss 9/19/2017	lparisi 9/19/2017		State
/P6		wjackson 10/10/2017	lparisi 10/10/2017		State
/1				dwalker 10/16/2017	State

FE Sent For:

<END>

Walkenhorst Barber, Sarah

From: Phillips, Justin
Sent: Tuesday, August 22, 2017 11:09 AM
To: Walkenhorst Barber, Sarah
Subject: Palliative Care advisory council

Follow Up Flag: Follow up
Flag Status: Flagged



17-3748_P4.pdf

Sarah

Thanks for working so hard on these drafts. Our office met recently with a doctor who specializes in palliative care and had a few suggested changes for the bill.

- Can we allow for nominees to the committee to represent multiple areas?
 - A 20 person group may be too large but if an individual qualifies to fill multiple roles, maybe it could make the group smaller without removing any group. So section 1 line 5 (a) may have to read "Up to 20 person group"? let me know if that's possible.
- On page 3 section 3 for council duties can we add (or is there already) an element regarding Public education and advocacy of palliative care? I think that's page 4 (3), but I want to confirm.
- Similarly to the above note, is there an opportunity for the council to investigate and report to the department on issues that may arise during council conversations and discovery?
- Lengthen Sunset to 10 years

I may hopefully have some more notes for you this afternoon,

Thanks

--

Justin Phillips

Office of Representative Ken Skowronski
82nd Assembly District

(608) 266-8590

Walkenhorst Barber, Sarah

From: Phillips, Justin
Sent: Monday, August 07, 2017 10:33 AM
To: Walkenhorst Barber, Sarah
Subject: RE: Palliative Care Advisory Council

No worries.

I think one from either program will suffice. From what I was told it's a very small pool of student candidates to choose from.

--

Justin Phillips

Office of Representative Ken Skowronski
82nd Assembly District

(608) 266-8590

From: Walkenhorst Barber, Sarah
Sent: Monday, August 07, 2017 10:32 AM
To: Phillips, Justin <Justin.Phillips@legis.wisconsin.gov>
Subject: RE: Palliative Care Advisory Council

Hi Justin,

You're correct about the "representative" and I agree with you that it could be anyone—sorry, I was unclear. I was just asking whether you wanted 2 medical students on the council or 1 medical student total: one student from the UW program and one student from MCW, or only one student total (i.e., could be a student from either program). It sounds like maybe one student from each medical school?

Thanks, and sorry for the confusion.

Sarah

From: Phillips, Justin
Sent: Monday, August 07, 2017 10:21 AM
To: Walkenhorst Barber, Sarah <Sarah.WalkenhorstBarber@legis.wisconsin.gov>
Subject: RE: Palliative Care Advisory Council

Sarah,

Perhaps I'm looking at the wrong section but page 3 line 3-5 has a "representative" from the MCW and from UW Health. I guess, we were reading that as anyone from the colleges in palliative care, not necessarily students. UW and MCW have palliative care student grant recipients. We'd like the addition specifically of a medical student representative.

--
Justin Phillips

Office of Representative Ken Skowronski
82nd Assembly District

(608) 266-8590

From: Walkenhorst Barber, Sarah
Sent: Monday, August 07, 2017 10:11 AM
To: Phillips, Justin <Justin.Phillips@legis.wisconsin.gov>
Subject: RE: Palliative Care Advisory Council

Hi Justin,

Sounds good. Just to confirm I'm reading the email correctly, you would like to add 1 medical student representative (vs. 2 student representatives, one from each school)?

Thanks,
Sarah

From: Phillips, Justin
Sent: Monday, August 07, 2017 9:40 AM
To: Walkenhorst Barber, Sarah <Sarah.WalkenhorstBarber@legis.wisconsin.gov>
Subject: Palliative Care Advisory Council

Sarah,
After speaking to some of the involved parties, it was suggested that we add language for a student representative specializing in palliative care from the medical schools (UW and MCW) be added for a 1 year term to council

Please let me know if you have any questions

Thank you

--
Justin Phillips

Office of Representative Ken Skowronski
82nd Assembly District

(608) 266-8590

Walkenhorst Barber, Sarah

From: Gibbs, Sarah
Sent: Wednesday, July 19, 2017 1:23 PM
To: Walkenhorst Barber, Sarah
Subject: Palliative care

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Sarah,

Just talked to Justin as he is out for a while with a new baby. Could you incorporate what other states are doing, like a sunset provision and affirmative steps. Along with palliative care definition.

