



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-2785/3  
SWB/TJD/PJH/AJM:amn

## 2015 ASSEMBLY BILL 880

February 8, 2016 - Introduced by Representatives C. TAYLOR, ZAMARRIPA, KAHL, BARNES, SARGENT, SINICKI, JOHNSON, BERCEAU, KOLSTE, OHNSTAD, SUBECK, ZEPNICK, HESSELBEIN, BILLINGS, MASON, RIEMER, BROSTOFF, CONSIDINE, GOYKE, HINTZ, HEBL, POPE and SPREITZER, cosponsored by Senators ERPENBACH, RISSER, SHILLING, C. LARSON, RINGHAND and HARRIS DODD. Referred to Committee on Health.

1       **AN ACT** *to repeal* 46.245, 69.186 (1) (hf), 69.186 (1) (k), 69.186 (1) (L), 253.09,  
2           253.095, 253.10, 253.105, 253.107, 441.06 (6), 441.07 (1g) (f), 448.03 (5) (a),  
3           457.26 (2) (gm), 632.8985 and 940.04; *to renumber and amend* 940.32 (1) (a)  
4           10.; *to amend* 20.9275 (1) (a), 48.375 (4) (a) 1., 448.02 (3) (a), 625.11 (4), 625.22  
5           (1), 628.34 (3) (b), 939.75 (2) (b) 1., 968.26 (1b) (a) 2. a., 990.001 (17) (b) and  
6           990.01 (19j) (b); *to repeal and recreate* 448.02 (3) (a); and *to create* 15.194  
7           (2), 15.197 (12m), chapter 258, subchapter VIII (title) of chapter 655 [precedes  
8           655.90], 655.90, 655.92, 655.94, 655.96 and 940.32 (1) (a) 11. of the statutes;  
9       **relating to:** medically accurate information, conscientious beliefs of  
10       reproductive health care providers, health care provider liability insurance,  
11       eliminating certain abortion requirements, prohibiting employment

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- 1 retribution and discrimination, actions against a person seeking or providing  
2 health care, and providing a criminal penalty.
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***Analysis by the Legislative Reference Bureau***

This bill creates a right to medically accurate information, creates bodies for researching reproductive health issues, prohibits certain employment retribution and discrimination for health care providers, provides methods for health care providers to assert conscientious beliefs regarding reproductive health care services, makes various changes to abortion laws, specifies prohibited conduct regarding obtaining and providing health care and civil remedies and criminal penalties for committing that conduct, and regulating rates and other aspects of health care liability insurance.

***Patient Rights to Medically Accurate Information***

This bill creates a right and obligation for a physician to provide medically accurate information to patients to whom the physician provides medical care. The bill also creates a right for a patient to receive medically accurate information from a physician. The bill prohibits interference or other diminishment of the rights and obligations relating to medically accurate information, and further prohibits employment retribution based upon a physician's exercise of the rights and obligations relating to the provision of medically accurate information.

Under the bill, the state, including any political subdivision or instrumentality of the state, may not do either of the following: 1) require any information that is not medically accurate to be included on a procedure or treatment form; or 2) prohibit a physician from including medically accurate information that or from deleting information that in the physician's medical judgment is either not medically accurate or not somehow relevant to the patient's specific request for care or treatment.

The bill creates an Office of Advancement in Medical Knowledge and Care that is required to investigate developments affecting patient rights and to submit an annual report of its findings.

***Conscientious Beliefs***

The bill requires a hospital that has a department or service offering maternity care services to permit all standard reproductive health care services and all maternity care services if the hospital has the capacity and capability. The hospital must also provide an appropriate medical screening examination to any individual that comes to the hospital and for which a request for examination, treatment, or care for any standard reproductive health care service is made.

Under the bill, if a health care provider is available and it is within his or her training and license to provide or perform care appropriate for a patient's reproductive health care condition, the hospital must allow that provider to provide standard reproductive health care services, and reasonably accommodate and provide sufficient support for that provider in providing the care. If a health care provider is not available to provide or perform care appropriate for a patient's

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reproductive health care condition, and the hospital determines the patient has an emergent or urgent medical condition, the hospital must provide examination and treatment to the extent required to stabilize the patient's condition, counsel the patient on all medically appropriate treatments specific to the patient's reproductive health care condition and circumstances, and offer and provide the patient with a referral for treatment. After fulfilling these requirements, the hospital may transfer the patient to another medical facility when the patient is stable.

The bill allows a reproductive health care provider to provide to a hospital that has a department or service offering maternity care services one of the following: 1) a notice describing in detail the provider's conscientious belief and providing other information regarding that belief; 2) a notice that the provider, within his or her training and professional license, accepts and is ready to provide specific standard reproductive health care services identified in the provider's notice; or 3) a notice that the provider invokes applicable federal or state refusal rights and declines and objects to providing specific standard reproductive health care services identified in the provider's notice. If any of the notices are submitted to a hospital, the bill requires, with certain exceptions, the hospital to honor the provider's stated conscientious beliefs. A hospital may challenge a notice in certain circumstances. If a provider accepts and is ready to provide specified reproductive health services, the hospital must annually prepare, adopt, implement, and make publicly available a written plan designed to estimate and meet the anticipated demand for services. If a provider submits a notice declining and objecting to providing specific standard reproductive health care services and the hospital determines it will lack sufficient personnel to meet the demand for reproductive health care services, the hospital may require applicants for vacant reproductive health care provider positions to provide specific standard reproductive health care services.

The bill prohibits any person from interfering with, penalizing, or punishing a reproductive health care provider for asserting or exercising his or her conscientious beliefs, and provides civil remedies for violations relating to the assertion or exercise of these beliefs.

***Abortion***

The bill makes various changes to the laws relating to abortion, including:

1. The bill eliminates requirements for voluntary and informed consent before the performance of an abortion. Current law requires that a woman upon whom an abortion is to be performed or induced must give voluntary and informed written consent to an abortion. Except in a medical emergency, a woman's consent to an abortion is considered information only if before the abortion is performed or induced at a time specified in current law, the physician or an assistant has, in person, orally provided the woman with certain information and given to the woman certain written materials.

2. The bill eliminates the requirement, effective February 1, 2016, that except in a medical emergency a physician must determine or rely on another determination of the probable postfertilization age of an unborn child before performing an abortion. The bill also eliminates the prohibition on performing or

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inducing an abortion if the probable postfertilization age of the unborn child is 20 or more weeks.

3. This bill eliminates the prohibition on giving a woman an abortion-inducing drug unless the physician who provided the drug for the woman performs a physical exam on the woman and is physically present in the room when the drug is given to the woman.

4. The bill eliminates the current law prohibition on requiring a hospital to admit a patient for performing a sterilization or removing a human embryo or fetus.

5. The bill eliminates the liability exemption for hospitals or employees of hospitals who refuse to perform a sterilization or removal of a human embryo or fetus for religious or moral reasons.

6. The bill eliminates the prohibition against discriminating against a certain person because that person refuses to recommend, aid, or perform a sterilization or the removal of a human embryo or fetus for religious or moral reasons.

7. The bill eliminates the prohibition on coverage of abortions by qualified health plans offered through an exchange in this state.

8. The bill eliminates the prohibition on performing abortions by a physician that does not have admitting privileges in a hospital within 30 miles of the location where the abortion is to be performed. Under a federal appellate court ruling, the requirement to have admitting privileges currently may not be enforced.

9. Under current law, any person, other than the mother, who intentionally destroys the life of an unborn child may be fined not more than \$10,000, imprisoned for not more than six years, or both. Any person, other than the mother, who intentionally destroys the life of an unborn quick child or causes the mother's death by an act done with intent to destroy the life of an unborn child may be fined not more than \$50,000, imprisoned for not more than 15 years, or both. None of these penalties apply to a therapeutic abortion that is performed by a physician; that is necessary, or advised by two other physicians as necessary, to save the life of the mother; and that is performed, except on an emergency basis, in a licensed maternity hospital. These provisions were cited, along with other provisions not affected by this bill that prohibit performing an abortion generally, in *Roe v. Wade*, 410 U.S. 113 (1973), as substantially similar to a Texas statute that was held to violate the due process clause of the 14th Amendment to the U.S. Constitution. The bill repeals these provisions. The bill, however, does not affect any other criminal prohibition or limitation on abortion in current law, such as the prohibition on performing an abortion after the fetus or unborn child has reached viability, or any other homicide prohibition. The bill also does not affect a separate provision in current law that prohibits prosecution of and imposing or enforcing a fine or imprisonment against a woman who obtains an abortion or otherwise violates any abortion law with respect to her unborn child or fetus.

***Employment Retribution and Discrimination Prohibition***

The bill prohibits employment retribution and unfair discrimination against a health care provider based on the provider's involvement in a sterilization procedure, biomedical or behavioral research, or assertion or exercise of a conscientious belief to provide, or not provide, any standard reproductive health care

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services as described in the bill. The bill also requires a hospital or health care facility to provide notice to an applicant of these prohibitions.

Unless a health care provider provides express consent, the bill prohibits a hospital or health care facility from disclosing information about a health care provider's procedures, services, or research to the provider's prospective or potential employers, if the disclosure divulges activities that the hospital or health care provider could not use itself for disciplinary or other prohibited purposes under the prohibition of employment retribution and unfair discrimination.

