

## 2009 DRAFTING REQUEST

### Bill

Received: **11/19/2008**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Hilgenberg (608) 266-7502**

By/Representing: **Max Dulberger**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - public health**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hilgenberg@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 12/29/2008	kfollett 01/20/2009		_____			State
/1			rschluet 01/20/2009	_____	lparisi 01/20/2009		State
/2	rryan 02/23/2009	kfollett 02/24/2009	rschluet 02/24/2009	_____	lparisi 02/24/2009	sbasford 02/27/2009	

FE Sent For:

*at  
intro*

<END>

## 2009 DRAFTING REQUEST

### Bill

Received: **11/19/2008**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Hilgenberg (608) 266-7502**

By/Representing: **Max Dulberger**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - public health**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hilgenberg@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 12/29/2008	kfollett 01/20/2009		_____			State
/1			rschluet 01/20/2009	_____	lparisi 01/20/2009		State
/2	rryan 02/23/2009	kfollett 02/24/2009	rschluet 02/24/2009	_____	lparisi 02/24/2009		

FE Sent For:

**<END>**

**2009 DRAFTING REQUEST**

**Bill**

Received: **11/19/2008**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Hilgenberg (608) 266-7502**

By/Representing: **Max Dulberger**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - public health**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hilgenberg@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 12/29/2008	kfollett 01/20/2009		_____			State
/1		12/15/f 2/24	rschluet 01/20/2009	_____	lparisi 01/20/2009		

FE Sent For:

**<END>**

**2009 DRAFTING REQUEST**

**Bill**

Received: 11/19/2008

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Steve Hilgenberg (608) 266-7502

By/Representing: Max Dulberger

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Health - public health

Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Volunteer health care providers

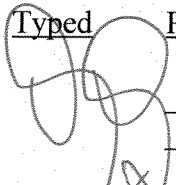
---

**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	1/15/08 1/20		PH			

FE Sent For:

<END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

11/19/08

Max - Rep. Hilgenberg

Redraft of AB 263 as amended

AA1 adds chiropractors ✓

AA2 adds physical therapists ✓

also add  
phlebotomists ✓

speech therapists ✓

occupational therapists ✓

dieticians (already covered)

massage therapists ✓

acupuncturists ✓

## Ryan, Robin

---

**From:** Dulberger, Max  
**Sent:** Wednesday, November 19, 2008 2:05 PM  
**To:** Ryan, Robin  
**Subject:** AB 263

I've been talking with Dick Sweet over at Leg Council about the various health care professionals and he pointed out that phlebotomists are not licensed or certified by the state. That being the case, I assume that it would pose a problem to include them in the Volunteer Health Care Provider Program, correct?

Thanks

Max Dulberger  
Legislative Aide  
Office of Rep. Steve Hilgenberg  
608-266-7502

---

**From:** Sweet, Richard  
**Sent:** Wednesday, November 19, 2008 1:52 PM  
**To:** Dulberger, Max  
**Subject:** RE: AB 263 - Liability Insurance for Health Professionals in free clinics

Max,

Actually, certified dieticians are already covered by the Volunteer Health Care Provider Program. They are included in the definition of "volunteer health care provider" (pasted in below). So there's precedent for including certified persons in the program.

I don't believe that the state licenses or certifies lab techs. OTs are licensed under ch. 448. Speech-language pathologists are licensed under ch. 459.

Dick

146.89(1)(r) "Volunteer health care provider" means an individual who is licensed as a physician under ch. 448, dentist or dental hygienist under ch. 447, registered nurse, practical nurse, or nurse-midwife under ch. 441, optometrist under ch. 449, or physician assistant under ch. 448, or pharmacist under ch. 450, who is certified as a dietitian under subch. V of ch. 448, or who is a nurse practitioner, as defined in s. 255.06 (1) (d), or who performs functions described for pharmacy technicians in rules promulgated by the pharmacy examining board, 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 when providing services at the nonprofit agency or school specified under sub. (3).



## Ryan, Robin

---

**From:** Dulberger, Max  
**Sent:** Thursday, December 04, 2008 9:32 AM  
**To:** Ryan, Robin  
**Subject:** RE: volunteer health care provider draft

Robin,

We've decided that the first option – provide that a phlebotomist may be a volunteer health care provider if working under the supervision of some other specified provider – is the most practical way to incorporate phlebotomists in the program. The other specified provider should be the Medical Director (a physician). Local health officials told me that volunteers usually work under the supervision of the Medical Director so this should work fine.

If you have any questions, get back to me.

Thanks,

Max Dulberger  
Legislative Aide  
Office of Rep. Steve Hilgenberg  
608-266-7502

---

**From:** Ryan, Robin  
**Sent:** Wednesday, December 03, 2008 10:07 AM  
**To:** Dulberger, Max  
**Subject:** volunteer health care provider draft

Max,

You had a question about how to incorporate phlebotomists in the volunteer health care provider program, given that the state does not accredit them.

Currently, pharmacy technicians may be volunteer health care providers even though they are not accredited, but they must work under the general supervision of a pharmacist.

