

1989 Assembly Bill 277

Date of enactment: April 10, 1990  
Date of publication\*: April 24, 1990

# 1989 WISCONSIN ACT 187

AN ACT *to repeal* 647.01 (1) and 655.001 (3) and (5m); *to renumber and amend* 631.36 (7) and 893.82 (2) (d); *to amend* 20.145 (2) (v), 25.14 (1), 25.17 (3) (a), 165.25 (6), 601.42 (4), 619.04 (1), 619.04 (5) (intro.), 619.04 (9), 619.04 (10), 631.36 (2) (a) (intro.), 655.001 (8), 655.005, 655.23 (2), 655.23 (3) (a), 655.23 (4), 655.23 (5), 655.23 (6) and (7), 655.24 (1) to (3), 655.26 (1) (intro.) and (a), 655.26 (1) (g), 655.27 (1), (3) (bg) 2, (4) (e), (5) (b) and (c) and (7), 655.275 (5) (a) (intro.), 655.275 (9) and 655.61 (1); *to repeal and recreate* 655.003 and 655.26 (1) (b); and *to create* 25.17 (1) (kp), 631.36 (7) (b), 631.37 (3m) and (4) (f), 655.23 (3) (c) and (d), 655.24 (2) (a) 3, 893.82 (2) (d) 3, 893.82 (7) and 895.46 (4) of the statutes, **relating to**: changes to laws governing coverage under the patients compensation fund and the health care liability insurance plan, various changes to laws regulating medical malpractice insurance and the applicability of certain insurance laws to the laws governing the patients compensation fund, medical malpractice insurance and continuing care contracts.

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

**SECTION 1c.** 20.145 (2) (v) of the statutes is amended to read:

20.145 (2) (v) *Operations and benefits.* After deducting the amounts appropriated under pars. (u) and (um), the balances of the moneys paid into the patients compensation fund under s. 655.27 (3) to carry out the responsibilities of the commissioner of insurance under s. 655.27, to make payments to the investment board under s. 20.536 and, with respect to settlements, patients compensation panel awards and judgments entered into or rendered before June 14, 1986, to pay future medical expenses under s. 655.015.

**SECTION 1d.** 25.14 (1) of the statutes is amended to read:

25.14 (1) There is created a state investment fund under the jurisdiction and management of the investment board (hereinafter referred to as "board") to be operated as an investment trust for the purpose of managing the securities of all the state's funds consisting of the funds specified in s. 25.17 (1) except the state life fund, fixed retirement investment trust, variable retirement invest-

ment trust, capital improvement fund, bond security and redemption fund, state building trust fund, the state housing authority reserve fund, the children's trust fund, the patients compensation fund, funds which under article X of the constitution are controlled and invested by the board of commissioners of public lands, funds which are required by specific provision of law to be controlled and invested by any other authority, the university trust funds and the trust funds of the state universities except that the respective authorities controlling the investment of any such excluded fund may authorize the transfer of any temporary cash assets of any such excluded fund to the state investment fund in accordance with subs. (2) and (3).

**SECTION 1e.** 25.17 (1) (kp) of the statutes is created to read:

25.17 (1) (kp) Patients compensation fund (s. 655.27);

**SECTION 1eg.** 25.17 (3) (a) of the statutes is amended to read:

25.17 (3) (a) Invest any of the following funds: 1. fixed retirement investment trust; 2. state life fund; 3. veterans trust fund; 4. patients compensation fund, in loans, securities and any other investments authorized by

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s. 620.22, and in bonds or other evidences of indebtedness or preferred stock of companies engaged in the finance business whether as direct lenders or as holding companies owning subsidiaries engaged in the finance business. Investments permitted by sub. (4) are permitted investments under this subsection.