Thank you,

Sarah Gibbs

Hi Justin,

When we last communicated about the palliative care council draft, you were interested to know if other states had anything really distinct that you might want to consider for this draft. I sent you links to legislation that has either passed in other states or is being considered and included a few notes on distinct provisions. Wyoming, for example, had a sunset provision eliminating the council after several years (I've now noticed several others also have a sunset), and Kentucky required some affirmative steps from health care facilities, including establishing a system for identifying patients or residents who could benefit from palliative care.

A few additional notes on possibly distinct provisions from other states, now that I've had a chance to review some of these other proposals/laws.

1. Some legislation incorporates a definition for palliative care. The current draft does not include a definition. There is one that could be cross referenced from our statutes (s. 50.90 (3)), which states:

"Palliative care" means management and support provided for the reduction or abatement of pain, for other physical symptoms and for psychosocial or spiritual needs of individuals with terminal illness and includes physician services, skilled nursing care, medical social services, services of volunteers and bereavement services. "Palliative care" does not mean treatment provided in order to cure a medical condition or disease or to artificially prolong life.

You could incorporate a new definition if you prefer. At least Indiana, Vermont, Rhode Island, Tennessee, Wyoming, Massachusetts, Florida, and Nebraska (and probably others) have included a definition (and they vary

among the states). Florida, Kentucky, and Nebraska also define the term “serious illness.” Nebraska then requires the council established in the legislation to assist health care facilities and services to, among other things, provide information and facilitate access to hospice and palliative care services for those with serious illness.

2. Florida’s task force (11 members) must include (all appointed by the Governor) one member who is a designee of the American Cancer Society, one who is a designee of the Florida Hospice and Palliative Care Association, and one who is a designee of the Department of Veterans’ Affairs.
3. Montana requires a representative of a private insurer on its council, as well as a department of public health and human services employee with knowledge of the state Medicaid program.
4. Montana also requires its council to make recommendations to the department of public health and human services regarding priorities for pediatric palliative care and the availability and delivery of palliative care services in rural and underserved areas.

I have made the other changes you requested to the draft. Your last email included a comment regarding whether or not “palliative care advisory groups” would be involved in the council. I believe that the provision requiring “at least one member who is a representative of an established patient advocacy organization” likely covers that (page 2, lines 16-17), but we could modify the provision to have more specific language if you like. Let me know if you would like any additional changes. If I haven’t heard anything by next Tuesday (the 18th), I’ll get the /p2 over to you and we can make any additional changes in the next round.

Finally, I believe you called Tami about an additional (unrelated) request. Tami has passed that along to me for drafting. I will give you a call about that one next week.

Best,
Sarah

Sarah Walkenhorst Barber

Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 3215
sarah.walkenhorstbarber@legis.wisconsin.gov

Sarah Gibbs

Office of Representative Ken Skowronski
Veterans & Military Affairs Committee Chairman
Legislative Aide
82nd Assembly District
(608) 266-8590
Sarah.gibbs@legis.wisconsin.gov

Walkenhorst Barber, Sarah

From: Phillips, Justin
Sent: Wednesday, June 14, 2017 11:06 AM
To: Walkenhorst Barber, Sarah
Subject: RE: Palliative Care Advisory Board

Thanks Sarah,
Let me do some review and decide the size.
Something Preliminary would be great. I am meeting with a group next week to discuss.

Thinking out loud here, I'd like to have the group be made up of doctors in the field, hospital admins, medical school docs, legislators or DHS staff and interested parties. I feel like using the Texas board as a model and add people from policy and DHS. I don't want the group to be too big but I don't want to forget anyone.

Can you tell me if any other states have similar boards besides ones I dug up right away—I'll look on my end too.

And can you tell me if those state councils have a definite goals and meeting structure. I'd like make sure that a council would be tasking with developing curriculum and training for Drs to help families with goals of care, legislative policy and aiding in families in better understanding end of life care.

Thanks

--

Justin Phillips

Office of Representative Ken Skowronski
82nd Assembly District

(608) 266-8590

From: Walkenhorst Barber, Sarah
Sent: Tuesday, June 13, 2017 4:57 PM
To: Phillips, Justin <Justin.Phillips@legis.wisconsin.gov>
Subject: RE: Palliative Care Advisory Board

Hi Justin,

Thanks for your email. I'm hoping I can finish up the draft either later this week or early next week, if that timeline still works for you. I do have one question based on the information you sent. Did you have a particular size council in mind? I think the membership size varied quite a bit in the examples from other states. If you prefer, I have sometimes drafted something preliminary with a proposal of membership and makeup. I would include a note to flag it and ensure your review of that section. You could then let me know what you want to change once you see it.

Thanks,
Sarah

From: Phillips, Justin

Sent: Tuesday, June 13, 2017 9:13 AM

To: Walkenhorst Barber, Sarah <Sarah.WalkenhorstBarber@legis.wisconsin.gov>

Subject: Palliative Care Advisory Board

Sarah,

Checking in to see how my request for a Palliative Care Advisory Board legislation is coming. Let me know if there is anything I can do to help or any questions I can answer

Thanks!

--

Justin Phillips

Office of Representative Ken Skowronski

82nd Assembly District

(608) 266-8590

Walkenhorst Barber, Sarah

From: Dodge, Tamara
Sent: Wednesday, May 31, 2017 3:07 PM
To: Phillips, Justin
Cc: Walkenhorst Barber, Sarah
Subject: RE: Palliative Care Advisory Board

Justin,

Sarah, who drafts health with me, will be taking this draft. I have copied her on this email. Please let us know if you have a specific deadline for this draft.

Tami

Tamara J. Dodge
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Phillips, Justin
Sent: Wednesday, May 31, 2017 2:45 PM
To: Dodge, Tamara <Tamara.Dodge@legis.wisconsin.gov>
Subject: Palliative Care Advisory Board

Tami,

Thanks for working on the Uniform Guardianship Bill. I have another request that I hope won't be too difficult since many states already have implemented what I'm trying to do: a Palliative Care Advisory Council, see below. Hoping to create such an advisory council in Wisconsin using requiring similar goals, reports and make up.

Other states with such councils:

[Oregon](#)

[Texas](#)

[Oklahoma](#)

[Massachusetts](#)

[Maine](#)

Happy to chat about this more as I do more research, I'm emailing you now because I just had the meeting and I want it to be fresh in my mind.

Thanks

Justin

--

Justin Phillips

Office of Representative Ken Skowronski
82nd Assembly District

(608) 266-8590



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3748(?)

SWB:*

JLD
/PI

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 6/19
Requested 6/20
PS

X

Gen

1 AN ACT ...; relating to: establishing a palliative care advisory council. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 15.197[✓] (22m)[✓] of the statutes is created to read:

3 15.197 (22m) PALLIATIVE CARE ADVISORY COUNCIL. ✓ There is created in the
4 department of health services ✓ a palliative care advisory council. The advisory
5 council shall consist of the following 24[✓] members:

6 (a) The following members appointed by the ✓ secretary of health services
7 serving for staggered 4-year terms: ✓

8 1. Five ✓ physician members, including two who are board certified in hospice
9 and palliative care ✓ and one who is board certified in pain management. ✓

SECTION 1

1 2. Three palliative care practitioner members, including ²two advanced practice
2 registered nurses ✓ who are board certified in hospice and palliative care and ✓ one
3 physician assistant who has experience providing palliative care. ✓

4 3. Four health care professional members, ✓ including a nurse, a social worker,
5 a pharmacist, and a spiritual care professional that have at least ✓ one of the following
6 qualifications: ✓

7 a. Experience providing palliative care to pediatric, youth, or adult
8 populations. ✓

9 b. Expertise in palliative care delivery in an inpatient, outpatient, or
10 community setting. ✓

11 c. Expertise in interdisciplinary palliative care. ✓

12 4. Three ✓ members with experience as advocates for patients and the patients'
13 family caregivers and who are independent of a hospital or other health care facility,
14 including at least one ✓ member who is a representative of an established patient
15 advocacy organization. ✓

16 5. One representative from the ✓ University of Wisconsin School of Medicine and
17 Public Health with expertise in palliative care. ✓

18 6. One representative from the ✓ Medical College of Wisconsin with expertise in
19 palliative care. ✓

20 7. One representative from the department of health services with experience
21 in palliative care issues. ✓

22 8. Two members who serve or have served in hospital administration. ✓

23 (b) One representative to the assembly appointed by the speaker of the
24 assembly. ✓

1 (c) One representative to the assembly appointed by the minority leader of the
2 assembly.✓

3 (d) One senator appointed by the president of the senate.✓

4 (e) One senator appointed by the minority leader of the senate.✓

****NOTE: The list included in this version is based on the Texas legislation, along
with some potential additions based on your instructions. Please let me know if you would
like to modify this list.

