



## 2003 ASSEMBLY BILL 919

February 27, 2004 - Introduced by Representatives HUEBSCH, HINES, WEBER, FREESE and VAN ROY, cosponsored by Senators ROESSLER, KEDZIE and LASSA. Referred to Committee on Public Health.

1     **AN ACT to amend** 165.25 (6) (b), 441.06 (4), 441.10 (3) (c), 441.15 (2) (intro.),  
2             448.03 (3) (a) (intro.), 448.03 (3) (b) and 448.03 (3) (e); and **to create** 250.042  
3             (4), 441.15 (5) (a) 5., 448.03 (2) (p), 450.03 (1) (h), 893.82 (2) (d) 1n. and 895.46  
4             (5) (am) of the statutes; **relating to:** designation of state agency status for  
5             certain health care providers who provide services during a state of emergency  
6             related to public health.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if the governor declares a state of emergency related to public health and designates the Department of Health and Family Services (DHFS) as the lead state agency to respond to that emergency, DHFS must act as the public health authority during the emergency. As such, among other things, DHFS may compel vaccinations and must consult with local health departments and individual health providers.

Also under current law, persons are prohibited from practicing or attempting to practice professional nursing, engaging in the practice of nurse-midwifery, practicing medicine and surgery, practicing as a physician assistant, or engaging in the practice of pharmacy, unless licensed or certified, as appropriate. In addition, with certain exceptions, a person without the appropriate license or certificate may not hold himself or herself out as a trained, certified, or graduate nurse, a licensed practical nurse, a doctor of medicine, a doctor of osteopathy, a physician assistant,

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or a pharmacist. With certain exceptions, a person may not practice nurse-midwifery unless he or she has in effect malpractice liability insurance in the minimum amount specified by DHFS by rule.

Lastly under current law, an individual who has been granted status as a state agent may be defended by the attorney general in a civil action or other matter before a court or administrative agency for acts the individual performs during the lawful course of his or her duties, amounts recoverable in the civil action or other matter are limited to \$250,000, and judgments in the actions or other matters must be paid by the state after payment under any liability insurance policy possessed by the individual.

This bill designates as a state agent of DHFS a health care provider who provides to a health care facility, as defined in the bill, voluntary, unpaid health care services for which the provider has been licensed or certified or has met certain requirements. “Health care provider” is defined in the bill to mean an individual who, at any time within ten years before a state of emergency related to public health is declared, has met requirements for a nurse’s assistant, has been licensed as a physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, or pharmacist, or has been certified as a respiratory care practitioner. The state agency status does not apply to a physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, or pharmacist whose license has, for cause, been revoked, limited, suspended, or denied renewal, or to a respiratory care practitioner whose certificate has, for cause, been limited, suspended, or revoked. The bill also excepts the health care providers designated as state agents from the prohibitions on practicing or attempting to practice without a license or certificate and from the prohibitions on holding themselves out, without a license or certificate, as trained, certified, or licensed for performance of services.

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

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

1           **SECTION 1.** 165.25 (6) (b) of the statutes is amended to read:  
2           165.25 (6) (b) Volunteer health care providers who provide services under s.  
3           146.89 or 250.042 (4) are, for the provision of those services, covered by this section  
4           and shall be considered agents of the department of health and family services for  
5           purposes of determining which agency head may request the attorney general to  
6           appear and defend them.

7           **SECTION 2.** 250.042 (4) of the statutes is created to read:

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1           250.042 (4) (a) In this subsection:

2           1. "Health care facility" has the meaning given in s. 150.84 (2).

3           2. "Health care provider" means an individual who, at any time within 10 years  
4 before a state of emergency related to public health is declared under s. 166.03 (1)  
5 (b) 1., has met requirements for a nurse's assistant under s. 146.40 (2) (a), (b), (bm),  
6 (c), (e), (em), (f), or (g) or has been licensed as a physician or a physician assistant  
7 under ch. 448, licensed as a registered nurse, licensed practical nurse, or  
8 nurse-midwife under ch. 441, licensed as a pharmacist under ch. 450, or certified as  
9 a respiratory care practitioner under ch. 448.

10           (b) A health care provider who provides to a health care facility, on a voluntary,  
11 unpaid basis during a state of emergency related to public health, health care  
12 services for which the health care provider has been licensed or certified or, as a  
13 nurse's assistant, has met requirements, is, for the provision of these services, a state  
14 agent of the department for purposes of ss. 165.25 (6), 893.82 (3), and 895.46.