**SECTION 1g.** 165.25 (6) of the statutes is amended to read:

165.25 (6) ATTORNEY FOR STATE. At the request of the head of any department of state government, the attorney general may appear for and defend any state department, or any state officer, employe or agent of the department in any civil action or other matter brought before a court or an administrative agency which is brought against the state department, or officer, employe or agent for or on account of any act growing out of or committed in the lawful course of an officer's, employe's or agent's duties. Witness fees or other expenses determined by the attorney general to be reasonable and necessary to the defense in the action or proceeding shall be paid as provided for in s. 885.07. The attorney general may compromise and settle the action as the attorney general determines to be in the best interest of the state. Members, officers and employes of the Wisconsin state agencies building corporation and the Wisconsin state public building corporation are covered by this section. Members of the board of governors created under s. 619.04 (3), members of a committee or subcommittee of that board of governors, members of the patients compensation fund peer review council created under s. 655.275 (2) and persons consulting with that council under s. 655.275 (5) (b) are covered by this section with respect to actions, claims or other matters arising before, on or after the effective date of this subsection .... [revisor inserts date]. The attorney general may compromise and settle claims asserted before such actions or matters formally are brought or may delegate such authority to the department of administration. This subsection may not be construed as a consent to sue the state or any department thereof or as a waiver of state sovereign immunity.

**SECTION 1m.** 601.42 (4) of the statutes is amended to read:

601.42 (4) REPLIES. Any officer, manager or general agent of any insurer authorized to do or doing an insurance business in this state, any person controlling or having a contract under which the person has a right to control such an insurer, whether exclusively or otherwise, any person with executive authority over or in charge of any segment of such an insurer's affairs, any individual practice association or officer, director or manager of an individual practice association, and any insurance agent or other person licensed under chs. 600 to 646 or any provider of services under a continuing care contract, as defined in s. 647.01 (2), or any health care provider, as defined in s. 655.001 (8), shall reply promptly in writing

or in other designated form, to any written inquiry from the commissioner requesting a reply.

**SECTION 2.** 619.04 (1) of the statutes is amended to read:

619.04 (1) The commissioner shall promulgate rules establishing a plan of health care liability coverage for all ~~medical or osteopathic physicians licensed under ch. 448 and nurse anesthetists licensed under ch. 441 who practice in this state or who satisfy s. 655.002; for partnerships comprised of such physicians or nurse anesthetists; for corporations organized and operated in this state for the purpose of providing the medical services of physicians or nurse anesthetists; for operating cooperative sickness care plans organized under ss. 185.981 to 185.985 which directly provide services in their own facilities with salaried employes; and for all hospitals as defined by s. 50.33 (2) (a) and (c), but excluding those facilities exempted by s. 50.39 (3), which operate in this state and any entity operated in this state in connection with one or more hospitals and owned or controlled by the hospital or hospitals when the entity is assisting the hospital or hospitals in providing diagnosis or treatment of, or care for, patients of the hospital or hospitals~~ health care providers as defined in s. 655.001 (8) or who satisfy s. 655.002.

**SECTION 3.** 619.04 (5) (intro.) of the statutes is amended to read:

619.04 (5) (intro.) The plan shall offer professional health care liability coverage in a standard policy form for all hospitals, ~~medical or osteopathic physicians and nurse anesthetists who operate or practice in this state or who satisfy s. 655.002.~~ The plan shall include, but not be limited to, the following:

**SECTION 3s.** 619.04 (9) of the statutes is amended to read:

619.04 (9) Neither the state nor the board of governors shall be liable for any obligation of the plan or of the patients compensation fund under s. 655.27. The board of governors and members of any committee or subcommittee thereof shall be immune from civil ~~prosecution for good faith actions taken within the scope of~~ liability for acts or omissions while performing their duties under this section and s. 655.27.

**SECTION 4.** 619.04 (10) of the statutes is amended to read:

619.04 (10) ~~The~~ If the commissioner makes a finding under s. 619.01 (1) (a) with respect to health care providers other than those described in sub. (1), the commissioner may, with the approval of the board established under sub. (3), promulgate rules permitting those health care providers to effect obtain coverage under s. 619.01 ~~of from~~ the plan established under this section.

