



## 2001 SENATE BILL 329

November 21, 2001 - Introduced by Senators ROBSON, MOEN, ERPENBACH, WIRCH, ROSENZWEIG, HUELSMAN, ROESSLER, SCHULTZ and DARLING, cosponsored by Representatives UNDERHEIM, URBAN, WASSERMAN, GRONEMUS, KRUG, J. LEHMAN, MUSSER, DUFF, LIPPERT, HUBER, LADWIG, HUBLER, WILLIAMS, OLSEN, BOCK, SYKORA, TURNER, MEYERHOFER, BERCEAU, MILLER, BALOW, LASSA, RYBA, PLALE, RILEY, VRAKAS and WALKER. Referred to Committee on Human Services and Aging.

1     **AN ACT to repeal** 252.04 (9) (b); **to amend** 165.25 (6) (c), 252.04 (9) (c), 893.82  
2           (2) (d) 1r. and 895.46 (5) (b); and **to create** 251.17 of the statutes; **relating to:**  
3           state agency status for physicians and dentists providing specific public health  
4           services and removal of a physician from the state immunization program.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, a licensed physician who is selected to supervise an immunization program that is conducted by a school district or local health department, who is not a county, city, village, or school district employee, who receives no compensation for these services, and who acts in accord with written protocols issued by the department of health and family services (DHFS) is a state agent of DHFS. This state agency status permits the physician to be defended by the attorney general in a civil action or other matter before a court or administrative agency for acts during the lawful course of the physician's duties, limits to \$250,000 amounts recoverable in such an action, and requires that judgments in the actions be paid by the state. DHFS may disapprove the selection of the physician or may require that a selected physician be removed.

This bill provides state agency status for physicians and dentists who receive no compensation in providing care, treatment, or services on behalf of a local health department or school district under the public health laws; and who issue written orders for the prevention and control of communicable and chronic diseases. The physicians and dentists who, under the bill, receive state agency status must provide these services in accordance with written DHFS protocols. The state agency status

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for these physicians and dentists applies only to these specific circumstances and applies only if the selection of the physician or dentist is first reviewed and approved by DHFS. DHFS may also remove a physician or dentist from state agency status, after providing reasonable notice and a hearing, in accordance with administrative rules procedures.

In addition, the bill requires that reasonable notice and a hearing be provided for removal of a physician from the immunization program, in accordance with administrative rules procedures.

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) (c) of the statutes is amended to read:

2           165.25 (6) (c) Physicians and dentists under s. 252.04 (9) (b) 251.17 are covered  
3 by this section and shall be considered agents of the department of health and family  
4 services for purposes of determining which agency head may request the attorney  
5 general to appear and defend them.

6           **SECTION 2.** 251.17 of the statutes is created to read:

7           **251.17 Volunteer health care provider; limitation on liability.** (1) In this  
8 section, "dentist" means an individual who is licensed as a dentist under ch. 447.

9           (2) A subject to sub. (4), a physician or dentist who is not an employee of the  
10 state or a county, city, village, or school district, who receives no compensation for his  
11 or her services under chs. 252 to 255, and who provides on behalf of a local health  
12 department or school district the following services in accordance with written  
13 protocols issued or approved by the department is, for the physician's or dentist's  
14 provision of these services, a state agent of the department for purposes of ss. 165.25  
15 (6), 893.82 (3), and 895.46:

16           (a) Services under s. 252.04 (9) (a).

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1 (b) Issuance of written orders for vaccines administered by local health  
2 departments that are in addition to those administered under s. 252.04.

3 (c) Issuance of written orders for routine procedures that are performed by  
4 public health nurses acting under s. 250.06 (1) for the prevention and control of  
5 communicable and chronic diseases, including screening, testing, collection of  
6 specimens, monitoring, and the administration of preventive medications or  
7 preventive treatment.

8 **(3)** Subject to sub. (4), a dentist who is not an employee of the state or a county,  
9 city, village, or school district, who receives no compensation for his or her services  
10 under chs. 252 to 255 and who organizes or oversees programs for dental care under  
11 chs. 252 to 255 in accordance with any written protocols issued or approved by the  
12 department is, for the dentist's provision of these services, a state agent of the  
13 department for the purposes of ss. 165.25 (6), 893.82 (3), and 895.46.

14 **(4)** (a) This section applies to a particular physician or dentist only if the  
15 selection of the physician or dentist is first reviewed and approved by the  
16 department.

17 (b) The department may, after providing reasonable notice and the opportunity  
18 for a hearing, remove from state agency status under this section a physician or  
19 dentist selected by a school district or local health department, in accordance with  
20 procedures specified in ch. 227.

21 **SECTION 3.** 252.04 (9) (b) of the statutes is repealed.

22 **SECTION 4.** 252.04 (9) (c) of the statutes is amended to read:

23 252.04 **(9)** (c) The department may disapprove the selection made under par.  
24 (a) or may, after providing reasonable notice and the opportunity for a hearing,

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1 require the removal of a physician selected, in accordance with procedures specified  
2 in ch. 227.

3 **SECTION 5.** 893.82 (2) (d) 1r. of the statutes is amended to read:

4 893.82 (2) (d) 1r. A physician or dentist under s. ~~252.04 (9) (b)~~ 251.17.

5 **SECTION 6.** 895.46 (5) (b) of the statutes is amended to read:

6 895.46 (5) (b) A physician or dentist under s. ~~252.04 (9) (b)~~ 251.17.

7 **SECTION 7. Initial applicability.**

8 (1) REMOVAL OF IMMUNIZATION PHYSICIAN. The treatment of section 252.04 (9) (c)  
9 of the statutes first applies to removals of physicians initiated on the effective date  
10 of this subsection.

11 (END)