CHAPTER 253

MATERNAL AND CHILD HEALTH

Cross−reference: See definitions in s. 250.01.

253.01 Definition. In this chapter, "division" means the division within the department that has primary responsibility for health issues.

History: 1993 a. 27.

253.02 Department; powers and duties. (1) In this section:

(a) "Children with special health care needs" means children who have health problems that require intervention beyond routine and basic care, including children with or at risk for disabilities, chronic illnesses and conditions, health−related educational problems and health−related behavioral problems.

(b) "Preventive health services for children" includes assessment and appropriate follow−up regarding a child's growth and development, immunization status, nutrition, vision and hearing.

(2) The department shall maintain a maternal and child health program within the division, to promote the reproductive health of individuals and the growth, development, health and safety of infants, children and adolescents. The program shall include all of the following:

(a) Reproductive health services, including health services prior to conception and family planning services, as defined in s. 253.07 (1) (b).

(b) Pregnancy−related services to pregnant women from the time of confirmation of the pregnancy through the maternal postpartum period, including pregnancy information, referral and follow−up, early identification of pregnancy and prenatal services.

(c) Infant and preschool health services to children from birth to 5 years of age, including neonatal health services, preventive health services for children and parent education and support services.

(d) Child and adolescent health services to promote the physical and psychosocial health of children and adolescents, including preventive health services for children, adolescent health services, teen pregnancy prevention services, alcohol and other drug abuse prevention and mental health−related services.

(e) General maternal and child health services, including health education, oral health, nutrition, childhood and adolescent injury prevention and family health benefits counseling.

(f) Health services to children with special health care needs.

(g) Maternal and child health system coordination services that promote coordination of public and private sector activities in areas of the maternal and child health program described in pars. (a) to (f).

(2m) Nothing in this section authorizes the performance, promotion, encouragement or counseling in favor of, or referral either directly or through an intermediary for, voluntary termination of pregnancy. Nothing in this section prohibits the providing of nondirective information explaining any of the following:

(a) Prenatal care and delivery.

(b) Infant care, foster care or adoption.

(c) Pregnancy termination.

(3) The department shall designate a subunit within the division to have responsibility for the maternal and child health program. The subunit shall be comprised of an adequate number of interdisciplinary professional staff with expertise in maternal and child health who will assume responsibility for all of the following:

(a) Planning, coordination, data collection and evaluation of the program.

(b) Providing consultation and technical assistance to local health professionals.

(c) Coordinating the program activities with related activities conducted under the authority of other state and federal agencies.

(4) The department shall collaborate with community−based organizations that serve children, adolescents, and their families to promote health and wellness, and to reduce childhood and adolescent obesity.

History: 1993 a. 27; 1997 a. 27, 164; 2007 a. 20.

253.03 State plan; reports. The department shall prepare and submit to the proper federal authorities a state plan for maternal and child health services. The plan shall conform with all requirements governing federal aid for this purpose and shall be designed to secure for this state the maximum amount of federal aid which can be secured on the basis of the available state, county, and local appropriations. The department shall make such reports, in such form and containing such information, as may from time to time be required by the federal authorities and shall comply with all provisions that may be prescribed to assure the correctness and verification of the reports. The secretary may appoint a maternal and child health program advisory committee under s. 15.04 (1) (c) to assist the department in meeting the requirements of this section.

History: 1993 a. 27 s. 369.

253.04 Private rights. No official, agent or representative of the department may, under this section, enter any home over the objection of the owner or take charge of any child over the objection of the parent or of the person standing in the place of a parent or having custody of the child. Nothing in this section may be construed to limit the power of a parent, guardian or person standing in the place of a parent to determine what treatment or correction shall be provided for a child or the agency to be employed for that purpose.

History: 1993 a. 27 s. 370.

253.05 Federal funds. The department shall use sufficient funds from the appropriation under s. 20.435 (1) (a) for the promotion of the welfare and hygiene of maternity and infancy to match federal funds received by the state.

History: 1993 a. 27 s. 371.

253.07 Family planning. (1) DEFINITIONS. In this section:

(a) "Family planning" means voluntary action by individuals to prevent or aid conception. "Family planning" does not include the performance, promotion, encouragement or counseling in favor of, or referral either directly or through an intermediary for, voluntary termination of pregnancy, but may include the providing of nondirective information explaining any of the following:

1. Prenatal care and delivery.
2. Infant care, foster care or adoption.
3. Pregnancy termination.

(b) "Family planning services" mean counseling by trained personnel regarding family planning; distribution of information relating to family planning; and referral to licensed nurse practitioners within the scope of their practice, licensed physicians or local health departments for consultation, examination, medical treatment and prescriptions for the purpose of family planning. "Family planning" does not include the performance, promotion, encouragement or counseling in favor of, or referral either directly or through an intermediary for, voluntary termination of pregnancy, but may include the providing of nondirective information explaining any of the following:

1. Prenatal care and delivery.
2. Infant care, foster care or adoption.
3. Pregnancy termination.

(2) DEPARTMENT'S DUTIES. (a) The department shall provide for delivery of family planning services throughout the state by developing and by annually reviewing and updating a state plan for community−based family planning programs.

(b) The department shall allocate state and federal family planning funds under its control in a manner which will promote the development and maintenance of an integrated system of community health services. It shall maximize the use of existing community family planning services by encouraging local contractual arrangements.

(c) The department shall coordinate the delivery of family planning services by allocating family planning funds in a manner which maximizes coordination between the agencies.

(d) The department shall encourage maximum coordination of family planning services between county social services departments, family planning agencies and local health departments to maximize the use of health, social service and welfare resources.

(e) The department shall promulgate all rules necessary to implement and administer this section.

(3) INDIVIDUAL RIGHTS, MEDICAL PRIVILEGE. (a) The request of any person for family planning services or his or her refusal to accept any service shall in no way affect the right of the person to receive public assistance, public health services or any other public service. Nothing in this section may abridge the right of the individual to make decisions concerning family planning, nor may any individual be required to state his or her reason for refusing any offer of family planning services.

(b) Any employee of the agencies engaged in the administration of the provisions of this section may refuse to accept the duty of offering family planning services to the extent that the duty is contrary to his or her personal beliefs. A refusal may not be grounds for dismissal, suspension, demotion, or any other discrimination in employment. The directors or supervisors of the agencies shall reassign the duties of employees in order to carry out the provisions of this section.

(c) All information gathered by any agency, entity or person conducting programs in family planning, other than statistical information compiled without reference to the identity of any individual or other information which the individual allows to be released through his or her informed consent, shall be considered a confidential medical record.

