

1993 Assembly Bill 540

Date of enactment: April 28, 1994

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1993 Wisconsin Act 450

(Vetoed in Part)

AN ACT to repeal 151.01 (3c), 151.01 (3w), 151.01 (6), 151.03 (3) and (4), 151.09 (8) and (9), 151.12 (2) to (4), 254.11 (10) (b), 254.14 (3), 254.15 (7), 254.28 (intro.) and (1) and 254.28 (2); to renumber 151.01 (3r), 254.13, 254.14 (title) and 254.16; to renumber and amend 151.01 (3n), 254.14 (1), (2) and (4), 254.30 (1) and 254.30 (2); to consolidate, renumber and amend 254.11 (10) (intro.) and (a); to amend 20.435 (1) (ef), 20.435 (1) (gm), 40.51 (8), 66.184, 115.33 (1) (a), 118.125 (1) (a), 118.125 (1) (c), 118.125 (1) (cm), 120.13 (2) (g), 121.02 (1) (i), 185.981 (4t), 185.983 (1) (intro.), 254.30 (title) and 254.30 (2) (title); to repeal and recreate 254.12 (title), 254.13 (title) and 254.15 (1); and to create 46.16 (2s), 48.737, 49.46 (2) (b) 13, 118.125 (2) (hm), 254.11 (7g), 254.11 (7r), 254.11 (8g), 254.11 (8j), 254.11 (8u), 254.11 (9r), 254.11 (10m), 254.11 (13), 254.13 (2), 254.151, 254.152, 254.156, 254.158, 254.162, 254.164, 254.167, 254.168, 254.17, 254.172, 254.174, 254.176, 254.178, 254.30 (1) (a) and (c), 254.30 (2) (b), 609.85 and 632.895 (10) of the statutes, relating to the prevention of lead poisoning and lead exposure, providing for a study, granting rule-making authority, making appropriations and providing penalties.

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

SECTION 1. 20.435 (1) (ef) of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

20.435 (1) (ef) *Lead-poisoning or lead-exposure services.* The amounts in the schedule for the purposes of providing grants under s. ~~254.15 (7)~~ 254.151.

SECTION 2. 20.435 (1) (gm) of the statutes, as affected by 1993 Wisconsin Act 16, section 402, and 1993 Wisconsin Act 27, is amended to read:

20.435 (1) (gm) *Licensing, review and certifying activities.* The amounts in the schedule for the purposes specified in ss. 50.135, 50.49 (2) (b), ~~146.08 (2)~~, 146.50 (8), ~~151.09 (8) and (9)~~, 250.05 (6), 252.22 (7), 254.176, 254.178, 254.20 (5) and (8), 254.31 to 254.39, 254.47, 254.48 and, 254.61 to 254.89 and 255.08 (2), subch. IV of ch. 50 and ch. 150. All moneys received under ss. 50.135, 50.49 (2) (b), 50.93 (1) (c), ~~146.08 (2) (b)~~, 146.50 (8) (d), 150.13, ~~151.12 (4)~~, 250.05 (6), 252.22 (7), 254.176, 254.178, 254.20 (5) and (8), 254.31 to 254.39, 254.47, 254.48 (3) and, 254.61 to 254.89 and 255.08 (2) (b), less the amounts appropriated under s. 20.488 (1) (g), shall be credited to this appropriation.

SECTION 3. 40.51 (8) of the statutes is amended to read:

40.51 (8) Every health care coverage plan offered by the state under sub. (6) shall comply with ss. 631.89, 631.90, 631.93 (2), 632.87 (3), ~~(4) and to (5)~~, 632.895 (5m), ~~and (8) and (9) to (10)~~ and 632.896.

SECTION 4. 46.16 (2s) of the statutes is created to read:

46.16 (2s) **LEAD SCREENING, INSPECTION AND REDUCTION REQUIREMENTS; DAY CARE CENTERS.** The department, after notice to a day care provider certified under s. 48.651, or a day care center licensed under s. 48.65 or provisionally licensed under s. 48.69, may

suspend, revoke or refuse to renew a license or certification in any case in which the department finds that there has been a substantial failure to comply with any rule promulgated under s. 254.162, 254.168 or 254.172.