**SECTION 5.** 631.36 (2) (a) (intro.) of the statutes is amended to read:

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631.36 (2) (a) *Permissible grounds.* (intro.) Except as provided by par. (c) and s. 655.24 (2) (b), no insurance policy may be canceled by the insurer prior to the expiration of the agreed term or one year from the effective date of the policy or renewal, whichever is less, except for failure to pay a premium when due or on grounds stated in the policy, which must be comprehended within one of the following classes:

**SECTION 6.** 631.36 (7) of the statutes is renumbered 631.36 (7) (a), and 631.36 (7) (a) 2., as renumbered, is amended to read:

631.36 (7) (a) 2. Unless the notice contains adequate instructions to the policyholder for applying for insurance through a risk sharing plan under subch. I of ch. 619, if a risk sharing plan exists under subch. I of ch. 619 for the kind of coverage being canceled or nonrenewed, except as provided in par. (b).

**SECTION 7.** 631.36 (7) (b) of the statutes is created to read:

631.36 (7) (b) Paragraph (a) 2. does not apply to a notice of cancellation or nonrenewal issued by the mandatory health care liability risk sharing plan established under s. 619.04.

**SECTION 8.** 631.37 (3m) and (4) (f) of the statutes are created to read:

631.37 (3m) **HEALTH CARE LIABILITY INSURANCE.** Section 655.24 (2) (b), (3) and (4) applies to the termination of a health care liability insurance policy.

(4) (f) *Health care liability policy.* Section 655.25 applies to insurance issued by the mandatory health care liability risk sharing plan established under s. 619.04.

**SECTION 9.** 647.01 (1) of the statutes is repealed.

**SECTION 10.** 655.001 (3) and (5m) of the statutes are repealed.

**SECTION 11.** 655.001 (8) of the statutes is amended to read:

655.001 (8) "Health care provider" means a any of the following:

(a) A medical or osteopathic physician licensed under ch. 448; a

(b) A nurse anesthetist licensed under ch. 441; a

(c) A partnership comprised of such medical or osteopathic physicians or nurse anesthetists; a and organized and operated in this state for the primary purpose of providing the medical services of medical or osteopathic physicians or nurse anesthetists.

(d) A corporation organized and operated in this state for the purposes primary purpose of providing the medical services of medical or osteopathic physicians or nurse anesthetists; an.

(e) An operational cooperative sickness care plan organized under ss. 185.981 to 185.985 which directly provides services through salaried employees in its own facility; an.

(f) An ambulatory surgery center; a.

(g) A hospital, as defined by in s. 50.33 (2) (a) and (c) and any.

(h) An entity operated in this state in connection with one or more hospitals and owned or controlled by the that is an affiliate of a hospital or hospitals when the entity is assisting the hospital or hospitals in providing and that provides diagnosis or treatment of, or care for, patients of the hospital or hospitals; or a.

(i) A nursing home, as defined by in s. 50.01 (3), whose operations are combined as a single entity with a hospital subject to this section described in par. (g), whether or not the nursing home operations are physically separate from hospital operations. It excludes any state, county or municipal employe or federal employe covered under the federal tort claims act, as amended, who is acting within the scope of employment, and any facility exempted by s. 50.39 (3) or operated by any governmental agency, but any state, county or municipal employe or facility so excluded who would otherwise be included in this definition may petition in writing to be afforded the coverage provided by this chapter and upon filing the petition with the commissioner and paying the fee required under s. 655.27 (3) will be subject to this chapter.

**SECTION 12.** 655.003 of the statutes is repealed and recreated to read:

**655.003 Applicability to public employes and facilities.** This chapter does not apply to a health care provider that is any of the following:

(1) A state, county or municipal employe or federal employe covered under the federal tort claims act, as amended, who is acting within the scope of employment.

(2) A facility that is exempt under s. 50.39 (3) or operated by any governmental agency.