(4) FAMILY PLANNING SERVICES. From the appropriation under s. 20.435 (5) (f), the department shall allocate funds in the following amounts, for the following services:

(a) For each fiscal year, $225,000 to establish and maintain 2 city−based clinics for delivery of family planning services under this section, in the cities of Milwaukee, Racine or Kenosha.

(b) For each fiscal year, $67,500 to subsidize the provision by family planning agencies under this section of papanicolaou tests to individuals with low income. In this paragraph, "low income" means adjusted gross income that is less than 200% of the poverty line established under 42 USC 9902 (2).

(c) For each fiscal year, $54,000 to subsidize the provision by family planning agencies under this section of follow−up cancer screening.

(d) For each fiscal year, $31,500 as grants to applying family planning agencies under this section for employment in communities of licensed registered nurses, licensed practical nurses, certified nurse−midwives or licensed physician assistants who are members of a racial minority.

(e) For each fiscal year, $36,000 to initiate, in areas of high incidence of the disease chlamydia, education and outreach programs to locate, educate and treat individuals at high risk of contracting the disease chlamydia and their partners.

History: 1977 c. 418; 1979 c. 89; 1991 a. 39 s. 3695; 1993 a. 27 s. 379; Stats. 1993 s. 253.07; 1993 a. 105, s. 13; 1997 a. 27, 67.

Toward greater reproductive freedom: Wisconsin's new family planning act. 1979 WLR 509.

253.08 Pregnancy counseling services. The department shall make grants from the appropriation under s. 20.435 (5) (eg) to individuals and organizations to provide pregnancy counseling services. For a program to be eligible under this section, an applicant must demonstrate that moneys provided in a grant under s. 20.435 (5) (eg) will not be used to engage in any activity specified in s. 20.9275 (2) (a) 1. to 3.

History: 1985 a. 29; 1993 a. 27 s. 377; Stats. 1993 s. 253.08; 1997 a. 27.

253.085 Outreach to low−income pregnant women. (1) The department shall conduct an outreach program to make low−income pregnant women aware of the importance of early prenatal and infant health care and of the availability of medical assistance benefits under subch. IV of ch. 49 and other types of funding for prenatal and infant care, to refer women to prenatal and infant care services in the community and to make follow−up contacts with women referred to prenatal and infant care services.

(2) In addition to the amounts appropriated under s. 20.435 (5) (ev), the department shall allocate $250,000 for each fiscal year from moneys received under the maternal and child health services block grant program, 42 USC 701 to 709, for the outreach program under this section.

History: 1987 a. 399; 1991 a. 39; 1993 a. 27 s. 47; Stats. 1993 s. 253.085; 1995 a. 27; 1997 a. 27.

253.09 Abortion refused; no liability; no discrimination. (1) No hospital shall be required to admit any patient or to allow the use of the hospital facilities for the purpose of performing a sterilization procedure or removing a human embryo or fetus. A physician or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which such a procedure has been authorized, who shall state in writing his or her objection to the performance of or providing assistance to such a procedure on moral or religious grounds shall not be required to participate in such medical procedure, and the refusal of any such person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person.

(2) No hospital or employee of any hospital shall be liable for any civil damages resulting from a refusal to perform sterilization procedures or remove a human embryo or fetus from a person, if such refusal is based on religious or moral precepts.

(3) No hospital, school or employer may discriminate against any person with regard to admission, hiring or firing, tenure, term, condition or privilege of employment, student status or staff status on the ground that the person refuses to recommend, aid or per-

form procedures for sterilization or the removal of a human embryo or fetus, if the refusal is based on religious or moral precepts.

(4) The receipt of any grant, contract, loan or loan guarantee under any state or federal law does not authorize any court or any public official or other public authority to require:

(a) Such individual to perform or assist in the performance of any sterilization procedure or removal of a human embryo or fetus if the individual's performance or assistance in the performance of such a procedure would be contrary to the individual's religious beliefs or moral convictions; or

(b) Such entity to:

1. Make its facilities available for the performance of any sterilization procedure or removal of a human embryo or fetus if the performance of such a procedure in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions; or

2. Provide any personnel for the performance or assistance in the performance of any sterilization procedure or assistance if the performance or assistance in the performance of such procedure or the removal of a human embryo or fetus by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

History: 1973 c. 159; Stats. 1973 s. 140.275; 1973 c. 336 s. 54; Stats. 1973 s. 140.42; 1979 c. 34; 1993 a. 27 s. 222; Stats. 1993 s. 253.09; 1993 a. 482.

253.10 Voluntary and informed consent for abortions.

(1) LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that:

1. Many women now seek or are encouraged to undergo elective abortions without full knowledge of the medical and psychological risks of abortion, development of the unborn child or of alternatives to abortion. An abortion decision is often made under stressful circumstances.

2. The knowledgeable exercise of a woman's decision to have an elective abortion depends on the extent to which the woman receives sufficient information to make a voluntary and informed choice between 2 alternatives of great consequence: carrying a child to birth or undergoing an abortion.

3. The U.S. supreme court has stated: "In attempting to ensure that a woman apprehend the full consequences of her decision, the State furthers the legitimate purpose of reducing the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed." Planned Parenthood of Southeastern Pennsylvania v. Casey, 112 U.S. 2791, 2823 (1992).

4. It is essential to the psychological and physical well−being of a woman considering an elective abortion that she receive complete and accurate information on all options available to her in dealing with her pregnancy.

5. The vast majority of elective abortions in this state are performed in clinics that are devoted solely to providing abortions and family planning services. Women who seek elective abortions at these facilities normally do not have a prior patient−physician relationship with the physician who is to perform or induce the abortion, normally do not return to the facility for post−operative care and normally do not continue a patient−physician relationship with the physician who performed or induced the abortion. In most instances, the woman's only actual contact with the physician occurs simultaneously with the abortion procedure, with little opportunity to receive personal counseling by the physician concerning her decision. Because of this, certain safeguards are necessary to protect a woman's right to know.

6. A reasonable waiting period is critical to ensure that a woman has the fullest opportunity to give her voluntary and informed consent before she elects to undergo an abortion.

(b) It is the intent of the legislature in enacting this section to further the important and compelling state interests in all of the following:

1. Protecting the life and health of the woman subject to an elective abortion and, to the extent constitutionally permissible, the life of her unborn child.

2. Fostering the development of standards of professional conduct in the practice of abortion.

3. Ensuring that prior to the performance or inducement of an elective abortion, the woman considering an elective abortion receive personal counseling by the physician and be given a full range of information regarding her pregnancy, her unborn child, the abortion, the medical and psychological risks of abortion and available alternatives to the abortion.

