2013 DRAFTING REQUEST

Bill

Received:	**1/3/2014**	Received By:	**tdodge**
Wanted:	**As time permits**	Same as LRB:	**-1676**
For:	**Erik Severson (608) 267-2365**	By/Representing:	**AJ Scholz**
May Contact:		Drafter:	**tdodge**
Subject:	**Health - social services**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Rep.Severson@legis.wisconsin.gov**
Carbon copy (CC) to: **tamara.dodge@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Charity care services by out-of-state health care providers

Instructions:

Companion to SB 391

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/1	tdodge 1/3/2014	jdyer 1/6/2014		_____ _____	mbarman 1/6/2014	srose 1/6/2014	State S&L

FE Sent For:

At Intro.

<END>

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/1	tdodge	/1 1/6 jld	jd	_____			State
				_____			S&L

FE Sent For:

<END>

Dodge, Tamara

From: Scholz, AJ
Sent: Friday, January 03, 2014 10:36 AM
To: Dodge, Tamara
Cc: Cady, Dean
Subject: RE: SB 391 / Assembly companion

Hey Tami,

If you could put together an assembly companion to SB 391 for us that would be greatly appreciated.

Thanks for your help

AJ Scholz
Office of Representative Erik Severson
608-267-2365
221 North, State Capitol

From: Cady, Dean
Sent: Friday, January 03, 2014 10:13 AM
To: Dodge, Tamara
Cc: Scholz, AJ
Subject: FW: SB 391 / Assembly companion

Hey Tami, this is deano from Senator Vukmir's office. AJ from Rep Severson's office will be contacting you to draft an assembly companion to SB 391.
Thankx a mil.
deano

From: Scholz, AJ
Sent: Thursday, January 02, 2014 9:55 AM
To: Cady, Dean
Subject: RE: SB 391 / Assembly companion

Hey Dean,

We should be able to do that. Can you authorize the drafter, if you haven't already, to let us get an Assembly version? Then I'll send the jacket over as soon as we get it.

Sorry for the delay on this.

AJ Scholz
Office of Representative Erik Severson
608-267-2365
221 North, State Capitol

From: Cady, Dean
Sent: Friday, December 27, 2013 11:55 AM
To: Scholz, AJ
Cc: Wall, Kristen
Subject: SB 391 / Assembly companion

Hey AJ, deano here.
Leah asked me to check with you to see when you guys would be introducing the Assembly companion to SB 391, Charity Care. The Senate Health Committee voted it out on Dec 19th, 5 – 0, and will hit the Senate floor likely in January. Leah was hoping that you guys could have a hearing on the Assembly version and simply take the Senate Bill off-message and concur.
Anyhoo, keep me posted.
Thankx a mil.
deano

State of Wisconsin
2013 – 2014 LEGISLATURE

In: 1/3 Due Soon

LRB-1676/3 3899/1
TJD:jld&sac:rs
Keep Companion redraft mater run

2013 SENATE BILL 391

November 4, 2013 – Introduced by Senator VUKMIR, cosponsored by Representative SEVERSON. Referred to Committee on Health and Human Services.

Companion - no changes Regen

AN ACT ***to amend*** 146.89 (2) (a), 146.89 (4), 165.25 (6) (b), 655.003 (3), 893.82 (2) (d) 1m. and 895.46 (5) (a); and ***to create*** 146.89 (1) (r) 5., 146.89 (2) (am), 146.89 (2) (br), 146.89 (3) (e) to (i) and 146.89 (5) of the statutes; **relating to:** allowing health care providers licensed outside the state to participate in and requirements on nonprofit agencies in the volunteer health care provider program.

Analysis by the Legislative Reference Bureau

Under current law, certain individuals may serve as volunteer health care providers by providing services through a nonprofit agency or for a school board or school governing body while receiving no income from the practice of his or her health profession. Currently, a licensed physician, a licensed dentist, a licensed dental hygienist, a registered nurse, a practical nurse, a nurse–midwife, an optometrist, a physician assistant, a pharmacist, a chiropractor, a podiatrist, a physical therapist, a certified dietician, a nurse practitioner, or an individual who performs functions of a pharmacy technician may serve as a volunteer health care provider under the program. To participate in the volunteer health care provider program, a health care professional must submit a joint application with a nonprofit agency, school board, or school governing body to the Department of Administration (DOA), which may approve the application. A volunteer health care provider providing services through a nonprofit agency must provide services, except for dental services, without

charge and is limited under current law to providing certain services. A volunteer health care provider seeking to provide services for a school board or school governing body must meet certain requirements and consult with any school nurse and may only provide certain services to certain students without charge at the school.