SECTION 5. 48.737 of the statutes is created to read:

48.737 Lead screening, inspection and reduction requirements; day care centers. The department, after notice to a day care provider certified under s. 48.651, or a day care center licensed under s. 48.65 or provisionally licensed under s. 48.69, may suspend, revoke or refuse to renew a license or certification in any case in which the department finds that there has been a substantial failure to comply with any rule promulgated under s. 254.162, 254.168 or 254.172.

SECTION 6. 49.46 (2) (b) 13 of the statutes is created to read:

49.46 (2) (b) 13. Care coordination and follow-up of persons having lead poisoning or lead exposure, as defined in s. 254.11 (9), including lead inspections.

SECTION 7. 66.184 of the statutes is amended to read:

66.184 Self-insured health plans. If a city, including a 1st class city, or a village provides health care benefits under its home rule power to its officers and employes on a self-insured basis, the self-insured plan shall comply with ss. 631.89, 631.90, 631.93 (2), 632.87 (4) and (5), 632.895 (9) and (10) and 632.896.

SECTION 8. 115.33 (1) (a) of the statutes is amended to read:

115.33 (1) (a) "In compliance" means in compliance with subchs. I and IV of ch. 101 ~~and~~ ch. 145 and ss. 254.11 to 254.178 and the rules promulgated under subchs. I and IV of ch. 101, ch. 145 and ss. 254.11 to 254.178.

SECTION 9. 118.125 (1) (a) of the statutes is amended to read:

118.125 (1) (a) "Behavioral records" means those pupil records which include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual pupil's behavior, tests relating specifically to achievement or measurement of ability, the pupil's physical health records other than his or her immunization records or any lead screening records required under s. 254.162, peace officers' records obtained under s. 48.396 (1m) and any other pupil records that are not progress records.

SECTION 10. 118.125 (1) (c) of the statutes is amended to read:

118.125 (1) (c) "Progress records" means those pupil records which include the pupil's grades, a statement of the courses the pupil has taken, the pupil's attendance record, the pupil's immunization records, any lead screening records required under s. 254.162 and records of the pupil's school extracurricular activities.

SECTION 11. 118.125 (1) (cm) of the statutes is amended to read:

118.125 (1) (cm) "Pupil physical health records" means those pupil records that include basic health information about a pupil, including the pupil's immunization records, an emergency medical card, a log of first aid and medicine administered to the pupil, an athletic permit card, a record concerning the pupil's ability to participate in an education program, any lead screening records required under s. 254.162, the results of any routine screening test, such as for hearing, vision or scoliosis, and any follow-up to such test, and any other basic health information, as determined by the state superintendent.

SECTION 12. 118.125 (2) (hm) of the statutes is created to read:

118.125 (2) (hm) Information from any pupil lead screening records shall be made available to state and local health officials to carry out the purposes of ss. 254.11 to 254.178.

SECTION 13. 120.13 (2) (g) of the statutes is amended to read:

120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss. 631.89, 631.90, 631.93 (2), 632.87 (4) and (5), 632.895 (9) and (10) and 632.896.

SECTION 14. 121.02 (1) (i) of the statutes is amended to read:

121.02 (1) (i) Provide safe and healthful facilities. The facilities shall comply with ss. 254.11 to 254.178 and any rule promulgated under those sections.

SECTION 15. 151.01 (3c) of the statutes, as created by 1993 Wisconsin Act 16, is repealed.

SECTION 16. 151.01 (3n) of the statutes, as created by 1993 Wisconsin Act 16, is renumbered 254.11 (8n) and amended to read:

254.11 (8n) "Lead hazard reduction" means actions designed to reduce human exposure to lead in a dwelling or premises hazards, including the repair, enclosure, encapsulation or removal of lead hazard abatement and interim control activities involving lead-bearing paint or lead-contaminated dust, or soil or drinking water, and related clean-up and ongoing maintenance measures clearance activities that determine whether an environment contains a lead hazard.