4. Ensuring that a woman who decides to have an elective abortion gives her voluntary and informed consent to the abortion procedure.

(2) DEFINITIONS. In this section:

(a) "Abortion" means the use of an instrument, medicine, drug or other substance or device with intent to terminate the pregnancy of a woman known to be pregnant or for whom there is reason to believe that she may be pregnant and with intent other than to increase the probability of a live birth, to preserve the life or health of the infant after live birth or to remove a dead fetus.

(b) "Agency" means a private nonprofit organization or a county department under s. 46.215, 46.22 or 46.23.

(c) "Disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment or being regarded as having such an impairment. "Disability" includes any physical disability or developmental disability, as defined in s. 51.01 (5) (a).

(d) "Medical emergency" means a condition, in a physician's reasonable medical judgment, that so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a 24−hour delay in performance or inducement of an abortion will create serious risk of substantial and irreversible impairment of one or more of the woman's major bodily functions.

(e) "Probable gestational age of the unborn child" means the number of weeks that have elapsed from the probable time of fertilization of a woman's ovum, based on the information provided by the woman as to the time of her last menstrual period, her medical history, a physical examination performed by the physician who is to perform or induce the abortion or by any other qualified physician and any appropriate laboratory tests performed on her.

(f) "Qualified person assisting the physician" means a social worker certified under ch. 457, a registered nurse or a physician assistant to whom a physician who is to perform or induce an abortion has delegated the responsibility, as the physician's agent, for providing the information required under sub. (3) (c) 2.

(g) "Qualified physician" means a physician who by training or experience is qualified to provide the information required under sub. (3) (c) 1.

(h) "Viability" has the meaning given in s. 940.15 (1).

(3) VOLUNTARY AND INFORMED CONSENT. (a) *Generally.* An abortion may not be performed or induced unless the woman upon whom the abortion is to be performed or induced has and, if the woman is a minor and s. 48.375 (4) (a) 2. does not apply, the individual who also gives consent under s. 48.375 (4) (a) 1. have given voluntary and informed written consent under the requirements of this section.

(b) *Voluntary consent.* Consent under this section to an abortion is voluntary only if the consent is given freely and without coercion by any person.

(c) *Informed consent.* Except if a medical emergency exists, a woman's consent to an abortion is informed only if all of the following first take place:

1. Except as provided in sub. (3m), at least 24 hours before the abortion is to be performed or induced, the physician who is

to perform or induce the abortion or any other qualified physician has, in person, orally informed the woman of all of the following:

a. Whether or not, according to the reasonable medical judgment of the physician, the woman is pregnant.

b. The probable gestational age of the unborn child at the time that the information is provided. The physician or other qualified physician shall also provide this information to the woman in writing at this time.

c. The particular medical risks, if any, associated with the woman's pregnancy.

d. The probable anatomical and physiological characteristics of the woman's unborn child at the time the information is given.

e. The details of the medical or surgical method that would be used in performing or inducing the abortion.

f. The medical risks associated with the particular abortion procedure that would be used, including the risks of infection, psychological trauma, hemorrhage, endometritis, perforated uterus, incomplete abortion, failed abortion, danger to subsequent pregnancies and infertility.

g. That fetal ultrasound imaging and auscultation of fetal heart tone services are available that enable a pregnant woman to view the image or hear the heartbeat of her unborn child. In so informing the woman and describing these services, the physician shall advise the woman as to how she may obtain these services if she desires to do so.

h. The recommended general medical instructions for the woman to follow after an abortion to enhance her safe recovery and the name and telephone number of a physician to call if complications arise after the abortion.

i. If, in the reasonable medical judgment of the physician, the woman's unborn child has reached viability, that the physician who is to perform or induce the abortion is required to take all steps necessary under s. 940.15 to preserve and maintain the life and health of the child.

j. Any other information that a reasonable patient would consider material and relevant to a decision of whether or not to carry a child to birth or to undergo an abortion.

k. That the woman may withdraw her consent to have an abortion at any time before the abortion is performed or induced.

L. That, except as provided in sub. (3m), the woman is not required to pay any amount for performance or inducement of the abortion until at least 24 hours have elapsed after the requirements of this paragraph are met.

2. Except as provided in sub. (3m), at least 24 hours before the abortion is to be performed or induced, the physician who is to perform or induce the abortion, a qualified person assisting the physician or another qualified physician has, in person, orally informed the woman of all of the following:

a. That benefits under the medical assistance program may be available for prenatal care, childbirth and neonatal care.

b. That the father of the unborn child is liable for assistance in the support of the woman's child, if born, even if the father has offered to pay for the abortion.

c. That the woman has a legal right to continue her pregnancy and to keep the child; to place the child in a foster home or treatment foster home for 6 months or to petition a court for placement of the child in a foster home, treatment foster home or group home or with a relative; or to place the child for adoption under a process that involves court approval both of the voluntary termination of parental rights and of the adoption.

d. That the woman has the right to receive and review the printed materials described in par. (d). The physician or qualified person assisting the physician shall physically give the materials to the woman and shall, in person, orally inform her that the materials are free of charge, have been provided by the state and describe the unborn child and list agencies that offer alternatives to abortion and shall provide her with the current updated copies of the printed materials free of charge.

e. If the woman has received a diagnosis of disability for her unborn child, that the printed materials described in par. (d) contain information on community−based services and financial assistance programs for children with disabilities and their families, information on support groups for people with disabilities and parents of children with disabilities and information on adoption of children with special needs.

f. If the woman asserts that her pregnancy is the result of sexual assault or incest, that the printed materials described in par. (d) contain information on counseling services and support groups for victims of sexual assault and incest and legal protections available to the woman and her child if she wishes to oppose establishment of paternity or to terminate the father's parental rights.

g. That the printed materials described in par. (d) contain information on the availability of public and private agencies and services to provide the woman with information on family planning, as defined in s. 253.07 (1) (a), including natural family planning information.

3. The information that is required under subds. 1. and 2. is provided to the woman in an individual setting that protects her privacy, maintains the confidentiality of her decision and ensures that the information she receives focuses on her individual circumstances. This subdivision may not be construed to prevent the woman from having a family member, or any other person of her choice, present during her private counseling.

4. Whoever provides the information that is required under subd. 1. or 2., or both, provides adequate opportunity for the woman to ask questions, including questions concerning the pregnancy, her unborn child, abortion, foster care and adoption, and provides the information that is requested or indicates to the woman where she can obtain the information.

