SENATE BILL 80 (LRB -2022)

An Act to renumber and amend 146.89 (1) (r); and to amend 146.89 (4) and 895.46 (1) (a) of the statutes; relating to: the Volunteer Health Care Provider Program. (FE)

2009

02-18.	S.	Introduced by Senators **Coggs, Holperin, Olsen, Kapanke, Schultz, Grothman, Lazich** and **Kreitlow**; cosponsored by Representatives **Kaufert, Benedict, M. Williams, Grigsby, Brooks, Hintz, Gottlieb, Staskunas, Gunderson, Steinbrink, Kerkman, Ziegelbauer, Knodl, LeMahieu, Lothian, Mursau, Murtha, Petersen, Petrowski, Ripp, Roth, Spanbauer, Stone, Strachota, Tauchen, Townsend, Van Roy** and **Vos**.	
02-18.	S.	Read first time and referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue	75
03-13.	S.	Fiscal estimate received.	
03-16.	S.	Fiscal estimate received.	
08-13.	S.	Senate amendment 1 offered by Senator Coggs **(LRB a0595)**	260
08-14.	S.	**LRB correction**	260
08-18.	S.	Public hearing held.	
09-17.	S.	Executive action taken.	
09-23.	S.	Report adoption of Senate Amendment 1 recommended by committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue, Ayes 7, Noes 0	323
09-23.	S.	Report passage as amended recommended by committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue, Ayes 7, Noes 0	323
09-23.	S.	Available for scheduling.	
10-13.	S.	Placed on calendar 10-20-2009 by committee on Senate Organization	358
10-20.	S.	Senator Wirch added as a coauthor	364
10-20.	S.	Read a second time	366
10-20.	S.	Senate amendment 1 **adopted**	366
10-20.	S.	Ordered to a third reading	366
10-20.	S.	Rules suspended	366
10-20.	S.	Read a third time and **passed**	366
10-20.	S.	Ordered immediately messaged	368
10-22.	A.	Received from Senate	449
10-23.	A.	Read first time and referred to committee on Rules	451
10-29.	A.	Representative Hilgenberg added as a cosponsor	478
10-29.	A.	Placed on calendar 11-3-2009 by committee on Rules.	
11-05.	A.	Read a second time	498
11-05.	A.	Ordered to a third reading	498
11-05.	A.	Rules suspended	498
11-05.	A.	Read a third time and **concurred in**	498
11-05.	A.	Ordered immediately messaged	498
11-06.	S.	Received from Assembly concurred in.	

CMD

2009
ENROLLED BILL

09en S B-80

ADOPTED DOCUMENTS:

☐ **Orig** ☐ **Engr** ___ **SubAmdt** ___ **09** 2022/1

Amendments to above (if none, write "NONE"): SA1 - a0595/1

Corrections - show date (if none, write "NONE"): AUG. 13, 2009

Topic Rel

11-6-09
Date

S R Miller
Enrolling Drafter

State of Wisconsin
2009–2010 LEGISLATURE

CORRECTIONS IN:

2009 SENATE BILL 80

Prepared by the Legislative Reference Bureau
(August 13, 2009)

CORR-1

1. Page 2, line 8: before "dentist" insert "a".

CORR-2

2. Page 2, line 9: delete "or" and substitute "a".

CORR-3

3. Page 2, line 10: before "pharmacist" insert "a".

CORR-4

4. Page 2, line 11: before "chiropractor" insert "a".

CORR-5

5. Page 2, line 11: before "physical" insert "a".

(END)

LRB–2022/1ccc–1
KJF:md

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31; Assembly Rule 36; and Joint Rule 56.

State of Wisconsin
2009 – 2010 LEGISLATURE

LRB–2022/1
RLR:kjf:md

2009 SENATE BILL 80

February 18, 2009 – Introduced by Senators COGGS, HOLPERIN, OLSEN, KAPANKE, SCHULTZ, GROTHMAN, LAZICH and KREITLOW, cosponsored by Representatives KAUFERT, BENEDICT, M. WILLIAMS, GRIGSBY, BROOKS, HINTZ, GOTTLIEB, STASKUNAS, GUNDERSON, STEINBRINK, KERKMAN, ZIEGELBAUER, KNODL, LEMAHIEU, LOTHIAN, MURSAU, MURTHA, PETERSEN, PETROWSKI, RIPP, ROTH, SPANBAUER, STONE, STRACHOTA, TAUCHEN, TOWNSEND, VAN ROY and VOS. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1 AN ACT ***to renumber and amend*** 146.89 (1) (r); and ***to amend*** 146.89 (4) and
2 895.46 (1) (a) of the statutes; **relating to:** the Volunteer Health Care Provider
3 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–midwifes, 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

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 chiropractors and physical therapists to become volunteer health care providers under the program.

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:

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

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

1. Licensed as a physician under ch. 448, dentist or dental hygienist under ch. 447, or registered nurse, practical nurse, or nurse–midwife under ch. 441, an optometrist under ch. 449, ~~or~~ a physician assistant under ch. 448, ~~or~~ pharmacist under ch. 450, ~~who is certified~~ chiropractor under ch. 446, or physical therapist under subch. III of ch. 448.

2. Certified as a dietitian under subch. V of ch. 448~~, or who is a,~~.

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

4. An individual 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~~

INS. CORR-1
INS CORR-2
INS CORR-3
INS CORR-4
INS. SA-1
INS. CORR-5

~~practice of that health care profession when providing services at the nonprofit agency or school specified under sub. (3)~~.

SECTION 2. 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 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 3. 895.46 (1) (a) of the statutes is amended to read:

895.46 **(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, except as provided in s. 146.89 (4), 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~~ Except as provided in s. 146.89 (4), 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 representation. 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.

SECTION 4. Initial applicability.

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

(END)

State of Wisconsin
2009 – 2010 LEGISLATURE

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SENATE AMENDMENT 1,

TO 2009 SENATE BILL 80

SA-1

August 13, 2009 – Offered by Senator COGGS.

At the locations indicated, amend the bill as follows:

1. Page 2, line 11: after "chiropractor under ch. 446," insert "a podiatrist under subch. IV of ch. 448,".

(END)