***Implementation Health Care Task Force***

This bill requires the Department of Health Services (DHS) to establish an Implementation Health Care Task Force with certain law enforcement and medical professionals that is required to examine and report annually upon the challenges and successes in achieving the implementation of state policies and rights described in the bill.

***Prohibited Acts; Criminal and Civil Penalties***

The bill prohibits several acts (prohibited acts) against a person seeking, obtaining or helping another person to obtain, or providing health care services (health care patient or provider). The bill prohibits any person (actor) from injuring, intimidating, interfering with, or threatening a health care patient or provider. An actor who does so or who intentionally engages in a pattern of aggressive or harassing conduct against a health care patient or provider, or who intentionally interferes with the property of a medical facility to impede or otherwise interfere with its efficiency, is guilty of a Class I felony.

Under the bill, an actor who intentionally damages property, including data or records kept by a health care provider, or who intentionally files frivolous lawsuits against a health care provider or communicates deprecatory information about a health care provider for the purpose of damaging or interfering with the operations of a health care provider is guilty of a Class A misdemeanor.

An actor who engages in a pattern of targeted and dangerous activity, including an act or threat of murder, kidnapping, arson, robbery, extortion, or other dangerous felonies, toward a health care provider is guilty of a Class E felony, as is an actor who commits any of the other prohibited acts toward a health care patient or provider if the actor knows or should know that his or her action will cause a specific person's death or injury, or will cause a reasonable person to suffer serious emotional distress or to reasonably fear death or substantial bodily injury to himself or herself or to his or her family member or member of his or her household, and the acts did have one of those effects.

Under the bill, a patient or health care provider who is affected by a prohibited act may file a civil action against the actor. The bill allows a patient or health care provider to seek, in addition to injunctive relief and punitive damages, compensatory damages that reflect his or her actual damages or statutory damages of \$20,000 per violation.

Under the bill, a patient or physician may also file a civil action for a violation related to the patient's right to accurate medical information and his or her right to access to high quality medical care. The bill allows the person to seek, in addition

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to injunctive relief and punitive damages, compensatory damages that reflect his or her actual damages or statutory damages of \$5,000 per violation.

The statutory damages option of \$20,000 per violation is also available to a physician or health care provider who files a civil action after experiencing employment discrimination for his or her provision of medical care, after being prevented from providing medically accurate information to a patient, or after being required to provide medically inaccurate information to patient. The same option is available to a patient or a health care provider who is negatively affected by a determination regarding the conscientious beliefs of a reproductive health care provider.

The bill also authorizes the attorney general to commence a civil action if he or she has reasonable cause to believe that a hospital or any person is interfering with another's right to health care, committing a criminal act against a patient or health care provider, or otherwise violating a patient's or health care provider's rights.

Under the bill, a court may award injunctive relief and compensatory damages and an additional assessment of up to \$20,000 for the first violation and \$40,000 for each subsequent violation. If the court awards relief for a prohibited act, the court may assess an additional amount up to \$100,000 for a first violation and \$1,000,000 for each subsequent violation.

***Insurance Requirements***

This bill creates requirements for health care liability insurance policies regarding classification and rates for such insurance, procedures for appealing classification or rates, and health care liability policy mandates. These provisions include the following:

1. The bill requires that an insurer must classify certain procedures and medication regimens related to reproductive health and abortion in the same risk classes as other procedures with similar actuarial risks. The bill also requires medically indicated abortions to be classified in the same risk classes as elective abortions.

2. Under current law, the commissioner of insurance has the authority to promulgate rules for the procedure under which a health care provider may challenge the classification and rates contained in its liability policy. Under this bill, a health care provider is first required to exhaust all remedies contained in its insurance contract for challenging classification and rates. This bill also codifies the procedure promulgated by the commissioner, which permits a health care provider to, after exhausting its remedies under the insurance contract, petition the commissioner for review of the classification and rates. If the health care provider is not satisfied with the result of the petition, the health care provider may then appeal the decision to an administrative law judge.

3. Under current law, an insurer may not provide rates that are unfairly discriminatory. Unfair discrimination occurs when one rate in relation to another does not reflect the differences in expected losses and expenses. Under this bill, rates are also unfairly discriminatory if they consider political, social, ethical, or religious concerns associated with providing insurance for abortion procedures. Rates are also unfairly discriminatory if an insurer charges a higher rate for services when there

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is incomplete actuarial data for assessing the risk. The bill specifies that sound actuarial principles do not include political, social, ethical, and religious considerations, charging higher rates for services of which there is only incomplete data, and using incomplete data to limit liability associated with insuring unknown risks.

4. The bill provides that all health care liability insurance policies must include coverage for certain regimens, methods, and procedures, including contraceptive implant procedures, intrauterine contraception procedures, endometrial biopsies, medically indicated and elective abortions, miscarriages, and other procedures using intrauterine instrumentation for which the health care provider is trained. The policies are also required to include coverage for counseling and follow-up services associated with these regimens, methods, and procedures.

***Comprehensive Women's Health Research Council***

The bill creates the Comprehensive Women's Health Research Council that is required to identify and assess the needs for research on voluntary termination of pregnancy, prioritize research projects most likely to improve health outcomes for women in Wisconsin, and propose ways and means to fund those projects.

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

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

1           **SECTION 1.** 15.194 (2) of the statutes is created to read:

2           15.194 (2) OFFICE OF ADVANCEMENT IN MEDICAL KNOWLEDGE AND CARE. There is  
3           created an office of advancement in medical knowledge and care in the department  
4           of health services. The director of the office shall be appointed by, and report directly  
5           to, the secretary of health services.

6           **SECTION 2.** 15.197 (12m) of the statutes is created to read:

7           15.197 (12m) COMPREHENSIVE WOMEN'S HEALTH RESEARCH COUNCIL. There is  
8           created in the department of health services a comprehensive women's health  
9           research council that consists of the following members appointed by the secretary  
10          of the department of health services:

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1 (a) The chairperson of a statewide professional medical organization, as  
2 defined in s. 258.01 (11), that specializes in obstetrics and gynecology.

3 (b) The chair of the department that specializes in obstetrics and gynecology  
4 at a medical school located in this state that is accredited by the Liaison Committee  
5 on Medical Education or the American Osteopathic Association Commission on  
6 Osteopathic College Accreditation, or the chair's designee.

7 (c) The chair of the department that specializes in family medicine at a medical  
8 school located in this state that is accredited by the Liaison Committee on Medical  
9 Education or the American Osteopathic Association Commission on Osteopathic  
10 College Accreditation, or the chair's designee.

11 (d) The chair of the department that specializes in biostatistics at a medical  
12 school located in this state that is accredited by the Liaison Committee on Medical  
13 Education or the American Osteopathic Association Commission on Osteopathic  
14 College Accreditation, or the chair's designee.

15 (e) The chair of the department that specializes in population health at a  
16 medical school in this state that is accredited by the Liaison Committee on Medical  
17 Education or the American Osteopathic Association Commission on Osteopathic  
18 College Accreditation, or the chair's designee.

19 **SECTION 3.** 20.9275 (1) (a) of the statutes is amended to read:

20 20.9275 (1) (a) "Abortion" has the meaning given in s. 253.10 (2) (a) for "induced  
21 abortion" under s. 69.01 (13m).

22 **SECTION 4.** 46.245 of the statutes is repealed.

23 **SECTION 5.** 48.375 (4) (a) 1. of the statutes is amended to read:

24 48.375 (4) (a) 1. The person or the person's agent has, either directly or through  
25 a referring physician or his or her agent, received and made part of the minor's

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1     ~~medical record, under the requirements of s. 253.10,~~ the voluntary and informed  
2     written consent of the minor and the voluntary and informed written consent of one  
3     of her parents; or of the minor's guardian or legal custodian, if one has been  
4     appointed; or of an adult family member of the minor; or of one of the minor's foster  
5     parents, if the minor has been placed in a foster home and the minor's parent has  
6     signed a waiver granting the department, a county department, or the foster parent  
7     the authority to consent to medical services or treatment on behalf of the minor.

8           **SECTION 6.** 69.186 (1) (hf) of the statutes, as created by 2015 Wisconsin Act 56,  
9     is repealed.

10          **SECTION 7.** 69.186 (1) (k) of the statutes, as created by 2015 Wisconsin Act 56,  
11     is repealed.

12          **SECTION 8.** 69.186 (1) (L) of the statutes, as created by 2015 Wisconsin Act 56,  
13     is repealed.

14          **SECTION 9.** 253.09 of the statutes is repealed.

15          **SECTION 10.** 253.095 of the statutes is repealed.

16          **SECTION 11.** 253.10 of the statutes, as affected by 2015 Wisconsin Act 56, is  
17     repealed.

18          **SECTION 12.** 253.105 of the statutes is repealed.

19          **SECTION 13.** 253.107 of the statutes, as created by 2015 Wisconsin Act 56, is  
20     repealed.