5. The woman certifies in writing on a form that the department shall provide, prior to performance or inducement of the abortion, that the information that is required under subds. 1. and 2. has been provided to her in the manner specified in subd. 3., that she has been offered the information described in par. (d) and that all of her questions, as specified under subd. 4., have been answered in a satisfactory manner. The physician who is to perform or induce the abortion or the qualified person assisting the physician shall write on the certification form the name of the physician who is to perform or induce the abortion. The woman shall indicate on the certification form who provided the information to her and when it was provided.

6. Prior to the performance or the inducement of the abortion, the physician who is to perform or induce the abortion or the qualified person assisting the physician receives the written certification that is required under subd. 5. The physician or qualified person assisting the physician shall place the certification in the woman's medical record and shall provide the woman with a copy of the certification.

7. If the woman considering an abortion is a minor, unless s. 48.375 (4) (a) 2. applies, the requirements to provide information to the woman under subds. 1. to 6. apply also to require provision of the information to the individual whose consent is also required under s. 48.375 (4) (a) 1. If the woman considering an abortion is an individual adjudicated incompetent in this state, the requirements to provide information to the woman under subds. 1. to 6. apply to also require provision of the information to the person appointed as the woman's guardian.

(d) *Printed information.* By the date that is 60 days after May 16, 1996, the department shall cause to be published in English, Spanish, and other languages spoken by a significant number of state residents, as determined by the department, materials that are in an easily comprehensible format and are printed in type of not less than 12−point size. The department shall distribute a reasonably adequate number of the materials to county departments as specified under s. 46.245 and upon request, shall annually review the materials for accuracy and shall exercise reasonable diligence

in providing materials that are accurate and current. The materials shall be all of the following:

1. Geographically indexed materials that are designed to inform a woman about public and private agencies, including adoption agencies, and services that are available to provide information on family planning, as defined in s. 253.07 (1) (a), including natural family planning information, to provide ultrasound imaging services, to assist her if she has received a diagnosis that her unborn child has a disability or if her pregnancy is the result of sexual assault or incest and to assist her through pregnancy, upon childbirth and while the child is dependent. The materials shall include a comprehensive list of the agencies available, a description of the services that they offer and a description of the manner in which they may be contacted, including telephone numbers and addresses, or, at the option of the department, the materials shall include a toll−free, 24−hour telephone number that may be called to obtain an oral listing of available agencies and services in the locality of the caller and a description of the services that the agencies offer and the manner in which they may be contacted. The materials shall provide information on the availability of governmentally funded programs that serve pregnant women and children. Services identified for the woman shall include medical assistance for pregnant women and children under s. 49.47 (4) (am) and 49.471, the availability of family or medical leave under s. 103.10, the Wisconsin works program under ss. 49.141 to 49.161, child care services, child support laws and programs and the credit for expenses for household and dependent care and services necessary for gainful employment under section 21 of the internal revenue code. The materials shall state that it is unlawful to perform an abortion for which consent has been coerced, that any physician who performs or induces an abortion without obtaining the woman's voluntary and informed consent is liable to her for damages in a civil action and is subject to a civil penalty, that the father of a child is liable for assistance in the support of the child, even in instances in which the father has offered to pay for an abortion, and that adoptive parents may pay the costs of prenatal care, childbirth and neonatal care. The materials shall include information, for a woman whose pregnancy is the result of sexual assault or incest, on legal protections available to the woman and her child if she wishes to oppose establishment of paternity or to terminate the father's parental rights. The materials shall state that fetal ultrasound imaging and auscultation of fetal heart tone services are obtainable by pregnant women who wish to use them and shall describe the services.

2. Materials, including photographs, pictures or drawings, that are designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at 2−week gestational increments for the first 16 weeks of her pregnancy and at 4−week gestational increments from the 17th week of the pregnancy to full term, including any relevant information regarding the time at which the unborn child could possibly be viable. The pictures or drawings must contain the dimensions of the unborn child and must be realistic and appropriate for the stage of pregnancy depicted. The materials shall be objective, nonjudgmental and designed to convey only accurate scientific information about the unborn child at the various gestational ages, including appearance, mobility, brain and heart activity and function, tactile sensitivity and the presence of internal organs and external members. The materials shall also contain objective, accurate information describing the methods of abortion procedures commonly employed, the medical and psychological risks commonly associated with each such procedure, including the risks of infection, psychological trauma, hemorrhage, endometritis, perforated uterus, incomplete abortion, failed abortion, danger to subsequent pregnancies and infertility, and the medical risks commonly associated with carrying a child to birth.

3. A certification form for use under par. (c) 5. that lists, in a check−off format, all of the information required to be provided under that subdivision.

(e) *Requirement to obtain materials.* A physician who intends to perform or induce an abortion or another qualified physician, who reasonably believes that he or she might have a patient for whom the information under par. (d) is required to be given, shall request a reasonably adequate number of the materials that are described under par. (d) from the department under par. (d) or from a county department as specified under s. 46.245.

(f) *Medical emergency.* If a medical emergency exists, the physician who is to perform or induce the abortion necessitated by the medical emergency shall inform the woman, prior to the abortion if possible, of the medical indications supporting the physician's reasonable medical judgment that an immediate abortion is necessary to avert her death or that a 24−hour delay in performance or inducement of an abortion will create a serious risk of substantial and irreversible impairment of one or more of the woman's major bodily functions. If possible, the physician shall obtain the woman's written consent prior to the abortion. The physician shall certify these medical indications in writing and place the certification in the woman's medical record.

(g) *Presumptions.* Satisfaction of the conditions required under par. (c) creates a rebuttable presumption that the woman's consent and, if the woman is a minor and if s. 48.375 (4) (a) 2. does not apply, the consent of the individual who also gives consent under s. 48.375 (4) (a) 1. to an abortion is informed. The presumption of informed consent may be overcome by a preponderance of evidence that establishes that the consent was obtained through fraud, negligence, deception, misrepresentation or omission of a material fact. There is no presumption that consent to an abortion is voluntary.

(3m) PREGNANCY AS THE RESULT OF SEXUAL ASSAULT OR INCEST. (a) A woman seeking an abortion may waive the 24−hour period required under sub. (3) (c) 1. (intro.) and L. and 2. (intro.) if all of the following are first done:

1. The woman alleges that the pregnancy is the result of sexual assault under s. 940.225 (1), (2) or (3) and states that a report alleging the sexual assault has been made to law enforcement authorities.

2. Whoever provides the information that is required under sub. (3) (c) 1. or 2., or both, confirms with law enforcement authorities that a report on behalf of the woman about the sexual assault has been made to law enforcement authorities, makes a notation to this effect and places the notation in the woman's medical record.