**SECTION 13.** 655.005 of the statutes is amended to read:

**655.005 Health care provider employes.** (1) Any person listed in s. 655.007 having a claim or a derivative claim against a health care provider or an employe of the health care provider, for damages for bodily injury or death due to acts or omissions of the employe of the health care provider acting within the scope of his or her employment and providing health care services, is subject to this chapter.

(2) The fund shall provide coverage, under s. 655.27, for claims against the health care provider or the employe of the health care provider due to the acts or omissions of the employe acting within the scope of his or her employment and providing health care services. This subsection does not apply to an employe of a health care provider if the employe is a medical or osteopathic physician licensed under ch. 448 or a nurse anesthetist licensed under ch. 441.

**SECTION 14.** 655.23 (2) of the statutes is amended to read:

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655.23 (2) Every health care provider permanently practicing or operating in this state shall, once in each year as prescribed by the commissioner, file with the commissioner in a form prescribed by the commissioner, proof of financial responsibility as provided in this section. This requirement does not apply to any health care provider whose insurer files a certificate of insurance under sub. (3) (b). No health care provider who retires or ceases operation after July 24, 1975, shall be eligible for the protection provided under this chapter unless proof of financial responsibility for all claims arising out of acts of malpractice occurring after July 24, 1975, is provided to the commissioner as required in this section in the form prescribed by the commissioner.

**SECTION 15.** 655.23 (3) (a) of the statutes is amended to read:

655.23 (3) (a) ~~Every~~ Except as provided in par. (d), every health care provider permanently practicing or operating in this state either shall insure and keep insured the health care provider's liability by a policy of health care liability insurance issued by an insurer authorized to do business in this state or by an unauthorized nondomestic insurer if the commissioner has found the insurer to be reliable and solid as provided in s. 618.41 (6) (d); ~~or shall qualify as a self-insurer, or shall furnish to the commissioner a cash or surety bond in accordance with the requirements of this chapter. Such insurance shall be designated "health care providers' professional liability insurance" and shall, in this section and ss. 655.24 and 655.245, be referred to as "health care liability insurance". The submission of a cash or surety bond, or qualification, Qualification as a self-insurer, shall be is subject to the approval of conditions established by the commissioner and, is valid only when approved by the commissioner and is subject to annual reporting requirements specified by the commissioner to enable the commissioner to determine continuing financial responsibility.~~

**SECTION 16.** 655.23 (3) (c) and (d) of the statutes are created to read:

655.23 (3) (c) Each self-insured health care provider furnishing coverage that meets the requirements of sub. (4) shall, at the times and in the form prescribed by the commissioner, file with the commissioner a certificate of self-insurance and a separate certificate of insurance for each additional health care provider covered by the self-insured plan.

(d) If a cash or surety bond furnished by a health care provider for the purpose of insuring and keeping insured the health care provider's liability was approved by the commissioner before the effective date of this paragraph .... [revisor inserts date], par. (a) does not apply to the health care provider while the cash or surety bond remains in effect. A cash or surety bond remains in effect unless the commissioner, at the request of the health care provider or the surety, approves its cancellation.

**SECTION 17.** 655.23 (4) of the statutes is amended to read:

655.23 (4) Such health Health care liability insurance, self-insurance or a cash or surety bond under sub. (3) (d) shall be in amounts of at least \$200,000 for each occurrence and \$600,000 per year for all occurrences in any one policy year for occurrences before July 1, 1987, \$300,000 for each occurrence and \$900,000 for all occurrences in any one policy year for occurrences on or after July 1, 1987 and before July 1, 1988, and \$400,000 for each occurrence and \$1,000,000 for all occurrences in any one policy year for occurrences on or after July 1, 1988.

**SECTION 18.** 655.23 (5) of the statutes is amended to read:

655.23 (5) While such health care liability insurance, self-insurance or a cash or surety bond ~~approved by the commissioner under sub. (3) (d)~~ remains in force, the health care provider, the health care provider's estate and those conducting the health care provider's business, including the health care provider's health care liability insurance carrier, are liable for malpractice for no more than the limits expressed in sub. (4) or the maximum liability limit for which the health care provider is insured, whichever is higher, if the health care provider has met the requirements of this chapter.