21          **SECTION 14.** Chapter 258 of the statutes is created to read:

22   **CHAPTER 258**

23   **PATIENTS' REPRODUCTIVE**

24   **HEALTH ACT**

25          **258.01 Definitions.** In this chapter:

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1           (1) “Biomedical and behavioral research” includes studies designed primarily  
2 to increase the scientific base of information about normal or abnormal physiology  
3 and development; studies primarily intended to evaluate the safety, effectiveness, or  
4 usefulness of a medical product, procedure, or intervention; and studies on the  
5 behavior of individuals and populations to establish a body of demonstrable,  
6 replicable facts and theories that contribute to knowledge and amelioration of  
7 human problems.

8           (2) “Department” means the department of health services.

9           (3) “Deprecatory matter” means, in the context of patient and health care  
10 provider protection, any knowingly false communication or publication that exposes  
11 an individual who is seeking, is obtaining, or has obtained health care services, who  
12 is aiding or has aided an individual to obtain health care services, or who provides  
13 health care services to hatred, contempt, ridicule, degradation, or disgrace in society  
14 or exposes that individual or health care provider to injury in the individual’s or  
15 health care provider’s business or occupation.

16           (4) “Employment retribution” means a retaliatory action taken by an employer  
17 in response to an exercise of a health care provider’s rights specifically created or  
18 recognized in law, including termination of employment, employment suspensions  
19 or probationary periods, written or oral warnings, failure to promote, diminishment  
20 in employment responsibilities, adverse changes in compensation, removal from or  
21 adverse changes in titled positions, denial of medical staff or other privileges, or  
22 unwanted work schedule changes.

23           (5) “Health care provider” means an employer, employee, independent  
24 contractor, or consultant who provides health care under state law, a business or  
25 corporation providing health care services authorized by the state, including a

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1 physician of medicine or osteopathy, a physician's assistant, a specialist assistant,  
2 a nurse, a nurse practitioner, a hospital, a critical access hospital, a skilled nursing  
3 facility, a comprehensive outpatient rehabilitative facility, a health center, a home  
4 health agency, an ambulatory surgery center, a dialysis center, or a hospice program.

5 (6) "Immediate family member" means, for a certain individual, in the context  
6 of patient and health care provider protection, a spouse, parent, brother or sister,  
7 child or person to whom the individual stands in loco parentis, or any other person  
8 living in the individual's household and related to that individual by blood or  
9 marriage.

10 (7) "Medically accurate" means information relevant to informed  
11 decision-making based on the weight of current scientific evidence, derived from  
12 research using accepted scientific methods, consistent with generally recognized  
13 scientific theory, and, if available, published in peer-reviewed journals, and  
14 recognized as accurate, objective, and complete by professional medical  
15 organizations including the American Medical Association, the American Congress  
16 of Obstetricians and Gynecologists, the American Public Health Association, or the  
17 American Academy of Pediatrics; by government agencies, including the Center for  
18 Disease Control, the Food and Drug Administration, the National Cancer Institute,  
19 the American Psychological Association, or the National Institute of Health; or by  
20 scientific advisory groups including the Institute of Medicine and the Advisory  
21 Committee on Immunization Practices.

22 (8) "Physical obstruction" means, in the context of patient and health care  
23 provider protection, willfully or recklessly doing any of the following:

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1 (a) Obstructing, hindering, detaining, depriving, impeding the clear passage  
2 to, or blocking an individual's access to or egress from, a health care facility or from  
3 the common areas of the real property upon which the facility is located.

4 (b) Without the consent of the individual, intruding within 6 feet of an  
5 individual entering or exiting a health care facility or from the common areas of the  
6 real property upon which the facility is located in a manner that deprives or delays  
7 the individual from obtaining, aiding another to obtain, or providing health care  
8 services.

9 (9) "Physician" has the meaning given in s. 448.01 (5).

10 (10) "Procedure or treatment form" means any information a patient receives  
11 relating to giving consent to a procedure or treatment the patient may elect to  
12 proceed with, whether in a brochure, a notice, a posting, an agreement, or other  
13 document, provided in writing, electronically, or by video, without regard to whether  
14 or not the communication requires a signature.

15 (11) "Professional medical organization" means an entity widely regarded as  
16 the leading organization or association within its field that serves a single profession,  
17 or a specialty within a single profession, that possesses a primary standing in that  
18 profession that requires of its members a significant amount of education, training,  
19 or experience, or a license or certificate from a state or authorized private authority  
20 to practice the profession or specialty.

21 (12) "Referral" means providing names and contact information of health care  
22 providers, securing or assisting a patient in scheduling appointments with health  
23 care providers, and communicating with referred health care providers about  
24 medical care that may be in the patient's best interest in the judgment of the health  
25 care provider.

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1           **(13)** “Scientific advisory group” means, in the context of providing medically  
2 accurate information to patients, a group that is recognized as an authoritative  
3 scientific source by the medical profession and is comprised of knowledgeable,  
4 prominent, and credible members in their field of expertise and that offers scientific  
5 opinions on health matters.

6           **(14)** “Suffer serious emotional distress” means to feel terrified, intimidated,  
7 threatened, harassed, or tormented on account of an actor’s intentional conduct or  
8 behavior if such conduct or behavior would cause a reasonable person under the  
9 same circumstances to feel terrified, intimidated, threatened, harassed, or  
10 tormented.

11           **(15)** “Targeted and dangerous activity” means any of the following:

12           (a) Any act or threat involving murder, kidnapping, arson, robbery, other  
13 substantial bodily harm, bribery, or extortion, which is chargeable under the law and  
14 punishable by imprisonment for more than one year.

15           (b) Any act dangerous to human life that is a violation of the laws of the United  
16 States or of this state.

17           **258.05 Patient rights to medically accurate information.** **(1)** In this  
18 section, “patient” means any individual who presents himself or herself at or before  
19 a health care provider for the purpose of obtaining medical investigation,  
20 examination, diagnosis, stabilization, consultation, treatment, procedure, or  
21 referral.

22           **(2)** A patient has the right to receive medically accurate information from a  
23 physician providing medical care, including but not limited to, investigation,  
24 examination, diagnosis, stabilization, consultation, treatment, procedure, and  
25 referral.

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1           **(3)** A physician has the right and obligation to provide medically accurate  
2 information to patients to whom the physician provides medical care, and to make  
3 referrals for patients to other licensed physicians and health care providers.

4           **(4)** No person, including the state or any political subdivision of the state, may  
5 interfere with or otherwise diminish the rights and obligations specified in sub. (2)  
6 or (3).

7           **(5)** Employment retribution by any person against a physician based on the  
8 physician's exercise of the rights and obligations specified in subs. (2) and (3), or the  
9 physician's provision of medical care to a patient based on such rights and  
10 obligations, is prohibited.

11           **(6)** The state, including any political subdivision or instrumentality of the  
12 state, may not do any of the following:

13           (a) Require the inclusion of any content in a procedure or treatment form that  
14 is not medically accurate, or promote or support, in any manner, an entity that  
15 promulgates, for distribution to a patient or other person seeking medical advice  
16 from an entity, information that is not medically accurate.

17           (b) Prohibit a physician from adding medically accurate information or from  
18 deleting information in a procedure or treatment form that, in the physician's  
19 medical judgment, is either not medically accurate or that does not align with a  
20 patient's specific request for medical care concerning diagnosis, reservations  
21 relevant to the diagnosis, the nature and purpose of the proposed procedure or  
22 treatment, risks and consequences of the proposed procedure or treatment,  
23 reasonable alternatives to the procedure or treatment appropriate for the patient's  
24 situation, patient counseling, or prognosis if a patient elects not to proceed with a  
25 proposed procedure or treatment.

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1           **(7)** (a) A patient in this state has the right to all of the following:

2           1. Access, generally, to continually improving, medically accurate, high quality,  
3 safe patient care.

4           2. Access, particularly, to continually improving, medically accurate, high  
5 quality, safe patient care from obstetricians, gynecologists, pediatricians, emergency  
6 room physicians, and family medicine physicians who attended medical residency  
7 programs that provided training in evidence-based, clinically sound and current,  
8 comprehensive reproductive health care with reliance on up-to-date, medically  
9 accurate didactic materials.

10           (b) The office of advancement in medical knowledge and care shall investigate  
11 developments affecting the policy of the state and patient rights under this section,  
12 submit an annual report of its findings to the appropriate standing committees of the  
13 legislature handling issues relating to health, as determined by the speaker of the  
14 assembly and the president of the senate under s. 13.172 (3), and distribute the  
15 report to the governor, the deans of all schools of medicine in the state, and the  
16 directors of all medical residency programs in the state.

17           **(8)** Whoever violates this section shall be subject to the civil remedies under  
18 s. 258.55.

19           **258.10 Employment retribution and discrimination prohibition. (1)**

20           In this section, “adverse employment action” means any of the following actions  
21 engaged in or taken by an employer:

22           (a) Employment retribution, or unfair discrimination in employment under s.  
23 111.31, in the hiring, licensing, terms or conditions of employment, compensation,  
24 promotion, privileges, or termination of any health care provider.

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1 (b) Employment retribution, or unfair discrimination in employment under s.  
2 111.31, in the extension of staff or other privileges to any health care provider.

3 (c) Any adverse action against a health care provider with respect to hiring,  
4 licensing, terms or conditions of employment, compensation, promotion, privileges,  
5 termination, or quantity, schedule, or nature of the health care provider's  
6 assignments or duties.