(b) The 24−hour period required under sub. (3) (c) 1. (intro.) and L. and 2. (intro.) is reduced to at least 2 hours if all of the following are first done:

1. The woman alleges that the pregnancy is the result of incest under s. 948.06 (1) or (1m) and states that a report alleging the incest has been made to law enforcement authorities.

2. Whoever provides the information that is required under sub. (3) (c) 1. or 2., or both, confirms with law enforcement authorities that a report on behalf of the woman about the incest has been made to law enforcement authorities, makes a notation to this effect and places the notation in the woman's medical record.

(c) Upon receipt by the law enforcement authorities of a request for confirmation under par. (a) 2. or (b) 2., and after reasonable verification of the identity of the woman and her consent to release of the information, the law enforcement authorities shall confirm whether or not the report has been made. No record of a request or confirmation made under this paragraph may be disclosed by the law enforcement authorities.

(4) HOTLINE. The department may maintain a toll−free telephone number that is available 24 hours each day, to provide the materials specified in sub. (3) (d) 1.

(5) PENALTY. Any person who violates sub. (3) or (3m) (a) 2. or (b) 2. shall be required to forfeit not less than $1,000 nor more than $10,000.

(6) CIVIL REMEDIES. (a) A person who violates sub. (3) or (3m) (a) 2. or (b) 2. is liable to the woman on or for whom the abortion was performed or induced for damages arising out of the performance or inducement of the abortion, including damages for personal injury and emotional and psychological distress.

(b) A person who has been awarded damages under par. (a) shall, in addition to any damages awarded under par. (a), be entitled to not less than $1,000 nor more than $10,000 in punitive damages for a violation that satisfies a standard under s. 895.043 (3).

(c) A conviction under sub. (5) is not a condition precedent to bringing an action, obtaining a judgment or collecting the judgment under this subsection.

(d) Notwithstanding s. 814.04 (1), a person who recovers damages under par. (a) or (b) may also recover reasonable attorney fees incurred in connection with the action.

(e) A contract is not a defense to an action under this subsection.

(f) Nothing in this subsection limits the common law rights of a person that are not in conflict with sub. (3).

(7) AFFIRMATIVE DEFENSE. No person is liable under sub. (5) or (6) or under s. 441.07 (1) (f), 448.02 (3) (a) or 457.26 (2) (gm) for failure under sub. (3) (c) 2. d. to provide the printed materials described in sub. (3) (d) to a woman or for failure under sub. (3) (c) 2. d., e., f. or g. to describe the contents of the printed materials if the person has made a reasonably diligent effort to obtain the printed materials under sub. (3) (e) and s. 46.245 and the department and the county department under s. 46.215, 46.22 or 46.23 have not made the printed materials available at the time that the person is required to give them to the woman.

(8) CONSTRUCTION. Nothing in this section may be construed as creating or recognizing a right to abortion or as making lawful an abortion that is otherwise unlawful.

History: 1985 a. 56, 176; 1991 a. 263; 1993 a. 27 s. 378; Stats. 1993 s. 253.10; 1995 a. 309; 1997 a. 27; 1999 a. 9; 2005 a. 155, 277, 387; 2007 a. 20.

Section 253.10 (3) (c) 1. j. is unconstitutional. Karlin v. Foust, 975 F. Supp. 1177 (1997). This holding was not subject to the appeal in *Karlin v. Foust*, 188 F.3d 446.

Sub. (2) (d) is constitutional and preempts the operation of s. 48.374 (5) (b) 1. in the case of emergency abortions for minors. Sub. (3) (c) 2. is constitutional; physicians may rely on their "best medical judgment" in delivering the content to be conveyed to the patient on the specific listed topics and cannot be held liable because prosecutors disagree with information provided to a woman on a certain topic. Sub. (3) (c) 1. g. is constitutional. Karlin v. Foust, 188 F.3d 446 (7th Cir. 1999).

253.11 Infant blindness. (1) For the prevention of ophthalmia neonatorum or infant blindness the attending physician or midwife shall use a prophylactic agent approved by the department.

(2) In a confinement not attended by a physician or nurse−midwife, if one or both eyes of an infant become inflamed, swollen and red or show an unnatural discharge at any time within 2 weeks after birth, the nurse, parents, or other person in charge shall report the facts in writing within 6 hours to the local health officer who shall immediately warn the person of the danger. The local health officer shall employ at the expense of the local health department a competent physician to examine and treat the case.

(3) Any person who violates this section may be required to forfeit not more than $1,000.

History: 1979 c. 221; 1987 a. 332; 1993 a. 27 s. 314; Stats. 1993 s. 253.11.

253.115 Newborn hearing screening programs. (1) In this section:

(a) "Hearing loss" means an inability in one or both ears to detect sounds at 30 decibels hearing level or greater in the frequency region of 500 to 4,000 hertz that affects speech recognition and auditory comprehension.

(b) "Hertz" means a unit of frequency equal to one cycle per second.

(c) "Hospital" has the meaning given in s. 50.33 (2).

(d) "Infant" means a child from birth to 3 months of age.

(e) "Newborn hearing screening program" means a system of a hospital under which an infant may be tested, using currently available medical techniques, to determine if the infant has a hearing loss.

(2) Beginning July 1, 2002, the department shall annually collect information from hospitals for the previous calendar year concerning the numbers of deliveries in each hospital and the availability in each hospital of a newborn hearing screening program. From this information, by July 31, 2003, and annually thereafter, the department shall determine the percentage of deliveries in this state that are performed in hospitals that have newborn hearing screening programs and shall report this information to the appropriate standing committees of the legislature under s. 13.172 (3).

(3) If, by August 5, 2003, the department determines that fewer than 88% of all deliveries in this state are performed in hospitals that have a newborn hearing screening program and so notifies the hospitals, every hospital shall, by January 1, 2004, have a newborn hearing screening program that is available to all infants who are delivered in the hospital.

History: 1999 a. 9, 185.

253.12 Birth defect prevention and surveillance system. (1) DEFINITIONS. In this section:

(a) "Birth defect" means any of the following conditions affecting an infant or child that occurs prior to or at birth and that requires medical or surgical intervention or interferes with normal growth and development:

1. A structural deformation, disruption or dysplasia.

2. A genetic, inherited or biochemical disease.

(b) "Pediatric specialty clinic" means a clinic the primary purpose of which is to provide pediatric specialty diagnostic, counseling and medical management services to persons with birth defects by a physician subspecialist.

(c) "Infant or child" means a human being from birth to the age of 2 years.

(d) "Physician" has the meaning given in s. 448.01 (5).

(2) REPORTING. (a) Except as provided in par. (b), all of the following shall report in the manner prescribed by the department under sub. (3) (a) 3. a birth defect in an infant or child:

1. A pediatric specialty clinic in which the birth defect is diagnosed in an infant or child or treatment for the birth defect is provided to the infant or child.

