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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**Memo published:** January 21, 2022

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**2021 Senate Bill 662**

**Senate Substitute  
Amendment 1**

### BACKGROUND

Under current law, public and private employers generally may choose to require their employees to receive vaccination or testing for COVID-19, subject to state and federal requirements to offer reasonable accommodations for employees with disabilities and religious objections. Federal requirements for vaccination or testing also apply in some circumstances.<sup>1</sup>

### 2021 SENATE BILL 662

2021 Senate Bill 662 requires employers to accept documentation demonstrating natural immunity to COVID-19 in lieu of any vaccine or testing requirement the employer applies to employees or prospective employees. Under the bill, the documentation may be either: (1) a positive COVID-19 test result; or (2) a test showing the presence of naturally occurring antibodies. The documentation must be dated after March 1, 2020, and signed by a health care provider. The bill defines “health care provider” to mean a nurse, licensed practical nurse, physician assistant, or physician licensed in any state or territory of the United States.

### SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 similarly requires employers to accept certain documentation of natural immunity to COVID-19 in lieu of any vaccination or testing requirement, but with certain additional clarifications and options. Specifically, the substitute amendment makes the following changes to the bill:

- In addition to the types of documentation allowed under the bill, provides an option for submitting a notarized letter stating that, to the best of the employee or prospective employee’s knowledge, the person recovered from COVID-19.
- Adds chiropractors and pharmacists to the list of health professionals who may sign the documentation of a positive COVID-19 test or antibody test.
- Requires employers to inform employees and prospective employees in writing of the option to provide documentation of natural immunity in lieu of vaccination or testing.

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<sup>1</sup> The Supreme Court of the United States [recently stayed](#) a [rule](#) promulgated by the Occupational Safety and Health Administration but [allowed](#) a [rule](#) promulgated by the Centers for Medicare & Medicaid Services to take effect. The effect of those orders is that federal law currently requires health care employers that receive federal funding to require vaccinations or testing but does not currently require other private employers to do so. Relevant to 2021 Assembly Bill 675, both of the federal rules require employees to allow employees to forgo testing for 90 days after a positive COVID-19 test or diagnosis.

- Prohibits employers from discriminating against employees who provide documentation of natural immunity in lieu of vaccination or testing.
- Adds a definition of “employer,” which clarifies that “employer” includes state government entities.
- Clarifies that references to the “SARS-CoV-2 coronavirus” include any variants or mutations of the virus.

## **BILL HISTORY**

Senator Felzkowski offered Senate Substitute Amendment 1 on January 11, 2022. On January 20, 2022, the Senate Committee on Labor and Regulatory Reform recommended adoption of the substitute amendment, and passage of the bill, as amended, on votes of Ayes, 3; Noes, 2.

MSK:jal