

2001 DRAFTING REQUEST

Bill

Received: 11/01/2001

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Jon Richards (608) 266-0650**

By/Representing: **Tara Vasby (aide)**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact: **Laura Rose, Rep. Duff**

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **RPN, PG**

Submit via email: **YES**

Requester's email: **Rep.Richards@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Extend volunteer health care provider liability protection to health care providers providing services in public schools

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>
/?	kenneda 11/06/2001	rschlue 11/15/2001		_____			S&L
/1			pgreensl 11/19/2001	_____	lrb_docadmin 11/19/2001		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	kenneda 02/11/2002	gilfokm 02/12/2002 gilfokm 02/19/2002	jfrantze 02/20/2002	_____	lrb_docadmin 02/20/2002	lrb_docadmin 02/28/2002.	

FE Sent For:

"/2" on 3/1/02

<END>

2001 DRAFTING REQUEST

Bill

Received: **11/01/2001**

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Jon Richards (608) 266-0650**

By/Representing: **Tara Vasby (aide)**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact: **Laura Rose, Rep. Duff**

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **RPN, PG**

Submit via email: **YES**

Requester's email: **Rep.Richards@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Extend volunteer health care provider liability protection to health care providers providing services in public schools

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>
/?	kenneda 11/06/2001	rschluet 11/15/2001		_____			S&L
/1			pgreensl 11/19/2001	_____	lrb_docadmin 11/19/2001		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	kenneda 02/11/2002	gilfokm 02/12/2002 gilfokm 02/19/2002	jfrantze 02/20/2002	_____ _____ _____ _____	lrb_docadmin 02/20/2002		

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 11/01/2001

Received By: kenneda

Wanted: As time permits

Identical to LRB:

For: Jon Richards (608) 266-0650

By/Representing: Tara Vasby (aide)

This file may be shown to any legislator: NO

Drafter: kenneda

May Contact: Laura Rose, Rep. Duff

Addl. Drafters:

Subject: Health - miscellaneous

Extra Copies: RPN, PG

Submit via email: YES

Requester's email: Rep.Richards@legis.state.wi.us

Carbon copy (CC:) to: Representative Marc Duff

Pre Topic:

No specific pre topic given

Topic:

Extend volunteer health care provider liability protection to health care providers providing services in public schools

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>
/?	kenneda 11/06/2001	rschluet 11/15/2001					S&L
/1		12-2/19 kmg	pgreensl 11/19/2001		lrb_docadmin 11/19/2001		S&L

FE Sent For:

Handwritten signatures and dates: Jb 2/20, Jb 2/20, <END>

2001 DRAFTING REQUEST

Bill

Received: 11/01/2001

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Jon Richards (608) 266-0650**

By/Representing: **Tara Vasby (aide)**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **RPN**

Submit via email: **YES**

Requester's email: **Rep.Richards@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Extend volunteer health care provider liability protection to health care providers providing services in public or private, nonprofit schools

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>
/?	kenneda 11/06/2001	rschlue 11/15/2001		_____			S&L
/1			pgreensl 11/19/2001	_____	lrb_docadmin 11/19/2001		

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 11/01/2001

Received By: kenneda

Wanted: As time permits

Identical to LRB:

For: Jon Richards (608) 266-0650

By/Representing: Tara Vasby (aide)

This file may be shown to any legislator: NO

Drafter: kenneda

May Contact:

Addl. Drafters:

Subject: Health - miscellaneous

Extra Copies: RPN

Submit via email: YES

Requester's email: Rep.Richards@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

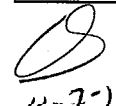
Topic:

Extend volunteer health care provider liability protection to health care providers providing services in public or private, nonprofit schools

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>
1?	kenneda	 11-7-01	11/16 pg	11/19 PSTRs			
		11-11/14 Kmg					

FE Sent For:

<END>

Kahler, Pam

From: Rep.Richards
Sent: Tuesday, October 23, 2001 9:29 AM
To: Kahler, Pam
Subject: Volunteer Nursing/Liability

Pam,



0001.tif

This information is from the Milwaukee Public Schools. They have that we extend liability protection for health care professionals to include schools. We can fill a huge gap in services to children by extending this coverage.

asked

If you need more information, let me know. This is all that I have at this time. I hope that it is enough to go on!

If you need to forward it to another attorney, feel free.

Thanks!
Tara J. Vasby
Leg. Assistant
Rep. Jon Richards

*It looks like
changing the volunteer health
care provider program to
include a school (public and private?)
would be the answer. Talk
to Debora*



Registration of Volunteer Health Care Providers Under 1989
Wisconsin Act 206

Act 206 created a pilot volunteer health care program for Brown and Racine Counties. 1993 Senate Bill 17 has been passed to enhance the program to include additional counties and services.

Important provisions of the Act are:

- The volunteer health care provider must receive no income from the practice of that health care profession or receive no income from the practice of the health care profession when providing services at the nonprofit agency.
- The volunteer health care provider shall provide services without charge at the nonprofit agency, if the nonprofit agency has received approval under Ch. 146.89 sub.(2)(a), Wis. Stats.
- Included under the term "volunteer health care provider" are individuals who are licensed as physicians under Ch. 448, dentists under Ch. 447, registered nurse, practical nurses or nurse-midwives under Ch. 441, optometrists under Ch. 449 or certified physician assistants under Ch. 448.
- The volunteer health care provider and the non-profit agency may provide only the following health care services:

- | | |
|---------------------|--|
| 1. Diagnostic tests | 5. Prescriptions |
| 2. Health Education | 6. Information about available health care resources |
| 3. Office Visits | 7. Referrals to health care specialists |
| 4. Patient Advocacy | |

- Services which can not be provided are:

Emergency medical service, hospitalization or surgery.

- The volunteer health care provider must submit a joint application with a non-profit agency to the Department of Administration, Bureau of State Risk Management.
- When the application is approved, the volunteer health care provider who provides service covered above becomes an Agent of the State and is provided the broad liability protection of s. 895.46, Wis. Stats.
- To apply, complete the attached form and return to:

Tom Robinson
Bureau of State Risk Management
P.O. Box 7844
Madison, WI 53707-7844

Ann Dopp
(608)-267-4882

If you have questions, please call Tom Robinson at (608) 266-0168.

(retired)
John Vick has taken his place
Contact person ^{Kristin} Owen (608) 261-6638

(Applications are batched - it takes ~ 4 weeks to return)

An Opportunity to Improve the Health of Wisconsin's School Children

Under Wisconsin Statute 146.89, health care professionals that volunteer at non-profit agencies qualify for liability protection provided under s 895.46.

Unfortunately, the liability insurance coverage only extends to non-profits and does not include schools. As a result:

- An individual who is a registered nurse that wants to volunteer at a non-profit clinic can do so and receive the liability coverage. If the same individual wants to volunteer to administer physical exams at an MPS high school they must pay for their own coverage (approx. \$400)

There is support for legislation that would extend the coverage to include volunteers in schools from several groups.

