

# State of Wisconsin



2013 Senate Bill 391

Date of enactment: **April 8, 2014**  
Date of publication\*: **April 9, 2014**

## 2013 WISCONSIN ACT 241

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

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

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

146.89 (1) (r) 5. An individual who holds a valid, unexpired license, certification, or registration issued by another state or territory that authorizes or qualifies the individual to perform acts that are substantially the same as those acts that an individual who is described in subs. 1. to 4., except a dentist or dental hygienist, is licensed or certified to perform and who performs acts that are within the scope of that license, certification, or registration.

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

146.89 (2) (a) ~~-A- Subject to par. (am).~~ a volunteer health care provider may participate under this section only if he or she submits a joint application with a nonprofit agency, school board, or governing body to the department of administration and that department approves the application. If the volunteer health care provider submits a joint application with a school board or governing body, the application shall include a statement by the school board or governing body that certifies that the volunteer health care provider has received materials that specify school board or governing body policies con-

cerning the provision of health care services to students and has agreed to comply with the policies. The department of administration shall provide application forms for use under this paragraph.

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

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

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

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

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

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

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

(f) Under this section, the nonprofit agency shall research and validate an individual's credentials before

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

submitting the joint application to be a volunteer health care provider.

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

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

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

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

146.89 (4) ~~Volunteer~~ Except as provided in sub. (5), 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 7.** 146.89 (5) of the statutes is created to read:

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

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

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

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

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

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

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

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

165.25 (6) (b) Volunteer health care providers who provide services under s. 146.89, except those described in s. 146.89 (5) (a), practitioners who provide services under s. 257.03, and health care facilities on whose behalf services are provided under s. 257.03 are, for the provision of those services, covered by this section and shall be considered agents of the department of health services for purposes of determining which agency head may request the attorney general to appear and defend them.

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

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

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

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

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

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