**SECTION 19.** 655.23 (6) and (7) of the statutes are amended to read:

655.23 (6) ~~Whoever~~ Any person who violates this section shall forfeit to the state not more than \$1,000 for each violation. ~~Each is subject to s. 601.64. For purposes of s. 601.64 (3) (c), each week of delay in compliance with this section shall constitute constitutes a new violation. The commissioner may demand and accept any forfeiture imposed under this section, which shall be paid into the common school fund. The commissioner may cause an action to be commenced to recover the forfeiture in an amount to be determined by the court. Before an action is commenced, the commissioner may compromise the forfeiture; after the action is commenced, the attorney general may compromise the forfeiture.~~

(7) Health care providers permanently practicing or operating in this state shall comply with this section before exercising any rights or privileges conferred by their health care providers' licenses ~~or certificates of registration. The commissioner shall notify the examining board or agency issuing such licenses or certificates of registration the license~~ of each health care provider who has not complied with this section. The examining board or agency issuing such licenses ~~or certificates of registration the license~~ may suspend, or refuse to issue or to renew the license ~~or certificate of registration~~ of any health care provider violating this section.

**SECTION 20.** 655.24 (1) to (3) of the statutes are amended to read:

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655.24 (1) No insurer may enter into or issue any policy of health care liability insurance until its policy form has been submitted to and approved by the commissioner under s. 631.20 (1). The filing of a policy form by any insurer with the commissioner for approval shall constitute, on the part of the insurer, a conclusive and unqualified acceptance of all provisions of this chapter, and an agreement by it to be bound hereby as to any policy issued by it to any health care provider.

(2) Every policy issued under this chapter shall be deemed conclusively to provide all of the following:

(a) That the insurer agrees to pay in full all supplementary expenses of the following:

1. Attorney fees and other costs incurred in the settlement or defense of any claims and any,

2. Any settlement, arbitration award or judgment imposed against the insured under this chapter up to the limits expressed in s. 655.23 (4), or the maximum liability limit for which the health care provider is insured, whichever is greater; and,

(b) That any termination of the policy by cancellation or nonrenewal is not effective as to patients claiming against those covered by the policy unless a written notice complying with sub. (3) and giving the date upon which the termination is to become effective has been received by the insured at least 10 days prior to the taking effect of a cancellation or nonrenewal for nonpayment of premium or for loss of license or certificate of registration and at least 60 days prior to the taking effect of a cancellation or nonrenewal for any other reason has been notified as provided in sub. (3) and s. 631.36, except that an insurer may cancel a health care provider's policy under s. 631.36 (2) if the health care provider is no longer licensed to practice medicine or nursing.

(3) The A notice of cancellation or nonrenewal that is required under sub. (2) (b) issued to a health care provider who is a natural person must inform the insured health care provider that the insured's his or her license to practice medicine or certificate of registration nursing may be suspended or not renewed if the licensee health care provider has no insurance or insufficient insurance. Copies of notices required under sub. (2) (b) The insurer shall be retained on file by the insurer retain a copy of each notice issued under sub. (2) (b) for not less than 10 years from the date of mailing or delivery of the notice and furnished shall furnish a copy to the commissioner upon request.

**SECTION 20g.** 655.24 (2) (a) 3. of the statutes is created to read:

655.24 (2) (a) 3. Any portion or all of the interest, as determined by the board of governors, on an amount recovered against the insured under this chapter for which the insured is liable under s. 807.01 (4), 814.04 (4) or 815.05 (8).