Here are some options for phlebotomists:

1. You could provide that a phlebotomist may be a volunteer health care provider if working under the supervision of some other specified provider.
2. You could allow phlebotomists to be volunteer health care providers without any accreditation. DOA must review applications for individuals to serve as volunteer health care providers, so you could let DOA decide on a case by case basis whether a phlebotomist is qualified to serve as a volunteer.
3. You may want to find out what qualifications a phlebotomist must have to get a job in Wisconsin and put those qualifications in your bill.

Let me know what you want to do.

Robin

b/1/21

2007 - 2008 LEGISLATURE

LRB-0850/1

DAK:jld:nwn

In 12/29/08

RLR

kjf

PWF

**2007 ASSEMBLY BILL 263**

AMNR

April 13, 2007 - Introduced by Representatives WIECKERT, WASSERMAN, M. WILLIAMS, SINICKI, JESKEWITZ, STASKUNAS, HAHN, TOWNSEND, MUSSER, OWENS, HINES, BIES, ALBERS, KAUFERT, PETROWSKI, BENEDICT, FIELDS, BERCEAU, GUNDERSON, VOS, A. OTT and BALLWEG, cosponsored by Senators KREITLOW, ROESSLER, DARLING and LAZICH. Referred to Committee on Public Health.

Rayen at

- 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**

Insert Analysis

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. These persons must be uninsured and, except for the provision of certain dental and dental hygiene services to Medical Assistance (MA) recipients, may not be recipients of MA or Medicare Program benefits. Volunteer health care providers include physicians, dentists, dental hygienists, registered nurses, licensed practical nurses, nurse-midwives, nurse practitioners, 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

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0899/Plins  
RLR:.....

X  
wives  
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: a physician, dentist, dental hygienist, registered nurse, practical nurse, nurse-midwife, optometrist, physician assistant, pharmacist, dietician, nurse practitioner, and a pharmacy technician. 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 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: a chiropractor, physical therapist, speech-language pathologist, occupational therapist, massage therapist, acupuncturist, and a phlebotomist, if working under the supervision of a physician.

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

1           **Ins 2-1:**

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

4           146.89 (1) (r) "Volunteer health care provider" means an individual who is  
5 licensed one of the following and who receives no income from the practice of his or  
6 her health care profession or who receives no income from the practice of that health

1 care profession when providing services at the nonprofit agency or school specified  
2 under sub. (3): *or for the school board or governing body specified under sub. (3r)*

3 1. Licensed as a physician under ch. 448, dentist or dental hygienist under ch.  
4 447, <sup>or</sup> registered nurse, practical nurse, or nurse-midwife under ch. 441, <sup>an</sup> optometrist  
5 under ch. 449, <sup>a</sup> or physician assistant under ch. 448, <sup>or</sup> pharmacist under ch. 450, who  
6 is certified <sup>or</sup> chiropractor under ch. 446, <sup>or</sup> physical therapist under subch. III of ch. 448,  
7 <sup>an</sup> occupational therapist under subch. VII of ch. 448, <sup>a</sup> or speech-language pathologist  
8 under subch. II of ch. 459.

9 2. Certified as a dietitian under subch. V of ch. 448, <sup>plain</sup> or who is a <sup>an</sup> acupuncturist  
10 under ch. 451, <sup>a</sup> or <sup>a</sup> massage therapist or bodyworker under ch. 460.

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

12 4. An individual who performs functions described for pharmacy technicians  
13 in rules promulgated by the pharmacy examining board, ~~and who receives no income~~  
14 from the practice of that health care profession ~~or who receives no income from the~~  
15 practice of that health care profession when providing services at the nonprofit  
16 agency or school specified under 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; 2003 a. 92; 2005 a. 188; 2007 a. 20 s. 9121 (6) (a); 2007 a. 201.

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

18 146.89 (1) (r) 5. A phlebotomist if working under the supervision of a physician.

**ASSEMBLY BILL 263**

that caused injury, damage, or death. Lastly, judgments in excess of any insurance 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. Limitations 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:*

JNS  
2-1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

SECTION 1. 146.89 (4) of the statutes is amended to read:

146.89 (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. This state agency status applies regardless of whether the volunteer health care provider has coverage under a policy of health care liability insurance that would extend to services provided by the volunteer health care provider under this section; and the limitations under s. 895.46 (1) (a) on the payment by the state of damages and costs in excess of any insurance coverage applicable to the agent and on the duty of a governmental unit to provide or pay for legal representation do not apply. Any policy of health care liability insurance providing coverage for services of a health care provider may exclude coverage for services provided by the health care provider under this section.

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

**ASSEMBLY BILL 263**

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 263****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)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

2/23/09

Call from Max for Rep Hilgenberg

Redraft 0899/1

Delete provisions requiring state  
to cover legal expenses/damages  
that are already covered by  
producers insurance





State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0899/1

RLR:kjf:rs

In 2/23/09  
wanted soon

**2009 BILL**

RMR

Regen

- 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****SECTION 4**

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)

**Basford, Sarah**

---

**From:** Dulberger, Max  
**Sent:** Friday, February 27, 2009 11:07 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-0899/2 Topic: Volunteer health care providers

Please Jacket LRB 09-0899/2 for the ASSEMBLY.

Thanks,

Max Dulberger  
Office of Rep. Steve Hilgenberg  
608-266-7502