



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## Appendix A

### LRB BILL HISTORY RESEARCH APPENDIX

 The drafting file for 2011 LRB-4124/P2 (For: Leg. Council)

has been copied/added to the drafting file for

**2011 LRB-4185** (For: Leg. Council)

 Are These “Companion Bills” ?? ... No



# **RESEARCH APPENDIX -**

## **PLEASE KEEP WITH THE DRAFTING FILE**

Date Transfer Requested: 02/23/2012 (Per: TKK)

 The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

**2011 DRAFTING REQUEST**

**Bill**

Received: 02/16/2012

Received By: tkuczens

Wanted: As time permits

Companion to LRB:

For: Legislative Council - JLC 266-3370

By/Representing: Rachel Letzing

May Contact:

Drafter: tkuczens

Subject: Occupational Reg. - prof lic

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: rachel.letzing@legis.wisconsin.gov

Carbon copy (CC:) to: tracy.kuczenski@legis.wisconsin.gov

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**Pre Topic:**

No specific pre topic given

---

**Topic:**

Requiring informed consent for performance of certain procedures prior to full gestational term of fetus

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 02/16/2012	jdyer 02/20/2012		_____			
/P1	tkuczens 02/24/2012	jdyer 02/24/2012	jfrantze 02/20/2012	_____	lparisi 02/20/2012		
/P2			jfrantze 02/24/2012	_____	sbasford 02/24/2012		

FE Sent For:

**2011 DRAFTING REQUEST**

**Bill**

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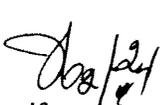
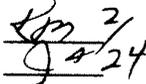
**Topic:**

Requiring informed consent for performance of certain procedures prior to full gestational term of fetus

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 02/16/2012	jdyer 02/20/2012					
/P1		P2 2/24 jld	jfrantze 02/20/2012		lparisi 02/20/2012		

FE Sent For:

<END>

2011 DRAFTING REQUEST

Bill

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Wanted: As time permits

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Pre Topic:

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Topic:

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Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens	PI 2/20 jld	J	2/20			

FE Sent For:

<END>

## Kuczenski, Tracy

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**From:** Hanaman, Cathlene  
**Sent:** Wednesday, January 18, 2012 4:32 PM  
**To:** Kuczenski, Tracy; Gallagher, Michael; Dodge, Tamara; Knepp, Fern; Kahler, Pam  
**Subject:** FW: Study committee bill drafts

**Attachments:** 00722[1].pdf; 00742[1].pdf; 00901[1].pdf

At a quick glance I think the first one is TKK/MPG, the second is TJD/FFK, and the third is PJK. If I am wrong, please let me know or forward to the correct person. If you need help compiling, please let me know.

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**From:** Letzing, Rachel  
**Sent:** Wednesday, January 18, 2012 4:01 PM  
**To:** Hanaman, Cathlene  
**Cc:** Matthias, Mary; Young, Tracey  
**Subject:** Study committee bill drafts

Hi Cathlene, I wasn't sure which drafter to send this request to, so I'm hoping you can pass this on to the right person. The three drafts below are from the Infant Mortality study committee and were recommended for introduction today by the Joint Legislative Council. All three drafts should be rolled into one bill. We would also like companion bills for the Assembly and Senate.



00722[1].pdf (17 KB)



00742[1].pdf (10 KB)



00901[1].pdf (27 KB)

Please let me know if you have any questions. Thanks!

Rachel

Rachel Letzing  
Senior Staff Attorney  
Wisconsin Legislative Council Staff  
Ph: 608.266.3370  
Fax: 608.266.3830

1     **AN ACT** *to amend* 441.15 (3) (c) and 448.02 (3) (a); and *to create* 441.15 (4m),  
2           448.35 and 448.40 (2) (am) of the statutes; **relating to:** requiring informed consent  
3           for performance of certain elective procedures prior to full gestational term of the  
4           fetus.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the Joint Legislative Council's Special Committee on Infant Mortality.

Under current law, any physician who treats a patient must inform the patient about the availability of all alternate, viable medical modes of treatment and about the benefits and risks of these treatments. A physician who violates this requirement is guilty of unprofessional conduct and is subject to discipline by the Medical Examining Board (MEB), which may warn or reprimand the physician, or limit, suspend, or revoke any license, certificate, or limited permit granted by the MEB to the physician.

The statutes direct the MEB to promulgate rules implementing this requirement. Those rules are ch. Med 18, Wis. Adm. Code.

Under current law there is no requirement that a mother be specifically informed about possible negative effects to her infant of inducing labor or performing a caesarean section prior to full gestational term.

This draft prohibits a physician from performing an elective caesarean section or an elective procedure intended to induce labor in a woman prior to 39 weeks gestation unless the physician has first obtained the informed consent of the woman. The draft specifies that a woman's consent is informed only if she receives timely information orally and in person from the attending provider regarding potential negative effects to the child of early delivery, including long-term learning and behavioral problems.

Under the draft, violations of the newly created prohibition are subject to the same penalties that violations of the duty to provide information on alternate modes of treatment are subject under current law; i.e., the MEB

may warn or reprimand the physician, or limit, suspend, or revoke any license, certificate, or limited permit granted by the board to the physician.

The draft directs the MEB to promulgate rules implementing the provisions of the newly created prohibition and defining "elective" for purposes of the prohibition.

Can nurse-midwives perform a caesarean? (or any surgery for that matter?)

The draft also prohibits a nurse-midwife from performing an elective caesarean section or an elective procedure intended to induce labor in a woman prior to 39 weeks gestation unless the nurse-midwife has first obtained the informed consent of the woman. The draft specifies that a woman's consent is informed only if she receives timely information regarding potential negative effects to the child of early delivery, including long-term learning and behavioral problems. A nurse-midwife who is found to have violated this prohibition could be found to have engaged in misconduct or unprofessional conduct and be subject to penalties imposed by the Board of Nursing including a reprimand or limiting, suspending, revoking or denying renewal of the nurse-midwife's license.