7 **(2)** No person may take any adverse employment action against a health care  
8 provider because the health care provider does any of the following:

9 (a) Performs or assists or has performed or assisted in a sterilization procedure,  
10 an abortion procedure, or other reproductive health service for an employer or as a  
11 volunteer.

12 (b) Participates in or has participated in biomedical and behavioral research.

13 (c) Engages or has engaged in activities that support or promote any of the  
14 procedures, services, or research described under par. (a) or (b).

15 (d) Has asserted or exercised, under s. 258.25, a conscientious belief to not  
16 provide or to provide any standard reproductive health care services, as defined in  
17 s. 258.25 (1) (k).

18 **(3)** A hospital or health care facility shall provide a written notice to each  
19 health care provider applicant, and annually to each health care provider, describing  
20 the employment retribution and discrimination prohibitions under sub. (2). Notices  
21 may be provided to applicants and employees electronically.

22 **(4)** A hospital or health care facility may not, without the express consent of  
23 a health care provider, disclose information about a health care provider's  
24 procedures, services, or research to that health care provider's potential or  
25 prospective employers if the disclosure divulges activities that the hospital or health

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1 care facility could not use itself for disciplinary or other prohibited purposes under  
2 sub. (2).

3 (5) Whoever engages in employment retribution or discrimination against a  
4 health care provider in violation of sub. (2), (3), or (4) shall be subject to the civil  
5 remedies under s. 258.55.

6 **258.15 Implementation health care task force.** (1) In this section, “task  
7 force” means the implementation health care task force established under sub. (2).

8 (2) The secretary of the department shall establish a special committee under  
9 s. 15.04 (1) (c) called the implementation health care task force to examine and report  
10 annually upon the challenges and successes in achieving the state policies and rights  
11 created or described in this chapter. The task force described in this section shall be  
12 comprised of the following members:

13 (a) A law enforcement officer designated by the Wisconsin Professional Police  
14 Association who specializes in investigating crimes involving harassment under s.  
15 947.013 or stalking under s. 940.32.

16 (b) The state public defender, or his or her designee.

17 (c) A representative designated by a statewide professional medical  
18 organization that represents registered nurses.

19 (d) An assistant district attorney designated by the association of state  
20 prosecutors who has significant professional experience prosecuting crimes  
21 involving harassment under s. 947.013 or stalking under s. 940.32.

22 (e) A representative designated by a statewide nonprofit organization  
23 dedicated to advancing access to standard reproductive health care services, as  
24 defined in s. 258.25 (1) (k).

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1 (f) A representative designated by a statewide professional medical  
2 organization that specializes in the fields of obstetrics and gynecology.

3 (g) A representative designated by a statewide professional medical  
4 organization that specializes in the field of family medicine.

5 (h) A representative designated by a scientific advisory group.

6 (i) A representative designated by a nonprofit organization with a multi-year  
7 record of advocating for assuring access to comprehensive, community-oriented  
8 primary health care services.

9 **(3)** If a vacancy occurs in the task force membership, the vacancy shall be filled  
10 in the same manner as the initial appointment.

11 **(4)** The task force shall submit an annual report in December of each year that  
12 is made publicly available either in paper or electronic form, published on the  
13 department's website, and delivered to the governor and the legislature  
14 documenting the progress of the task force and including its findings for the year and  
15 containing recommendations for future actions. The report must address all of the  
16 following issues:

17 (a) All studies performed and the results of those studies.

18 (b) Evaluations of the effectiveness of existing law in resolving issues within  
19 the scope of mandate of the task force.

20 (c) Recommendations for new services, resources, and legislative or  
21 administrative policies to secure more effective implementation of state policies,  
22 rights, and remedies.

23 (d) Recommendations to enhance public consideration of those issues not  
24 susceptible to immediate legal or administrative resolution.

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1 (e) A full presentation of the findings, evaluations, and recommendations of  
2 each member who, in whole or in part, does not agree with the findings, evaluations,  
3 or recommendations of the majority of the members of the task force.

4 (5) The task force shall meet in person at least twice annually on such dates  
5 and times as the members determine. A majority of all the task force members shall  
6 constitute a quorum for the transaction of any business, for the performance of any  
7 duty, or for the exercise of any action by the task force. The task force may meet in  
8 person or by telephone or by using other communication technologies, and may hold  
9 meetings to discuss issues even in the absence of quorum. The task force shall  
10 attempt to engage, and solicit the input of, a broad and diverse range of groups,  
11 organizations, and individuals. In doing so, the task force may use whatever  
12 networking and communication technologies will most effectively further its mission  
13 and facilitate this outreach.

14 (6) The chair of the task force will be selected by a majority of the members that  
15 constitute the task force.

16 (7) No member shall serve beyond the time when he or she holds the office,  
17 employment, or status by reason of which he or she was initially eligible for  
18 appointment.

19 (8) The task force shall serve without compensation but shall be eligible for  
20 reimbursement for necessary and reasonable expenses incurred in the performance  
21 of their official duties within the limits of funds appropriated or otherwise made  
22 available to the department for its purposes.

23 (9) The task force may draw upon the human resources and expertise of private  
24 institutions, including those institutions associated with individuals appointed to  
25 the task force to the extent considered appropriate by those institutions. The task

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1 force may not permit financial remuneration for assistance provided under this  
2 subsection, and private institutions may not be provide assistance with any intent  
3 to influence the deliberations of the task force to the advantage of the participating  
4 private entity.

5 (10) The department shall, as part of its routine functions, designate and  
6 provide staffing and support services sufficient to ensure that the task force can  
7 complete its work and submit its report each year.

8 **258.20 Comprehensive women’s health research council.** (1) In this  
9 section:

10 (a) “Council” means the comprehensive women’s health research council.

11 (b) “Research” means basic and clinical research in evidence-based care on  
12 voluntary termination of pregnancy in the areas of safety and quality, including  
13 improvements of medical and surgical techniques, medication and pain  
14 management, psychosocial aspects of care, impacts of medical or surgical care  
15 restrictions, patient outcomes, and contraception immediately following pregnancy.

16 (2) The council shall identify and assess the needs for research on voluntary  
17 termination of pregnancy, prioritize research projects most likely to improve health  
18 outcomes for women in this state, and propose ways and means to fund those  
19 projects. To accomplish the duty under this subsection, the council shall review  
20 medical and scientific literature and solicit opinions from reproductive health care  
21 providers and from medical and scientific researchers on the current status of  
22 research on voluntary termination of pregnancy and on improving women’s health  
23 outcomes.

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1           **(3)** The council shall meet at least twice annually on dates and at times as the  
2 members determine. The council may meet in person, by telephone, or by using other  
3 means of communication.

4           **(4)** The council may request human resources and expertise of private  
5 institutions, including those institutions associated with individuals appointed to  
6 the council. The private institutions may provide those human resources and that  
7 expertise as they consider appropriate without compensation and without intent to  
8 influence the deliberations of the council to the advantage of the private institution.

9           **(5)** The department shall designate and provide staffing and support services  
10 sufficient, including a needs assessment, to ensure that the council is able to conduct  
11 its work.

12           **(6)** Annually, in December, the council shall submit to the governor, to the  
13 department for publication on the department's Internet site, and to the legislature  
14 in the manner described under s. 13.172 (2) a report that addresses all of the  
15 following:

16           (a) An assessment of the current status and any gaps in research on voluntary  
17 termination of pregnancy and on improving health outcomes for women.

18           (b) An inventory of significant research needed to advance and improve health  
19 care outcomes for women.

20           (c) A prioritization of the research considered by the council to most likely  
21 result in improving the health outcome of women in this state.

22           (d) The findings of the council regarding the availability of public and private  
23 funding to meet the research needs identified by the council under par. (b).

24           (e) An estimate of the funding needed to meet the research needs prioritized  
25 by the council under par. (c).

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1 (f) A statement of criteria and standards recommended by the council for  
2 awarding grants for the research identified under par. (b) or prioritized under par.  
3 (c) when funding is available.

4 (7) It is the policy of the state to support and attain improved health care  
5 outcomes for all women who voluntarily terminate a pregnancy in this state. In  
6 recognition of this policy, with awareness that national level research directed  
7 towards achieving improved outcomes on voluntary termination of pregnancy  
8 remains limited and that continuing advances in safe and effective health care in all  
9 medical fields requires ongoing evidence-based research, the department shall  
10 engage in activities and pursue strategies to continually advance the science and  
11 medicine of voluntary termination of pregnancy.

12 **258.25 Enabling patient care while honoring conscience of**  
13 **reproductive health care providers. (1) DEFINITIONS.** In this section:

14 (a) “Appropriate medical screening examination” means an examination  
15 reasonably tailored to identify reproductive health care issues and conditions  
16 specific to the patient and is comparable to a hospital’s standard screening  
17 examination for other patients presenting symptoms, health care issues, conditions,  
18 illnesses, injuries, or diseases.

19 (b) “Capabilities” means, in the context of a hospital’s provision of services  
20 pursuant to sub. (2), the availability of physical space, equipment, supplies, and  
21 services that the hospital provides, such as surgery, psychiatry, obstetrics, intensive  
22 care, pediatrics, trauma care, and that the level of care that the personnel of the  
23 hospital provides is within the training and scope of their professional licenses.