5 **SECTION 2.** 146.695[✓] of the statutes is created to read:

6 **146.695 Palliative care advisory council.** (1) In this section,✓“council”
7 means the palliative care advisory council.✓

8 (2) The council[✓] shall consult with and advise the department[✓] on matters
9 related to the establishment, maintenance, operation, and outcome evaluation of the
10 palliative care consumer and professional information and education program
11 established under this section.✓ The council shall meet at least twice[✓] each year.

12 (3) The department, in consultation with the council[✓], shall establish a
13 statewide palliative care consumer and professional information and education
14 program[✓] to ensure that comprehensive and accurate information and education
15 about palliative care are available to the public, health care providers, and health
16 care facilities.✓

17 (4) The department shall make available electronically on its[✓] Internet site
18 information and resources regarding palliative care, including all of the following
19 items:✓

20 (a) Links to external resources regarding palliative care.✓

21 (b) Continuing education opportunities for health care providers.✓

22 (c) Information about palliative care delivery in the home, primary, secondary,
23 and tertiary environments.✓

1 (d) Consumer educational materials regarding palliative care, including
2 hospice care. ✓

3 (5) Beginning January 1, 2019, ✓ and biennially thereafter, the council shall
4 submit a report to the appropriate standing committees of the legislature providing
5 the council's analysis on the following issues:

6 (a) The availability of palliative care in this state for patients in the early stages
7 of serious disease. ✓

8 (b) Barriers to greater access to palliative care. ✓

9 (c) The policies, practices, and protocols in this state concerning patients' rights
10 related to palliative care, including all of the following: ✓

11 1. Whether a palliative care team member may introduce palliative care
12 options to a patient without the consent of the patient's attending physician. ✓

13 2. The practices and protocols for discussions between a palliative care team
14 member and a patient on life-sustaining treatment or advance directives decisions. ✓

15 3. The practices and protocols on informed consent and disclosure
16 requirements for palliative care services. ✓

****NOTE: The January 1, 2019, date is a placeholder. Please let me know if you
would like to change this provision. ✎

17 (6) Nothing in this section ✓ may be construed to create a cause of action or create
18 a standard of care, obligation, or duty that provides a basis for a cause of action.

19 **SECTION 3. Nonstatutory provisions.**

20 (1) STAGGERED TERMS. Notwithstanding the length of terms specified for the
21 members of the palliative care advisory council under section 15.197 (22m) (a) ✓ of the
22 statutes, of the 20 ✓ members appointed, ^{by the secretary of health services} 7 of the initial members shall be appointed
23 for a term expiring on July 1, 2019, 7 of the initial members shall be appointed for

1 terms expiring on July 1, 2020[✓] and the remaining 6[✓] initial members shall be
2 appointed for terms expiring on July 1, 2021.[✓]

3 (END)

Walkenhorst Barber, Sarah

From: Phillips, Justin
Sent: Monday, June 26, 2017 10:02 AM
To: Walkenhorst Barber, Sarah
Subject: RE: Draft review: LRB -3748/P1

Follow Up Flag: Follow up
Flag Status: Flagged

Sarah, I have a few requests from the groups involved for the draft:

- would like to see one the 5 doctors in the first group of council members (page 2, lines 1-2) be a pediatric palliative care specialist.
- delete the legislators from the council membership. I believe this is fine as we'll be pursuing a legislative council study on Palliative care in Wisconsin and legislators may voice input there.
- Can you confirm that Palliative Care advisory groups would be involved. I thought that was page 2 line 14, but just need to confirm. Thanks

--
Justin Phillips

Office of Representative Ken Skowronski
82nd Assembly District

(608) 266-8590

From: Phillips, Justin
Sent: Tuesday, June 20, 2017 10:11 AM
To: Walkenhorst Barber, Sarah <Sarah.WalkenhorstBarber@legis.wisconsin.gov>
Subject: RE: Draft review: LRB -3748/P1