15           (c) Paragraph (b) does not apply to any of the following:

16           1. A physician or physician assistant whose license has been limited,  
17 suspended, or revoked under s. 448.02 (3) (c).

18           2. A respiratory care practitioner whose certificate has been limited,  
19 suspended, or revoked under s. 448.02 (3) (c).

20           3. A registered nurse, licensed practical nurse, or nurse-midwife whose license  
21 has been revoked, limited, suspended, or denied renewal under s. 441.07 (1).

22           4. A pharmacist whose license has been revoked, limited, suspended, or denied  
23 renewal under s. 450.10 (1) (b).

24           **SECTION 3.** 441.06 (4) of the statutes is amended to read:

**ASSEMBLY BILL 919****SECTION 3**

1           441.06 (4) ~~No~~ Except as provided in s. 250.042 (4) (b), no person may practice  
2 or attempt to practice professional nursing, nor use the title, letters, or anything else  
3 to indicate that he or she is a registered or professional nurse unless he or she is  
4 licensed under this section. ~~No~~ Except as provided in s. 250.042 (4) (b), no person not  
5 so licensed may use in connection with his or her nursing employment or vocation  
6 any title or anything else to indicate that he or she is a trained, certified or graduate  
7 nurse. This subsection does not apply to any person who is licensed to practice  
8 nursing by a jurisdiction, other than this state, that has adopted the nurse licensure  
9 compact under s. 441.50.

10           **SECTION 4.** 441.10 (3) (c) of the statutes is amended to read:

11           441.10 (3) (c) No license is required for practical nursing, but, except as  
12 provided in s. 250.042 (4) (b), no person without a license may hold himself or herself  
13 out as a licensed practical nurse or licensed attendant, use the title or letters  
14 “Trained Practical Nurse” or “T.P.N.”, “Licensed Practical Nurse” or “L.P.N.”,  
15 “Licensed Attendant” or “L.A.”, “Trained Attendant” or “T.A.”, or otherwise seek to  
16 indicate that he or she is a licensed practical nurse or licensed attendant. No licensed  
17 practical nurse or licensed attendant may use the title, or otherwise seek to act as  
18 a registered, licensed, graduate or professional nurse. Anyone violating this  
19 subsection shall be subject to the penalties prescribed by s. 441.13. The board shall  
20 grant without examination a license as a licensed practical nurse to any person who  
21 was on July 1, 1949, a licensed attendant. This paragraph does not apply to any  
22 person who is licensed to practice practical nursing by a jurisdiction, other than this  
23 state, that has adopted the nurse licensure compact under s. 441.50.

24           **SECTION 5.** 441.15 (2) (intro.) of the statutes is amended to read:

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1           441.15 (2) (intro.) ~~No~~ Except as provided in s. 250.042 (4) (b), no person may  
2 engage in the practice of nurse-midwifery unless each of the following conditions is  
3 satisfied:

4           **SECTION 6.** 441.15 (5) (a) 5. of the statutes is created to read:

5           441.15 (5) (a) 5. The provision of services by a nurse-midwife under s. 250.042  
6 (4) (b).

7           **SECTION 7.** 448.03 (2) (p) of the statutes is created to read:

8           448.03 (2) (p) The provision of services by a health care provider under s.  
9 250.042 (4) (b).

10          **SECTION 8.** 448.03 (3) (a) (intro.) of the statutes is amended to read:

11          448.03 (3) (a) (intro.) ~~No~~ Except as provided in s. 250.042 (4) (b), no person may  
12 use or assume the title “doctor of medicine” or append to the person’s name the letters  
13 “M.D.” unless one of the following applies:

14          **SECTION 9.** 448.03 (3) (b) of the statutes is amended to read:

15          448.03 (3) (b) ~~No~~ Except as provided in s. 250.042 (4) (b), no person not  
16 possessing the degree of doctor of osteopathy may use or assume the title “doctor of  
17 osteopathy” or append to the person’s name the letters “D.O.”.

18          **SECTION 10.** 448.03 (3) (e) of the statutes is amended to read:

19          448.03 (3) (e) ~~No~~ Except as provided in s. 250.042 (4) (b), no person may  
20 designate himself or herself as a “physician assistant” or use or assume the title  
21 “physician assistant” or append to the person’s name the words or letters “physician  
22 assistant” or “P.A.” or any other titles, letters or designation which represents or may  
23 tend to represent the person as a physician assistant unless he or she is licensed as  
24 a physician assistant by the board.

25          **SECTION 11.** 450.03 (1) (h) of the statutes is created to read:

