



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2007 Wisconsin Act 79
[2007 Assembly Bill 321]

Disaster Preparedness

Act 79 resulted from 2007 Assembly Bill 321, which was prepared for the Joint Legislative Council's Special Committee on Disaster Preparedness Planning. The Act does all of the following:

State Agent Status for Facility

Under the law prior to Act 79, a behavioral health provider, health care provider, pupil services provider, or substance abuse prevention provider who, during a declared emergency, provides behavioral health services, health care services, pupil services, or substance abuse prevention services for which the person has been licensed or certified is, for the provision of those services, a state agent of the Department of Health and Family Services (DHFS) for purposes of several specified statutes. The services must have been provided on behalf of a health care facility on a voluntary, unpaid basis, except that the provider may accept reimbursement for travel, lodging, and meals.

For purposes of this statute, the term "health care facility" is defined by reference to another statute that includes various facilities approved or licensed by DHFS, and specifically mentions hospitals, nursing homes, and community-based residential facilities. In addition, the terms "behavioral health provider," "health care provider," "pupil services provider," and "substance abuse prevention provider" are defined as persons who have held specified types of state credentials (e.g., psychologists, physicians, nurses, school counselors, and substance abuse counselors) at any time within 10 years before the emergency is declared. However, this statute does not apply to persons whose credentials have been limited, suspended, revoked, or denied renewal.

Persons who satisfy the above requirements are considered under current law to be state agents of DHFS for the purpose of specified statutes. Those statutes require notice to the Department of Justice (DOJ) within a specified time period in order for a civil action to be brought, allow DOJ to represent the person in civil or administrative actions, limit damages to \$250,000 (with no punitive damages allowed), and require that the damages be paid by the state.

Act 79 also designates the health care facilities on whose behalf the services are provided during a declared state of emergency to be state agents of DHFS for purposes of those statutes.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

County-Declared Emergency

The emergency under the law described above must be declared by the Governor under s. 166.03 (1) (b) 1., Stats., or by a city, village, or town under s. 166.23, Stats. Act 79 expands s. 166.23, Stats., to allow declarations of emergencies by governing bodies of counties. By including counties in that statute, the specified types of volunteer providers at health care facilities will be considered agents of DHFS under the statutes described above during an emergency declared by the governing body of a county.

State Agent Status for Mass Clinics

Act 79 expands the law described above that treats certain volunteer providers at facilities during declared emergencies as agents of DHFS. The Act also provides that status to volunteer providers at mass clinics during a declared emergency. The term “mass clinic” is defined to mean a designated space that is arranged by a local health department or DHFS and operated during a period of time to provide vaccination, prophylaxis, medication, or specialized treatment to a population in response to a public health emergency.

Donated Food and Products

Under the law prior to Act 79, any person engaging in the processing, distribution, or sale of food products, for profit or not for profit, who donates or sells, at a price not to exceed overhead and transportation costs, qualified food to a charitable organization or food distribution service is immune from civil liability for death or injury caused by the food. Any charitable organization that distributes qualified food free of charge to any person is immune from civil liability for death or injury caused by the food. These immunity provisions do not apply if the death or injury was caused by willful or wanton acts or omissions.

Act 79 extends the current immunity provision to include donating or selling, at a price not to exceed overhead and transportation costs, qualified food to a governmental unit. The Act also creates new immunity provisions to cover donating or selling, at a price not to exceed overhead and transportation costs, emergency household products to a charitable organization or governmental unit in response to a declared state of emergency; and to cover charitable organizations that distribute those emergency household products free of charge.

Interoperability Council

Act 79 makes the prior State Interoperability Executive Council, which was created by executive order, a statutory council attached to the Department of Administration (DOA) for administrative purposes.

The council is renamed the Interoperability Council and consists of 15 members including:

1. The Executive Director of the Office of Justice Assistance (OJA), the Adjutant General, the Secretary of Natural Resources, the Secretary of Transportation, and a representative of DOA with knowledge of information technology, or their designees.
2. Ten members appointed by the Governor for staggered four-year terms, as follows: a police chief, an emergency medical services director, a fire chief, a sheriff, a local government elected official, a local emergency management director, a tribal representative, a hospital representative, a local health department representative, and one other person with relevant experience or expertise in interoperable communications.

The Governor designates the chair and vice chair of the council.

Under the Act, OJA (which is housed in DOA) will provide staff support to the council and oversee the development and operation of a statewide public safety interoperable communication system.

The council serves in an advisory capacity to OJA and is responsible for the following activities relating to a statewide public safety interoperable communication system:

1. Identifying types of agencies and entities to be included in the system, in addition to public safety agencies.
2. Recommending short-term and long-term goals to develop the system and a strategy and timeline for achieving those goals.
3. Assisting OJA in identifying and obtaining funding to implement the system and advising OJA on allocating funds.
4. Making recommendations to OJA on:
 - a. Technical and operational standards, guidelines, and procedures for public safety interoperable communications.
 - b. Minimum standards for the communications systems, facilities, and equipment used by dispatch centers.
 - c. Certification criteria for persons operating dispatch center communications.

School Tornado Drills

Under prior law, public and private schools are required to conduct a fire drill once each month but are not required to conduct tornado or other hazard drills. In addition, schools are required to maintain a record of each conducted fire drill for at least seven years. Act 79 requires public and private schools to conduct a tornado or other hazard drill, without previous warning, at least twice annually, and maintain a record of each conducted tornado or other hazard drill for at least seven years. Schools in communities with recognized fire departments are required to file an annual report with the fire chief pertaining to fire drills and tornado or other hazard drills conducted, on a form furnished by the Department of Commerce. Where no fire drill is conducted in a month, or where only one or no tornado or other hazard drill is conducted in a year, the school must state the reasons in the report.

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