2. A physician who diagnoses the birth defect or provides treatment to the infant or child for the birth defect.

(am) Any hospital in which a birth defect is diagnosed in an infant or child or treatment is provided to the infant or child may report the birth defect in the manner prescribed by the department under sub. (3) (a) 3.

(b) No person specified under par. (a) need report under par. (a) if that person knows that another person specified under par. (a) or (am) has already reported to the department the required information with respect to the same birth defect of the same infant or child.

(c) If the department determines that there is a discrepancy in any data reported under this subsection, the department may request a physician, hospital or pediatric specialty clinic to provide to the department information contained in the medical records of patients who have a confirmed or suspected birth defect diagnosis. The physician, hospital or pediatric specialty clinic shall provide that information within 10 working days after the department requests it.

(d) The department may not require a person specified under par. (a) 1. or 2. to report the name of an infant or child for whom a report is made under par. (a) if the parent or guardian of the infant

or child refuses to consent in writing to the release of the name or address of the infant or child.

(e) If the address of an infant or child for whom a report is made under par. (a) is included in the report, the department shall encode the address to refer to the same geographical location.

(3) DEPARTMENT DUTIES AND POWERS. (a) The department shall do all of the following:

1. Establish and maintain an up−to−date registry that documents the diagnosis in this state of any infant or child who has a birth defect, regardless of the residence of the infant or child. The department shall include in the registry information that will facilitate all of the following:

a. Identification of risk factors for birth defects.

b. Investigation of the incidence, prevalence and trends of birth defects using epidemiological surveys.

c. Development of primary preventive strategies to decrease the occurrence of birth defects without increasing abortions.

d. Referrals for early intervention or other appropriate services.

2. Specify by rule the birth defects the existence of which requires a report under sub. (2) to be submitted to the department.

3. Specify by rule the content, format and procedures for submitting a report under sub. (2).

4. Notify the persons specified under sub. (2) (a) of their obligation to report.

(b) The department may monitor the data contained in the reports submitted under sub. (2) to ensure the quality of that data and to make improvements in reporting methods.

(c) The department shall, not more than 10 years from the date of receipt of a report under sub. (2), delete from any file of the department the name of an infant or child that is contained in the report.

(4) COUNCIL ON BIRTH DEFECT PREVENTION AND SURVEILLANCE. The council on birth defect prevention and surveillance shall meet at least 4 times per year and shall do all of the following:

(a) Make recommendations to the department regarding the establishment of a registry that documents the diagnosis in the state of an infant or child who has a birth defect, as required under sub. (3) (a) 1. and regarding the rules that the department is required to promulgate under sub. (3) (a) 2. and 3. on the birth defects to be reported under sub. (2) and on the general content and format of the report under sub. (2) and procedures for submitting the report. The council shall also make recommendations regarding the content of a report that, because of the application of sub. (2) (d), does not contain the name of the subject of the report.

(b) Coordinate with the early intervention interagency coordinating council to facilitate the delivery of early intervention services to children from birth to 3 years with developmental needs.

(c) Advise the secretary and make recommendations regarding the registry established under sub. (3) (a) 1.

(d) Beginning April 1, 2002, and biennially thereafter, submit to the appropriate standing committees under s. 13.172 (3) a report that details the effectiveness, utilization and progress of the registry established under sub. (3) (a) 1.

(5) CONFIDENTIALITY. (a) Any information contained in a report made to the department under sub. (2) that may specifically identify the subject of the report is confidential. The department may not release that confidential information except to the following, under the following conditions:

1. The parent or guardian of an infant or child for whom a report is made under sub. (2).

2. A local health officer, a local birth−to−3 coordinator or an agency under contract with the department to administer the children with special health care needs program, upon receipt of a written request and informed written consent from the parent or guardian of the infant or child. The local health officer may disclose information received under this subdivision only to the extent necessary to render and coordinate services and follow−up care for the infant or child or to conduct a health, demographic or epidemiological investigation. The local health officer shall destroy all information received under this subdivision within one year after receiving it.

3. A physician, hospital or pediatric specialty clinic reporting under sub. (2), for the purpose of verification of information reported by the physician, hospital or pediatric specialty clinic.

4. A representative of a federal or state agency upon written request and to the extent that the information is necessary to perform a legally authorized function of that agency, including investigation of causes, mortality, methods of prevention and early intervention, treatment or care of birth defects, associated diseases or disabilities. The information may not include the name or address of an infant or child with a condition reported under sub. (2). The department shall notify the parent or guardian of an infant or child about whom information is released under this subdivision, of the release. The representative of the federal or state agency may disclose information received under this paragraph only as necessary to perform the legally authorized function of that agency for which the information was requested.

(b) The department may also release confidential information to a person proposing to conduct research if all of the following conditions are met:

1. The person proposing to conduct the research applies in writing to the department for approval to perform the research and the department approves the application. The application for approval shall include a written protocol for the proposed research, the person's professional qualifications to perform the proposed research and any other information requested by the department.

2. The research is for the purpose of studying birth defects surveillance and prevention.

3. If the research will involve direct contact with a subject of a report made under sub. (2) or with any member of the subject's family, the department determines that the contact is necessary for meeting the research objectives and that the research is in response to a public health need or is for the purpose of or in connection with birth defects surveillance or investigations sponsored and conducted by public health officials. The department must also determine that the research has been approved by a certified institutional review board or a committee for the protection of human subjects in accordance with the regulations for research involving human subjects required by the federal department of health and human services for projects supported by that agency. Contact may only be made with the written informed consent of the parent or guardian of the subject of the report and in a manner and method approved by the department.

4. The person agrees in writing that the information provided will be used only for the research approved by the department.

5. The person agrees in writing that the information provided will not be released to any person except other persons involved in the research.

6. The person agrees in writing that the final product of the research will not reveal information that may specifically identify the subject of a report made under sub. (2).

7. The person agrees in writing to any other conditions imposed by the department.

(6) INFORMATION NOT ADMISSIBLE. Information collected under this section is not admissible as evidence during the course of a civil or criminal action or proceeding or an administrative proceeding, except for the purpose of enforcing this section.

History: 1987 a. 371; 1991 a. 178; 1993 a. 27 ss. 347, 349; Stats. 1993 s. 253.12; 1993 a. 335; 1995 a. 27 s. 9145 (1); 1995 a. 417; 1997 a. 164, 252; 1999 a. 32, 114, 186; 2001 a. 38.

Cross Reference: See also ch. DHS 116, Wis. adm. code.

