

2007 DRAFTING REQUEST

Bill

Received: 11/20/2006

Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: Steve Wieckert (608) 266-3070

By/Representing: Scott Becher (aide)

This file may be shown to any legislator: NO

Drafter: dkennedy

May Contact:

Addl. Drafters:

Subject: Health - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Wieckert@legis.wisconsin.gov

Carbon copy (CC:) to: robin.ryan@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

State agency status coverage under Volunteer Health Care Provider Program

Instructions:

Same as 2005 AB 789

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>
/?	dkennedy 11/20/2006	jdyer 12/04/2006		_____			State
/1			nmatzke 12/04/2006	_____	cduerst 12/04/2006	mbarman 03/29/2007	

FE Sent For: 12/12/2006, [REDACTED]

↳ (1/1)

<END>

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FE Sent For:

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/?	dkennedy	1 12/4 jcd	nwh 12/4	nwn/rs 12/4			

FE Sent For:

<END>

2007-2008

LPS
PWTF
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2005 ASSEMBLY BILL 789

October 31, 2005 - Introduced by Representatives ~~WIECKERT, WASSERMAN, MUSSER, FIELDS, ALBERS, JENSEN, OWENS, GUNDERSON, MCCORMICK, F. LASEE, KRAWCZYK, LEHMAN, PETROWSKI, HAHN, HINES, HUNDERTMARK, STRACHOTA, VOS and OTT,~~ cosponsored by Senators ~~GROTHMAN, RISSER, MILLER, WIRCH, ROESSLER, LASSA, A. LASEE, DARLING and ERPENBACH.~~ Referred to Committee on Insurance.

Regen

- 1 AN ACT to amend 146.89 (4) and 895.46 (1) (a) of the statutes; relating to: state
- 2 agency status coverage under the Volunteer Health Care Provider Program ✓
- 3 regardless of applicable health care liability insurance coverage.

Analysis by the Legislative Reference Bureau

Under the Volunteer Health Care Provider Program (VHCPP) in current law, health care services of a volunteer health care provider and a nonprofit agency whose joint application is approved by the Department of Administration must be provided without charge primarily to low-income persons who are uninsured and, except for the provision of certain dental and dental hygiene services to Medical Assistance (MA) recipients, ~~are~~ not recipients of MA or Medicare Program benefits. Volunteer health care providers include physicians, dentists, registered nurses, licensed practical nurses, nurse-midwives, optometrists, and physician assistants. These volunteers are, for the provision of services under the VHCPP, state agents of the Department of Health and Family Services (DHFS) ✓

Under current law, for a person with status as a state agent of DHFS, the attorney general may, if requested by the secretary of health and family services, appear and defend the person in any civil action or other matter brought before a court as the result of an act committed in the lawful course of the agent's duties. In addition, a civil action or civil proceeding against a state agent for an act committed in the course of the discharge of the agent's duties may not be brought unless the claimant serves on the attorney general written notice within 120 days of the event that caused injury, damage, or death. Lastly, judgments in excess of any insurance

may

be

nurse practitioners ✓

These persons must be

dental hygienists, ✓

ASSEMBLY BILL 789

applicable to the state agent defendant must be paid by the state, and a governmental unit need not provide or pay for legal representation if applicable insurance provides the representation.

This bill provides status as state agents of DHFS to volunteer health care providers who provide services under the VHCPP, regardless of whether the health care provider has medical malpractice insurance coverage that would extend to the provision of the services. Limitation in current law on state payment of damages and costs and on payment or provision of legal representation for state agents who have applicable insurance coverage do not, under the bill, apply. The bill specifies that any medical malpractice insurance policy providing coverage for a health care provider's services may exclude coverage for services that the health care provider provides as a volunteer health care provider.

For further information see the *state* 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 (4) of the statutes is amended to read:

2 146.89 (4) Volunteer health care providers who provide services under this
3 section are, for the provision of these services, state agents of the department of
4 health and family services for purposes of ss. 165.25 (6), 893.82 (3) and 895.46. This
5 state agency status applies regardless of whether the volunteer health care provider
6 has coverage under a policy of health care liability insurance that would extend to
7 services provided by the volunteer health care provider under this section; and the
8 limitations under s. 895.46 (1) (a) on the payment by the state of damages and costs
9 in excess of any insurance coverage applicable to the agent and on the duty of a
10 governmental unit to provide or pay for legal representation do not apply. Any policy
11 of health care liability insurance providing coverage for services of a health care
12 provider may exclude coverage for services provided by the health care provider
13 under this section.