**SECTION 21.** 655.26 (1) (intro.) and (a) of the statutes are amended to read:

655.26 (1) (intro.) Beginning on February 15, 1986, and thereafter, in addition to any information required by the commissioner under s. 601.42, by the 15th day of each month, a health care provider liability each insurer that writes medical malpractice insurance in this state and each self-insurer approved under s. 655.23 (3) (a) shall report the following information to the medical examining board and the board of governors for the fund established under s. 619.04 (3) on each claim paid by the insurer during the previous month for damages arising out of the rendering of health care services by a health care provider or an employe of a health care provider:

(a) The health care provider's name and address of the policyholder or self-insured entity and the name and address of any individual on whose behalf the claim was paid.

**SECTION 22.** 655.26 (1) (b) of the statutes is repealed and recreated to read:

655.26 (1) (b) The profession of the individual or the type of facility or entity on whose behalf the claim was paid.

**SECTION 23.** 655.26 (1) (g) of the statutes is amended to read:

655.26 (1) (g) The number and amounts of any previous claims paid by the insurer or self-insurer for damages arising out of the rendering of health care services by the health care provider or the provider's insured, the self-insurer or the employes of the insured or self-insurer. Only claims paid on or after July 20, 1985, are required to be reported under this paragraph.

**SECTION 24.** 655.27 (1), (3) (bg) 2, (4) (e), (5) (b) and (c) and (7) of the statutes are amended to read:

655.27 (1) FUND. There is created a patients compensation fund for the purpose of paying that portion of a medical malpractice claim which is in excess of the limits expressed in s. 655.23 (4) or the maximum liability limit for which the health care provider is insured, whichever limit is greater, paying future medical expense payments under s. 655.015 and paying claims under sub. (1m). The fund shall provide occurrence coverage for health care providers permanently practicing or operating in this state. The fund shall be liable only for payment of claims against health care providers permanently practicing or operating in this state who have complied with this chapter, and against employes of those health care providers, and for reasonable and necessary expenses incurred in payment of claims and fund administrative expenses. The coverage provided by the fund shall begin July 1, 1975. The fund shall not be liable for damages for injury or death caused by an intentional crime, as defined under s. 939.12, committed by a health care provider or an employe of a health care provider, whether or not the criminal conduct is the basis for a medical malpractice claim.

(3) (bg) 2. The rule shall provide that the automatic increase does not apply if the board of governors deter-

mines that the performance of the patients compensation fund peer review council in making recommendations under s. 655.275 (5) (a) adequately addresses the consideration set forth in par. (a) 2m.

(4) (e) ~~Moneys held in the fund shall be invested in short-term fixed return interest-bearing investments by the board of governors through the state investment board. The board of governors shall submit a quarterly report to the state investment board and the department of administration projecting the future cash flow needs of the fund. The state investment board shall invest moneys held in the fund in investments with maturities and liquidity that are appropriate for the needs of the fund as reported by the board of governors in its quarterly reports under this paragraph.~~ All income derived from such investments shall be credited to the fund.

(5) (b) It shall be the responsibility of the insurer or self-insurer providing insurance or self-insurance for a health care provider who is also covered by the fund to provide an adequate defense of the fund on any claim filed that may potentially affect the fund with respect to such insurance contract or self-insurance contract. The insurer ~~or self-insurer~~ shall act in good faith and in a fiduciary relationship with respect to any claim affecting the fund. No settlement exceeding an amount which could require payment by the fund may be agreed to unless approved by the board of governors.

(c) It shall be the responsibility of any health care provider ~~choosing to post bond or establish an escrow account under this chapter with a cash or surety bond in effect under s. 655.23 (3) (d)~~ to provide an adequate defense of the fund on any malpractice claim filed or any claim filed under sub. (1m) that may potentially affect the fund. The health care provider shall act in good faith and in a fiduciary relationship with respect to any claim affecting the fund. No settlement exceeding an amount which could require payment by the fund may be agreed to unless approved by the board of governors.

(7) (title) ACTIONS AGAINST INSURERS, SELF-INSURERS OR PROVIDERS. The board ~~of governors~~ may bring an action against an insurer, ~~self-insurer~~ or health care provider for failure to act in good faith or breach of fiduciary responsibility under sub. (5) (b) or (c).