253.13 Tests for congenital disorders. (1) BLOOD TESTS. The attending physician or nurse licensed under s. 441.15 shall

cause every infant born in each hospital or maternity home, prior to its discharge therefrom, to be subjected to blood tests for congenital and metabolic disorders, as specified in rules promulgated by the department. If the infant is born elsewhere than in a hospital or maternity home, the attending physician, nurse licensed under s. 441.15 or birth attendant who attended the birth shall cause the infant, within one week of birth, to be subjected to these blood tests.

(1m) URINE TESTS. The department may establish a urine test program to test infants for causes of congenital disorders. The state laboratory of hygiene board may establish the methods of obtaining urine specimens and testing such specimens, and may develop materials for use in the tests. No person may be required to participate in programs developed under this subsection.

(2) TESTS; DIAGNOSTIC, DIETARY AND FOLLOW−UP COUNSELING PROGRAM; FEES. The department shall contract with the state laboratory of hygiene to perform the tests specified under this section and to furnish materials for use in the tests. The department shall provide necessary diagnostic services, special dietary treatment as prescribed by a physician for a patient with a congenital disorder as identified by tests under sub. (1) or (1m) and follow−up counseling for the patient and his or her family. The state laboratory of hygiene board, on behalf of the department, shall impose a fee for tests performed under this section sufficient to pay for services provided under the contract. The state laboratory of hygiene board shall include as part of this fee amounts the department determines are sufficient to fund the provision of diagnostic and counseling services, special dietary treatment, and periodic evaluation of infant screening programs, the costs of consulting with experts under sub. (5), and the costs of administering the congenital disorder program under this section and shall credit these amounts to the appropriations under s. 20.435 (1) (jb) and (5) (ja).

(3) EXCEPTIONS. This section shall not apply if the parents or legal guardian of the child object thereto on the grounds that the test conflicts with their religious tenets and practices. No tests may be performed under sub. (1) or (1m) unless the parents or legal guardian are fully informed of the purposes of testing under this section and have been given reasonable opportunity to object as authorized in this subsection or in sub. (1m) to such tests.

(4) CONFIDENTIALITY OF TESTS AND RELATED INFORMATION. The state laboratory of hygiene shall provide the test results to the physician, who shall advise the parents or legal guardian of the results. No information obtained under this section from the parents or guardian or from specimens from the infant may be disclosed except for use in statistical data compiled by the department without reference to the identity of any individual and except as provided in s. 146.82 (2). The state laboratory of hygiene board shall provide to the department the names and addresses of parents of infants who have positive test results.

(5) RELATED SERVICES. The department shall disseminate information to families whose children suffer from congenital disorders and to women of child−bearing age with a history of congenital disorders concerning the need for and availability of follow−up counseling and special dietary treatment and the necessity for testing infants. The department shall also refer families of children who suffer from congenital disorders to available health services programs and shall coordinate the provision of these programs. The department shall periodically consult appropriate experts in reviewing and evaluating the state's infant screening programs.

History: 1977 c. 160; 1983 a. 157; 1985 a. 255; 1987 a. 27; 1989 a. 31; 1991 a. 39, 177; 1993 a. 27 s. 316; Stats. 1993 s. 253.13; 1995 a. 27 s. 9126 (19); 2001 a. 16, 52; 2007 a. 20 s. 9121 (6) (a).

Cross Reference: See also ch. DHS 115, Wis. adm. code.

A physician and parent may enter an agreement to perform a PKU test after the infant has left the hospital without violating sub. (1). 61 Atty. Gen. 66.

253.14 Sudden infant death syndrome. (1) The department shall prepare and distribute printed informational materials relating to sudden infant death syndrome. The materials shall be directed toward the concerns of parents of victims of sudden infant death syndrome and shall be distributed to maximize availability to the parents.

(2) The department shall make available upon request follow−up counseling by trained health care professionals for parents and families of victims of sudden infant death syndrome.

History: 1977 c. 246; Stats. 1977 s. 146.025; 1977 c. 447; Stats. 1977 s. 146.026; 1993 a. 27 s. 343; Stats. 1993 s. 253.14.

253.15 Shaken baby syndrome and impacted babies. (1) DEFINITIONS. In this section:

(a) "Board" means the child abuse and neglect prevention board.

(b) "County department" means a county department of human services or social services under s. 46.215, 46.22, or 46.23.

(c) "Health care provider" means any person who is licensed, registered, permitted, or certified by the department of health services or the department of regulation and licensing to provide health care services in this state.

(d) "Impacted baby" means an infant or young child who suffers death or great bodily harm as a result of being thrown against a surface, hard or soft.

(e) "Nonprofit organization" means an organization described in section 501 (c) (3) of the Internal Revenue Code that is dedicated to the prevention of shaken baby syndrome and impacted babies and the support of families affected by shaken baby syndrome or an impacted baby.

(f) "Shaken baby syndrome" means a severe form of brain injury that occurs when an infant or young child is shaken forcibly enough to cause the brain to rebound against his or her skull.

(2) INFORMATIONAL MATERIALS. The board shall purchase or prepare or arrange with a nonprofit organization to prepare printed and audiovisual materials relating to shaken baby syndrome and impacted babies. The materials shall include information regarding the identification and prevention of shaken baby syndrome and impacted babies, the grave effects of shaking or throwing on an infant or young child, appropriate ways to manage crying, fussing, or other causes that can lead a person to shake or throw an infant or young child, and a discussion of ways to reduce the risks that can lead a person to shake or throw an infant or young child. The materials shall be prepared in English, Spanish, and other languages spoken by a significant number of state residents, as determined by the board. The board shall make those written and audiovisual materials available to all hospitals, maternity homes, and nurse−midwives licensed under s. 441.15 that are required to provide or make available materials to parents under sub. (3) (a) 1., to the department and to all county departments and nonprofit organizations that are required to provide the materials to day care providers under sub. (4), and to all school boards and nonprofit organizations that are permitted to provide the materials to pupils in one of grades 5 to 8 and in one of grades 10 to 12 under sub. (5). The board shall also make those written materials available to all county departments and Indian tribes that are providing home visitation services under s. 48.983 (4) (b) 1. or 2. and to all providers of prenatal, postpartum, and young child care coordination services under s. 49.45 (44). The board may make available the materials required under this subsection to be made available by making those materials available at no charge on the board's Internet site.

(3) INFORMATION TO PARENTS. (a) 1. Before an infant who is born at or on route to a hospital or maternity home is discharged from the hospital or maternity home, the attending physician, the attending nurse midwife, or another trained, designated staff member of the hospital or maternity home shall provide to the parents of the infant, without cost to those parents, a copy of the written materials purchased or prepared under sub. (2), shall inform those parents of the availability of the audiovisual materials purchased or prepared under sub. (2), and shall make those audiovisual materials available for those parents to view.