14 SECTION 2. 895.46 (1) (a) of the statutes is amended to read:

ASSEMBLY BILL 789

1 895.46 (1) (a) If the defendant in any action or special proceeding is a public
2 officer or employee and is proceeded against in an official capacity or is proceeded
3 against as an individual because of acts committed while carrying out duties as an
4 officer or employee and the jury or the court finds that the defendant was acting
5 within the scope of employment, the judgment as to damages and costs entered
6 against the officer or employee, except as provided in s. 146.89 (4), in excess of any
7 insurance applicable to the officer or employee shall be paid by the state or political
8 subdivision of which the defendant is an officer or employee. Agents of any
9 department of the state shall be covered by this section while acting within the scope
10 of their agency. Regardless of the results of the litigation the governmental unit, if
11 it does not provide legal counsel to the defendant officer or employee, shall pay
12 reasonable attorney fees and costs of defending the action, unless it is found by the
13 court or jury that the defendant officer or employee did not act within the scope of
14 employment. The Except as provided in s. 146.89 (4), the duty of a governmental unit
15 to provide or pay for the provision of legal representation does not apply to the extent
16 that applicable insurance provides that representation. If the employing state
17 agency or the attorney general denies that the state officer, employee or agent was
18 doing any act growing out of or committed in the course of the discharge of his or her
19 duties, the attorney general may appear on behalf of the state to contest that issue
20 without waiving the state's sovereign immunity to suit. Failure by the officer or
21 employee to give notice to his or her department head of an action or special
22 proceeding commenced against the defendant officer or employee as soon as
23 reasonably possible is a bar to recovery by the officer or employee from the state or
24 political subdivision of reasonable attorney fees and costs of defending the action.
25 The attorney fees and expenses shall not be recoverable if the state or political

ASSEMBLY BILL 789**SECTION 2**

1 subdivision offers the officer or employee legal counsel and the offer is refused by the
2 defendant officer or employee. If the officer, employee or agent of the state refuses
3 to cooperate in the defense of the litigation, the officer, employee or agent is not
4 eligible for any indemnification or for the provision of legal counsel by the
5 governmental unit under this section.

6 **SECTION 3. Initial applicability.**

7 (1) HEALTH CARE LIABILITY INSURANCE. This act first applies to health care
8 liability insurance policies issued or renewed on the effective date of this subsection.

9 (END)

Barman, Mike

From: Barman, Mike
Sent: Tuesday, December 12, 2006 8:36 AM
To: Becher, Scott
Subject: RE: I need primary fiscal notes for LRB 0850/1, LRB 0707 and LRB 0854.

Scott,

I submitted your "early" (on un-introduced drafts) FE requests to DOA.

Thanks,
Mike

From: Becher, Scott
Sent: Thursday, December 07, 2006 5:14 PM
To: Barman, Mike
Subject: I need primary fiscal notes for LRB 0850/1, LRB 0707 and LRB 0854.

Mike-

I need primary fiscal notes for LRB 0850/1, LRB 0707 and LRB 0854.

Thanks.

Scott Becher
Rep. Steve Wieckert

Barman, Mike

From: Field, Adam
Sent: Thursday, March 29, 2007 1:43 PM
To: LRB.Legal
Subject: LRB 0850 Jacket

Attachments: 07-08501.pdf

Please jacket LRB 0850 for introduction. Thanks!



07-08501.pdf (20
KB)

Adam Field

Office of Rep. Steve Wieckert
Wisconsin State Assembly
(608) 266-3070

Memo

To: Senator Representative Wieckert

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2007 draft.

LRB Number: LRB - 0850

Version: " / 1 "

Fiscal Estimate Prepared By: (agency abbr.) DOA

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 12 / 28 / 2006

* * * * *

To: LRB – Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

- > **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.
- > **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.
- > **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2007 AB-263

Barman, Mike

From: Barman, Mike
Sent: Thursday, December 28, 2006 12:37 PM
To: Rep.Wieckert
Cc: Becher, Scott
Subject: LRB 07-0690/1 (un-introduced) (FE by DNR - attached - for your review)

Attachments: FE_Wieckert.PDF



FE_Wieckert.PDF
(595 KB)

Mike Barman (Senior Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

Memo

To: Senator Representative

WIECKERT

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2007 draft.

LRB Number: LRB - 0850

Version: "1"

Fiscal Estimate Prepared By: (agency abbr.) DHFS

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 01 / 08 / 2007

* * * * *

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- > **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Christina) to process.

THIS DRAFT WAS INTRODUCED AS: 2007 _____

Duerst, Christina

From: Duerst, Christina
Sent: Monday, January 08, 2007 4:24 PM
To: Rep.Wieckert; Becher, Scott
Subject: LRB 07-0850/1 (FE by DHFS - ATTACHED FOR YOUR REVIEW)

Attachments: FE_WIECKERT.PDF



FE_WIECKERT.PDF
(319 KB)