Thank you,
I have a few meetings today where I'll be able to solicit some feedback. Once I hear from them, I'll be in touch

Thanks again

--
Justin Phillips

Office of Representative Ken Skowronski
82nd Assembly District

(608) 266-8590

From: Walkenhorst Barber, Sarah
Sent: Tuesday, June 20, 2017 10:10 AM
To: Phillips, Justin <Justin.Phillips@legis.wisconsin.gov>
Subject: FW: Draft review: LRB -3748/P1

Hi Justin,

As promised yesterday, attached is a PDF copy of LRB 17-3748. Please let me know if you have any questions or if you'd like to make changes.

Best,
Sarah

Sarah Walkenhorst Barber

Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 3215
sarah.walkenhorstbarber@legis.wisconsin.gov

From: LRB.Legal

Sent: Tuesday, June 20, 2017 10:04 AM

To: Walkenhorst Barber, Sarah <Sarah.WalkenhorstBarber@legis.wisconsin.gov>

Subject: Draft review: LRB -3748/P1

Draft Requester: Rep. Ken Skowronski

Following is the PDF version of draft LRB -3748/P1.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3748/P1
SWB:jld

1/2
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 7/18
Requested 7/19 a.m.
pls
INSECT

Regen

4

1 AN ACT *to create* 15.197 (22m) and 146.695 of the statutes; relating to:
2 establishing a palliative care advisory council.

Analysis by the Legislative Reference Bureau

INS ANALYSIS ✓

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 15.197 (22m) of the statutes is created to read:

4 15.197 (22m) PALLIATIVE CARE ADVISORY COUNCIL. There is created in the
5 department of health services a palliative care advisory council. The advisory
6 council shall consist of the following 24 members:

7 (a) The following members appointed by the secretary of health services
8 serving for staggered 4-year terms

INS

- 1 (1) Five physician members, including 2 who are board certified in hospice and
2 palliative care and one who is board certified in pain management. *and one who is a pediatric palliative care specialist ✓*
- 3 (2) Three palliative care practitioner members, including 2 advanced practice
4 registered nurses who are board certified in hospice and palliative care and one
5 physician assistant who has experience providing palliative care.
- 6 (3) Four health care professional members, including a nurse, a social worker,
7 a pharmacist, and a spiritual care professional that have at least one of the following
8 qualifications:
- 9 (a) Experience providing palliative care to pediatric, youth, or adult
10 populations.
- 11 (b) Expertise in palliative care delivery in an inpatient, outpatient, or
12 community setting.
- 13 (c) Expertise in interdisciplinary palliative care.
- 14 (4) Three members with experience as advocates for patients and the patients'
15 family caregivers and who are independent of a hospital or other health care facility,
16 including at least one member who is a representative of an established patient
17 advocacy organization. ✓
- 18 (5) One representative from the University of Wisconsin School of Medicine and
19 Public Health with expertise in palliative care.
- 20 (6) One representative from the Medical College of Wisconsin with expertise in
21 palliative care.
- 22 (7) One representative from the department of health services with experience
23 in palliative care issues.
- 24 (8) Two members who serve or have served in hospital administration.

- 1 (b) One representative to the assembly appointed by the speaker of the
- 2 assembly.
- 3 (c) One representative to the assembly appointed by the minority leader of the
- 4 assembly.
- 5 (d) One senator appointed by the president of the senate.
- 6 (e) One senator appointed by the minority leader of the senate.

****NOTE: The list included in this version is based on the Texas legislation, along with some potential additions based on your instructions. Please let me know if you would like to modify this list.

X

I have removed the term "advisory" from the name of the council as according to our drafting rules, councils created under ch. 15 (like this one) are, by their nature, advisory and the term should not be included in the statute.

7 SECTION 2. 146.695 of the statutes is created to read:

8 **146.695 Palliative care advisory council.** (1) In this section, "council"

9 means the palliative care advisory council.

10 (2) The council shall consult with and advise the department on matters

11 related to the establishment, maintenance, operation, and outcome evaluation of the

12 palliative care consumer and professional information and education program

13 established under this section. The council shall meet at least twice each year.