SECTION 17. 151.01 (3r) of the statutes, as created by 1993 Wisconsin Act 16, is renumbered 254.11 (8r).

SECTION 18. 151.01 (3w) of the statutes, as created by 1993 Wisconsin Act 16, is repealed.

SECTION 19. 151.01 (6) of the statutes, as created by 1993 Wisconsin Act 16, is repealed.

SECTION 20. 151.03 (3) and (4) of the statutes, as created by 1993 Wisconsin Act 16, are repealed.

SECTION 21. 151.09 (8) and (9) of the statutes, as created by 1993 Wisconsin Act 16, are repealed.

SECTION 22. 151.12 (2) to (4) of the statutes, as created by 1993 Wisconsin Act 16, are repealed.

SECTION 23. 185.981 (4t) of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

185.981 (4t) A sickness care plan operated by a cooperative association is subject to ss. 252.14, 631.89 and, 632.87 (2m), (3), (4) and (5) and 632.895 (10) and ch. 155.

SECTION 24. 185.983 (1) (intro.) of the statutes is amended to read:

185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.89, 631.93, 632.775, 632.79, 632.795, 632.87 (2m), (3), (4) and (5), 632.895 (5) and, (9) and (10) and 632.896, subch. II of ch. 619 and chs. 609, 630, 635, 645 and 646, but the sponsoring association shall:

SECTION 25. 254.11 (7g) of the statutes is created to read:

254.11 (7g) "Imminent lead hazard" means a lead hazard that, if allowed to continue, will place a child under 6 years of age at risk of developing lead poisoning or lead exposure, as determined by the department or other state agency, a local health department or a federal agency.

SECTION 26. 254.11 (7r) of the statutes is created to read:

254.11 (7r) "Interim control activity" means any set of measures designed to temporarily reduce human exposure or likely exposure to a lead hazard, including specialized cleaning, repair, maintenance, painting, temporary containment and ongoing monitoring of lead hazards or potential lead hazards.

SECTION 27. 254.11 (8g) of the statutes is created to read:

254.11 (8g) "Lead hazard" means any substance, surface or object that contains lead and that, due to its condition, location or nature, may contribute to the lead poisoning or lead exposure of a child under 6 years of age.

SECTION 28. 254.11 (8j) of the statutes is created to read:

254.11 (8j) "Lead hazard abatement" means any set of measures designed to permanently eliminate a lead hazard, including all of the following:

(a) The removal of lead-bearing paint and lead-contaminated dust, the permanent containment or encapsulation of lead-bearing paint, the replacement of surfaces or fixtures painted with lead-bearing paint, and the removal or covering of lead-contaminated soil.

(b) All preparation, clean-up, disposal and post-abatement clearance testing activities associated with the measures under par. (a).

SECTION 29. 254.11 (8u) of the statutes is created to read:

254.11 (8u) "Lead management activity" means a lead inspection or the design or management of lead hazard reduction.

SECTION 30. 254.11 (9r) of the statutes is created to read:

254.11 (9r) "Occupant" means a person who leases or lawfully resides in a dwelling or premises.

SECTION 31. 254.11 (10) (intro.) and (a) of the statutes, as affected by 1993 Wisconsin Act 27, are consolidated, renumbered 254.11 (10) and amended to read:

254.11 (10) "Owner" means ~~any a~~ any a person who ~~has~~ has legal title to any dwelling or ~~unit; or~~ premises.

SECTION 32. 254.11 (10) (b) of the statutes, as affected by 1993 Wisconsin Act 27, is repealed.

SECTION 33. 254.11 (10m) of the statutes is created to read:

254.11 (10m) "Premises" means any of the following:

(a) An educational or child care facility, including attached structures and the real property upon which the facility stands, that provides services to children under 6 years of age.