- Bill Bizan @ Wisconsin Health and Hospital Association
 - Wisconsin Association of School Nurses
 - Tom Riley @ Aurora Health Care
 - Wisconsin Nursing Association

The fiscal impact should be minimal, but should be confirmed with Fiscal Bureau.

MPS Contact:
Kathleen Murphy
475-8766

(b) The health care provider under par. (a) may be charged reasonable costs for the provision of the patient's health care records.

(2) The health care provider shall provide each patient with a statement paraphrasing the provisions of this section either upon admission to an inpatient health care facility, as defined in s. 50.135 (1), or upon the first provision of services by the health care provider.

(3) The health care provider shall note the time and date of each request by a patient or person authorized by the patient to inspect the patient's health care records, the name of the inspecting person, the time and date of inspection and identify the records released for inspection.

(4) No person may do any of the following:

(a) Intentionally falsify a patient health care record.

(b) Conceal or withhold a patient health care record with intent to prevent or obstruct an investigation or prosecution or with intent to prevent its release to the patient, to his or her guardian appointed under ch. 880, to his or her health care provider with a statement of informed consent, or under the conditions specified in s. 146.82 (2), or to a person with a statement of informed consent.

(c) Intentionally destroy or damage records in order to prevent or obstruct an investigation or prosecution.

History: 1979 c. 221; 1989 a. 56; 1993 a. 27, 445; 1997 a. 157.

Sub. (1) (b) does not preclude certification of a class action in a suit to recover unreasonable fees charged for copies of health care records. *Cruz v. All Saints Healthcare System, Inc.* 2001 WI App 67, 242 Wis. 2d 432, 625 N.W.2d 344.

146.835 Parents denied physical placement rights. A parent who has been denied periods of physical placement under s. 767.24 (4) (b) or 767.325 (4) may not have the rights of a parent or guardian under this chapter with respect to access to that child's patient health care records under s. 146.82 or 146.83.

History: 1987 a. 355.

146.836 Applicability. Sections 146.815, 146.82, 146.83 (4) and 146.835 apply to all patient health care records, including those on which written, drawn, printed, spoken, visual, electronic, magnetic or digital information is recorded or preserved, regardless of physical form or characteristics.

History: 1999 a. 78.

146.84 Violations related to patient health care records. (1) ACTIONS FOR VIOLATIONS; DAMAGES; INJUNCTION. (a) A custodian of records incurs no liability under par. (bm) for the release of records in accordance with s. 146.82 or 146.83 while acting in good faith.

(b) Any person, including the state or any political subdivision of the state, who violates s. 146.82 or 146.83 in a manner that is knowing and wilful shall be liable to any person injured as a result of the violation for actual damages to that person, exemplary damages of not more than \$25,000 and costs and reasonable actual attorney fees.

(bm) Any person, including the state or any political subdivision of the state, who negligently violates s. 146.82 or 146.83 shall be liable to any person injured as a result of the violation for actual damages to that person, exemplary damages of not more than \$1,000 and costs and reasonable actual attorney fees.

(c) An individual may bring an action to enjoin any violation of s. 146.82 or 146.83 or to compel compliance with s. 146.82 or 146.83 and may, in the same action, seek damages as provided in this subsection.

(2) PENALTIES. (a) Whoever does any of the following may be fined not more than \$25,000 or imprisoned for not more than 9 months or both:

1. Requests or obtains confidential information under s. 146.82 or 146.83 (1) under false pretenses.

2. Discloses confidential information with knowledge that the disclosure is unlawful and is not reasonably necessary to protect another from harm.

3. Violates s. 146.83 (4).

(b) Whoever negligently discloses confidential information in violation of s. 146.82 is subject to a forfeiture of not more than \$1,000 for each violation.

(c) Whoever intentionally discloses confidential information in violation of s. 146.82, knowing that the information is confidential, and discloses the information for pecuniary gain may be fined not more than \$100,000 or imprisoned not more than 3 years and 6 months, or both.

(3) DISCIPLINE OF EMPLOYEES. Any person employed by the state or any political subdivision of the state who violates s. 146.82 or 146.83, except a health care provider that negligently violates s. 153.50 (6) (c), may be discharged or suspended without pay.

(4) EXCEPTIONS. This section does not apply to any of the following:

(a) Violations by a nursing facility, as defined under s. 49.498 (1) (f), of the right of a resident of the nursing facility to confidentiality of his or her patient health care records.

(b) Violations by a nursing home, as defined under s. 50.01 (3), of the right of a resident of the nursing home to confidentiality of his or her patient health care records.

History: 1991 a. 39; 1993 a. 445; 1999 a. 9, 79.

Sub. (1) (b) does not preclude certification of a class action in a suit to recover unreasonable fees charged for copies of health care records. *Cruz v. All Saints Healthcare System, Inc.* 2001 WI App 67, 242 Wis. 2d 432, 625 N.W.2d 344.

146.885 Acceptance of assignment for medicare. The department shall annually provide aging units, as defined in s. 46.82 (1) (a), with enrollment cards for and materials explaining the voluntary program that is specified in s. 71.55 (10) (b), for distribution to individuals who are eligible or potentially eligible for participation in the program. The state medical society shall supply the department with the enrollment cards and the explanatory materials for distribution under this section.

History: 1989 a. 294, 359; Stats. 1989 s. 146.885; 1991 a. 235.

(d) In this section, "volunteer health care provider" means an individual who is licensed as a physician under ch. 448, dentist under ch. 447, registered nurse, practical nurse or nurse-midwife under ch. 441, optometrist under ch. 449 or physician assistant under ch. 448 or certified as a dietitian under subch. V of ch. 448 and who receives no income from the practice of that health care profession or who receives no income from the practice of that health care profession while providing services under a program specified under sub. (3).

(2) (a) A volunteer health care provider may participate under this section only if he or she submits a joint application with a nonprofit agency to the department of administration and that department approves the application. The department of administration shall provide application forms for use under this paragraph.

(b) The department of administration may send an application to the medical examining board for evaluation. The medical examining board shall evaluate any application submitted by the department of administration and return the application to the department of administration with the board's recommendation regarding approval.

(c) The department of administration shall notify the volunteer health care provider and the nonprofit agency of the department's decision to approve or disapprove the application.

(d) Approval of an application of a volunteer health care provider is valid for one year. If a volunteer health care provider wishes to renew approval, he or she shall submit a joint renewal application with a nonprofit agency to the department of administration. The department of administration shall provide renewal application forms that are developed by the department of health and family services and that include questions about the activities that the individual has undertaken as a volunteer health care provider in the previous 12 months.

146.89 MISCELLANEOUS HEALTH PROVISIONS

(3) Any volunteer health care provider and nonprofit agency whose joint application is approved under sub. (2) shall meet the following applicable conditions:

(a) The volunteer health care provider shall provide services under par. (b) without charge at the nonprofit agency, if the joint application of the volunteer health care provider and the nonprofit agency has received approval under sub. (2) (a).

