



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2005 Senate Bill 578**

**Senate Substitute  
Amendment 2**

*Memo published:* March 2, 2006

*Contact:* Laura Rose, Deputy Director (266-9791)

*Senate Substitute Amendment 2* provides that, with certain exceptions, specified records and information relating to quality improvement activities are confidential and privileged; are not subject to discovery, subpoena, or other means of legal compulsion requiring release or permitting inspection, including compulsion by a state agency; and are not admissible as evidence in any civil, criminal, or other judicial or administrative proceeding.

The substitute amendment defines “quality improvement activity” as an evaluation, review, study, assessment, investigation, recommendation, monitoring, corrective action, adverse action, or any other action relating to various subjects, including quality of care, morbidity and mortality, qualification or competence of health care entities, cost or use of health care services, compliance with legal, ethical, or behavioral standards for a health care entity, compliance with credentialing or accreditation standards, and the accreditation, licensure, registration, certification, approval, or credentialing of a health care entity.

Under the substitute amendment, the term “health care entity” is defined broadly to include health care providers, as defined in s. 146.81 (1), Stats.; a number of other enumerated types of health care providers; any other person who is licensed, certified, approved, or registered to provide health care services, including mental health services; an individual who is enrolled in an education or training program that must be completed in order to obtain specified credentials; a person who is certified as a provider of Medical Assistance; or a parent organization, subsidiary, or affiliate of any of these persons.

The substitute amendment provides a number of exceptions to the confidentiality and privilege restrictions relating to records or information that are a part of quality improvement activities. Two exceptions that are in the substitute amendment that were not in the original bill state that: (1) the restrictions do not apply to the release to a state agency of certain records or information created apart from a quality improvement activity; and (2) any person who testifies during or participates in a quality improvement activity may testify in any civil, criminal, or other judicial or administrative proceeding as to information within his or her knowledge, but may not testify as to information obtained solely

through participation in the quality improvement activity and may not testify as to any conclusion of the quality improvement activity.

The substitute amendment provides that any person who discloses information or releases a record in violation of the confidentiality and privilege restrictions, other than through a good faith mistake, is civilly liable to any person harmed by the disclosure or release.

The substitute amendment also provides that the statute relating to confidentiality and privilege is to be liberally construed in favor of identifying records and information as confidential, privileged, and inadmissible as evidence.

### **Legislative History**

On February 9, 2006, the Senate Committee on Health, Children, Families, Aging and Long-Term Care recommended adoption of Senate Substitute Amendment 1, and passage of the bill as amended, by votes of Ayes, 5; Noes, 0. On February 27, 2006, Senator Kanavas offered Senate Substitute Amendment 2.

LR:ksm:rv