



## 2013 SENATE BILL 391

1     **AN ACT** *to amend* 146.89 (2) (a), 146.89 (4), 165.25 (6) (b), 655.003 (3), 893.82 (2)  
2             (d) 1m. and 895.46 (5) (a); and *to create* 146.89 (1) (r) 5., 146.89 (2) (am), 146.89  
3             (2) (br), 146.89 (3) (e) to (i) and 146.89 (5) of the statutes; **relating to:** allowing  
4             health care providers licensed outside the state to participate in and  
5             requirements on nonprofit agencies in the volunteer health care provider  
6             program.

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*Analysis by the Legislative Reference Bureau*

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

7             **SECTION 1.** 146.89 (1) (r) 5. of the statutes is created to read:  
8             146.89 (1) (r) 5. An individual who holds a valid, unexpired license,  
9             certification, or registration issued by another state or territory that authorizes or  
10            qualifies the individual to perform acts that are substantially the same as those acts

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1 that an individual who is described in subds. 1. to 4., except a dentist or dental  
2 hygienist, is licensed or certified to perform and who performs acts that are within  
3 the scope of that license, certification, or registration.

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

5 146.89 (2) (a) ~~A~~ Subject to par. (am), a volunteer health care provider may  
6 participate under this section only if he or she submits a joint application with a  
7 nonprofit agency, school board, or governing body to the department of  
8 administration and that department approves the application. If the volunteer  
9 health care provider submits a joint application with a school board or governing  
10 body, the application shall include a statement by the school board or governing body  
11 that certifies that the volunteer health care provider has received materials that  
12 specify school board or governing body policies concerning the provision of health  
13 care services to students and has agreed to comply with the policies. The department  
14 of administration shall provide application forms for use under this paragraph.

15 **SECTION 3.** 146.89 (2) (am) of the statutes is created to read:

16 146.89 (2) (am) 1. A volunteer health care provider described in sub. (1) (r) 5.  
17 may submit a joint application only with a nonprofit agency to participate under this  
18 section.

19 2. No volunteer health care provider described in sub. (1) (r) 5. may provide  
20 services under this section for more than 60 days in any 90 day period.

21 **SECTION 4.** 146.89 (2) (br) of the statutes is created to read:

22 146.89 (2) (br) The department of administration may not disapprove the  
23 application solely on the basis that the nonprofit agency is organized under the laws  
24 of a state other than this state.

25 **SECTION 5.** 146.89 (3) (e) to (i) of the statutes are created to read:

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1           146.89 (3) (e) Under this section, the nonprofit agency shall assume  
2 responsibility for approving individuals to be volunteer health care providers.

3           (f) Under this section, the nonprofit agency shall research and validate an  
4 individual's credentials before submitting the joint application to be a volunteer  
5 health care provider.

6           (g) The nonprofit agency shall enter the list of volunteer health care providers  
7 providing services at that nonprofit agency into an online, electronic system  
8 developed by the department of administration.

9           (h) The nonprofit agency shall monitor volunteer health care providers  
10 providing services at that nonprofit agency and shall terminate a provider's  
11 participation in the program under this section with that nonprofit agency when the  
12 agency questions the credentials of that provider or when the agency disapproves of  
13 the practices of that provider.

14           (i) The nonprofit agency shall prepare and submit to the department of  
15 administration an annual report that includes the types and number of health care  
16 services provided by the nonprofit agency under this section.

17           **SECTION 6.** 146.89 (4) of the statutes is amended to read:

18           146.89 (4) Volunteer Except as provided in sub. (5), volunteer health care  
19 providers who provide services under this section are, for the provision of these  
20 services, state agents of the department of health services for purposes of ss. 165.25  
21 (6), 893.82 (3) and 895.46. This state agency status applies regardless of whether the  
22 volunteer health care provider has coverage under a policy of health care liability  
23 insurance that would extend to services provided by the volunteer health care  
24 provider under this section; and the limitations under s. 895.46 (1) (a) on the  
25 payment by the state of damages and costs in excess of any insurance coverage

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1 applicable to the agent and on the duty of a governmental unit to provide or pay for  
2 legal representation do not apply. Any policy of health care liability insurance  
3 providing coverage for services of a health care provider may exclude coverage for  
4 services provided by the health care provider under this section.

5 **SECTION 7.** 146.89 (5) of the statutes is created to read:

6 146.89 (5) (a) A volunteer health care provider who meets all of the following  
7 criteria is not a state agent under sub. (4):

8 1. The volunteer health care provider is described in sub. (1) (r) 5.

9 2. The volunteer health care provider has sufficient liability insurance  
10 coverage, as determined by the department of health services.

11 3. The volunteer health care provider submits a joint application with a  
12 nonprofit agency that has sufficient liability coverage, as determined by the  
13 department of health services.

14 (b) A volunteer health care provider described in par. (a) is not liable for any  
15 civil damages for any act or omission resulting from providing services under this  
16 section, unless any of the following are true:

17 1. The act or omission is the result of the volunteer health care provider's gross  
18 negligence or willful misconduct.

19 2. The act or omission violates a state statute or rule.

20 **SECTION 8.** 165.25 (6) (b) of the statutes is amended to read:

21 165.25 (6) (b) Volunteer health care providers who provide services under s.  
22 146.89, except those described in s. 146.89 (5) (a), practitioners who provide services  
23 under s. 257.03, and health care facilities on whose behalf services are provided  
24 under s. 257.03 are, for the provision of those services, covered by this section and  
25 shall be considered agents of the department of health services for purposes of

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1 determining which agency head may request the attorney general to appear and  
2 defend them.

3 **SECTION 9.** 655.003 (3) of the statutes is amended to read:

4 655.003 (3) ~~A~~ Except for a physician or nurse anesthetist who meets the  
5 criteria under s. 146.89 (5) (a), a physician or a nurse anesthetist who provides  
6 professional services under the conditions described in s. 146.89, with respect to  
7 those professional services provided by the physician or nurse anesthetist for which  
8 he or she is covered by s. 165.25 and considered an agent of the department, as  
9 provided in s. 165.25 (6) (b).

10 **SECTION 10.** 893.82 (2) (d) 1m. of the statutes is amended to read:

11 893.82 (2) (d) 1m. A volunteer health care provider who provides services under  
12 s. 146.89, except a volunteer health care provider described in s. 146.89 (5) (a), for  
13 the provision of those services.

14 **SECTION 11.** 895.46 (5) (a) of the statutes is amended to read:

15 895.46 (5) (a) A volunteer health care provider who provides services under s.  
16 146.89, except a volunteer health care provider described in s. 146.89 (5) (a), for the  
17 provision of those services.

18 (END)