(b) The nonprofit agency may provide the following health care services:

1. Diagnostic tests.
2. Health education.
3. Information about available health care resources.
4. Office visits.
5. Patient advocacy.
6. Prescriptions.
7. Referrals to health care specialists.
8. Dental services, including simple tooth extractions and any necessary suturing related to the extractions, performed by a dentist who is a volunteer health provider.

(c) The nonprofit agency may not provide emergency medical services, hospitalization or surgery, except as provided in par. (b) 8.

(d) The nonprofit agency shall provide health care services primarily to low-income persons who are uninsured and who are not recipients of any of the following:

2. Medical assistance under subch. IV of ch. 49.
3. Medicare under 42 USC 1395-1395ccc.

(4) Volunteer health care providers who provide services under this section are, for the provision of these services, state agents of the department of health and family services for purposes of ss. 165.25 (6), 893.82 (3) and 895.46.

History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.

146.905 Reduction in fees prohibited. (1) Except as provided in sub. (2), a health care provider, as defined in s. 146.81 (1), that provides a service or a product to an individual with coverage under a disability insurance policy, as defined in s. 632.895 (1) (a), may not reduce or eliminate or offer to reduce or eliminate coinsurance or a deductible required under the terms of the disability insurance policy.

(2) Subsection (1) does not apply if payment of the total fee would impose an undue financial hardship on the individual receiving the service or product.

History: 1991 a. 250; 1995 a. 225.

146.91 Long-term care insurance. (1) In this section, "long-term care insurance" means insurance that provides coverage both for an extended stay in a nursing home and home health services for a person with a chronic condition. The insurance may also provide coverage for other services that assist the insured person in living outside a nursing home including but not limited to adult day care and continuing care retirement communities.

(2) The department, with the advice of the council on long-term care insurance, the office of the commissioner of insurance, the board on aging and long-term care and the department of employee trust funds, shall design a program that includes the following:

(a) Subsidizing premiums for persons purchasing long-term care insurance, based on the purchasers' ability to pay.

(b) Reinsuring by the state of policies issued in this state by long-term care insurers.

(c) Allowing persons to retain liquid assets in excess of the amounts specified in s. 49.47 (4) (b) 3g., 3m. and 3r., for purposes of medical assistance eligibility, if the persons purchase long-term care insurance.

(3) The department shall collect any data on health care costs and utilization that the department determines to be necessary to design the program under sub. (2).

(5) In designing the program, the department shall consult with the federal department of health and human services to determine the feasibility of procuring a waiver of federal law or regulations that will maximize use of federal medicaid funding for the program designed under sub. (2).

(6) The department, with the advice of the council on long-term care insurance, may examine use of tax incentives for the sale and purchase of long-term care insurance.

History: 1987 a. 27; 1989 a. 56.

146.93 Primary health care program. (1) (a) From the appropriation under s. 20.435 (4) (gp), the department shall maintain a program for the provision of primary health care services based on the primary health care program in existence on June 30, 1987. The department may promulgate rules necessary to implement the program.

(c) The department shall seek to obtain a maximum of donated or reduced-rate health care services for the program and shall seek to identify and obtain a maximum of federal funds for the program.

(2) The program under sub. (1) (a) shall provide primary health care, including diagnostic laboratory and X-ray services, prescription drugs and nonprescription insulin and insulin syringes.

(3) The program under sub. (1) (a) shall be implemented in those counties with high unemployment rates and within which a maximum of donated or reduced-rate health care services can be obtained.

(4) The health care services of the program under sub. (1) (a) shall be provided to any individual residing in a county under sub. (3) who meets all of the following criteria:

(a) The individual is either unemployed or is employed less than 25 hours per week.

(b) The individual's family income is not greater than 150% of the federal poverty line, as defined under 42 USC 9902 (2).

(c) The individual does not have health insurance or other health care coverage and is unable to obtain health insurance or other health care coverage.

History: 1985 a. 29; 1987 a. 27; 1989 a. 31; 1999 a. 9.

146.95 Patient visitation. (1) DEFINITIONS. In this section:

(a) "Health care provider" has the meaning given in s. 155.01 (7).

(b) "Inpatient health care facility" has the meaning given in s. 252.14 (1) (d).

(c) "Treatment facility" has the meaning given in s. 51.01 (19).

(2) PATIENT-DESIGNATED VISITORS. (a) Any individual who is 18 years of age or older may identify to a health care provider at an inpatient health care facility at any time, either orally or in writing, those persons with whom the individual wishes to visit while the individual is a patient at the inpatient health care facility. Except as provided in par. (b), no inpatient health care facility may deny visitation during the inpatient health care facility's regular visiting hours to any person identified by the individual.

(b) Subject to s. 51.61 for a treatment facility, an inpatient health care facility may deny visitation with a patient to any person if any of the following applies:

1. The inpatient health care facility or a health care provider determines that the patient may not receive any visitors.

2. The inpatient health care facility or a health care provider determines that the presence of the person would endanger the health or safety of the patient.

necessary, to paying creditors of the decedent in the order of preference prescribed in s. 859.25 for satisfaction of debts by executors and administrators. The making of payment under this paragraph shall be a discharge and release of the employer to the amount of the payment.

(4) Any person who violates this section shall be punished by a fine equal to the amount of the bond or by imprisonment for not less than 10 days nor more than 60 days, or both.

History: 1991 a. 221; 1993 a. 486; 1995 a. 223.

895.42 Deposit of undistributed money and property by administrators and others. (1) In case in any proceeding in any court of record it is determined that moneys or other personal property in the custody of or under the control of any administrator, executor, trustee, receiver or other officer of the court, belongs to a natural person if the person is alive, or to an artificial person if it is in existence and entitled to receive, otherwise to some other person, and the court or judge making such determination finds that there is not sufficient evidence showing that the natural person first entitled to take is alive, or that the artificial person is in existence and entitled to receive, or in case such money or other personal property, including any legacy or share of intestate property cannot be delivered to the legatee or heir or person entitled thereto because of the fact that such person is a member of the military or naval forces of the United States or any of its allies or is engaged in any of the armed forces abroad or with the American Red Cross society or other body or other similar business, then in either or any of such cases, the court or judge may direct that the officer having custody or control of such money or other personal property, deposit the same in any trust company, or any state or national bank within the state of Wisconsin authorized to exercise trust powers, taking its receipt therefor, and the said receipt shall, to the extent of the deposit so made, constitute a complete discharge of the said officer in any accounting by the officer made in said proceeding.

(2) In case such deposit is directed to be made, the court shall require the trust company or bank in which said deposit is ordered to be made, as a condition of the receipt thereof, to accept and handle, manage and invest the same as trust funds to the same extent as if it had received the same as a testamentary trust, unless the court shall expressly otherwise direct, except that the reports shall be made to the court of its appointment.

(3) No distribution of the moneys or personal property so deposited shall be made by the depository as such trustee or otherwise without an order of the court on notice as prescribed by s. 879.03, and the jurisdiction of the court in the proceeding will be continued to determine, at any time at the instance of any party interested, the ownership of said funds, and to order their distribution.