1 SECTION 1. 441.15 (3) (c) of the statutes is amended to read:

2 441.15 (3) (c) The board shall promulgate rules necessary to administer this section,  
3 including the establishment of appropriate limitations on the scope of the practice of  
4 nurse-midwifery, ~~the definition of "elective" for purposes of the prohibition in sub. (4m)~~ the  
5 facilities in which such practice may occur and the granting of temporary permits to practice  
6 nurse-midwifery pending qualification for certification.

7 SECTION 2. 441.15 (4m) of the statutes is created to read:

8 441.15 (4m) No nurse-midwife may perform [an elective caesarean section or] an  
9 elective procedure intended to induce labor in a woman prior to 39 weeks gestation unless the  
10 nurse-midwife has first obtained the informed consent of the woman. A woman's consent is  
11 informed only if she receives timely information orally and in person from the attending  
12 provider regarding potential negative effects to the child of early delivery, including  
13 long-term learning and behavioral problems.

is this the nurse-midwife?

1           **SECTION 3.** 448.02 (3) (a) of the statutes is amended to read:

2           448.02 (3) (a) The board shall investigate allegations of unprofessional conduct and  
3 negligence in treatment by persons holding a license, certificate or limited permit granted by  
4 the board. An allegation that a physician has violated s. 253.10 (3), 448.30, ~~448.35~~ or 450.13  
5 (2) or has failed to mail or present a medical certification required under s. 69.18 (2) within  
6 21 days after the pronouncement of death of the person who is the subject of the required  
7 certificate or that a physician has failed at least 6 times within a 6-month period to mail or  
8 present a medical certificate required under s. 69.18 (2) within 6 days after the pronouncement  
9 of death of the person who is the subject of the required certificate is an allegation of  
10 unprofessional conduct. Information contained in reports filed with the board under s. 49.45  
11 (2) (a) 12r., 50.36 (3) (b), 609.17 or 632.715, or under 42 CFR 1001.2005, shall be investigated  
12 by the board. Information contained in a report filed with the board under s. 655.045 (1), as  
13 created by 1985 Wisconsin Act 29, which is not a finding of negligence or in a report filed with  
14 the board under s. 50.36 (3) (c) may, within the discretion of the board, be used as the basis  
15 of an investigation of a person named in the report. The board may require a person holding  
16 a license, certificate or limited permit to undergo and may consider the results of one or more  
17 physical, mental or professional competency examinations if the board believes that the  
18 results of any such examinations may be useful to the board in conducting its investigation.

19           **SECTION 4.** 448.35 of the statutes is created to read:

20           **448.35 Informed consent for certain elective procedures.** No physician may  
21 perform an elective caesarean section or an elective procedure intended to induce labor in a  
22 woman prior to 39 weeks gestation unless the physician has first obtained the informed  
23 consent of the woman. A woman's consent is informed only if she receives timely information

1 orally and in person from the attending provider regarding potential negative effects to the  
2 child of early delivery, including long-term learning and behavioral problems.

3 SECTION 5. 448.40 (2) (am) of the statutes is created to read:

4 448.40 (2) (am) Implementing s. 448.35 and defining "elective" for purposes of that  
5 section.

6 (END)

## Chapter N 4

### LICENSURE OF NURSE-MIDWIVES

N 4.01 Authority and intent.  
 N 4.02 Definitions.  
 N 4.03 Qualifications for licensure.  
 N 4.04 Application procedures for licensure.  
 N 4.05 Temporary permits.

N 4.06 Scope of practice.  
 N 4.07 Limitations on the scope of practice.  
 N 4.08 Licensure and exception.  
 N 4.09 Health care facilities where practice shall occur.  
 N 4.10 Malpractice insurance coverage.

**Note:** Chapter N 6 as it existed on September 30, 1985 was renumbered Chapter N 4, effective October 1, 1985.

**N 4.01 Authority and intent.** (1) The rules in this chapter are adopted pursuant to authority of ss. 15.08 (5), 227.11 and 441.15, Stats.

(2) The intent of the board of nursing in adopting rules in this chapter, interpreting s. 441.15, Stats., is to specify the requirements for obtaining licensure as a nurse-midwife; the scope of practice of nurse-midwifery; the types of facilities in which such practice may occur; and malpractice insurance requirements for nurse-midwives.

**History:** Cr. Register, December, 1981, No. 312, eff. 1-1-82; am. (2), Register, May, 1990, No. 413, eff. 6-1-90; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1990, No. 413; CR 03-009: am. (2), Register November 2003 No. 575, eff. 12-1-03.

**N 4.02 Definitions.** As used in this chapter:

(1) "Board" means board of nursing.

(2) "Bureau" means bureau of health service professions within the department of regulation and licensing, located at 1400 East Washington Avenue, Madison, Wisconsin.

(2m) "Collaboration" has the meaning specified in s. 441.15 (1) (a), Stats.

(4) "Complications" means those conditions which jeopardized the health or life of the patient and which deviate from normal as defined in the written agreement consistent with the standards of practice of the American College of Nurse-Midwives.

(5) "Direct supervision" means immediate availability to continually coordinate, direct and inspect at first hand the practice of another.

(5m) "Nurse-midwife" means a nurse-midwife licensed by the board.

(6) "Written agreement" means an agreement between the collaborating physician and the nurse-midwife which is permanently recorded, dated and signed by both parties, is available for inspection upon reasonable request, and consists of at least the following: framework of mutually approved guidelines including conditions of collaboration and referral.

**History:** Cr. Register, December, 1981, No. 312, eff. 1-1-82; cr. (8), Register, September, 1985, No. 357, eff. 10-1-85; am. (2), (6) and (8), Register, May, 1990, No. 413, eff. 6-1-90; CR 03-009: renum. (3), (4) and (8) to be (4), (6) and (5) and am. (4) and (6), cr. (2m), r. (5) and (7), correction made under s. 13.93 (2m) (b) 1., Stats., Register November 2003 No. 575.