**SECTION 25.** 655.275 (5) (a) (intro.) of the statutes is amended to read:

655.275 (5) (a) (intro.) The council shall review, within one year of the date of first payment on the claim, each claim that is paid by the patients compensation fund established under s. 655.27, a mandatory health care liability risk sharing plan established under s. 619.04 ~~or~~ a private medical malpractice ~~insurers~~ ~~insurer or a self-insurer~~ for damages arising out of the rendering of medical care by a health care provider or an employe of the health care provider and shall make recommendations to all of the following:

**SECTION 25g.** 655.275 (9) of the statutes is amended to read:

655.275 (9) (title) IMMUNITY. ~~Sections 146.37 and 655.27 (1m) apply to a member~~ Members of the council ~~or any person and persons consulting with a~~ the council under sub. (5) (b) are immune from civil liability for acts or omissions while performing their duties under this section.

**SECTION 26.** 655.61 (1) of the statutes is amended to read:

655.61 (1) The mediation fund created under s. 655.68 shall be financed from fees charged to health care providers. The director of state courts shall, by February 1 annually, determine the revenues needed for the operation of the mediation system during the succeeding fiscal year and inform the board of governors created under s. 619.04 (3) of that amount. The board of governors shall, by rule, set fees to charge health care providers at a level sufficient to provide these revenues. The board of governors shall charge each health care provider permanently practicing in this state an annual fee and shall charge each hospital an annual fee per occupied bed.

**SECTION 26e.** 893.82 (2) (d) of the statutes is renumbered 893.82 (2) (d) (intro.) and amended to read:

893.82 (2) (d) (intro.) "State officer, employe or agent" includes ~~an~~ any of the following persons:

1. An officer, employe or agent of any nonprofit corporation operating a museum under a lease agreement with the state historical society ~~and a~~.

2. A member of a local emergency planning committee appointed by a county board under s. 59.07 (146) (a).

**SECTION 26f.** 893.82 (2) (d) 3. of the statutes is created to read:

893.82 (2) (d) 3. A member of the board of governors created under s. 619.04 (3), a member of a committee or subcommittee of that board of governors, a member of the patients compensation fund peer review council created under s. 655.275 (2) and a person consulting with that council under s. 655.275 (5) (b).

**SECTION 26k.** 893.82 (7) of the statutes is created to read:

893.82 (7) With respect to a state officer, employe or agent described in sub. (2) (d) 3., this section applies to an event causing the injury, damage or death giving rise to an action against the state officer, employe or agent, which occurs before, on or after the effective date of this subsection .... [revisor inserts date].

**SECTION 26m.** 895.46 (4) of the statutes is created to read:

895.46 (4) The protection afforded by this section applies to members of the board of governors created under s. 619.04 (3), members of a committee or subcommittee of that board of governors, members of the patients compensation fund peer review council created under s. 655.275 (2) and persons consulting with that

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council under s. 655.275 (5) (b), with respect to judgments, attorney fees and costs awarded before, on or after the effective date of this subsection .... [revisor inserts date].

**SECTION 27. Nonstatutory provisions.** (1) PUBLIC EMPLOYEES AND FACILITIES. (a) Notwithstanding section 655.003 of the statutes, as affected by this act, a state, county or municipal employe who, or a governmental facility that, on the effective date of this paragraph, is subject to chapter 655 of the statutes under section 655.001 (8), 1987 stats., shall continue to be subject to chapter 655 of the statutes until June 30 following the effective date of this paragraph, except as provided in par. (b).

(b) If the state, county or municipal employe is subject to a collective bargaining agreement in existence on the effective date of this paragraph, the terms of which would be impaired by applying section 655.003 of the statutes, as affected by this act, to that employe, the

employe shall continue to be subject to chapter 655 of the statutes until the expiration, extension or renewal of the collective bargaining agreement or until June 30 following the effective date of this paragraph, whichever is later.