History: 1973 c. 90; 1993 a. 486.

895.43 Intentional killing by beneficiary of contract. The rights of a beneficiary of a contractual arrangement who kills the principal obligee under the contractual arrangement are governed by s. 854.14.

History: 1981 c. 228; 1987 a. 222; 1997 a. 188.

895.435 Intentional killing by beneficiary of certain death benefits. The rights of a beneficiary to receive benefits payable by reason of the death of an individual killed by the beneficiary are governed by s. 854.14.

History: 1981 c. 228; 1987 a. 222; 1997 a. 188.

895.437 Use of lodging establishments. (1) In this section:

- (a) "Alcohol beverages" has the meaning given in s. 125.02 (1).
- (b) "Controlled substance" has the meaning given in s. 961.01 (4).
- (bd) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

(c) "Lodging establishment" has the meaning given in s. 106.52 (1) (d).

(d) "Underage person" has the meaning given in s. 125.02 (20m).

(2) Any person who procures lodging in a lodging establishment and permits or fails to take action to prevent any of the following activities from occurring in the lodging establishment is subject to the penalties provided in sub. (5):

(a) Consumption of an alcohol beverage by any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

(b) Illegal use of a controlled substance or controlled substance analog.

(3) An owner or employee of a lodging establishment may deny lodging to an adult if the owner or employee reasonably believes that consumption of an alcohol beverage by an underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or illegal use of a controlled substance or controlled substance analog, may occur in the area of the lodging establishment procured.

(4) An owner or employee of a lodging establishment may require a cash deposit or use of a credit card at the time of application for lodging.

(5) A person who violates sub. (2) or a local ordinance which strictly conforms to sub. (2) shall forfeit:

(a) Not more than \$500 if the person has not committed a previous violation within 12 months of the violation; or

(b) Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

History: 1989 a. 94; 1991 a. 295; 1995 a. 27, 448; 1999 a. 82.

895.44 Exemption from civil liability for furnishing safety inspection or advisory services. The furnishing of, or failure to furnish, safety inspection or advisory services intended to reduce the likelihood of injury, death or loss shall not subject a state officer, employee or agent, or an insurer, the insurer's agent or employee undertaking to perform such services as an incident to insurance, to liability for damages from injury, death or loss occurring as a result of any act or omission in the course of the safety inspection or advisory services. This section shall not apply if the active negligence of the state officer, employee or agent, or of the insurer, the insurer's agent or employee created the condition that was the proximate cause of injury, death or loss. This section shall not apply to an insurer, the insurer's agent or employee performing the safety inspection or advisory services when required to do so under the provisions of a written service contract.

History: 1991 a. 39.

A "written service contract" is a contract that obligates the insurer to provide loss control services to an insured. *Samuels Recycling Co. v. CNA Insurance Cos.* 223 Wis. 2d 233, 588 N.W.2d 385 (Ct. App. 1998).

895.46 State and political subdivisions thereof to pay judgments taken against officers. (1) (a) If the defendant in any action or special proceeding is a public officer or employee and is proceeded against in an official capacity or is proceeded against as an individual because of acts committed while carrying out duties as an officer or employee and the jury or the court finds that the defendant was acting within the scope of employment, the judgment as to damages and costs entered against the officer or employee in excess of any insurance applicable to the officer or employee shall be paid by the state or political subdivision of which the defendant is an officer or employee. Agents of any department of the state shall be covered by this section while acting within the scope of their agency. Regardless of the results of the litigation the governmental unit, if it does not provide legal counsel to the defendant officer or employee, shall pay reasonable attorney fees and costs of defending the action, unless it is found by the court or jury that the defendant officer or employee did not act within the scope of employment. The duty of a governmental unit to provide or pay for the provision of legal representation does not apply to the extent that applicable insurance provides that rep-

resentation. If the employing state agency or the attorney general denies that the state officer, employee or agent was doing any act growing out of or committed in the course of the discharge of his or her duties, the attorney general may appear on behalf of the state to contest that issue without waiving the state's sovereign immunity to suit. Failure by the officer or employee to give notice to his or her department head of an action or special proceeding commenced against the defendant officer or employee as soon as reasonably possible is a bar to recovery by the officer or employee from the state or political subdivision of reasonable attorney fees and costs of defending the action. The attorney fees and expenses shall not be recoverable if the state or political subdivision offers the officer or employee legal counsel and the offer is refused by the defendant officer or employee. If the officer, employee or agent of the state refuses to cooperate in the defense of the litigation, the officer, employee or agent is not eligible for any indemnification or for the provision of legal counsel by the governmental unit under this section.

(am) If a court determines that costs are awardable to an employee or official who has been provided representation by a governmental unit under par. (a), the court shall award those costs to the unit of government that provided the representation.

(b) Persons holding the office of county sheriff on March 1, 1983, are covered by this subsection. This subsection covers other county sheriffs who have:

1. Satisfactorily completed or are currently enrolled in the preparatory program of law enforcement training under s. 165.85 (4) (b) 1. and, if applicable, the recertification programs under s. 165.85 (4) (bn) 1., or have provided evidence of equivalent law enforcement training and experience as determined by the law enforcement standards board; or

2. At least 5 years of full-time employment as a law enforcement officer, as defined in s. 165.85 (2) (c).

(c) This subsection does not apply to any action or special proceeding brought by a county against its county sheriff if the action or proceeding is determined in favor of the county.

(d) On and after March 1, 1983, all persons employed as deputy sheriffs, as defined in s. 40.02 (48) (b) 3., are covered by this subsection. The county board shall adopt written policies for payments under this subsection on behalf of any other person, provided that person has satisfied the minimum standards of the law enforcement standards board, who serves at the discretion of the sheriff as a law enforcement officer as defined in s. 165.85 (2) (c), and the county may make the payments upon approval by the county board.

(e) Any nonprofit corporation operating a museum under a lease agreement with the state historical society, and all officers, directors, employees and agents of such a corporation, and any local emergency planning committee appointed by a county board under s. 59.54 (8) (a) and all members of such a committee, are state officers, employees or agents for the purposes of this subsection.

(2) Any town officer held personally liable for reimbursement of any public funds paid out in good faith pursuant to the directions of electors at any annual or special town meeting shall be reimbursed by the town for the amount of the judgment for damages and costs entered against the town officer.

(3) The protection afforded by this section shall apply to any state officer, employee or agent while operating a state-owned vehicle for personal use in accordance with s. 20.916 (7).

(4) The protection afforded by this section applies to members of the board of governors created under s. 619.04 (3), members of a committee or subcommittee of that board of governors, members of the patients compensation fund peer review council created under s. 655.275 (2) and persons consulting with that council under s. 655.275 (5) (b), with respect to judgments, attorney fees and costs awarded before, on or after April 25, 1990.