24 (c) “Capacity” means the physical ability of a hospital to accommodate the  
25 individual requesting examination or treatment. Capacity encompasses such things

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1 as numbers and availability of qualified staff, beds, and equipment and the hospital's  
2 past practices of accommodating additional patients in excess of its occupancy limits.

3 (d) "Conscientious belief" means sincerely held religious, moral, or ethical  
4 beliefs held by an individual that stands for the central moral core of the individual's  
5 character, and for purposes of this section does not include beliefs that are motivated  
6 by or based upon race, color, national origin, ethnicity, sex, creed, or sexual  
7 orientation.

8 (e) "Hospital" has the meaning given in s. 50.33 (2), except that "hospital" as  
9 used in this section does not include a critical access hospital or a hospital that does  
10 not meet the conditions of participation in any federal health care program as  
11 specified in 42 USC 1395x (e) and 1395cc.

12 (f) "Maternity care services" means maternity support services, prenatal care,  
13 ambulatory care maternity services, complications of pregnancy, neonatal care,  
14 inpatient institution maternity care, including labor and delivery, and postpartum  
15 care.

16 (g) "Medically necessary care" means health care services or products that a  
17 prudent physician would provide to a patient to prevent, diagnose, or treat an illness,  
18 injury, disease, condition, or its symptoms in a manner that is all of the following:

- 19 1. In accordance with generally accepted standards of medical practice.
- 20 2. Clinically appropriate in terms of type, frequency, extent, site, and duration.
- 21 3. Not primarily for the economic benefit of the health plans and purchasers  
22 or for the convenience of the treating physician or other health care provider.

23 (h) "Reasonably accommodate" means making existing facilities used by  
24 reproductive health care providers readily accessible, job restructuring, part-time  
25 or modified work schedules, acquisition or modification of equipment or devices,

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1 adjustment or modifications of policies, and the provision of other similar  
2 accommodations.

3 (i) "Reproductive health care provider" means a natural person who is an  
4 employee, independent contractor, or consultant of a hospital, or is otherwise  
5 affiliated with a hospital, and who provides services as a physician of medicine or  
6 osteopathy, a physician's assistant, a specialist assistant, a nurse, or a nurse  
7 practitioner, and is directly involved in providing medical treatment to a patient  
8 during a procedure in which the patient receives medical treatment in the hospital  
9 for a standard reproductive health care service.

10 (j) "Stabilizing treatment" means, with respect to an emergent or urgent  
11 medical condition covered in sub. (2) (d) of this section, medically appropriate  
12 medical measures to ensure that no material deterioration of the condition is likely,  
13 within reasonable medical probability, to result from or occur during the transfer of  
14 the individual from a hospital if such a transfer were to occur.

15 (k) "Standard reproductive health care services" means family planning;  
16 contraception and birth-spacing services; full-spectrum contraceptive education;  
17 counseling for and access to emergency contraception; screening, assessment, and  
18 treatment of reproductive tract infections and sexually transmitted infections  
19 including HIV/AIDS; screening, assessment, and treatment for gynecologic and  
20 breast cancers; routine well-woman and preventive exams; pregnancy testing;  
21 infertility services; miscarriage and abortion services; sterilization; obstetric care  
22 and services; and menopause and perimenopause services.

23 (L) "Transfer" means the movement, including the discharge, of an individual  
24 outside a hospital at the direction of any person employed by, or affiliated or  
25 associated with, directly or indirectly, the hospital, but does not include such a

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1 movement of an individual who has been declared dead, or leaves the facility without  
2 the permission of any person employed by, or affiliated or associated with, directly  
3 or indirectly, the hospital.

4 (m) "Undue hardship" means, as determined by the examination of the facts,  
5 an actual, as opposed to a speculative, hardship that necessarily and significantly  
6 either interferes with a hospital's delivery of safe health care or degrades its  
7 provision of medically necessary care to patients.

8 **(2) REPRODUCTIVE HEALTH CARE SERVICES.** (a) A hospital that has a department  
9 or service offering maternity care services shall permit all standard reproductive  
10 health care services and all maternity care services, provided that such services are  
11 within the capacity and capabilities of the hospital.

12 (b) In the case of a hospital that has a department or service that offers  
13 maternity care services, if any individual comes to the hospital and a request is made  
14 on the individual's behalf for examination, treatment, or care for any standard  
15 reproductive health care service, the hospital shall provide an appropriate medical  
16 screening examination within the capabilities of the hospital.

17 (c) Whenever a health care provider, within the training and scope of his or her  
18 professional license, is available to provide or perform care appropriate for a patient's  
19 reproductive health care condition, the hospital must do all of the following:

20 1. Permit that reproductive health care provider to provide standard  
21 reproductive health care services.

22 2. Reasonably accommodate that provider in providing any standard  
23 reproductive health care service, provided that the provider has given notice to the  
24 hospital of his or her readiness to provide such care under sub. (3).

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1           3. Provide sufficient support, including ancillary services routinely available  
2 for patients with comparable medical needs or circumstances, to ensure the  
3 provision of medically necessary care of the patient.

4           (d) Whenever a health care provider, within the training and scope of his or her  
5 professional license, is not available to provide or perform care appropriate for a  
6 patient’s reproductive health care condition, and the hospital reasonably determines  
7 that the individual who came to the hospital seeking examination, treatment, or care  
8 for any standard reproductive health care service has an emergent or urgent medical  
9 condition, the hospital shall, within the staff and facilities available at the hospital,  
10 do all of the following:

11           1. Provide for further medical examination and treatment as may be required  
12 to stabilize the medical condition.

13           2. Provide necessary stabilizing treatment for the patient’s presented  
14 reproductive health care condition.

15           3. Counsel the patient on all medically appropriate treatments specific to the  
16 patient’s reproductive health care condition and circumstances.

17           4. Offer and provide referral to health care providers who provide those  
18 treatments.

19           (e) A hospital that has fulfilled the requirements of par. (d) may transfer the  
20 individual to another medical facility when the patient is medically stable.

21           **(3) CONSCIENTIOUS BELIEFS.** Because the provision of medically necessary care  
22 for one or more specific standard reproductive health care services may implicate  
23 religious, moral, or ethical conscientious beliefs, a reproductive health care provider  
24 may do any of the following:

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1           (a) Give written notice to a hospital that has a department or service offering  
2           maternity care services, describing in detail the provider's conscientious belief, the  
3           core values associated with that belief, how he or she came to hold that belief, and  
4           how it affects the provider's readiness to provide specific standard reproductive  
5           health care services. If a provider submits a written notice under this paragraph,  
6           all of the following apply:

7           1. A provider's assertion in a written notice of his or her conscientious belief  
8           under this paragraph is prima facie evidence of its validity.

9           2. A hospital challenging the validity of a conscientious belief has the burden  
10          of showing by clear and convincing evidence that the provider's notice does not  
11          describe a conscientious belief. If a hospital determines as a matter of fact that a  
12          notice does not describe a conscientious belief, the hospital shall issue findings of fact  
13          and explain in writing how the hospital has met the clear and convincing evidentiary  
14          standard in making its determination that the provider's notice did not describe a  
15          conscientious belief.

16          (b) Give written notice to a hospital that has a department or service offering  
17          maternity care services that the provider, within his or her training and within the  
18          scope of his or her professional license, accepts and is ready to provide specific  
19          standard reproductive health care services identified in the notice. If a provider  
20          submits a written notice under this paragraph, all of the following apply:

21          1. The hospital shall honor the provider's conscientious belief, unless it is  
22          determined that the notice submitted by the provider did not describe a conscientious  
23          belief, and shall reasonably accommodate the provider's decisions, including, if  
24          specified, a decision to provide certain specific standard reproductive health care  
25          services, or for example, a decision to provide abortion services until the limit on the

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1 period of gestation under state law or until viability when no gestation limit is set  
2 by state law, provided that the hospital may deny an accommodation if it would  
3 create an undue hardship.

4 2. To support, sustain, and accommodate provider decisions to provide specified  
5 reproductive health care services, both as a least restrictive means to ensure  
6 compliance with this section and as a means to achieve the state interests described  
7 in this section, the hospital shall annually prepare, adopt, implement, and make  
8 publicly available a written plan designed to estimate and meet the reasonably  
9 anticipated demand for all the standard reproductive health care services, and to  
10 provide the support and ancillary services as described in sub. (2).

11 (c) Give written notice to a hospital that has a department or service offering  
12 maternity care services that the provider, invoking applicable refusal rights in  
13 federal or state law, declines and objects to providing specific standard reproductive  
14 health care services identified in the notice. If a provider submits a written notice  
15 under this paragraph, all of the following apply:

16 1. The hospital shall honor the provider's conscientious belief, unless it  
17 determined that the notice submitted by the provider did not identify applicable  
18 refusal rights in federal or state law or did not describe a conscientious belief, and  
19 shall reasonably accommodate the provider's decisions, provided that the hospital  
20 may deny an accommodation if it would create an undue hardship or precludes,  
21 under sub. (2), the provision of an appropriate medical screening examination or the  
22 provision of medically necessary care to an individual who has come to the hospital  
23 as specified in sub. (2).