Current law makes a volunteer health care provider providing services under the program an agent of the state for certain purposes including representation by the attorney general in a civil action or other matter brought before a court or administrative agency; mandatory filing of a notice of claim before bringing a civil claim against the agent; and payment by the state of a judgment of damages and costs against the agent when found to be acting within the scope of employment.

This bill allows an individual who holds a valid, unexpired license, certification, or registration issued by another state or territory that authorizes or qualifies the individual to perform acts that are substantially the same as those acts that an individual who is currently allowed to volunteer in the program is licensed or certified to perform and who performs acts that are within the scope of that license, certification, or registration (out–of–state volunteer) to participate in the volunteer health care provider program. An applicant who is licensed, certified, or registered in a state outside of Wisconsin may only make a joint application with a nonprofit agency, and thus, may not provide volunteer services under the program at a school. The bill prohibits the DOA from disapproving an application based solely on the nonprofit agency being organized under the laws of a state other than Wisconsin. The bill also prohibits an out–of–state volunteer from providing services under the program for more than 60 days in any 90 day period. Under the bill, however, an out–of–state volunteer who has sufficient liability insurance coverage and who submits a joint application with a nonprofit agency that has sufficient liability coverage is not an agent of the state for liability purposes. Instead the bill provides that an out–of–state volunteer who meets those criteria is not liable for any civil damages for any act or omission resulting from providing services through the volunteer health care provider program, unless the act or omission is the result of the out–of–state volunteer's gross negligence or willful misconduct or the act or omission violates a state statute or rule.

The bill places requirements on the nonprofit agencies that apply jointly with health care professionals to participate in the volunteer health care provider program. Under the bill, the nonprofit agency must assume responsibility for approving the health care professionals and must research and validate the credentials of those health care professionals before submitting the joint application to be a volunteer health care provider. The bill requires the nonprofit agency to enter the list of volunteer health care providers providing services at that agency into an online, electronic system that is developed by DOA. The bill requires the nonprofit agency to monitor its volunteer health care providers and terminate a provider's participation in the program when the agency questions the provider's credentials or disapproves of the practices of that provider. The bill also requires the nonprofit agency to prepare and submit to DOA an annual report including the types and number of health care services provided by the nonprofit agency under the program.

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

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

1 **SECTION 1.** 146.89 (1) (r) 5. of the statutes is created to read:

2 146.89 **(1)** (r) 5. An individual who holds a valid, unexpired license,
3 certification, or registration issued by another state or territory that authorizes or
4 qualifies the individual to perform acts that are substantially the same as those acts
5 that an individual who is described in subds. 1. to 4. is licensed or certified to perform
6 and who performs acts that are within the scope of that license, certification, or
7 registration.

8 **SECTION 2.** 146.89 (2) (a) of the statutes is amended to read:

9 146.89 **(2)** (a) ~~A~~ Subject to par. (am), a volunteer health care provider may
10 participate under this section only if he or she submits a joint application with a
11 nonprofit agency, school board, or governing body to the department of
12 administration and that department approves the application. If the volunteer
13 health care provider submits a joint application with a school board or governing
14 body, the application shall include a statement by the school board or governing body
15 that certifies that the volunteer health care provider has received materials that
16 specify school board or governing body policies concerning the provision of health
17 care services to students and has agreed to comply with the policies. The department
18 of administration shall provide application forms for use under this paragraph.