~~(5) The protection afforded by this section applies to any of the following:~~

~~(a) A volunteer health care provider who provides services under s. 46.89 for the provision of those services.~~

(b) A physician under s. 252.04 (9) (b).

(6) The protection afforded by this section applies to any criminal action under s. 291.97 (2) or 293.87 (2) or under 7 USC 136L (b), 15 USC 2616 (b), 33 USC 1319 (c), 42 USC 2284, 6928 (d) and (e), 6973 (b), 6992 (b) and (c), 7413 (c), 9603 (b), 9606 (b) and 11045 (b) or 49 USC 5124 that is commenced against a state officer or state employee who is proceeded against in his or her official capacity or as an individual because of acts committed in the storage, transportation, treatment or disposal of hazardous substances, as defined in s. 289.01 (11), if that officer or employee is found to be acting within the scope of his or her employment and if the attorney general determines that the state officer or state employee acted in good faith. Regardless of the determination made by the attorney general, the protection afforded by this section applies if the state officer or agent is not found guilty of the criminal action commenced under this subsection. This protection includes the payment of reasonable attorney fees in defending the action and costs or fines arising out of the action.

(7) The protection afforded by this section does not apply to any law enforcement officer of another state acting in Wisconsin under an agreement authorized under s. 175.46.

(8) The protection afforded by this section applies to any owner of land within a drainage district established under ch. 88 who undertakes work on a drain if the work is approved by the drainage board.

History: 1973 c. 333; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 895.45; 1975 c. 81, 198, 199; Stats. 1975 s. 895.46; 1977 c. 29; 1979 c. 74, 221; 1981 c. 20; 1981 c. 96 s. 67; 1981 c. 314 s. 136; 1983 a. 6; 1983 a. 27 s. 2202 (32); 1985 a. 29, 66; 1987 a. 342; 1987 a. 403 s. 256; 1989 a. 31, 115, 187, 206, 359; 1991 a. 245, 269; 1993 a. 27, 28, 49, 238, 456, 490; 1995 a. 201, 277, 411; 1997 a. 35; 1999 a. 185.

Cross-reference: See s. 775.06 for special procedure applying to state law enforcement officers.

Highway commission supervisors who are responsible for the placement of highway warning signs may be sued if a sign is not placed in accordance with commission rules. They cannot claim the state's immunity from suit. *Chart v. Dvorak*, 57 Wis. 2d 92, 203 N.W.2d 673 (1973).

"Litigation" under sub. (1) refers only to civil proceedings. *Bablitch & Bablitch v. Lincoln County*, 82 Wis. 2d 574, 263 N.W.2d 218 (1978).

Mandatory payment under sub. (1) did not apply to an official who was sued for illegally retaining his salary due to an alleged failure to comply with the statutory requirements for a bond and oath of office. The official was not acting in his official capacity when filing the bond or taking the oath or in defaulting a related suit. *Thurmer v. Village of Mishicot*, 86 Wis. 2d 374, 272 N.W.2d 409 (Ct. App. 1978).

An insurer of public employees had no right of recovery under s. 270.58 (1) [now s. 895.46 (1)] *Horace Mann Insurance Co. v. Wauwatosa Board of Education*, 88 Wis. 2d 385, 276 N.W.2d 761 (1979).

The state could not be sued as an indemnitor under s. 270.58 (1) [now s. 895.46 (1)]. *Fiala v. Voight*, 93 Wis. 2d 337, 286 N.W.2d 824 (1980).

The state may not be sued directly for the tortious acts of its employees. *Miller v. Smith*, 100 Wis. 2d 609, 302 N.W.2d 468 (1981).

The "color of law" element of 42 USC 1983 lawsuit is not identical to the "scope of employment" element under sub. (1). *Cameron v. Milwaukee*, 102 Wis. 2d 448, 307 N.W.2d 164 (1981).

Whether aidpersons were acting within the scope of their employment was inappropriately decided by summary judgment. *Schroeder v. Schoessow*, 108 Wis. 2d 49, 321 N.W.2d 131 (1982).

Once a governmental unit decides to provide counsel, it must provide complete and full representation on all issues. *Beane v. City of Sturgeon Bay*, 112 Wis. 2d 609, 334 N.W.2d 235 (1983).

Sub. (1) applied to a forfeiture action against a police officer. *Crawford v. City of Ashland*, 134 Wis. 2d 369, 396 N.W.2d 781 (Ct. App. 1986).

"Any action" in sub. (1) (a) means a trial in which the issue of "scope of employment" is essential and evidence on the issue is introduced and argued. *Desotelle v. Continental Cas. Co.* 136 Wis. 2d 13, 400 N.W.2d 524 (Ct. App. 1986).

In "scope of employment" cases under sub. (1) (a), consideration must be given to whether the employee was "actuated," in some measure, by a purpose to serve the employer. *Olson v. Connerly*, 156 Wis. 2d 488, 457 N.W.2d 479 (1990).

A former school employee sued by the school district over her employment contract was not entitled to costs under sub. (1) (a). *Pardeeville Area School District v. Bomber*, 214 Wis. 2d 396, 571 N.W.2d 189 (Ct. App. 1997).

Young members of a commission created by 2 villages were public officers protected by s. 895.46 (1). 74 Atty. Gen. 208.

Sections 895.35 and 895.46 apply to actions for open meetings law violations to the same extent that they apply to other actions against public officers and employees, except that public officials cannot be reimbursed for forfeitures they are ordered to pay for violating open meetings law. 77 Atty. Gen. 177.

The University of Wisconsin has no authority to agree to hold harmless a county that incurs liability because of a university officer's torts, but common law would require the officer to indemnify the county and statutory indemnification would

require the state to indemnify the officer when acting in the scope of employment. 78 Atty. Gen. 1.

State Emergency Response Board Committee and Local Emergency Planning Committee subcommittee members appointed by a county board are entitled to indemnity for damage liability under s. 895.46 and legal representation by the attorney general under s. 165.25. 81 Atty. Gen. 17.

This section may require indemnification for actions that are not intended to benefit the employer when those actions further the objectives of employment. Hibma v. Odegaard, 769 F.2d 1147 (1985).

Section 893.80 (4) bars direct suits against municipalities for the torts of their employees. It does not preclude suing the officer directly and using a 895.46 to indirectly recover from the municipality. Graham v. Sauk Prairie Police Commission, 915 F.2d 1085 (1990).

Sub. (1) does not prevent a state official from asserting "good faith" as a defense to a charge of infringement of civil rights. Clarke v. Cady, 358 F. Supp. 1156 (1973).

The purpose of this section is not to transform any suit against a state employee into a suit against state, but to shield state employees from monetary loss in tort suits. Ware v. Percy, 468 F. Supp. 1266 (1979).

A county could not be held liable for a civil rights judgment against a county judge when the judgment held that the judge was not carrying out duties of the office at the relevant time. Harris v. County of Racine, 512 F. Supp. 1273 (1981).

If an employee is part of an inter-municipal team under s. 66.305 [now s. 66.0313], the agency requesting the team's services is the de facto employer for purposes of indemnification under this section. Leibenstein v. Crowe, 826 F. Supp. 1174 (1992).

A sheriff represents the county when enforcing the law. Sovereign immunity for state officials under the 11th amendment to the U.S. constitution does not apply. Abraham v. Piechowski, 13 F. Supp. 2d 1023 (1998).

895.47 Indemnification of the Wisconsin State Agencies Building Corporation and the Wisconsin State Public Building Corporation. If the Wisconsin State Agencies Building Corporation or the Wisconsin State Public Building Corporation is the defendant in an action or special proceeding in its capacity as owner of facilities occupied by any department or agents of any department of state government, the judgment as to damages and costs shall be paid by the state from the appropriation made under s. 20.865 (1) (fm). The state, when it does not provide legal counsel to the defendant, its members, officers or employees, shall pay reasonable attorney fees and costs of defending the action regardless of the results of the litigation, unless the court or jury finds that the member, officer or employee did not act within the scope of that person's employment. Failure by the defendant to give notice to the department of justice of an action or special proceeding commenced against it, its members, officers or employees as soon as reasonably possible shall bar recovery by the defendant, its members, officers or employees from the state under this section. Attorney fees and expenses may not be recovered if the state offers the member, officer or employee legal counsel and the offer is refused.

History: 1977 c. 344, 447.

895.48 Civil liability exemption; emergency care, athletic events health care, hazardous substances and information concerning paternity. (1) Any person who renders emergency care at the scene of any emergency or accident in good faith shall be immune from civil liability for his or her acts or omissions in rendering such emergency care. This immunity does not extend when employees trained in health care or health care professionals render emergency care for compensation and within the scope of their usual and customary employment or practice at a hospital or other institution equipped with hospital facilities, at the scene of any emergency or accident, enroute to a hospital or other institution equipped with hospital facilities or at a physician's office.

(1m) Any physician or athletic trainer licensed under ch. 448, chiropractor licensed under ch. 446, dentist licensed under ch. 447, emergency medical technician licensed under s. 146.50, first responder certified under s. 146.50 (8), physician assistant licensed under ch. 448, registered nurse licensed under ch. 441 or a massage therapist or bodyworker issued a license of registration under subch. XI of ch. 440 who renders voluntary health care to a participant in an athletic event or contest sponsored by a non-profit corporation, as defined in s. 46.93 (1m) (c), a private school, as defined in s. 115.001 (3r), a public agency, as defined in s. 46.93 (1m) (e), or a school, as defined in s. 609.655 (1) (c), is immune from civil liability for his or her acts or omissions in rendering that care if all of the following conditions exist:

(a) The health care is rendered at the site of the event or contest, during transportation to a health care facility from the event or contest, or in a locker room or similar facility immediately before, during or immediately after the event or contest.

(b) The physician, athletic trainer, chiropractor, dentist, emergency medical technician, first responder, physician assistant, registered nurse, massage therapist or bodyworker does not receive compensation for the health care, other than reimbursement for expenses.

(2) (a) In this subsection:

1. "Discharge" has the meaning given under s. 292.01 (3).

2. "Hazardous substance" has the meaning given under s. 299.01 (6).

3. "Hazardous substance prediction" means any declaration or estimate of the likely spread or impact of an actual discharge of a hazardous substance that is based on meteorological, mathematical, computer or similar models.

4. "Hazardous substance predictor" means any person who makes a hazardous substance prediction pursuant to a contract or agreement with a public agency or pursuant to a contract or agreement with a person who possesses or controls hazardous substances for the purpose of assisting that person in supplying a public agency with a hazardous substance prediction in the event of an actual discharge of a hazardous substance.

(b) Any person is immune from civil liability for his or her good faith acts or omissions related to assistance or advice which the person provides relating to an emergency or a potential emergency regarding either of the following:

1. Mitigating or attempting to mitigate the effects of an actual or threatened discharge of a hazardous substance.

2. Preventing or cleaning up or attempting to prevent or clean up an actual or threatened discharge of a hazardous substance.

(c) The immunity under par. (b) does not extend to any person:

1. Whose act or omission causes in whole or in part the actual or threatened discharge and who would otherwise be liable for the act or omission;

2. Who would be liable for the discharge under chs. 281 to 285 or 289 to 299, except s. 281.48, or any rule promulgated or permit or order issued under chs. 281 to 285 or 289 to 299, except s. 281.48;

3. Whose act or omission constitutes gross negligence or involves reckless, wanton or intentional misconduct; or

4. Who receives or expects to receive compensation, other than reimbursement for out-of-pocket expenses, for rendering the advice and assistance.

(d) 1. Any hazardous substance predictor or any person who provides the technology to enable hazardous substance predictions to be made is immune from civil liability for his or her good faith acts or omissions in making that prediction or providing that technology.

2. The good faith of any hazardous substance predictor or any person who provides the technology to make a prediction is presumed in any civil action. Any person who asserts that the acts or omissions under subd. 1. were not made in good faith has the burden of proving that assertion by clear and convincing evidence.

3. The immunity under subd. 1. does not extend to any person described under par. (c) 1., 2. or 3.

(3) Any member of the staff of a hospital who is designated by the hospital and trained by the department of workforce development under s. 69.14 (1) (cm) and who in good faith provides to a child's available parents written information that is provided by the department of workforce development and oral information or an audio or video presentation about the form that is prescribed by the state registrar under s. 69.15 (3) (b) 3. and about the significance and benefits of, and alternatives to, establishing paternity, under the requirements of s. 69.14 (1) (cm), is immune from civil



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4192/1

DAK:.....
CS King

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

cyen

- 1 AN ACT ...; relating to: expanding the volunteer health care provider program
2 to include provision of services in elementary and secondary schools.

Analysis by the Legislative Reference Bureau

Under current law, if the department of administration has approved a joint application of a health care provider and a nonprofit agency, the health care provider acting within the scope of his or her licensure or certification may provide, without charge to low-income, uninsured persons at the agency, diagnostic tests, health education, office visits, patient advocacy, prescriptions, information about available health care resources, referrals to health care specialists, and, for dentists, simple tooth extractions and necessary related suturing. The health care provider, for the provision of these services, is a state agent of the department of health and family services; as such, for a civil action arising out of an act committed in the lawful course of the health care provider's duties, certain time limitations for filing the action apply, legal counsel is provided to the health care provider, judgments against the health care provider are paid by the state, and amounts recoverable are capped at \$250,000.

This bill expands the volunteer health care provider program to authorize provision of services, without charge, in a public or private, nonprofit elementary or secondary school.

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) of the statutes is renumbered 146.89 (1) (intro.) and
2 amended to read:

3 146.89 (1) (intro.) In this section, "volunteer" (m) "Volunteer health care
4 provider" means an individual who is licensed as a physician under ch. 448, dentist

5 under ch. 447, registered nurse, practical nurse, or nurse-midwife under ch. 441,
6 optometrist under ch. 449, or physician assistant under ch. 448 or certified as a dietitian

7 under subch. V of ch. 448 and who receives no income from the practice of that health

8 care profession or who receives no income from the practice of that health care

9 profession when providing services at the school or nonprofit agency specified under

10 sub. (3).

~~History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.~~

11 SECTION 2. 146.89 (1) (g) of the statutes is created to read:

12 146.89 (1) (g) "School" means a public or private, nonprofit elementary or
13 secondary school.

14 SECTION 3. 146.89 (2) (a) of the statutes is amended to read:

15 146.89 (2) (a) A volunteer health care provider may participate under this
16 section only if he or she submits a joint application with a school or nonprofit agency

17 to the department of administration and that department approves the application.

18 The department of administration shall provide application forms for use under this

19 paragraph.

~~History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.~~

20 SECTION 4. 146.89 (2) (c) of the statutes is amended to read:

1 146.89 (2) (c) The department of administration shall notify the volunteer
2 health care provider and the school or nonprofit agency of the department's decision
3 to approve or disapprove the application.

4 ~~History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.~~

4 **SECTION 5.** 146.89 (2) (d) of the statutes is amended to read:

5 146.89 (2) (d) Approval of an application of a volunteer health care provider is
6 valid for one year. If a volunteer health care provider wishes to renew approval, he
7 or she shall submit a joint renewal application with a school or nonprofit agency to
8 the department of administration. The department of administration shall provide
9 renewal application forms that are developed by the department of health and family
10 services and that include questions about the activities that the individual has
11 undertaken as a volunteer health care provider in the previous 12 months.

12 ~~History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.~~

12 **SECTION 6.** 146.89 (3) (intro.) of the statutes is amended to read:

13 146.89 (3) (intro.) Any volunteer health care provider and school or nonprofit
14 agency whose joint application is approved under sub. (2) shall meet the following
15 applicable conditions:

16 ~~History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.~~

16 **SECTION 7.** 146.89 (3) (a) of the statutes is amended to read:

17 146.89 (3) (a) The volunteer health care provider shall provide services under
18 par. (b) without charge at the school or nonprofit agency, if the joint application of the
19 volunteer health care provider and the school or nonprofit agency has received
20 approval under sub. (2) (a).

21 ~~History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.~~

21 **SECTION 8.** 146.89 (3) (b) (intro.) of the statutes is amended to read:

22 146.89 (3) (b) (intro.) The school or nonprofit agency may provide the following
23 health care services:

~~History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.~~

1 SECTION 9. 146.89 (3) (c) of the statutes is amended to read:

2 146.89 (3) (c) The school or nonprofit agency may not provide emergency
3 medical services, hospitalization, ✓ or surgery under this section, except as provided
4 in par. (b) 8.

~~History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.~~
5 SECTION 10. 146.89 (3) (d) (intro.) of the statutes is amended to read:

6 146.89 (3) (d) (intro.) The school or nonprofit agency shall provide health care
7 services primarily to low-income persons who are uninsured and who are not
8 recipients of any of the following:

~~History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.~~
9 SECTION 11. Initial applicability.

10 (1) VOLUNTEER HEALTH CARE PROVIDER PROGRAM. This act first applies to
11 applications submitted under section 146.89 (2) (a) ✓ of the statutes, as affected by this
12 act, on the effective date of this subsection.

13 (END)

Emery, Lynn

From: Emery, Lynn
Sent: Monday, November 19, 2001 2:49 PM
To: Lorentz, Daniel
Subject: LRB-4192/1 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

11/19/2001

Kennedy, Debora

From: Rose, Laura
Sent: Wednesday, February 06, 2002 2:59 PM
To: Kennedy, Debora
Subject: LRB 4192/1

Hi Debora,

I've been working with both Rep. Richards' and Rep. Duff's offices on this draft. They have both approached me with this idea, and they had slightly different approaches. They've decided to work together on this, and use Richards' draft (LRB 4192/1) as the vehicle. Could you please redraft it as a /2 for Richards, with the following modifications:

1. A school district, rather than a school, would be eligible to apply for the volunteer health care provider program. *→ School board*
2. Volunteer providers for school districts would be permitted to provide all of the health care services listed in s. 146.89(3)(b), except for prescriptions and dental services. In addition, they would be permitted to provide the following additional services:
 - a. first aid for illness or injury
 - b. administration of drugs, as specified in s. 118.29(2)(a)1. *to 2r., to students.*
 - c. health screenings
 - d. any other health care services designated by the *department of* public instruction by rule.
3. A volunteer health care provider who provides services for a school district shall provide proof of current certification in first aid and cardiopulmonary resuscitation to the school district in which he or she provides health care services.

4. All health care services provided by volunteer health care providers in school shall be *available* ~~provided~~ to all students.

That should do it. Please call me if you have any questions or if you think we should meet in person about this.

Rep. Duff's office should also get a copy of the /2 when you have it done.

Thanks!!

Laura

Laura Rose
Legislative Council
266-9791
laura.rose@legis.state.wi.us

*make
exception
to low-income*

✓ 2/8/02 From Laura: Rep. Richards does not want bill to extend to nonpublic schools.



SOON - In edit 2/11

State of Wisconsin
2001 - 2002 LEGISLATURE

D-NOTE

LRB-4192/2
DAK: skmg: [initials]
e

2001 BILL

1 AN ACT *to renumber and amend* 146.89 (1); *to amend* 146.89 (2) (a), 146.89
 2 (2) (c), 146.89 (2) (d), 146.89 (3) (intro.), 146.89 (3) (a), 146.89 (3) (b) (intro.),
 3 146.89 (3) (c) and 146.89 (3) (d) (intro.); and *to create* 146.89 (1) (g) of the
 4 statutes; **relating to:** expanding the volunteer health care provider program
 5 to include provision of services in public elementary and secondary schools.

Analysis by the Legislative Reference Bureau (DOR)

Under current law, if the department of administration has approved a joint application of a health care provider and a nonprofit agency, the health care provider acting within the scope of his or her licensure or certification may provide, without charge to low-income, uninsured persons at the agency, diagnostic tests, health education, office visits, patient advocacy, prescriptions, information about available health care resources, referrals to health care specialists, and, for dentists, simple tooth extractions and necessary related suturing. The health care provider, for the provision of these services, is a state agent of the department of health and family services; as such, for a civil action arising out of an act committed in the lawful course of the health care provider's duties, certain time limitations for filing the action apply, legal counsel is provided to the health care provider, judgments against the health care provider are paid by the state, and amounts recoverable are capped at \$250,000.

This bill expands the volunteer health care provider program to authorize provision of services, without charge, in a public ~~or private, nonprofit~~ elementary or secondary school.

INSERT ANAL

BILL

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) of the statutes is renumbered 146.89 (1) (intro.) and
2 amended to read:

3 146.89 (1) (intro.) In this section, ~~“volunteer:~~

4 ^(r)
4 ~~(a)~~ “Volunteer health care provider” means an individual who is licensed as a
5 physician under ch. 448, dentist under ch. 447, registered nurse, practical nurse, or
6 nurse-midwife under ch. 441, optometrist under ch. 449, or physician assistant
7 under ch. 448 or certified as a dietitian under subch. V of ch. 448 and who receives
8 no income from the practice of that health care profession or who receives no income
9 from the practice of that health care profession when providing services at the ~~school~~
10 ~~or~~ nonprofit agency specified under sub. (3). or school

11 **SECTION 2.** 146.89 (1) (g) of the statutes is created to read:

12 146.89 (1) (g) “School” means a public ~~or private, nonprofit~~ elementary or
13 secondary school. or school board

INSEPT 2-13

14 **SECTION 3.** 146.89 (2) (a) of the statutes is amended to read:

15 146.89 (2) (a) A volunteer health care provider may participate under this
16 section only if he or she submits a joint application with a ~~school or~~ nonprofit agency
17 ~~(to the department of administration and that department approves the application.~~
18 The department of administration shall provide application forms for use under this
19 paragraph.

20 **SECTION 4.** 146.89 (2) (c) of the statutes is amended to read:

BILL

1 146.89 (2) (c) The department of administration shall notify the volunteer
2 health care provider and the ~~school or~~ nonprofit agency of the department's decision
3 to approve or disapprove the application. or school board

4 **SECTION 5.** 146.89 (2) (d) of the statutes is amended to read:

5 146.89 (2) (d) Approval of an application of a volunteer health care provider is
6 valid for one year. If a volunteer health care provider wishes to renew approval, he
7 or she shall submit a joint renewal application with a ~~school or~~ nonprofit agency to
8 the department of administration. The department of administration shall provide
9 renewal application forms that are developed by the department of health and family
10 services and that include questions about the activities that the individual has
11 undertaken as a volunteer health care provider in the previous 12 months.

12 **SECTION 6.** 146.89 (3) (intro.) of the statutes is amended to read:

13 146.89 (3) (intro.) Any volunteer health care provider and school or nonprofit
14 agency whose joint application is approved under sub. (2) shall meet the following
15 applicable conditions:

16 **SECTION 7.** 146.89 (3) (a) of the statutes is amended to read:

17 146.89 (3) (a) The volunteer health care provider shall provide services under
18 par. (b) without charge at the school or nonprofit agency, if the joint application of the
19 volunteer health care provider and the school or nonprofit agency has received
20 approval under sub. (2) (a). under this section, the

21 **SECTION 8.** 146.89 (3) (b) (intro.) of the statutes is amended to read:

22 146.89 (3) (b) (intro.) ~~The school or~~ nonprofit agency may provide the following
23 health care services:

24 **SECTION 9.** 146.89 (3) (c) of the statutes is amended to read:

BILL

SECTION 9

Under this section, the

1 146.89 (3) (c) ~~The school or~~ nonprofit agency may not provide emergency
2 medical services, hospitalization, or surgery ~~under this section~~, except as provided
3 in par. (b) 8.

4 **SECTION 10.** 146.89 (3) (d) (intro.) of the statutes is amended to read:

5 146.89 (3) (d) (intro.) ~~The school or~~ nonprofit agency shall provide health care
6 services primarily to low-income persons who are uninsured and who are not
7 recipients of any of the following:

INSERT 4-7

8 **SECTION 11. Initial applicability.**

9 (1) VOLUNTEER HEALTH CARE PROVIDER PROGRAM. This act first applies to
10 applications submitted under section 146.89 (2) (a) of the statutes, as affected by this
11 act, on the effective date of this subsection.

(END)

D-NOTE

INSERT ANAL ✓

~~XXXX~~, if DOA approves the joint application of a health care provider and a school board. After providing to the school board proof of satisfactory completion of a course or courses in basic first aid and basic cardiopulmonary resuscitation, the volunteer health care provider may provide without charge to all students of the school, regardless of income, diagnostic tests; health education; information about available health care resources; office visits; patient advocacy; referrals to health care specialists; first aid for illness or injury; in compliance with the written instructions of a pupil's parent or guardian, the administration of any drug that may lawfully be sold over the counter; health screenings; and any other health care services designated by the department of public instruction

INSERT 2-13 ✓

1 SECTION 1. 146.89 (1) (h) of the statutes is created to read:

2 146.89 (1) (h) "School board" has the meaning given in s. 115.001 (7). ✓

INSERT 4-7 ✓

3 SECTION 2. 146.89 (3m) of the statutes is created to read:

4 146.89 (3m) All of the following apply to a volunteer health care provider whose
5 joint application with a school board is approved under sub. (2): ✓

6 (a) Before providing health care services in a school, the volunteer health care
7 provider shall provide to the school board proof of satisfactory completion of a course
8 or courses in basic first aid and basic cardiopulmonary resuscitation taught by an
9 individual, organization, or institution of higher education approved by the
10 department of health and family services. ✓

~~11 (b) The volunteer health care provider shall provide services under par. (c)
12 without charge at the school. ✓~~

13 (b) Under this section, the volunteer health care provider may provide the
14 following health care services: ✓

15 1. The health care services specified in sub. (3) (b) 1. to 5. and 7. ✓

16 2. First aid for illness or injury. ✓

1
2
3
4
5
6
7
8
9

3. The administration of drugs, as specified in s. 118.29 (2) (a) 1. ✓

4. Health screenings.

5. Any other health care services designated by the department of public instruction by rule. ✓

(d) Under this section, the volunteer health care provider may not provide emergency medical services, hospitalization, or surgery, except as provided in par.

(b) 2. and 5.

(e) The volunteer health care provider shall make the health care services specified under par. (b) available to all students regardless of income. ✓

Any

provided

shall be provided without charge at the school and shall be

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4192/2dn
DAK:●kmg:pg
e

Representative Richards:

Please review this draft carefully, especially s. 146.89 (3m). Is it appropriate to require a health care provider who is a physician to provide proof of first aid instruction?

Please let me know if I can provide you with further assistance with regard to this bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4192/2dn
DAK:kmg:jf

February 20, 2002

Representative Richards:

Please review this draft carefully, especially s. 146.89 (3m). Is it appropriate to require a health care provider who is a physician to provide proof of first aid instruction?

Please let me know if I can provide you with further assistance with regard to this bill.

Debra A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debra.kennedy@legis.state.wi.us

Basford, Sarah

From: Basford, Sarah
Sent: Wednesday, February 20, 2002 11:06 AM
To: Rep.Duff
Subject: LRB -4192/2 & dn (attached)



01-4192/2



01-4192/2dn

Sarah Basford

Program Assistant
State of Wisconsin
Legislative Reference Bureau
PH: (608) 266-3561/FAX: (608) 264-6948
sarah.basford@legis.state.wi.us

Beam, Laura

From: Lorentz, Daniel
Sent: Thursday, February 28, 2002 1:19 PM
To: LRB.Legal

Please jacket LRB 4192/2 for the Assembly.

Thanks.

Dan Lorentz
Rep. Richards' Office
6.0650