24 2. To support, sustain, and accommodate provider decisions to not provide  
25 specified reproductive health care services, both as a least restrictive means to

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1 ensure compliance with this section and as a means to achieve the state interests  
2 described in this section, the hospital is authorized, whenever the hospital  
3 determines that it will lack sufficient personnel to meet the reasonably anticipated  
4 demand for the services permitted under sub. (2), to obtain services necessary for  
5 both the delivery of safe health care and the provision of medically necessary care  
6 by requiring applicants for vacant reproductive health care provider positions to  
7 provide specific standard reproductive health care services as may be necessary to  
8 meet the reasonably anticipated demand for all services permitted under sub. (2).

9 (4) INTERFERENCE. No person may interfere with or otherwise penalize or  
10 punish a reproductive health care provider for asserting or exercising his or her  
11 conscientious belief under this section.

12 (5) VIOLATIONS. Any person violating this section shall be subject to the civil  
13 remedies under s. 258.55.

14 (6) STATE POLICIES. (a) *Discrimination in access to reproductive health care.*  
15 Access to health care services and to accurate health care information is a basic and  
16 foundational human right. Yet, in the realm of sexual and reproductive health care,  
17 in a health care system that is especially challenging to most anyone with a limited  
18 education or who lives in poverty or is victimized by family violence, gender-based  
19 health care discrimination profoundly limits access to standard reproductive health  
20 care services and safe motherhood, and thwarts the state's policy of promoting  
21 improved health care outcomes for all women and in honoring and protecting privacy  
22 rights inherent in their reproductive health care decisions. With an awareness that  
23 some hospitals with a maternity department or services have the capability of  
24 permitting standard reproductive health care services but routinely restrict or deny  
25 women access to them, the state declares that failure to permit access to standard

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1 reproductive health care services for women and their willing reproductive health  
2 care providers is a form of invidious discrimination, and that the state has  
3 compelling governmental interests in public health and safety and the well-being of  
4 all its residents in ending this form of gender discrimination and in assuring that no  
5 one is deprived of privacy rights inherent in reproductive health care decision  
6 making. Accordingly, it is the policy of this state that hospitals that offer maternity  
7 care services, permit patients with willing reproductive health care providers to have  
8 access to all standard reproductive health care services and maternity care services.

9 (b) *Honoring conscientious beliefs.* A commitment to providing standard  
10 reproductive health care services to patients and a strong objection to providing such  
11 services each qualify as sincerely held conscientious beliefs when predicated on a  
12 person's central core beliefs and values. The state's governmental interest in public  
13 health and safety and the well-being of all its residents requires that the provision  
14 of medically necessary care be the paramount and constant concern of all health care  
15 providers. Accordingly, it is the policy of this state, that hospitals that offer  
16 maternity care services, consistent with maintaining systems sufficient to ensure  
17 that women and their health care providers can access all standard reproductive  
18 health care services, shall honor and reasonably accommodate conscientious beliefs  
19 of direct providers of all standard reproductive health care services.

20 **258.50 Patient and health care provider protection. (1)** In this section:

21 (a) "Health care provider" includes an individual who aids an individual to seek  
22 or obtain health care services.

23 (b) "Patient" has the meaning given in s. 258.05 (1).

24 (2) No person may do any of the following:

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1           (a) Engage in conduct directed at a health care provider or a patient that  
2           injures, intimidates, harasses, interferes with, or threatens or attempts to injure,  
3           intimidate, harass, interfere with, or threaten the health care provider or patient,  
4           by use of force, threat of force, or physical obstruction if the person knows that the  
5           conduct will cause the health care provider or patient to suffer serious emotional  
6           distress or place him or her in reasonable fear of death or of great bodily harm to  
7           himself or herself or a member of his or her family or household, or will cause a  
8           reasonable person under the same circumstances to suffer serious emotional  
9           distress, or will place a reasonable person under the same circumstances in fear of  
10          death or bodily harm to himself or herself or a member of his or her family or  
11          household.

12          (b) Intentionally use, obstruct, manipulate, arrange, or rearrange, or attempt  
13          to use, obstruct, manipulate, arrange, or rearrange the property of a medical facility  
14          to impede or otherwise interfere with its efficiency, or attempt to engage in any of  
15          these actions, or file a lawsuit or administrative complaint against a health care  
16          provider that, when considering the action in its entirety, cannot be supported by any  
17          rational argument based in fact or law, or publish, distribute, or communicate in any  
18          form of deprecatory matter relating to a health care provider.

19          (c) For the purpose of damaging or interfering with the operations of a health  
20          care provider, and in connection with such purpose, doing any of the following:

21           1. Intentionally damaging or causing the loss of any real or tangible personal  
22           property, including records, or data, used by a health care provider or owned or leased  
23           by a person having connection to, relationship with, or transactions with a health  
24           care provider.

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1           2. Intentionally placing a person in reasonable fear of death or substantial  
2           bodily injury or placing a person in reasonable fear of the death of, or of great bodily  
3           harm to, a member of the immediate family of that person, or a spouse or intimate  
4           partner of that person, by engaging in a pattern of conduct consisting of 2 or more  
5           threats or acts of vandalism, property damage, criminal trespass, harassment, or  
6           intimidation.

7           3. Conspiring or attempting to engage in intentionally damaging property as  
8           described in subd. 1. or conspiring or attempting to intentionally place a person in  
9           reasonable fear of death or serious bodily injury as described in subd. 2.

10           (d) Engaging in a pattern of targeted and dangerous activity towards a health  
11           care provider. For purposes of this paragraph, a pattern of targeted and dangerous  
12           activity exists when a person or group of individuals associated in fact commits 2 or  
13           more separate acts of targeted and dangerous activity towards a health care provider  
14           in which one act occurred after the effective date of this paragraph .... [LRB inserts  
15           date], and in which the last targeted and dangerous act occurred within 2 years of  
16           the commission of a separate act of targeted and dangerous activity by a different  
17           person or group of individuals associated in fact that employed or was employed by  
18           or was associated directly or indirectly with the person or group of individuals  
19           committing a separate act of targeted and dangerous activity toward the same health  
20           care provider.

21           **(3)** Any person who aids or abets the commission of conduct proscribed in this  
22           section or who commands, induces, or procures conduct proscribed by this section is  
23           engaged in conduct in violation of this section.

24           **(4)** Evidence of the habit of a person or of the routine practice of an  
25           organization, whether corroborated or not and regardless of the presence of an

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1 eyewitness, is relevant to prove that the conduct of the person or organization on a  
2 particular occasion was in conformity with the habit or routine practice.

3 **(5)** (a) Whoever violates this section is subject to penalties provided under s.  
4 258.53 and to the civil remedies under s. 258.55.

5 (b) Without limitation, the following affirmative defenses are available to a  
6 person who is alleged to have violated this section:

7 1. That the identified specific conduct is protected by the person's right to  
8 engage in expressive conduct protected from legal prohibition by the constitutions  
9 of the state and the United States.

10 2. When the identified specific conduct concerns the filing of a lawsuit or  
11 administrative complaint, that the lawsuit or administrative complaint alleged acts  
12 against the party filing the lawsuit or against the party's child that are recognized  
13 under state law as constituting domestic violence under s. 813.12 (1) (am), sexual  
14 assault including sexual assault under s. 940.225, 948.06, or 948.09, or physical  
15 abuse of a child including physical abuse of a child under s. 948.03.

16 3. When the identified specific conduct concerns the publication, distribution,  
17 or communication of deprecatory matter, that all individuals specified in the  
18 deprecatory matter consented in writing to the publication, distribution, and  
19 communication of the deprecatory matter.

20 **(6)** The state hereby establishes, affirms, fosters, and promotes the following  
21 3 fundamental policies and interests necessary for the public interest:

22 (a) The protection of health care providers in this state from becoming targets,  
23 without remedies, of intentional and frightening conduct directed toward them is  
24 critical to the state's significant and substantial governmental interest in health and  
25 safety. The public health and welfare of health care patients is preserved and

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1 promoted when unlawful and egregious acts directed towards health care providers  
2 are subject to state provided protections that minimize injuries sustained from such  
3 conduct.

4 (b) The state legislature, relying on evidence that health care providers have  
5 historically and repeatedly been targeted for violence on account of the care they  
6 provide, finds that it serves a compelling governmental interest of this state to  
7 establish policies and laws that protect health care providers, their families, and  
8 their property from violence designed to damage or interfere with their operations,  
9 and from targeted and dangerous activities.

10 (c) The availability and assurance that patients have continuing access to  
11 medically accurate and comprehensive health care, including reproductive health  
12 care, and to health care providers who are neither impeded in providing those  
13 services nor exposed to risk of employment retribution and unfair discrimination in  
14 employment is central to the well being of all residents in this state, to the  
15 preservation of health care integrity and patient privacy, to the respect for the  
16 sanctity of the doctor-patient relationship, and to the freedom from governmental  
17 intrusion that is central to the doctor-patient relationship.

18 **258.53 Penalties. (1)** Except as provided in sub. (3), a person who violates s.  
19 258.50 (2) (a) or (c) is guilty of a Class I felony.

20 **(2)** Except as provided in sub. (3), a person who violates s. 258.50 (2) (b) is guilty  
21 of a Class A misdemeanor.