2. Within 7 days after the birth of an infant who is born elsewhere than at or on route to a hospital or maternity home, the

attending physician, the attending nurse−midwife, or a trained, designated birth attendant who attended the birth of the child shall provide to the parents of the infant, without cost to those parents, a copy of the written materials purchased or prepared under sub. (2) and shall inform those parents of the availability of the audiovisual materials purchased or prepared under sub. (2).

(b) At the same time that the written materials and explanation are provided under par. (a) 1., or 2., the person who provides the written materials and explanation shall also provide the parent with a form prepared by the board in English, Spanish, and other languages spoken by a significant number of state residents, as determined by the board, that includes all of the following:

1. A statement that the parent has been advised as to the grave effects of shaking or throwing on an infant or young child and of appropriate ways to manage crying, fussing, or other causes that can lead a person to shake or throw an infant or young child.

2. A telephone number that the parent may call to obtain assistance on how to care for an infant or young child, which may be the telephone number of the infant's physician, the hospital or maternity home at or on route to which the infant was born, the nurse−midwife that attended the birth of the infant, if born elsewhere than at or on route to a hospital or maternity home, or a help line established by the hospital, maternity home, or nurse−midwife.

3. A statement that the parent will share the information specified in subds. 1. and 2. with all persons who provide care for the infant.

(c) In preparing the form under par. (b), the board may not include in the form a signature line for the parent to sign or any other requirement that the parent sign the form.

(d) The person who provides the written materials and explanation under par. (a) 1. or 2. and the form under par. (b) shall include in the records of the hospital, maternity home, or nurse−midwife relating to the infant a statement that the written materials, explanation, and form have been provided as required under pars. (a) 1. or 2. and (b) and that the audiovisual materials have been made available as required under par. (a) 1. or that the parents have been informed of their availability as required under par. (a) 2., whichever is applicable.

(4) TRAINING FOR DAY CARE PROVIDERS. Before an individual may obtain a license to operate a day care center under s. 48.65 for the care and supervision of children under 5 years of age or enter into a contract to provide a day care program under s. 120.13 (14) for the care and supervision of children under 5 years of age, the individual shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the department or that is provided by a nonprofit organization arranged by the department to provide that training. Before an individual may be certified under s. 48.651 as a day care provider of children under 5 years of age, the individual shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the certifying county department or that is provided by a nonprofit organization arranged by that county department to provide that training. Before an employee or volunteer of a day care center licensed under s. 48.65, a day care provider certified under s. 48.651, or a day care program established under s. 120.13 (14) may provide care and supervision for children under 5 years of age, the employee or volunteer shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the department or the certifying county department or that is provided by a nonprofit organization arranged by the department or county department to provide that training. The person conducting the training shall provide to the individual receiving the training, without cost to the individual, a copy of the written materials purchased or prepared under sub. (2), a presentation of the audiovisual materials purchased or prepared under sub. (2), and an oral explanation of those written and audiovisual materials.

(5) INSTRUCTION FOR PUPILS. Each school board shall provide or arrange with a nonprofit organization or health care provider to provide age−appropriate instruction relating to shaken baby syndrome and impacted babies for pupils in one of grades 5 to 8 and in one of grades 10 to 12. The person providing the instruction may provide to each pupil receiving the instruction a copy of the written materials purchased or prepared under sub. (2), a presentation of the audiovisual materials purchased or prepared under sub. (2), and an oral explanation of those written and audiovisual materials.

(6) INFORMATION TO HOME VISITATION OR CARE COORDINATION SERVICES RECIPIENTS. A county department or Indian tribe that is providing home visitation services under s. 48.983 (4) (b) 1. or 2. and a provider of prenatal, postpartum, and young child care coordination services under s. 49.45 (44) shall provide to a recipient of those services, without cost, a copy of the written materials purchased or prepared under sub. (2) and an oral explanation of those materials.

(7) IMMUNITY FROM LIABILITY. (a) The board, a nonprofit organization specified under sub. (2), or a person from whom the board purchases the materials specified in sub. (2) is immune from liability for any damages resulting from any good faith act or omission in preparing and distributing, or in failing to prepare and distribute, the materials specified in sub. (2).

(b) A hospital, maternity home, physician, nurse−midwife, other staff member of a hospital or maternity home, or other birth attendant attending the birth of an infant is immune from liability for any damages resulting from any good faith act or omission in providing or failing to provide the written and audiovisual materials specified in sub. (3) (a) or the form specified in sub. (3) (b).

(c) The department, a county department, a nonprofit organization specified under sub. (4), or any other person that provides the training, the written and audiovisual materials, and the oral explanation specified in sub. (4) is immune from liability for any damages resulting from any good faith act or omission in approving, providing, or failing to approve or provide that training, those materials, and that explanation. A school board is immune from liability for any damages resulting from any good faith act or omission in connection with the provision of or the failure to provide, the training, written and audiovisual materials, and oral explanation specified in sub. (4).

(d) A school board, nonprofit organization, or health care provider specified under sub. (5) is immune from liability for any damages resulting from any good faith act or omission in providing or failing to provide the instruction and the written and audiovisual materials and oral explanation specified in sub. (5).

(e) A county department or Indian tribe that is providing home visitation services under s. 48.983 (4) (b) 1. or 2. and a provider of prenatal, postpartum, and young child care coordination services under s. 49.45 (44) is immune from liability for any damages resulting from any good faith act or omission in providing or failing to provide the written materials and oral explanation specified in sub. (6).

(8) IDENTIFICATION OF SHAKEN OR IMPACTED BABIES. The department of health services shall identify all infants and young children who have shaken baby syndrome or who are impacted babies and all infants and young children who have died as a result of being shaken or thrown by using the statewide automated child welfare information system established under s. 48.47 (7g) and child fatality information compiled by the department of justice. For each infant or young child so identified, the department of health services shall document the age, sex, and other characteristics of the infant or young child that are relevant to the prevention of shaken baby syndrome and impacted babies and, if known, the age, sex, employment status, and residence of the person who shook or threw the infant or young child, the relationship of that person to the infant or young child, and any other characteristics

of that person that are relevant to the prevention of shaken baby syndrome and impacted babies.

NOTE: Sub. (8) is shown as affected by 2 acts of the 2007 Wisconsin legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i).

History: 2005 a. 165; 2007 a. 20 ss. 3059 to 3065, 9121 (6) (a); 2007 a. 96; s. 13.92 (2) (i).