14 (3) The department, in consultation with the council, shall establish a

15 statewide palliative care consumer and professional information and education

16 program to ensure that comprehensive and accurate information and education

17 about palliative care are available to the public, health care providers, and health

18 care facilities.

19 (4) The department shall make available electronically on its Internet site

20 information and resources regarding palliative care, including all of the following

21 items:

- 22 (a) Links to external resources regarding palliative care.
- 23 (b) Continuing education opportunities for health care providers.

1 (c) Information about palliative care delivery in the home, primary, secondary,
2 and tertiary environments.

3 (d) Consumer educational materials regarding palliative care, including
4 hospice care.

5 (5) Beginning January 1, 2019, and biennially thereafter, the council shall
6 submit a report to the appropriate standing committees of the legislature providing
7 the council's analysis on the following issues:

8 (a) The availability of palliative care in this state for patients in the early stages
9 of serious disease.

10 (b) Barriers to greater access to palliative care.

11 (c) The policies, practices, and protocols in this state concerning patients' rights
12 related to palliative care, including all of the following:

13 1. Whether a palliative care team member may introduce palliative care
14 options to a patient without the consent of the patient's attending physician.

15 2. The practices and protocols for discussions between a palliative care team
16 member and a patient on life-sustaining treatment or advance directives decisions.

17 3. The practices and protocols on informed consent and disclosure
18 requirements for palliative care services.

****NOTE: The January 1, 2019, date is a placeholder. Please let me know if you
would like to change this provision.

X

19 (6) Nothing in this section may be construed to create a cause of action or create
20 a standard of care, obligation, or duty that provides a basis for a cause of action.

21 **SECTION 3. Nonstatutory provisions.**

22 (1) STAGGERED TERMS. Notwithstanding the length of terms specified for the
23 members of the palliative care advisory council under section 15.197 (22m) (a) of the

1 statutes, of the 20 members appointed by the secretary of health services, 7 of the
2 initial members shall be appointed for a term expiring on July 1, 2019, 7 of the initial
3 members shall be appointed for terms expiring on July 1, 2020, and the remaining
4 6 initial members shall be appointed for terms expiring on July 1, 2021. ✓

5

(END)

NS

**2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3748/P2ins
SWB:jld

INSERT ANALYSIS

This bill establishes a Palliative Care Council[✓] within the Department of Health Services.[✓] Under the bill, DHS[✓] is required to establish a[✓] statewide palliative care consumer and professional information and education program and must make available on its Internet site[✓] information and resources regarding palliative care.[✓] The bill requires the council[✓] to consult with and advise DHS on matters related to the establishment, maintenance, operation, and outcome evaluation of the program[✓] established by DHS. The bill also requires the council to submit biennial reports providing its analysis regarding certain issues relating to palliative care, including the availability of palliative care, barriers to greater access to such care, and policies, practices, and protocols concerning patients' rights related to palliative care.[✓]

(END INSERT ANALYSIS)

plain



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3748/P2
SWB:jld

1/3
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 7/25

Requested today
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INS or
Analysis ✓

Regen

1 AN ACT to create 15.197 (22m) and 146.695 of the statutes; relating to:
2 establishing a palliative care council and providing a penalty ✓

Analysis by the Legislative Reference Bureau

This bill establishes a Palliative Care Council within the Department of Health Services. Under the bill, DHS is required to establish a statewide palliative care consumer and professional information and education program and must make available on its Internet site information and resources regarding palliative care. The bill requires the council to consult with and advise DHS on matters related to the establishment, maintenance, operation, and outcome evaluation of the program established by DHS. The bill also requires the council to submit biennial reports providing its analysis regarding certain issues relating to palliative care, including the availability of palliative care, barriers to greater access to such care, and policies, practices, and protocols concerning patients' rights related to palliative care.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 15.197 (22m) of the statutes is created to read:
4 15.197 (22m) PALLIATIVE CARE COUNCIL. There is created in the department of
5 health services a palliative care council. The council shall consist of the following

The council
and program
Sunset effective
July 1, 2024. ✓

INS

1 members appointed by the secretary of health services serving for staggered 4-year
2 terms:

3 (a) Five physician members, including 2 who are board certified in hospice and
4 palliative care, one who is board certified in pain management, and one who is a
5 pediatric palliative care specialist.