22 **(3)** (a) If all of the following apply, a person who violates s. 258.50 (2) is guilty  
23 of the violation indicated in par. (b):

24 1. The person knows that his or her action will cause a specific person's death  
25 or injury, or will cause a reasonable person under the same circumstances to suffer

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1 serious emotional distress or to reasonably fear death or great bodily harm to himself  
2 or herself or to his or her family member or member of his or her household.

3 2. The person's action caused a specific person's death or injury, or caused a  
4 person to suffer serious emotional distress or to reasonably fear death or great bodily  
5 harm to himself or herself or to his or her family member or member of his or her  
6 household.

7 (b) 1. For a violation of s. 258.50 (2) (a) or (c), a Class G felony

8 2. For a violation of s. 258.50 (2) (b), a Class H felony.

9 3. For a violation of s. 258.50 (2) (d), a Class E felony.

10 **258.55 Remedies for health care violations. (1) ACTIONS BY THE ATTORNEY**

11 GENERAL. (a) If the attorney general has reasonable cause to believe that any person  
12 is violating s. 258.05, 258.10, 258.25 (4), or 258.50, or that a hospital is violating s.  
13 258.25 (2), the attorney general has standing to bring and may commence a civil  
14 action against any party in the name of the state in any court with appropriate  
15 jurisdiction to vindicate the public interest and protect the rights of citizens of the  
16 state.

17 (b) For each violation specified in par. (a), the court may award any appropriate  
18 relief, including temporary, preliminary, or permanent injunctive relief and  
19 compensatory damages. The court, to vindicate the public interest, may assess  
20 against a party other than the state or instrumentality of the state an additional  
21 amount not to exceed \$20,000 for the first violation and \$40,000 for each subsequent  
22 violation, except that for a violation of s. 258.50 the court may assess an additional  
23 amount not to exceed \$100,000 for a first violation and \$1,000,000 for each  
24 subsequent violation.

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1           **(2) PRIVATE RIGHT OF ACTION.** (a) A patient or physician claiming a violation of  
2 the right and obligations specified in s. 258.05 and any associated claims under  
3 common law may commence a civil action for relief under par. (b).

4           (b) In any action under par. (a), the court may award appropriate relief,  
5 including temporary, preliminary, or permanent injunctive relief, and compensatory  
6 and punitive damages. With respect to compensatory damages, the plaintiff may  
7 elect, at any time prior to the rendering of final judgment, to recover an award of  
8 statutory damages in the amount of \$5,000 per violation in lieu of actual damages.

9           (c) A physician or health care provider claiming a violation of s. 258.05 (5) or  
10 (6), a health care provider claiming a violation of s. 258.10, a patient claiming a  
11 violation of s. 258.25, or a reproductive health care provider challenging a  
12 determination that an assertion submitted under s. 258.25 (3) (a) did not describe a  
13 conscientious belief may commence a civil action for relief under par. (d).

14           (d) In any action under par. (c), the court may award appropriate relief,  
15 including temporary, preliminary, or permanent injunctive relief; back pay or  
16 reinstatement or other privileges; and compensatory and punitive damages. With  
17 respect to compensatory damages, the plaintiff may elect, at any time before the  
18 rendering of final judgment, to recover an award of statutory damages in the amount  
19 of \$20,000 per violation, in lieu of actual damages.

20           (e) A person claiming a violation of the rights specified in s. 258.50 and any  
21 associated claims under common law may commence a civil action for relief under  
22 par. (f).

23           (f) In any action under par. (e), the court may award appropriate relief,  
24 including temporary, preliminary, or permanent injunctive relief and compensatory  
25 and punitive damages. With respect to compensatory damages, the plaintiff may

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1 elect, at any time before the rendering of final judgment, to recover an award of  
2 statutory damages in the amount of \$20,000 per violation, in lieu of actual damages.

3 **258.70 Construction.** Nothing in this chapter shall be construed to do any  
4 of the following:

5 (1) To prohibit any expressive conduct, including peaceful picketing or other  
6 peaceful demonstration, protected from legal prohibition by the First Amendment to  
7 the Constitution of the United States of America.

8 (2) To create any new remedies for interference with activities protected by the  
9 free speech or free exercise clauses of the First Amendment to the Constitution of the  
10 United States of America, regardless of the point of view expressed, or to limit any  
11 existing legal remedies for such interference.

12 (3) To provide exclusive criminal penalties or civil remedies with regard to the  
13 conduct prohibited by this chapter or to preempt state or local laws that may provide  
14 such penalties or remedies.

15 (4) To have any effect on the rights and obligations or to preempt any state or  
16 local laws regarding emergency contraception for sexual assault victims.

17 **SECTION 15.** 441.06 (6) of the statutes is repealed.

18 **SECTION 16.** 441.07 (1g) (f) of the statutes is repealed.

19 **SECTION 17.** 448.02 (3) (a) of the statutes is amended to read:

20 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct  
21 and negligence in treatment by persons holding a license, certificate or limited  
22 permit granted by the board. An allegation that a physician has violated s. ~~253.10~~  
23 ~~(3)~~, 448.30 or 450.13 (2) or has failed to mail or present a medical certification  
24 required under s. 69.18 (2) within 21 days after the pronouncement of death of the  
25 person who is the subject of the required certificate or that a physician has failed at

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1 least 6 times within a 6-month period to mail or present a medical certificate  
2 required under s. 69.18 (2) within 6 days after the pronouncement of death of the  
3 person who is the subject of the required certificate is an allegation of unprofessional  
4 conduct. Information contained in reports filed with the board under s. 49.45 (2) (a)  
5 12r., 50.36 (3) (b), 609.17 or 632.715, or under 42 CFR 1001.2005, shall be  
6 investigated by the board. Information contained in a report filed with the board  
7 under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of  
8 negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the  
9 discretion of the board, be used as the basis of an investigation of a person named in  
10 the report. The board may require a person holding a license, certificate or limited  
11 permit to undergo and may consider the results of one or more physical, mental or  
12 professional competency examinations if the board believes that the results of any  
13 such examinations may be useful to the board in conducting its investigation.

14 **SECTION 18.** 448.02 (3) (a) of the statutes, as affected by 2013 Wisconsin Act 240  
15 and 2015 Wisconsin Act .... (this act), is repealed and recreated to read:

16 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct  
17 and negligence in treatment by persons holding a license or certificate granted by the  
18 board. An allegation that a physician has violated s. 448.30 or 450.13 (2) or has failed  
19 to mail or present a medical certification required under s. 69.18 (2) within 21 days  
20 after the pronouncement of death of the person who is the subject of the required  
21 certificate or that a physician has failed at least 6 times within a 6-month period to  
22 mail or present a medical certificate required under s. 69.18 (2) within 6 days after  
23 the pronouncement of death of the person who is the subject of the required  
24 certificate is an allegation of unprofessional conduct. Information contained in  
25 reports filed with the board under s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17 or 632.715,

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1 or under 42 CFR 1001.2005, shall be investigated by the board. Information  
2 contained in a report filed with the board under s. 655.045 (1), as created by 1985  
3 Wisconsin Act 29, which is not a finding of negligence or in a report filed with the  
4 board under s. 50.36 (3) (c) may, within the discretion of the board, be used as the  
5 basis of an investigation of a person named in the report. The board may require a  
6 person holding a license or certificate to undergo and may consider the results of one  
7 or more physical, mental or professional competency examinations if the board  
8 believes that the results of any such examinations may be useful to the board in  
9 conducting its investigation.

10 **SECTION 19.** 448.03 (5) (a) of the statutes is repealed.

11 **SECTION 20.** 457.26 (2) (gm) of the statutes is repealed.

12 **SECTION 21.** 625.11 (4) of the statutes is amended to read:

13 625.11 (4) UNFAIR DISCRIMINATION. One rate is unfairly discriminatory in  
14 relation to another in the same class if it clearly fails to reflect equitably the  
15 differences in expected losses and expenses. Rates are unfairly discriminatory when  
16 an insurer assigns a higher rate for services based only on incomplete actuarial data  
17 or uses such incomplete data to limit liability associated with insuring an unknown  
18 risk. Rates are not unfairly discriminatory because different premiums result for  
19 policyholders with like loss exposures but different expense factors, or like expense  
20 factors but different loss exposures, so long as the rates reflect the differences with  
21 reasonable accuracy. Rates are not unfairly discriminatory if they are averaged  
22 broadly among persons insured under a group, franchise or blanket policy.

23 **SECTION 22.** 625.22 (1) of the statutes is amended to read:

24 625.22 (1) ORDER IN EVENT OF VIOLATION. If the commissioner finds after a  
25 hearing that a rate is not in compliance with s. 625.11 or 655.92, the commissioner

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1 shall order that its use be discontinued for any policy issued or renewed after a date  
2 specified in the order.

3 **SECTION 23.** 628.34 (3) (b) of the statutes is amended to read:

4 628.34 (3) (b) No insurer may refuse to insure or refuse to continue to insure,  
5 or limit the amount, extent or kind of coverage available to an individual, or charge  
6 an individual a different rate for the same coverage because of a mental or physical  
7 disability except when the refusal, limitation or rate differential is based on either  
8 sound actuarial principles supported by reliable data or actual or reasonably  
9 anticipated experience, subject to ss. 632.746 to 632.7495. Sound actuarial  
10 principles may not include political or social considerations, ethical or religious  
11 considerations, or the charging of higher rates for services when only incomplete  
12 actuarial data are available, using such data to limit liability associated with  
13 insuring an unknown risk.

