



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBa1834/1
TJD:cjs:rs

**SENATE AMENDMENT 3,
TO 2011 SENATE BILL 212**

October 27, 2011 – Offered by Senators CARPENTER and LASSA.

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

2 **1.** Page 1, line 7: after “homes,” insert “confidentiality of health care services
3 reviews, use as evidence of information regarding health care providers, reporting
4 of quality indicators identifying individual hospitals,”.

5 **2.** Page 14, line 5: after that line insert:

6 “**SECTION 25d.** 146.38 (1) (bm) of the statutes, as created by 2011 Wisconsin Act
7 2, is repealed.

8 **SECTION 25e.** 146.38 (1m) of the statutes, as affected by 2011 Wisconsin Act 2,
9 is amended to read:

10 146.38 (**1m**) No person who participates in the review or evaluation of the
11 services of health care providers or charges for such services may disclose an incident
12 or occurrence report or any information acquired in connection with such review or
13 evaluation except as provided in sub. (3) or (~~3m~~).

1 **SECTION 25f.** 146.38 (2) of the statutes, as affected by 2011 Wisconsin Act 2, is
2 amended to read:

3 146.38 (2) All persons, organizations, or evaluators, whether from one or more
4 entities, who review or evaluate the services of health care providers ~~in order to help~~
5 ~~improve the quality of health care, to avoid improper utilization of the services of~~
6 ~~health care providers, or to determine the reasonable charges for such services~~ shall
7 keep a record of their investigations, inquiries, proceedings and conclusions. No such
8 record may be released to any person under s. 804.10 (4) or otherwise except as
9 provided in sub. (3) ~~or (3m)~~. No such record may be used in any civil ~~or criminal~~ action
10 for personal injuries against the health care provider ~~or any other health care~~
11 ~~provider; however, except for incident or occurrence reports or records from other~~
12 ~~persons, organizations, or evaluators reviewing or evaluating health care providers,~~
13 information, documents or records presented during the review or evaluation may
14 not be construed as immune from discovery under s. 804.10 (4) or use in any civil ~~or~~
15 ~~criminal~~ action merely because they were so presented. Any person who testifies
16 during or participates in the review or evaluation may testify in any civil ~~or criminal~~
17 action as to matters within his or her knowledge, but may not testify as to
18 information obtained through his or her participation in the review or evaluation,
19 nor as to any conclusion of such review or evaluation.

20 **SECTION 25g.** 146.38 (2m) of the statutes, as created by 2011 Wisconsin Act 2,
21 is repealed.

22 **SECTION 25h.** 146.38 (3) (dg) of the statutes is created to read:

23 146.38 (3) (dg) In a report in statistical form. The report may identify any
24 provider to which the statistics relate.

25 **SECTION 25j.** 146.38 (3) (em) of the statutes is created to read:

1 146.38 (3) (em) With regard to any criminal matter, to a court of record, in
2 accordance with chs. 885 to 895 and 995 and after issuance of subpoena.

3 **SECTION 25k.** 146.38 (3m) of the statutes, as created by 2011 Wisconsin Act 2,
4 is repealed.

5 **SECTION 25m.** 146.38 (3t) of the statutes, as created by 2011 Wisconsin Act 2,
6 is repealed.

7 **SECTION 25n.** 146.38 (6) of the statutes, as created by 2011 Wisconsin Act 2, is
8 repealed.

9 **SECTION 25p.** 153.05 (3m) of the statutes, as created by 2011 Wisconsin Act 2,
10 is repealed.

11 **SECTION 25w.** 904.16 of the statutes, as created by 2011 Wisconsin Act 2, is
12 repealed.”.

13 **3.** Page 15, line 3: after that line insert:

14 “(7) DISCLOSURES; USE OF RECORDS; EVIDENCE.

15 (a) The treatment of section 146.38 (1m), (2), (3) (dg) and (em), and (3m) of the
16 statutes first applies to disclosures or releases occurring on the effective date of this
17 paragraph.

18 (b) The treatment of section 146.38 (2) and (2m) of the statutes first applies to
19 use of records or information on the effective date of this paragraph.

20 (c) The treatment of section 904.16 of the statutes first applies to health care
21 provider reports received, and statements of, or records or interviews with,
22 employees of a health care provider obtained, on the effective date of this
23 paragraph.”.

24

(END)