19 **SECTION 3.** 146.89 (2) (am) of the statutes is created to read:

1 146.89 **(2)** (am) 1. A volunteer health care provider described in sub. (1) (r) 5.
2 may submit a joint application only with a nonprofit agency to participate under this
3 section.
4 2. No volunteer health care provider described in sub. (1) (r) 5. may provide
5 services under this section for more then 60 days in any 90 day period.
6 **SECTION 4.** 146.89 (2) (br) of the statutes is created to read:
7 146.89 **(2)** (br) The department of administration may not disapprove the
8 application solely on the basis that the nonprofit agency is organized under the laws
9 of a state other than this state.
10 **SECTION 5.** 146.89 (3) (e) to (i) of the statutes are created to read:
11 146.89 **(3)** (e) Under this section, the nonprofit agency shall assume
12 responsibility for approving individuals to be volunteer health care providers.
13 (f) Under this section, the nonprofit agency shall research and validate an
14 individual's credentials before submitting the joint application to be a volunteer
15 health care provider.
16 (g) The nonprofit agency shall enter the list of volunteer health care providers
17 providing services at that nonprofit agency into an online, electronic system
18 developed by the department of administration.
19 (h) The nonprofit agency shall monitor volunteer health care providers
20 providing services at that nonprofit agency and shall terminate a provider's
21 participation in the program under this section with that nonprofit agency when the
22 agency questions the credentials of that provider or when the agency disapproves of
23 the practices of that provider.

(i) The nonprofit agency shall prepare and submit to the department of administration an annual report that includes the types and number of health care services provided by the nonprofit agency under this section.

SECTION 6. 146.89 (4) of the statutes is amended to read:

146.89 **(4)** ~~Volunteer~~ Except as provided in sub. (5), volunteer health care providers who provide services under this section are, for the provision of these services, state agents of the department of health services for purposes of ss. 165.25 (6), 893.82 (3) and 895.46. This state agency status applies regardless of whether the volunteer health care provider has coverage under a policy of health care liability insurance that would extend to services provided by the volunteer health care provider under this section; and the limitations under s. 895.46 (1) (a) on the payment by the state of damages and costs in excess of any insurance coverage applicable to the agent and on the duty of a governmental unit to provide or pay for legal representation do not apply. Any policy of health care liability insurance providing coverage for services of a health care provider may exclude coverage for services provided by the health care provider under this section.

SECTION 7. 146.89 (5) of the statutes is created to read:

146.89 **(5)** (a) A volunteer health care provider who meets all of the following criteria is not a state agent under sub. (4):

1. The volunteer health care provider is described in sub. (1) (r) 5.

2. The volunteer health care provider has sufficient liability insurance coverage, as determined by the department of health services.

3. The volunteer health care provider submits a joint application with a nonprofit agency that has sufficient liability coverage, as determined by the department of health services.

(b) A volunteer health care provider described in par. (a) is not liable for any civil damages for any act or omission resulting from providing services under this section, unless any of the following are true:

1. The act or omission is the result of the volunteer health care provider's gross negligence or willful misconduct.

2. The act or omission violates a state statute or rule.

SECTION 8. 165.25 (6) (b) of the statutes is amended to read:

165.25 **(6)** (b) Volunteer health care providers who provide services under s. 146.89, except those described in s. 146.89 (5) (a), practitioners who provide services under s. 257.03, and health care facilities on whose behalf services are provided under s. 257.03 are, for the provision of those services, covered by this section and shall be considered agents of the department of health services for purposes of determining which agency head may request the attorney general to appear and defend them.

SECTION 9. 655.003 (3) of the statutes is amended to read:

655.003 **(3)** ~~A~~ Except for a physician or nurse anesthetist who meets the criteria under s. 146.89 (5) (a), a physician or a nurse anesthetist who provides professional services under the conditions described in s. 146.89, with respect to those professional services provided by the physician or nurse anesthetist for which he or she is covered by s. 165.25 and considered an agent of the department, as provided in s. 165.25 (6) (b).

SECTION 10. 893.82 (2) (d) 1m. of the statutes is amended to read:

893.82 **(2)** (d) 1m. A volunteer health care provider who provides services under s. 146.89, except a volunteer health care provider described in s. 146.89 (5) (a), for the provision of those services.

1 **SECTION 11.** 895.46 (5) (a) of the statutes is amended to read:

2 895.46 **(5)** (a) A volunteer health care provider who provides services under s.
3 146.89, <u>except a volunteer health care provider described in s. 146.89 (5) (a),</u> for the
4 provision of those services.

5 **(END)**

Rose, Stefanie

From: Scholz, AJ
Sent: Monday, January 06, 2014 8:59 AM
To: LRB.Legal
Subject: Draft Review: LRB -3899/1 Topic: Charity care services by out-of-state health care providers

Please Jacket LRB -3899/1 for the ASSEMBLY.