

2009 DRAFTING REQUEST

Bill

Received: **01/07/2009**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Dean Kaufert (608) 266-5719**

By/Representing: **Adam Field**

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

Drafter: **rryan**

May Contact:

Adl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kaufert@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Volunteer Health Care Providers

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> |
|--------------|---------------------|------------------------|----------------------|----------------|------------------------|-----------------------|-----------------|
| /? | rryan 01/28/2009 | kfollett 01/28/2009 | | _____ | | | State |
| /1 | | | phenry 01/29/2009 | _____ | sbasford 01/29/2009 | cduerst 01/30/2009 | |

FE Sent For:

at intro
2/16

<END>

2009 DRAFTING REQUEST

Bill

Received: **01/07/2009**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Dean Kaufert (608) 266-5719**

By/Representing: **Adam Field**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kaufert@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Volunteer Health Care Providers

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> |
|--------------|---------------------|------------------------|----------------------|----------------|------------------------|-----------------|-----------------|
| /? | rryan 01/28/2009 | kfollett 01/28/2009 | | _____ | | | State |
| /1 | | | phenry 01/29/2009 | _____ | sbasford 01/29/2009 | | |

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **01/07/2009**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Dean Kaufert (608) 266-5719**

By/Representing: **Adam Field**

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

Drafter: **rryan**

May Contact:

Adl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kaufert@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Volunteer Health Care Providers

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> |
|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|

| | | | | | | | |
|----|-------|-----------------|------------|------------|--|--|--|
| /? | rryan | 1/15/09 1/28 | 1/29 ph | 1/29 ph | | | |
|----|-------|-----------------|------------|------------|--|--|--|

FE Sent For:

<END>

Ryan, Robin

From: Field, Adam
Sent: Wednesday, January 07, 2009 4:00 PM
To: Ryan, Robin
Subject: FW: Bill Draft Request - Volunteer Health Care Providers

Hey Robin,

Got a message that you were helping out while Debora Kennedy is out of the office. We would like a redraft of LRB 0850 / AB 263 from last session Re Volunteer Health Care Providers. Thanks!

Adam

Adam R. Field
Office of Rep. Dean Kaufert
55th Assembly District

From: Field, Adam
Sent: Wednesday, January 07, 2009 3:54 PM
To: Kennedy, Debora
Subject: Bill Draft Request - Volunteer Health Care Providers

Hi Debora,

Could we get a redraft of LRB 0850 / AB 263 from last session. Thanks!

Adam

Adam R. Field
Office of Rep. Dean Kaufert
55th Assembly District

*Call to Adam 1/28/09:
Want the amendments as well?
yes - chiropractors
physical therapists*

In 1/28/09
Soon
Please

2009 BILL

RMNR

Reyn cat.

1 AN ACT *to renumber and amend* 146.89 (1) (r); *to amend* 146.89 (4) and 895.46
2 (1) (a); and *to create* 146.89 (1) (r) 5. of the statutes; **relating to:** the Volunteer
3 Health Care Provider Program.

Analysis by the Legislative Reference Bureau

Currently, under the Volunteer Health Care Provider Program (program), the state indemnifies certain health care providers who provide health care services for a nonprofit agency or elementary school free of charge or, in the case of some dental service, for a discounted fee. In order to serve as a volunteer health care provider under the program, a person must submit a joint application with a nonprofit agency or elementary school and the Department of Administration must approve the application. If volunteering for a nonprofit agency, the agency must primarily serve low-income people. The following people may become volunteer health care providers under the program: physicians, dentists, dental hygienists, registered nurses, practical nurses, nurse-midwives, optometrists, physician assistants, pharmacists, dieticians, nurse practitioners, and pharmacy technicians. If a claim is brought against a volunteer health care provider for acts or omissions committed in the course of providing health care services under the program, the state must provide or pay for legal representation for the volunteer health care provider and must pay damages and costs awarded against the volunteer health care provider to the extent that legal representation, damages, and costs are not covered by any applicable insurance.

This bill requires the state to provide or pay for legal representation and pay damages and costs awarded against a volunteer health care provider in connection

BILL

with a claim arising against the volunteer health care provider for acts or omissions committed in the course of providing volunteer health care services under the program, regardless of whether any applicable insurance covers the costs of legal representation, damages, or costs. The bill also allows the following to become volunteer health care providers under the program: chiropractors; physical therapists; speech-language pathologists; occupational therapists; massage therapists; acupuncturists; and phlebotomists, if working under the supervision of physicians.

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

3 146.89 (1) (r) (intro.) “Volunteer health care provider” means an individual who
4 is licensed one of the following and who receives no income from the practice of his
5 or her health care profession or who receives no income from the practice of that
6 health care profession when providing services at the nonprofit agency specified
7 under sub. (3) or for the school board or governing body specified under sub. (3r):

8 1. Licensed as a physician under ch. 448, dentist or dental hygienist under ch.
9 447, or registered nurse, practical nurse, or nurse-midwife under ch. 441, an
10 optometrist under ch. 449, or a physician assistant under ch. 448, or pharmacist
11 under ch. 450, who is certified chiropractor under ch. 446, or physical therapist under
12 subch. III of ch. 448, an occupational therapist under subch. VII of ch. 448, or a
13 speech-language pathologist under subch. II of ch. 459.

14 2. Certified as a dietitian under subch. V of ch. 448, or who is a, an
15 acupuncturist under ch. 451, or a massage therapist or bodyworker under ch. 460.

16 3. A nurse practitioner, as defined in s. 255.06 (1) (d), or,

BILL

1 4. An individual who performs functions described for pharmacy technicians
2 in rules promulgated by the pharmacy examining board, ~~and who receives no income~~
3 ~~from the practice of that health care profession or who receives no income from the~~
4 ~~practice of that health care profession when providing services at the nonprofit~~
5 ~~agency or school specified under sub. (3).~~

6 **SECTION 2.** 146.89 (1) (r) 5. of the statutes is created to read:

7 146.89 (1) (r) 5. A phlebotomist if working under the supervision of a physician.

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

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

21 **SECTION 4.** 895.46 (1) (a) of the statutes is amended to read:

22 895.46 (1) (a) If the defendant in any action or special proceeding is a public
23 officer or employee and is proceeded against in an official capacity or is proceeded
24 against as an individual because of acts committed while carrying out duties as an
25 officer or employee and the jury or the court finds that the defendant was acting

BILL

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

BILL

1 eligible for any indemnification or for the provision of legal counsel by the
2 governmental unit under this section.

3 **SECTION 5. Initial applicability.**

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

6 (END)

Duerst, Christina

From: Field, Adam
Sent: Friday, January 30, 2009 1:19 PM
To: LRB.Legal
Subject: Please Jacket LRB 1487

Attachments: 09-14871.pdf

Please jacket LRB 1487 for introduction.



09-14871.pdf (18
KB)

Adam R. Field
Office of Rep. Dean Kaufert
55th Assembly District