6 (b) Three palliative care practitioner members, including 2 advanced practice
7 registered nurses who are board certified in hospice and palliative care and one
8 physician assistant who has experience providing palliative care.

9 (c) Four health care professional members, including a nurse, a social worker,
10 a pharmacist, and a spiritual care professional that have at least one of the following
11 qualifications:

12 1. Experience providing palliative care to pediatric, youth, or adult
13 populations.

14 2. Expertise in palliative care delivery in an inpatient, outpatient, or
15 community setting.

16 3. Expertise in interdisciplinary palliative care.

17 (d) Three members with experience as advocates for patients and the patients'
18 family caregivers and who are independent of a hospital or other health care facility,
19 including at least one member who is a representative of an established patient
20 advocacy organization.

21 (e) One representative from the University of Wisconsin School of Medicine and
22 Public Health with expertise in palliative care.

23 (f) One representative from the Medical College of Wisconsin with expertise in
24 palliative care.

1 (g) One representative from the department of health services with experience
2 in palliative care issues.

3 (h) Two members who serve or have served in hospital administration.

****NOTE: I have removed the term "advisory" from the name of the council as, according to our drafting rules, councils created under ch. 15 (like this one) are, by their nature, advisory and the term should not be included in the statutes.

4 SECTION 2. 146.695 of the statutes is created to read:

5 **146.695 Palliative care council.** (1) In this section, "council" means the
6 palliative care council.

7 (2) The council shall consult with and advise the department on matters
8 related to the establishment, maintenance, operation, and outcome evaluation of the
9 palliative care consumer and professional information and education program
10 established under this section. The council shall meet at least twice each year.

11 (3) The department, in consultation with the council, shall establish a
12 statewide palliative care consumer and professional information and education
13 program to ensure that comprehensive and accurate information and education
14 about palliative care are available to the public, health care providers, and health
15 care facilities.

16 (4) The department shall make available electronically on its Internet site
17 information and resources regarding palliative care, including all of the following
18 items:

- 19 (a) Links to external resources regarding palliative care.
- 20 (b) Continuing education opportunities for health care providers.
- 21 (c) Information about palliative care delivery in the home, primary, secondary,
- 22 and tertiary environments.

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New 91
(a)

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1 (d) Consumer educational materials regarding palliative care, including
2 hospice care. (u) ①

3 (5) Beginning January 1, 2019, and biennially thereafter, the council shall
4 submit a report to the appropriate standing committees of the legislature providing
5 the council's analysis on the following issues:

6 (a) The availability of palliative care in this state for patients in the early stages
7 of serious disease.

8 (b) Barriers to greater access to palliative care.

9 (c) The policies, practices, and protocols in this state concerning patients' rights
10 related to palliative care, including all of the following:

11 1. Whether a palliative care team member may introduce palliative care
12 options to a patient without the consent of the patient's attending physician.

13 2. The practices and protocols for discussions between a palliative care team
14 member and a patient on life-sustaining treatment or advance directives decisions.

15 3. The practices and protocols on informed consent and disclosure
16 requirements for palliative care services.

17 (6) Nothing in this section may be construed to create a cause of action or create
18 a standard of care, obligation, or duty that provides a basis for a cause of action.

19 **SECTION 3. Nonstatutory provisions.**

20 (1) STAGGERED TERMS. Notwithstanding the length of terms specified for the
21 members of the palliative care council under section 15.197 (22m) (a) of the statutes,
22 of the 20 members appointed by the secretary of health services, 7 of the initial
23 members shall be appointed for a term expiring on July 1, 2019, 7 of the initial

MS
4-18 ✓

1 members shall be appointed for terms expiring on July 1, 2020, and the remaining
2 6 initial members shall be appointed for terms expiring on July 1, 2021.