14 **SECTION 24.** 632.8985 of the statutes is repealed.

15 **SECTION 25.** Subchapter VIII (title) of chapter 655 [precedes 655.90] of the  
16 statutes is created to read:

17 **CHAPTER 655**

18 **SUBCHAPTER VIII**

19 **HEALTH CARE LIABILITY**

20 **INSURANCE REQUIREMENTS**

21 **SECTION 26.** 655.90 of the statutes is created to read:

22 **655.90 Insurance policy requirements.** No health care liability policy or  
23 self-insured health care provider may exclude or deny coverage for reproductive  
24 health care services, including all of the following:

25 (1) Contraceptive implant procedures.

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- 1           (2) Intrauterine contraception procedures.
- 2           (3) Endometrial biopsies.
- 3           (4) Medically indicated and elective abortions.
- 4           (5) Miscarriages.
- 5           (6) Any other procedures utilizing intrauterine instrumentation for which the  
6 health care provider, as defined in 146.81(1), is trained.
- 7           (7) Any treatment regimens or methods attendant to the procedures covered  
8 under this section.
- 9           (8) Any follow-up treatment regimens or counseling services attendant to the  
10 procedures covered under this section.

11           **SECTION 27.** 655.92 of the statutes is created to read:

12           **655.92 Rates and classification of procedures.** (1) (a) An insurer shall  
13 consider medically indicated and elective abortions as having equivalent actuarial  
14 risk and shall include medically indicated and elective abortions in the same risk  
15 classes or subclasses representing similar actuarial risk.

16           (b) An insurer shall classify intrauterine contraception procedures,  
17 contraceptive implant procedures, and the exclusive and entire method applicable  
18 for both abortion and the procedures used after miscarriage under family or general  
19 medicine, including outpatient gynecology, and in a class or subclass with  
20 comparable actuarial risks established for comparable methods and procedures.

21           (c) An insurer shall classify the regimen that involves prescribing and using  
22 medication only for abortion under family or general medicine, including outpatient  
23 gynecology, in a class or subclass with similar actuarial risks that permit prescribing  
24 medications with comparable safety and efficacy in the general practice of medicine.

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1 (d) An insurer shall classify endometrial or related biopsies, procedures using  
2 intrauterine instrumentation, and miscarriage and abortion procedures, not  
3 including the procedures in pars. (b) and (c), performed during or before the 14th  
4 week of gestation in a class or subclass limited to procedures with comparable  
5 actuarial risks, including miscarriage treatment procedures and excluding surgical  
6 procedures with higher risk factors.

7 (2) Subject to s. 625.11, one rate within a class or subclass for health care  
8 liability insurance and liability insurance normally incidental to health care liability  
9 insurance is unfairly discriminatory in relation to another rate within the same class  
10 or subclass if it fails to reasonably and equitably reflect comparable differences in  
11 expected losses and expenses.

12 (3) (a) Rates for health care liability insurance and liability insurance normally  
13 incidental to health care liability insurance are excessive and unfairly  
14 discriminatory if they are likely to produce a long-run profit that is unreasonably  
15 high in relation to the riskiness of the class of business or if expenses are  
16 unreasonably high in relation to the services rendered.

17 (b) Rates for health care liability insurance and liability insurance normally  
18 incidental to health care liability insurance shall be based on sound actuarial  
19 evidence and standards of care, and may not take into account unfairly  
20 discriminatory factors, including:

21 1. Political or social concerns associated with providing insurance covering  
22 medically indicated and elective abortion procedures.

23 2. Ethical or religious considerations or opinions about abortion.

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1           3. The assignment of higher rates for services when only incomplete actuarial  
2 data are available and using such data to limit the liability associated with insuring  
3 an unknown risk.

4           **SECTION 28.** 655.94 of the statutes is created to read:

5           **655.94 Petition by health care providers. (1)** Prior to filing a petition to  
6 the commissioner, a health care provider shall exhaust all remedies for appealing  
7 coverage or rates contained in the provider's health care liability insurance policy or  
8 liability insurance normally incidental to health care liability insurance.

9           **(2)** A health care provider may petition the commissioner for a review of the  
10 final determination of rates under its health care liability policy for a review of  
11 classification or rates. The petition shall state the basis for the health care provider's  
12 belief that the classification or rates are incorrect, or that the classification or rates  
13 violate ss. 625.11, 625.12, or 655.92. The commissioner shall refer a petition as  
14 specified in sub. (3).

15           **(3) (a)** The commissioner shall appoint a committee for the review of  
16 classification or rates as follows:

17           1. If the health care provider is a hospital or entity affiliated with a hospital,  
18 then consisting of 2 representatives of hospitals, other than the health care  
19 provider's hospital, and one other person who is knowledgeable about insurance  
20 classifications and rates and not affiliated with the insurer.

21           2. If the health care provider is any entity not specified in subd. 1., then  
22 consisting of 2 physicians not directly or indirectly affiliated or associated with the  
23 health care provider and one other person who is knowledgeable about insurance  
24 classifications and rates and not affiliated with the insurer.

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1 (b) The appointed committee shall review the classification and rates and  
2 report its decision in writing to the health care provider and the commissioner within  
3 5 days after completing the review.

4 (c) Any party to the review adversely affected by the decision of the committee  
5 may file a written request for a hearing under subch. III of ch. 227.

6 **SECTION 29.** 655.96 of the statutes is created to read:

7 **655.96 Cancellation by insurer.** Notwithstanding ss. 631.36, 631.37, and  
8 655.24, an insurer may not cancel or refuse to renew a policy of primary health care  
9 liability insurance and liability insurance normally incidental to health care liability  
10 insurance except for nonpayment of premiums or if the health care provider  
11 provider's license is revoked by the appropriate licensing board.

12 **SECTION 30.** 939.75 (2) (b) 1. of the statutes is amended to read:

13 939.75 (2) (b) 1. An act committed during an induced abortion. This  
14 subdivision does not limit the applicability of ss. 940.04, 940.13, 940.15 and 940.16  
15 to an induced abortion.

16 **SECTION 31.** 940.04 of the statutes is repealed.

17 **SECTION 32.** 940.32 (1) (a) 10. of the statutes is renumbered 940.32 (1) (a) 12.  
18 and amended to read:

19 940.32 (1) (a) 12. Causing a person to engage in any of the acts described in  
20 subds. 1. to ~~9.~~ 11.

21 **SECTION 33.** 940.32 (1) (a) 11. of the statutes is created to read:

22 940.32 (1) (a) 11. Impeding access to a health care facility where the victim  
23 seeks, obtains, or provides health care.

24 **SECTION 34.** 968.26 (1b) (a) 2. a. of the statutes, as created by 2015 Wisconsin  
25 Act 64, is amended to read:

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1           968.26 **(1b)** (a) 2. a. Section ~~940.04~~, 940.11, 940.19 (2), (4), (5), or (6), 940.195  
2           (2), (4), (5), or (6), 940.20, 940.201, 940.203, 940.205, 940.207, 940.208, 940.22 (2),  
3           940.225 (3), 940.29, 940.302 (2) (c), 940.32, 941.32, 941.38 (2), 942.09 (2), 943.10,  
4           943.205, 943.32 (1), 946.43, 946.44, 946.47, 946.48, 948.02 (3), 948.03 (2) (b) or (c),  
5           (3), or (4), 948.04, 948.055, 948.095, 948.10 (1) (a), 948.11, 948.13 (2) (a), 948.14,  
6           948.20, 948.23 (1), (2), or (3) (c) 2. or 3., or 948.30 (1).

7           **SECTION 35.** 990.001 (17) (b) of the statutes is amended to read:

8           990.001 **(17)** (b) If a statute or rule refers to a live birth or to the circumstance  
9           in which an individual is born alive, the statute or rule shall be construed so that  
10          whoever undergoes a live birth as the result of an induced abortion, as defined in s.  
11          ~~253.10 (2) (a)~~ 69.01 (13m), has the same legal status and legal rights as a human  
12          being at any point after the human being undergoes a live birth as the result of  
13          natural or induced labor or a cesarean section.

14          **SECTION 36.** 990.01 (19j) (b) of the statutes is amended to read:

15          990.01 **(19j)** (b) “Live birth” means the complete expulsion or extraction from  
16          his or her mother, of a human being, at any stage of development, who, after the  
17          expulsion or extraction, breathes or has a beating heart, pulsation of the umbilical  
18          cord, or definite movement of voluntary muscles, regardless of whether the umbilical  
19          cord has been cut, and regardless of whether the expulsion or extraction occurs as  
20          a result of natural or induced labor, a cesarean section, or an induced abortion, as  
21          defined in s. ~~253.10 (2) (a)~~ 69.01 (13m).

22          **SECTION 37. Effective dates.** This act takes effect on the day after publication,  
23          except as follows:

24                (1) The treatment of section 448.02 (3) (a) of the statutes (by SECTION 18) takes  
25          effect on April 1, 2017.