(b) Other classes of buildings and facilities, including attached structures and real property upon which the buildings or facilities stand, that the department determines by rule to pose a significant risk of contributing to the lead poisoning or lead exposure of children under 6 years of age.

SECTION 34. 254.11 (13) of the statutes is created to read:

254.11 (13) "Third-party payer" means a disability insurance policy that is required to provide coverage for a blood lead test under s. 632.895 (10) (a); a health maintenance organization or preferred provider plan under ch. 609; a health care coverage plan offered by the state under s. 40.51 (6); a self-insured health plan

offered by a city or village under s. 66.184 or a school district under s. 120.13 (2) (b); or a sickness care plan operated by a cooperative association under s. 185.981.

SECTION 35. 254.12 (title) of the statutes, as affected by 1993 Wisconsin Act 27, is repealed and recreated to read:

254.12 (title) Use or sale of lead-bearing paints.

SECTION 36. 254.13 (title) of the statutes, as affected by 1993 Wisconsin Act 27, is repealed and recreated to read:

254.13 (title) Reporting requirements.

SECTION 37. 254.13 of the statutes, as affected by 1993 Wisconsin Act 27, is renumbered 254.13 (1).

SECTION 38. 254.13 (2) of the statutes is created to read:

254.13 (2) A person who screens a child under 6 years of age for lead poisoning or lead exposure under this subchapter, or any rule promulgated under this subchapter, shall report the results of the screening to the department within ~~5 business days after the screening, unless the department specifies a longer time period for reporting by rule.~~ 5 business days after the screening, unless the department specifies a longer time period for reporting by rule. The department shall promulgate rules specifying the form of the reports required under this subsection. A person making a report under this subsection in good faith is immune from civil or criminal liability that might otherwise be incurred from making the report.

SECTION 39. 254.14 (title) of the statutes is renumbered 254.166 (title).

SECTION 40. 254.14 (1), (2) and (4) of the statutes, as affected by 1993 Wisconsin Act 27, are renumbered 254.166 (1), (2) and (4) and amended to read:

254.166 (1) The department may, after being notified that an occupant of a dwelling who is under 6 years of age has blood lead poisoning or lead exposure, present official credentials to the owner or occupant of the dwelling or premises, or to a representative of the owner ~~or occupant~~, and request admission to ~~inspect~~ conduct a lead inspection of the dwelling at a reasonable time. ~~The departmental representative may ascertain whether all surfaces accessible to children are intact and in good repair, and may inspect for the presence of lead-bearing paints or premises.~~ The lead inspection shall be conducted during business hours, unless the owner or occupant of the dwelling or premises consents to an inspection during nonbusiness hours or unless the department determines that the dwelling or premises presents an imminent lead hazard. The department shall use reasonable efforts to provide prior notice of the lead inspection to the owner of the dwelling or premises. ~~The departmental representative~~ department may temporarily remove samples or objects necessary for laboratory analysis to determine the presence of lead-bearing paints a lead hazard in the dwelling or premises. The department shall prepare and file written reports of all inspections conducted under this section and shall make the contents of these reports available for inspection by the

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public, except for medical information, which may be disclosed only to the extent that patient health care records may be disclosed under ss. 146.82 to 146.835. If the owner or occupant refuses admission, the ~~representative~~ department may seek a warrant to inspect the dwelling, ~~based on the specific neutral criteria that an occupant of the dwelling suffers from lead poisoning or lead exposure or premises.~~ The warrant shall advise the owner or occupant of the scope of the inspection.

(2) If the department determines that ~~lead-bearing paints are a lead hazard~~ is present in ~~or upon~~ any dwelling or premises, the department may do any of the following:

(a) Cause to be posted in a conspicuous place upon the dwelling or premises a notice of the presence of ~~lead-bearing paints; a lead hazard.~~

(b) Inform the local health officer of the results of the ~~department tests lead inspection~~ and provide recommendations to reduce or eliminate the problem areas; lead hazard.