**N 4.03 Qualifications for licensure.** An applicant for licensure as a nurse-midwife shall be granted licensure by the board, provided that the applicant meets all of the following:

(1) Has completed an educational program in nurse-midwifery accredited by the American College of Nurse-Midwives.

(2) Holds a certificate issued by the American College of Nurse-Midwives or the American College of Nurse-Midwives Certification Council.

(3) Is currently licensed to practice as a professional nurse in Wisconsin, or is currently licensed to practice professional nursing

in another state which has adopted the nurse licensure compact.

**History:** Cr. Register, December, 1981, No. 312, eff. 1-1-82; am. (intro.) and (3), Register, May, 1990, No. 413, eff. 6-1-90; CR 01-046: am. (3), Register October 2001 No. 550, eff. 11-1-01; CR 03-009: am. (intro.), (1) and (2) Register November 2003 No. 575, eff. 12-1-2003.

**N 4.04 Application procedures for licensure.** (1) An applicant for licensure to practice as a nurse-midwife shall file a completed, notarized application on a form provided by the bureau. The application shall include all of the following:

(a) Signature of the applicant.

(b) Fee specified under s. 440.05 (1), Stats.

(c) Evidence of completion of an educational program in nurse-midwifery approved by the American College of Nurse-Midwives and evidence of certification as a nurse-midwife from the American College of Nurse-Midwives or the American College of Nurse-Midwives Certification Council.

(d) Identification of current licensure as a professional nurse in Wisconsin or of current licensure in another state which has adopted the nurse licensure compact, including the license number and renewal information.

(2) A separate license shall be issued by the board for the practice of nurse-midwifery.

(3) Renewal of a license to practice nurse-midwifery shall be conducted as a separate procedure from the renewal of the nurse's license as a professional nurse.

(4) The applicant for renewal shall inform the board whether the certificate issued to him or her by the American College of Nurse-Midwives or the American College of Nurse-Midwives Certification Council has been revoked or suspended.

**History:** Cr. Register, December, 1981, No. 312, eff. 1-1-82; am. (1) (intro.), (c) and (d) and (3), Register, May, 1990, No. 413, eff. 6-1-90; CR 01-046: am. (1) (d) and (3), cr. (4), Register October 2001 No. 550, eff. 11-1-01; CR 03-009: am. (1) (intro.), (a) to (c) and (4) Register November 2003 No. 575, eff. 12-1-2003.

**N 4.05 Temporary permits.** (1) **ELIGIBILITY.** An applicant for licensure as a nurse-midwife who has completed an educational program in nurse-midwifery approved by the American college of nurse-midwives, who is currently licensed to practice as a professional nurse in Wisconsin and who has paid the fee specified in s. 440.05 (6), Stats., may be eligible for a temporary permit to practice nurse-midwifery.

(2) **ISSUING A TEMPORARY PERMIT.** The bureau of health service professions shall issue a temporary permit to an eligible applicant within one week of the determination of eligibility.

(3) **SUPERVISION REQUIRED.** The holder of a temporary permit shall practice under the direct supervision of a nurse-midwife certified under s. 441.15, Stats., or a physician. The holder may not practice beyond the scope of practice of a nurse-midwife as set forth in s. N 4.06.

(4) **TITLE.** The holder of a valid temporary permit under this section may use the title "graduate nurse-midwife" or the letters "G.N.M.".

(5) **DURATION.** (a) Except as provided in pars. (b) to (e), the duration of a temporary permit granted by the board is:

1. For applicants who have been granted a temporary permit to practice as a registered nurse, the period which coincides with the registered nurse temporary permit.

2. For other applicants, 6 months.

(b) The temporary permit of a candidate who is unsuccessful on the examination administered by the American College of Nurse-Midwives Certification Council is void upon receipt of the examination results by the holder and shall be returned by the holder to the board immediately. Failure to return the permit promptly shall, without further notice or process, result in a board order to revoke the permit.

(c) A temporary permit may be renewed once for a period of 3 months.

(d) A second renewal for a 3-month period may be granted in hardship cases if an affidavit is filed with the board identifying the hardship. "Hardship cases", as used in this paragraph, includes the inability to take or complete a scheduled examination because of illness, family illness or death, accident or natural disaster or because the person is awaiting examination results.

(e) Practice under temporary permits, including renewals under pars. (c) and (d), may not exceed 12 months total duration.

(6) DENIAL. A temporary permit may be denied an applicant for any of the reasons in sub. (7) for which the board may revoke a temporary permit or for the misrepresentation of being a nurse-midwife or a graduate nurse-midwife before the granting of a permit under this section.

(7) REVOCATION. A temporary permit may, after notice and hearing, be revoked by the board for any of the following reasons:

(a) Violation of any of the rules of conduct for registered nurses in ch. N 7 or for violation of the rules governing nurse-midwives under ch. N 4.

(b) Failure to pay the required fees under s. 440.05 (6), Stats.

(c) Provision of fraudulent information on an application for licensure.

**History:** Cr. Register, September, 1985, No. 357, eff. 10-1-85; r. and recr. (5) (a), am. (1) to (3) and (6), Register, May, 1990, No. 413, eff. 6-1-90; CR 03-009: am. (5) (b) Register November 2003 No. 575, eff. 12-1-2003.

**N 4.06 Scope of practice.** (1) The scope of practice is the overall management of women's health care, pregnancy, childbirth, postpartum care for newborns, family planning, and gynecological services consistent with the standards of practice of the American College of Nurse-Midwives and the education, training, and experience of the nurse-midwife.

(2) The nurse-midwife shall collaborate with a physician with postgraduate training in obstetrics pursuant to a written agreement with that physician.

(3) The nurse-midwife shall consult with the consulting physician regarding any complications discovered by the nurse-midwife, or refer the patient pursuant to the written agreement.

(4) Upon referral, the nurse-midwife may manage that part of the care of the patient which is appropriate to the knowledge and skills of the nurse-midwife.