(2) RESIDENT PHYSICIANS. A physician who, on the effective date of this subsection, is exempt from sections 655.23, 655.27 and 655.61 of the statutes under section 655.003, 1987 stats., shall continue to be exempt from sections 655.23 and 655.27 of the statutes, as affected by this act, and section 655.61 of the statutes, until June 30 following the effective date of this subsection.

**SECTION 28. Terminology changes.** Wherever "director" appears in the following sections of the statutes, "director of state courts" is substituted: 655.004, 655.01, 655.019, 655.42, 655.44 (3), (4) and (6), 655.445 (1), 655.45 (1) and (2) (a) and (b), 655.455, 655.465 (1), (2) (intro.), (a) and (c) 1., 3., 4. and 5., (3), (5) and (7), 655.54, 655.58 (3) (b) and 655.68 (2) and (4) (c).

**SECTION 29. Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
600.01 (1)(a)	600 to 647	600 to 655
600.02 (intro.)	chs. 600 to 646	chs. 600 to 655
600.03 (intro.) and (26)	chs. 600 to 646	chs. 600 to 655
600.12	chs. 600 to 647	chs. 600 to 655
601.01 (intro.), (4) and (11)	chs. 600 to 646	chs. 600 to 655
601.12 (2)	chs. 600 to 647	chs. 600 to 655
601.41 (1)	chs. 600 to 647	chs. 600 to 655
601.415 (intro.)	chs. 600 to 647	chs. 600 to 655
601.42 (1g)(intro.)	chs. 600 to 647	chs. 600 to 655
601.46 (3)(g)	chs. 600 to 647	chs. 600 to 655
601.48 (1)	chs. 600 to 647	chs. 600 to 655
601.62 (1) and (2)	chs. 600 to 647	chs. 600 to 655
618.41 (11)	chs. 600 to 646	chs. 600 to 646 and 655
618.42 (2)	chs. 600 to 646	chs. 600 to 646 and 655
618.44	chs. 600 to 646	chs. 600 to 646 and 655
619.01 (7)(b)	655.23 (5) [(4)]	655.23 (4)
619.13 (1)(d) 2	chs. 600 to 646	chs. 600 to 646 and 655
628.01 (5)	chs. 600 to 646	chs. 600 to 655
628.02 (intro.)	chs. 600 to 646	chs. 600 to 655
630.10	chs. 600 to 646	chs. 600 to 655
631.05	chs. 600 to 646	chs. 600 to 646 and 655
631.08 (1)	chs. 600 to 646	chs. 600 to 646 and 655
631.27	chs. 600 to 646	chs. 600 to 646 and 655
631.83 (1)(d) and (2)	chs. 600 to 646	chs. 600 to 646 and 655
655.23 (5m)	sub. (5) [(4)]	sub. (4)

**SECTION 30. Initial applicability.** (1) REPORTS BY SELF-INSURERS. The treatment of section 655.26 (1) (intro.), (a), (b) and (g) of the statutes first applies to a report filed by a self-insurer on the 15th day of the 3rd

month beginning after the effective date of this subsection.

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(2) PENALTY. The treatment of section 655.23 (6) of the statutes first applies to violations occurring on the effective date of this subsection.

(3) CLAIMS AGAINST HEALTH CARE PROVIDERS. (a) *Partnerships, corporations and other entities.* The treatment of section 655.001 (8) of the statutes, as it affects entities affiliated with a hospital, partnerships and corporations, first applies to claims arising from occurrences on the effective date of this paragraph.

(b) *Public employes and facilities.* The treatment of

sections 655.001 (8) and 655.003 of the statutes, as they affect state, county or municipal employes or governmental facilities, first applies to claims arising from occurrences on the date that the employe or facility is no longer subject to chapter 655 of the statutes as determined under SECTION 27 (1) of this act.

(4) IMMUNITY. The treatment of sections 619.04 (9) and 655.275 (9) of the statutes first applies to acts or omissions occurring on the effective date of this subsection.

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