3 (END)

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5-2

INSERT ANALYSIS

~~NO~~
Under the bill, health care facilities must establish a system for identifying patients or residents who could benefit from palliative care and provide information about and facilitate access to appropriate palliative care services for patients or residents with serious illnesses. If a health care facility fails to do so, DHS may, after taking into account a variety of factors, impose a forfeiture. ✓

(END INSERT ANALYSIS)

INSERT 3-3

1 SECTION 1. 15.197 (22m) of the statutes, as created by 2017 Wisconsin
2 Act... (this act), is repealed. ✓
△ △

(END INSERT 3-3)

INSERT 3-6

3 (b) "Palliative care" has the meaning given in s. 50.90 (3). ✓

****NOTE: This draft cross-references an existing definition of "palliative care." Section 50.90 (3) defines "palliative care" as "management and support provided for the reduction or abatement of pain, for other physical symptoms and for psychosocial or spiritual needs of individuals with terminal illness and includes physician services, skilled nursing care, medical social services, services of volunteers and bereavement services. "Palliative care" does not mean treatment provided in order to cure a medical condition or disease or to artificially prolong life."

Other states have used alternative language. For example, Massachusetts defines "palliative care" to mean "patient and family-centered medical care that optimizes quality of life by anticipating, preventing, and treating the suffering caused by a medical illness or physical injury that substantially impacts a patient's quality of life, including, but not limited to: addressing physical, emotional, social and spiritual needs; facilitating patient autonomy, access to information and choice; discussing the patient's goals for treatment; discussing the treatment options appropriate for the patients, including, where appropriate, hospice care; and comprehensive pain and symptom management." Other states have used variations of this language. For instance, Montana incorporated a shorter version: "Palliative care" means patient-centered and family-centered medical care that optimizes quality of life by anticipating, preventing, and treating suffering caused by serious illness." Please let me know if you would like to keep the existing definition (the cross-reference to s. 50.90 (3)) or if you would like to include something different.

SWB - Computer consultant flip this for some reason

(END INSERT 3-6)

INSERT 4-2



1 (5) (a) On or before January 1, 2020[✓], each health care facility, as defined in s.
2 146.997 (1) (c), shall do all of the following:[✓]

3 1. Establish a system for identifying patients or residents who could benefit
4 from palliative care.[✓]

5 2. Provide information about and facilitate access to appropriate palliative care
6 services for patients or residents with serious illnesses.[✓]

7 (b) If a health care facility fails to implement a system as described under par.
8 (a) 1.[✓], the department shall require the health care facility to provide a plan of action
9 to bring the health care facility into compliance with the requirement and may
10 impose a forfeiture for a violation. The department shall take into account factors
11 that may impact the development of a system and the health care facility's ability to
12 facilitate access to palliative care,[✓] including the size of the organization, access and
13 proximity to palliative care services, the availability of palliative care practitioners
14 and related work staff, and geographic factors.[✓]

****NOTE: This provision is drawn from a Kentucky provision that did not specify
an amount for the forfeiture (a "fine" in the Kentucky version) imposed. You might
consider whether to include a maximum amount (e.g., "a forfeiture of not more than....").
Please note also that this provision is not currently included in the sunset/repeal of the
council-related provisions.[✓]

(END INSERT 4-2)

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page)

INSERT 4-18

15 SECTION 4. 146.695 (1) (a), (2), (3), and (6)[✓] of the statutes, as created by 2017
16 Wisconsin Act... (this act), are repealed.

17 SECTION 5. 146.695 (1) (intro.) and (b)[✓] of the statutes are consolidated,
18 renumbered 146.695 (1) and amended to read:

as created by
2017 Wisconsin
Act... (this
act),

NO
K (B) 91
146.695 Palliative care

1 (1) In this section: (b) ~~“Palliative”~~, “palliative care”
2 has the meaning given in s. 50.90 (3).

(END INSERT 4-18)

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(from previous page)

INSERT 5-2

3 SECTION 7. Effective dates. This act takes effect on the day after publication,
4 except as follows: treatment of sections of the statutes and the

5 (1) The repeal of sections 15.197(22m) and 146.695 (1) (a), (2), (3), and (6) and
6 the renumbering of section 146.695 (1) (b) of the statutes takes effect on July 1, 2024.

****NOTE: The 2024 date is a placeholder for the sunset of the council. The last set of initial appointees complete their term on June 30, 2021, so July 1, 2024 would be one full term (3 years) after that date. Please let me know if you would like to change this. Also, you will note that this version leaves in place both the requirements for health care facilities (s. 146.695 (5)) and the requirement upon DHS to provide information on its Internet site (s. 146.695 (4)). Other provisions will be repealed to effect the sunset of the council you requested. Please let me know if you would like to change any of that.

(END INSERT 5-2)