**History:** Cr. Register, December, 1981, No. 312, eff. 1-1-82; renum. from N. 6.05, Register, September, 1985, No. 357, eff. 10-1-85; CR 03-009: am. Register November 2003 No. 575, eff. 12-1-2003.

**N 4.07 Limitations on the scope of practice.** (1) The nurse-midwife shall not independently manage those complications that require referral pursuant to the written agreement.

(2) The nurse-midwife may not perform deliveries by forceps or Caesarean section. The nurse-midwife may use vacuum extractors only in emergency delivery situations.

(3) The nurse-midwife may not assume responsibilities, either by physician-delegation or otherwise, which he or she is not competent to perform by education, training or experience.

(4) Following notification of a physician as required by s. 441.15 (4), Stats., a nurse-midwife may continue to manage the delivery when complications occur if emergency measures are required and the physician has not yet arrived.

**History:** Cr. Register, December, 1981, No. 312, eff. 1-1-82; renum. from N. 6.06, Register, September, 1985, No. 357, eff. 10-1-85; CR 03-009: am. (1) and (2) Register November 2003 No. 575, eff. 12-1-2003.

**N 4.08 Licensure and exception.** (1) No person may practice or attempt to practice nurse-midwifery or use the title or letters "Certified Nurse-Midwife" or "C.N.M.", "Nurse-Midwife" or "N.M.", or anything else to indicate that he or she is a nurse-midwife unless he or she is licensed under this chapter.

(2) Nothing in this chapter shall be construed either to prohibit or to require a license under this chapter for any person lawfully practicing professional nursing within the scope of a license granted under ch. 441, Stats.

**History:** Cr. Register, December, 1981, No. 312, eff. 1-1-82; renum. from N. 6.07, Register, September, 1985, No. 357, eff. 10-1-85; am. Register, May, 1990, No. 413, eff. 6-1-90.

**N 4.09 Health care facilities where practice shall occur.** A health care facility where the practice of nurse-midwifery may occur is one that has adequate equipment and personnel for conducting and monitoring the normal scope of practice and that has available methods for referral to or communication with a higher level care facility if the need arises.

(2) Deliveries may be arranged for only in a facility which has adequate sanitation, thermal regulation, staffing, communication systems and medical back-up.

(3) The above limitations do not apply to care given in emergency circumstances.

**History:** Cr. Register, December, 1981, No. 312, eff. 1-1-82; renum. from N. 6.08, Register, September, 1985, No. 357, eff. 10-1-85.

**N 4.10 Malpractice insurance coverage.** (1) Nurse-midwives shall maintain in effect malpractice insurance evidenced by one of the following:

(a) Personal liability coverage in the amounts specified in s. 655.23 (4), Stats.

(b) Coverage under a group liability policy providing individual coverage for the nurse-midwife in the amounts set forth in s. 655.23 (4), Stats.

(2) Notwithstanding sub. (1), malpractice insurance is not required for any of the following:

(a) A federal, state, county, city, village or town employee who practices nurse-midwifery within the scope of his or her employment.

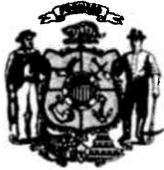
(b) A nurse-midwife who practices as an employee of the federal public health service under 42 USC 233 (g).

(c) A nurse-midwife who does not provide care for patients.

(3) A nurse-midwife shall submit to the board satisfactory evidence that he or she has in effect malpractice insurance required by sub. (1) at the time established for credential renewal under s. 440.08 (2) (a) 50., Stats.

**Note:** Forms are available from the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

**History:** Emerg. cr. eff. 11-05-02; CR 03-009: cr., Register November 2003 No. 575, eff. 12-1-2003.



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-41247-PI

TKK.....

jld → RMNR  
d-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2/16/12

Wanted by 2/21/12 or sooner

X

Gen

- 1 AN ACT ...; relating to: requiring informed consent for performance of certain
- 2 elective procedures prior to the full gestational term of a fetus. ✓

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Infant Mortality.

Under current law, any physician who treats a patient must inform the patient about the availability of all alternate, viable medical modes of treatment and about the benefits and risks of these treatments. A physician who violates this requirement is subject to discipline by the Medical Examining Board (MEB) for unprofessional conduct. If the MEB finds that the physician has engaged in unprofessional conduct, the MEB may warn or reprimand the physician, or limit, suspend, or revoke any license, certificate, or limited permit granted to the physician. The statutes direct the MEB to promulgate rules implementing this requirement. Those rules are found at Chapter Med. 18 of the Wisconsin Administrative Code. ✓

Under current law, there is no requirement that a mother be specifically informed about possible negative effects to her infant of inducing labor or performing a Caesarean section prior to full gestational term.

This bill prohibits a physician from performing an elective Caesarean section or an elective procedure intended to induce labor in a woman prior to 39 weeks gestation unless the physician has first obtained the informed consent of the woman. The bill specifies that a woman's consent is informed only if she receives timely information orally and in person from the physician regarding potential negative effects to the child of early delivery, including long-term ~~age of 39 weeks unless~~ learning and behavioral problems.

Under the bill, persons who violate the newly created prohibition are subject to the same penalties and discipline as persons who violate the duty to provide information on alternate modes of treatment. Specifically, the MEB may warn or reprimand the physician, or limit, suspend, or revoke any license, certificate, or limited permit granted by the MEB to the physician.

The bill directs the MEB to promulgate rules implementing the provisions of the newly created prohibition and to define "elective" for purposes of the prohibition.

The bill also prohibits a person licensed by the Board of Nursing (board) to practice nurse-midwifery from performing an elective procedure intended to induce labor in a woman prior to 39 weeks gestation unless the nurse-midwife has first obtained the informed consent of the woman. The bill specifies that a woman's consent is informed only if she receives timely information regarding potential negative effects to the child of early delivery, including long-term learning and behavioral problems. A nurse-midwife who is found to have violated the prohibition may be subject to discipline by the board, including the suspension, revocation or limiting of the nurse-midwife's license.

(From next page)  
INSERT  
2-1

1           **SECTION 1.** 441.15 (3) (c) of the statutes is amended to read:  
2           441.15 (3) (c) The board shall promulgate rules necessary to administer this  
3 section, including the establishment of appropriate limitations on the scope of the  
4 practice of nurse-midwifery, the facilities in which such practice may occur, the  
5 definition of "elective" for purposes of the prohibition in sub. (4m), and the granting  
6 of temporary permits to practice nurse-midwifery pending qualification for  
7 certification.

History: 1979 c. 317; 1983 a. 273; 1987 a. 264; 1991 a. 39; 1999 a. 22; 2001 a. 52, 105, 107; 2003 a. 321; 2005 a. 96, 292; 2007 a. 20, 97; 2009 a. 28, 42, 282.

8           **SECTION 2.** 441.15 (4m) of the statutes is created to read:  
9           441.15 (4m) No nurse-midwife may perform an elective procedure intended  
10 to induce labor in a pregnant woman prior to 39 weeks gestation unless the  
11 nurse-midwife has first obtained the informed consent of the woman. A woman's  
12 consent is informed for purposes of this subsection only if she receives timely  
13 information orally and in person from the nurse-midwife regarding potential

1 negative effects to the fetus of early delivery, including long-term learning and  
2 behavioral problems. ✓

\*\*\*\*NOTE: The language proposed for this section prohibited a nurse-midwife from performing "an elective Caesarean section" without first obtaining the informed consent of the mother. I don't believe the national standards of practice applicable to nurse-midwives or the scope of practice under the laws of this state permit them to perform Caesarean sections under any circumstances, much less elective Caesarean sections. See, for example, Wis. Admin. Code s. N 4.07 (2), which explicitly prohibits a nurse-midwife licensed in this state from performing "delivery by forceps or Caesarean section." Including permissive language upon informed consent conflicts with current law and could therefore cause confusion. For that reason, I did not include that particular language.

\*\*\*\*NOTE: The phrase "39 weeks gestation" may be confusing. In general, gestation means the carrying of an embryo or fetus from conception to birth, and the "gestational period" is the time that it takes to pass between these two markers; a normal gestational period falls anywhere between 38 to 42 weeks. Additionally, the "gestational age" of a fetus is the time a fetus has spent developing in the mother. Both the gestational period and the gestational age of a fetus are commonly determined by referring back to the date of the mother's last menstrual period. Is it the Committee's intent that gestation be marked from the date of the mother's last menstrual period? If so, it may be clearer to refer to "a gestational period of 39 weeks." If that is not the Committee's intent, it may be helpful to define "gestation" ✓

\*\*\*\*NOTE: Do you want to specify what "timely" means in this section and in proposed s. 448.35?

\*\*\*\*NOTE: The drafting instructions used the phrase "attending provider." I eliminated the word, attending, and replaced provider with nurse-midwife. Okay? Or was it your intent that the attending provider and the nurse-midwife could be two different people and that the nurse-midwife could satisfy the requirement in this section by having an other, attending, provider inform the woman of the potential negative effects to the unborn child? If so, who is permitted to be an "attending provider" ✓

INSERT  
2-1 3  
move to  
previous  
page) 5

**SECTION 3.** 441.15 (1) (am) of the statutes is created to read:  
441.15 (1) (am) "Nurse-midwife" ✓ means a person licensed under this section to engage in the practice of nurse-midwifery.  
\*\*\*\*NOTE: I have added a definition for "nurse-midwife" because the specific statutes governing a person permitted to practice nurse-midwifery do not provide for such a definition. Okay?

6 **SECTION 4.** 448.02 (3) (a) of the statutes is amended to read:  
7 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct  
8 and negligence in treatment by persons holding a license, certificate, or limited  
9 permit granted by the board. An allegation that a physician has violated s. 253.10

1 (3), 448.30, ~~448.35~~<sup>✓</sup> or 450.13 (2); or has failed to mail or present a medical  
2 certification required under s. 69.18 (2) within 21 days after the pronouncement of  
3 death of the person who is the subject of the required certificate; or that a physician  
4 has failed at least 6 times within a 6-month period to mail or present a medical  
5 certificate required under s. 69.18 (2) within 6 days after the pronouncement of death  
6 of the person who is the subject of the required certificate is an allegation of  
7 unprofessional conduct. Information contained in reports filed with the board under  
8 s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17, or 632.715, or under 42 CFR 1001.2005, shall  
9 be investigated by the board. Information contained in a report filed with the board  
10 under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of  
11 negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the  
12 discretion of the board, be used as the basis of an investigation of a person named in  
13 the report. The board may require a person holding a license, certificate, or limited  
14 permit to undergo, and may consider the results of, one or more physical, mental, or  
15 professional competency examinations if the board believes that the results of any  
16 such examinations may be useful to the board in conducting its investigation.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, ~~374~~, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382.

17 **SECTION 5.** 448.35 of the statutes is created to read:

18 **448.35 Informed consent for certain elective procedures.** No physician  
19 may perform an elective Caesarean section or an elective procedure intended to  
20 induce labor in a pregnant woman prior to 39 weeks gestation<sup>✓</sup> unless the physician  
21 has first obtained the informed consent of the woman. A woman's consent is  
22 informed for purposes of this section<sup>✓</sup> only if she receives timely information orally  
23 and in person from the physician regarding potential negative effects to the fetus of  
24 early delivery, including long-term learning and behavioral problems.<sup>✓</sup>

\* \*\*\*\*NOTE: Please see the note under proposed s. 441.15 (4m) regarding the meaning of "39 weeks gestation"

\*\*\*\*NOTE: The drafting instructions used the phrase "attending provider." I eliminated the word, attending, and replaced provider with physician. Okay? Or was it your intent that the attending provider and the physician could be two different people and that the physician could satisfy the requirement in this section by having an other, attending, provider inform the woman of the potential negative effects to the unborn child? If so, who is permitted to be an "attending provider?"

1 SECTION 6. 448.40 (2) (am) of the statutes is created to read:

2 448.40 (2) (am) Defining "elective" for purposes of s. 448.35 and implementing  
3 that section.

4 (END)

D-note  
↓

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

date

PI  
LRB-4124/3dn  
TKK:.....

↑  
jld

ATTN: Rachel Letzing

Joint Legislative Council's Special Committee on Infant Mortality ✓

Please be aware that, while this draft regulates the performance by nurse-midwives licensed under s. 441.15 ✓ and physicians licensed under s. 448.02 ✓ of certain elective procedures involving a fetus, the bill does not similarly regulate the performance of those elective procedures by a person granted a license to engage in the practice of midwifery under subch. XIII of ch. 440. ✓

Also, please note that I have embedded several drafter's notes, with questions, in the text of the bill. Let me know if you or the Committee wish to make any changes to the bill. \*

Tracy K. Kuczenski  
Legislative Attorney  
Phone: (608) 266-9867  
E-mail: [tracy.kuczenski@legis.wisconsin.gov](mailto:tracy.kuczenski@legis.wisconsin.gov)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4124/P1dn  
TKK:jld:jf

February 20, 2012

ATTN: Rachel Letzing

Joint Legislative Council's Special Committee on Infant Mortality

Please be aware that, while this draft regulates the performance by nurse-midwives licensed under s. 441.15 and physicians licensed under s. 448.02 of certain elective procedures involving a fetus, the bill does not similarly regulate the performance of those elective procedures by a person granted a license to engage in the practice of midwifery under subch. XIII of ch. 440.

Also, please note that I have embedded several drafter's notes, with questions, in the text of the bill. Let me know if you or the Committee wish to make any changes to the bill.

Tracy K. Kuczenski  
Legislative Attorney  
Phone: (608) 266-9867  
E-mail: [tracy.kuczenski@legis.wisconsin.gov](mailto:tracy.kuczenski@legis.wisconsin.gov)

**Kuczenski, Tracy**

---

**From:** Matthias, Mary  
**Sent:** Thursday, February 23, 2012 11:51 AM  
**To:** Kuczenski, Tracy  
**Cc:** Letzing, Rachel; Mautz, Kelly  
**Subject:** FW: Draft review: LRB 11-4124/P1 Topic: Requiring informed consent for performance of certain procedures prior to full gestational term of fetus  
**Attachments:** LRB-4124\_P1; LRB-4124\_P1 Drafters\_Note

Tracey-

Thanks for the draft.

In response your drafter's note: I don't think the draft needs to address licensed midwives since they are prohibited from administering labor inducing agents (s. SPS 182.03(6)(a)) and from performing C-sections (s. SPS 182.03(6)(f)).

In response to the embedded notes:

Page 2-added definition of nurse-midwife. Great-thanks!

Page 3-not including prohibition against nurse-midwives performing C-sections. I agree with you that it should not be included. Draft is good as is.

Page 3 and 4-"39 weeks gestation" issue. I agree with your analysis and suggestion to refer to "gestational period of 39 weeks". Please make that change to the draft in both places. thanks!

Page 3- "timely". the committee didn't discuss what that meant by "timely" so I think we should leave it as is.

Page 3 and 4- elimination of "attending provider" and instead using "nurse-midwife" and "physician". I think it is good as you drafted it. Makes it clear whose responsibility it is to inform.

Thank you!

Mary

**Mary Matthias**

Senior Staff Attorney

Wisconsin Legislative Council Staff

Ph.(608)266-0932;Fax (608)266-3830

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**From:** Letzing, Rachel  
**Sent:** Monday, February 20, 2012 11:11 AM  
**To:** Matthias, Mary  
**Subject:** FW: Draft review: LRB 11-4124/P1 Topic: Requiring informed consent for performance of certain

2/23/2012

procedures prior to full gestational term of fetus

here is the last MORT draft, could you take a look? thanks.

---

**From:** LRB.Legal

**Sent:** Monday, February 20, 2012 10:51 AM

**To:** Letzing, Rachel

**Subject:** Draft review: LRB 11-4124/P1 Topic: Requiring informed consent for performance of certain procedures prior to full gestational term of fetus

**Following is the PDF version of draft LRB 11-4124/P1 and drafter's note.**



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-4124/P1 P2  
TKK:jld:jf  
RAMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2/23/12

Today

X

Gen

- 1 AN ACT *to amend* 441.15 (3) (c) and 448.02 (3) (a); and *to create* 441.15 (1) (am),
- 2 441.15 (4m), 448.35 and 448.40 (2) (am) of the statutes; **relating to:** requiring
- 3 informed consent for performance of certain elective procedures prior to the full
- 4 gestational term of a fetus.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

anal. notes  
competent

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Infant Mortality.

Under current law, any physician who treats a patient must inform the patient about the availability of all alternate, viable medical modes of treatment and about the benefits and risks of these treatments. A physician who violates this requirement is subject to discipline by the Medical Examining Board (MEB) for unprofessional conduct. If the MEB finds that the physician has engaged in unprofessional conduct, the MEB may warn or reprimand the physician, or limit, suspend, or revoke any license, certificate, or limited permit granted to the physician. The statutes direct the MEB to promulgate rules implementing this requirement. Those rules are found at Chapter Med. 18 of the Wisconsin Administrative Code.

Under current law, there is no requirement that a mother be specifically informed about possible negative effects to her infant of inducing labor or performing a Caesarean section prior to full gestational term.

✓ before the completion of a gestational period of

This bill prohibits a physician from performing an elective Caesarean section or an elective procedure intended to induce labor in a woman prior to 39 weeks gestation unless the physician has first obtained the informed consent of the woman. The bill specifies that a woman's consent is informed only if she receives timely information orally and in person from the physician regarding potential negative effects to the child of early delivery, including long-term learning and behavioral problems.

Under the bill, persons who violate the newly created prohibition are subject to the same penalties and discipline as persons who violate the duty to provide information on alternate modes of treatment. Specifically, the MEB may warn or reprimand the physician, or limit, suspend, or revoke any license, certificate, or limited permit granted by the MEB to the physician.

The bill directs the MEB to promulgate rules implementing the provisions of the newly created prohibition and to define "elective" for purposes of the prohibition.

before the completion of a gestational period of ✓

The bill also prohibits a person licensed by the Board of Nursing (board) to practice nurse-midwifery from performing an elective procedure intended to induce labor in a woman prior to 39 weeks gestation unless the nurse-midwife has first obtained the informed consent of the woman. The bill specifies that a woman's consent is informed only if she receives timely information regarding potential negative effects to the child of early delivery, including long-term learning and behavioral problems. A nurse-midwife who is found to have violated the prohibition may be subject to discipline by the board, including the suspension, revocation or limiting of the nurse-midwife's license.

1 SECTION 1. 441.15 (1) (am) of the statutes is created to read:

2 441.15 (1) (am) "Nurse-midwife" means a person licensed under this section  
3 to engage in the practice of nurse-midwifery.

ⓔ \*\*\*\*\*NOTE: I have added a definition for "nurse-midwife" because the specific statutes governing a person permitted to practice nurse-midwifery do not provide for such a definition. Okay?

4 SECTION 2. 441.15 (3) (c) of the statutes is amended to read:

5 441.15 (3) (c) The board shall promulgate rules necessary to administer this  
6 section, including the establishment of appropriate limitations on the scope of the  
7 practice of nurse-midwifery, the facilities in which such practice may occur, the  
8 definition of "elective" for purposes of the prohibition in sub. (4m), and the granting  
9 of temporary permits to practice nurse-midwifery pending qualification for  
10 certification.

11 SECTION 3. 441.15 (4m) of the statutes is created to read:

12 441.15 (4m) No nurse-midwife may perform an elective procedure intended  
13 to induce labor in a pregnant woman prior to 39 weeks gestation unless the

✓ before the completion of a gestational period of

1 nurse-midwife has first obtained the informed consent of the woman. A woman's  
2 consent is informed for purposes of this subsection only if she receives timely  
3 information orally and in person from the nurse-midwife regarding potential  
4 negative effects to the fetus of early delivery, including long-term learning and  
5 behavioral problems.

6  
6 (6) **NOTE:** The language proposed for this section prohibited a nurse-midwife from performing "an elective Caesarean section" without first obtaining the informed consent of the mother. I don't believe the national standards of practice applicable to nurse-midwives or the scope of practice under the laws of this state permit them to perform Caesarean sections under any circumstances, much less elective Caesarean sections. See, for example, Wis. Admin. Code s. N 4.07 (2), which explicitly prohibits a nurse-midwife licensed in this state from performing "delivery by forceps or Caesarean section." Including permissive language upon informed consent conflicts with current law and could therefore cause confusion. For that reason, I did not include that particular language.

**NOTE:** The phrase "39 weeks gestation" may be confusing. In general, gestation means the carrying of an embryo or fetus from conception to birth, and the "gestational period" is the time that it takes to pass between these two markers; a normal gestational period falls anywhere between 38 to 42 weeks. Additionally, the "gestational age" of a fetus is the time a fetus has spent developing in the mother. Both the gestational period and the gestational age of a fetus are commonly determined by referring back to the date of the mother's last menstrual period. Is it the Committee's intent that gestation be marked from the date of the mother's last menstrual period? If so, it may be clearer to refer to "a gestational period of 39 weeks." If that is not the Committee's intent, it may be helpful to define "gestation."

**NOTE:** Do you want to specify what "timely" means in this section and in proposed s. 448.35?

**NOTE:** The drafting instructions used the phrase "attending provider." I eliminated the word, attending, and replaced provider with nurse-midwife. Okay? Or was it your intent that the attending provider and the nurse-midwife could be two different people and that the nurse-midwife could satisfy the requirement in this section by having an other, attending, provider inform the woman of the potential negative effects to the unborn child? If so, who is permitted to be an "attending provider"?

6 SECTION 4. 448.02 (3) (a) of the statutes is amended to read:  
7 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct  
8 and negligence in treatment by persons holding a license, certificate, or limited  
9 permit granted by the board. An allegation that a physician has violated s. 253.10  
10 (3), 448.30, ~~448.35~~, or 450.13 (2); or has failed to mail or present a medical  
11 certification required under s. 69.18 (2) within 21 days after the pronouncement of

1 death of the person who is the subject of the required certificate; or that a physician  
2 has failed at least 6 times within a 6-month period to mail or present a medical  
3 certificate required under s. 69.18 (2) within 6 days after the pronouncement of death  
4 of the person who is the subject of the required certificate is an allegation of  
5 unprofessional conduct. Information contained in reports filed with the board under  
6 s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17, or 632.715, or under 42 CFR 1001.2005, shall  
7 be investigated by the board. Information contained in a report filed with the board  
8 under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of  
9 negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the  
10 discretion of the board, be used as the basis of an investigation of a person named in  
11 the report. The board may require a person holding a license, certificate, or limited  
12 permit to undergo, and may consider the results of, one or more physical, mental, or  
13 professional competency examinations if the board believes that the results of any  
14 such examinations may be useful to the board in conducting its investigation.

15 **SECTION 5.** 448.35 of the statutes is created to read:

16 **448.35 Informed consent for certain elective procedures.** No physician  
17 may perform an elective Caesarean section or an elective procedure intended to  
18 induce labor in a pregnant woman <sup>before the completion of a gestational period of</sup> prior to 39 weeks gestation unless the physician  
19 has first obtained the informed consent of the woman. A woman's consent is  
20 informed for purposes of this section only if she receives timely information orally  
21 and in person from the physician regarding potential negative effects to the fetus of  
22 early delivery, including long-term learning and behavioral problems.

6 **NOTE:** Please see the note under proposed s. 441.15 (4m) regarding the meaning of "39 weeks gestation".

**NOTE:** The drafting instructions used the phrase "attending provider." I eliminated the word, attending, and replaced provider with physician. Okay? Or was it your intent that the attending provider and the physician could be two different people

and that the physician could satisfy the requirement in this section by having an other, attending, provider inform the woman of the potential negative effects to the unborn child? If so, who is permitted to be an "attending provider."

1  
2  
3  
4

**SECTION 6.** 448.40 (2) (am) of the statutes is created to read:

448.40 (2) (am) Defining "elective" for purposes of s. 448.35 and implementing that section.

(END)



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-4124/P2  
TKK:jld:jf

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 **AN ACT to amend** 441.15 (3) (c) and 448.02 (3) (a); and **to create** 441.15 (1) (am),  
2 441.15 (4m), 448.35 and 448.40 (2) (am) of the statutes; **relating to:** requiring  
3 informed consent for performance of certain elective procedures prior to the full  
4 gestational term of a fetus.

---

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

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

---

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Infant Mortality.

Under current law, any physician who treats a patient must inform the patient about the availability of all alternate, viable medical modes of treatment and about the benefits and risks of these treatments. A physician who violates this requirement is subject to discipline by the Medical Examining Board (MEB) for unprofessional conduct. If the MEB finds that the physician has engaged in unprofessional conduct, the MEB may warn or reprimand the physician, or limit, suspend, or revoke any license, certificate, or limited permit granted to the physician. The statutes direct the MEB to promulgate rules implementing this requirement. Those rules are found at Chapter Med. 18 of the Wisconsin Administrative Code.

Under current law, there is no requirement that a mother be specifically informed about possible negative effects to her infant of inducing labor or performing a Caesarean section prior to full gestational term.

This bill prohibits a physician from performing an elective Caesarean section or an elective procedure intended to induce labor in a woman before the completion of a gestational period of 39 weeks unless the physician has first obtained the informed consent of the woman. The bill specifies that a woman's consent is informed only if she receives timely information orally and in person from the physician regarding potential negative effects to the child of early delivery, including long-term learning and behavioral problems.

Under the bill, persons who violate the newly created prohibition are subject to the same penalties and discipline as persons who violate the duty to provide information on alternate modes of treatment. Specifically, the MEB may warn or reprimand the physician, or limit, suspend, or revoke any license, certificate, or limited permit granted by the MEB to the physician.

The bill directs the MEB to promulgate rules implementing the provisions of the newly created prohibition and to define "elective" for purposes of the prohibition.

The bill also prohibits a person licensed by the Board of Nursing (board) to practice nurse-midwifery from performing an elective procedure intended to induce labor in a woman before the completion of a gestational period of 39 weeks unless the nurse-midwife has first obtained the informed consent of the woman. The bill specifies that a woman's consent is informed only if she receives timely information regarding potential negative effects to the child of early delivery, including long-term learning and behavioral problems. A nurse-midwife who is found to have violated the prohibition may be subject to discipline by the board, including the suspension, revocation or limiting of the nurse-midwife's license.

1           **SECTION 1.** 441.15 (1) (am) of the statutes is created to read:

2           441.15 (1) (am) "Nurse-midwife" means a person licensed under this section  
3 to engage in the practice of nurse-midwifery.

4           **SECTION 2.** 441.15 (3) (c) of the statutes is amended to read:

5           441.15 (3) (c) The board shall promulgate rules necessary to administer this  
6 section, including the establishment of appropriate limitations on the scope of the  
7 practice of nurse-midwifery, the facilities in which such practice may occur, the  
8 definition of "elective" for purposes of the prohibition in sub. (4m), and the granting  
9 of temporary permits to practice nurse-midwifery pending qualification for  
10 certification.

11           **SECTION 3.** 441.15 (4m) of the statutes is created to read:

12           441.15 (4m) No nurse-midwife may perform an elective procedure intended  
13 to induce labor in a pregnant woman before the completion of a gestational period  
14 of 39 weeks unless the nurse-midwife has first obtained the informed consent of the

1 woman. A woman's consent is informed for purposes of this subsection only if she  
2 receives timely information orally and in person from the nurse-midwife regarding  
3 potential negative effects to the fetus of early delivery, including long-term learning  
4 and behavioral problems.

5 **SECTION 4.** 448.02 (3) (a) of the statutes is amended to read:

6 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct  
7 and negligence in treatment by persons holding a license, certificate, or limited  
8 permit granted by the board. An allegation that a physician has violated s. 253.10  
9 (3), ~~448.30, 448.35,~~ or 450.13 (2); or has failed to mail or present a medical  
10 certification required under s. 69.18 (2) within 21 days after the pronouncement of  
11 death of the person who is the subject of the required certificate; or that a physician  
12 has failed at least 6 times within a 6-month period to mail or present a medical  
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15 unprofessional conduct. Information contained in reports filed with the board under  
16 s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17, or 632.715, or under 42 CFR 1001.2005, shall  
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18 under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of  
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20 discretion of the board, be used as the basis of an investigation of a person named in  
21 the report. The board may require a person holding a license, certificate, or limited  
22 permit to undergo, and may consider the results of, one or more physical, mental, or  
23 professional competency examinations if the board believes that the results of any  
24 such examinations may be useful to the board in conducting its investigation.

25 **SECTION 5.** 448.35 of the statutes is created to read:

1           **448.35 Informed consent for certain elective procedures.** No physician  
2 may perform an elective Caesarean section or an elective procedure intended to  
3 induce labor in a pregnant woman before the completion of a gestational period of 39  
4 weeks unless the physician has first obtained the informed consent of the woman.  
5 A woman's consent is informed for purposes of this section only if she receives timely  
6 information orally and in person from the physician regarding potential negative  
7 effects to the fetus of early delivery, including long-term learning and behavioral  
8 problems.

9           **SECTION 6.** 448.40 (2) (am) of the statutes is created to read:

10           448.40 (2) (am) Defining "elective" for purposes of s. 448.35 and implementing  
11 that section.

12

(END)