(c) Notify the occupant of the dwelling or premises or that person's representative that ~~lead-bearing paints are a lead hazard~~ is present ~~on the surfaces of or in the dwelling or premises~~ and may constitute a health hazard; ~~and.~~

(d) Notify the owner of the dwelling or premises of the presence of ~~lead-bearing paints a lead hazard.~~ The department may issue ~~instructions to remove, replace or cover securely and permanently these paints an order that requires reduction or elimination of an imminent lead hazard within 5 days after the order's issuance and reduction or elimination of other lead hazards within 30 days, in a manner the department prescribes after the order's issuance, except that, for orders that are issued between October 1 and May 1 and that relate only to exterior lead hazards that are not imminent lead hazards, the order may require elimination or reduction of the lead hazard no earlier than the June 1 immediately following the order's issuance. If the department determines that the owner has good cause for not complying with the order within the 5-day or 30-day time period, the department may extend the time period within which the owner is required to comply with the order. The failure to remove lead-bearing paints comply with the department's order within the time prescribed or as extended by the department shall be prima facie evidence of negligence in any action brought to recover damages for injuries incurred after the time period expires. If an order to conduct lead hazard reduction is issued by the department or by a local health department and if the owner of the dwelling or premises complies with that order, there is a rebuttable presumption that the owner of the dwelling or premises has exercised reasonable care with respect to lead poisoning or lead exposure caused, after the order has been complied with, by lead hazards covered by the~~

order, except that with respect to interim control activities the rebuttable presumption continues only for the period for which the interim control activity is reasonably expected to reduce or eliminate the lead hazard.

(4) The department shall give priority to eliminating ~~lead poisoning or lead exposure~~ hazards from ~~residential dwellings in which children under 6 years of age with diagnosed lead poisoning or lead exposure from lead-bearing paint reside.~~

SECTION 41. 254.14 (3) of the statutes, as affected by 1993 Wisconsin Act 27, is repealed.

SECTION 42. 254.15 (1) of the statutes, as affected by 1993 Wisconsin Acts 16 and 27, is repealed and recreated to read:

254.15 (1) Develop and implement a comprehensive statewide lead poisoning or lead exposure prevention and treatment program that includes lead poisoning or lead exposure prevention grants under s. 254.151; any childhood lead poisoning screening requirement under rules promulgated under ss. 254.158 and 254.162; any requirements regarding care coordination and follow-up for children with lead poisoning or lead exposure required under rules promulgated under s. 254.164; departmental responses to reports of lead poisoning or lead exposure under s. 254.166; any lead inspection requirements under rules promulgated under ss. 254.167, 254.168 and 254.17; any lead hazard reduction requirements under rules promulgated under s. 254.172; and certification, accreditation and approval requirements under ss. 254.176 and 254.178. ~~The department shall submit an annual report on the effectiveness of the comprehensive statewide lead poisoning or lead exposure prevention and treatment program to the appropriate standing committees under s. 13.172 (3).~~

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SECTION 43. 254.15 (7) of the statutes, as affected by 1993 Wisconsin Acts 16 and 27, is repealed.

SECTION 44. 254.151 of the statutes is created to read:

254.151 Lead poisoning or lead exposure prevention grants. (1) From the appropriation under s. 20.435 (1) (ef), the department shall award the following grants to fund educational programs about the dangers of lead poisoning or lead exposure; to fund lead poisoning or lead exposure screening, care coordination and follow-up services, including lead inspections, to children under age 6 who are not covered by a 3rd-party payer; to fund administration or enforcement of responsibilities delegated under s. 254.152; to fund other activities related to lead poisoning or lead exposure; or to fund any combination of these purposes:

(a) Not more than \$259,100 in each fiscal year to local health departments, of which the department shall award not less than \$205,600 in each fiscal year to a local health department in a 1st class city. The department shall award grants under this paragraph

under criteria that ensure that funding is provided for areas with significant incidence of lead poisoning or lead exposure.

(b) Not more than \$579,200 in each fiscal year to local health departments in at least 10 counties determined by the department to have the greatest need for a grant under this subsection.

(c) Not more than \$260,000 in each fiscal year to local health departments that both do not receive a grant under par. (a) or (b) and do not receive a grant from the federal centers for disease control and prevention relating to lead poisoning or lead exposure for that fiscal year. The department may not award a grant under this paragraph if the award would provide more than \$25,000 in a fiscal year under this paragraph to local health departments located in that county.

(2) From the appropriation under s. 20.435 (1) (ef), the department shall award not more than \$40,000 in each fiscal year to develop and implement outreach and education programs for health care providers to inform them of the need for lead poisoning or lead exposure screening and of the requirements of this subchapter relating to lead poisoning or lead exposure.

SECTION 45. 254.152 of the statutes is created to read:

254.152 Delegation to local health departments.

Except with respect to the department's authority to promulgate rules under this chapter, the department may designate local health departments as its agents in administering and enforcing ss. 254.11 to 254.178 and any rules promulgated under those sections. The department may not designate a local health department as its agent unless the department provides a grant under s. 254.151 that the department determines to be sufficient for the local health department to carry out any responsibilities as an agent designated under this section.

SECTION 46. 254.156 of the statutes is created to read:

254.156 Definition of lead-bearing paint and lead poisoning or lead exposure. Notwithstanding s. 254.11 (intro.), (8) and (9), whenever the centers for disease control and prevention of the federal department of health and human services specifies a standard for the determination of lead-bearing paint or lead poisoning or lead exposure that differs from that specified in s. 254.11 (8) or (9), the department shall promulgate a rule defining "lead-bearing paint" or "lead poisoning or lead exposure" to correspond to the specification of the centers for disease control and prevention. Rules promulgated under this section supersede s. 254.11 (8) and (9) with respect to the requirements of this subchapter.

SECTION 47. 254.158 of the statutes is created to read:

254.158 Screening Recommendations. The department may promulgate rules specifying recommended

lead poisoning or lead exposure screening methods and intervals for children under 6 years of age. Any rules promulgated under this section:

(1) Shall meet any federal requirements for the screening of children under 6 years of age.

(1m) May include an appropriate questionnaire regarding potential exposure to lead and products containing lead.

(2) Shall permit at least the following persons to provide screening services:

(a) A person licensed to practice medicine or osteopathy under ch. 448.

(b) A nurse registered, permitted or licensed under ch. 441.

(c) A public health nurse under s. 250.06 (1).

(3) Shall exempt a child from the lead screening recommendations if the child's parent, guardian or legal custodian signs a written waiver objecting to the lead poisoning screening for reasons of health, religion or personal conviction.

(4) Shall exempt a child from the lead poisoning screening recommendations if the child's parent, guardian or legal custodian presents written evidence of a lead screening that was conducted within the previous 6 months, or other time period specified by the department by rule, and that was conducted in accordance with the laws or rules of another state whose laws or rules the department determines to be at least as stringent as the screening methods and intervals recommended under this section.

SECTION 48. 254.16 of the statutes, as affected by 1993 Wisconsin Act 27, is renumbered 254.154.

SECTION 49. 254.162 of the statutes is created to read:

254.162 Screening Requirements. (1) INSTITUTIONS AND PROGRAMS PROVIDING SERVICES TO CHILDREN UNDER 6 YEARS OF AGE. The department may promulgate rules requiring the following institutions and programs to obtain written evidence that each child under 6 years of age participating in the institution or program has obtained a lead screening, or is exempt from obtaining one, under the recommended lead screening levels and intervals contained in the rules promulgated by the department under s. 254.158, within the time periods specified by the department:

(a) Multidisciplinary evaluations for early intervention under s. 51.44.

(b) Head start programs administered by a head start agency under 42 USC 9836.

(c) Day care providers certified under s. 48.651 and day care centers licensed under s. 48.65, provisionally licensed under s. 48.69 or established or contracted for under s. 120.13 (14).

(d) School-based programs serving children under 6 years of age, including kindergartens, programs for children with exceptional educational needs and other early childhood programs.

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(e) Health care programs that provide services to children under 6 years of age and that receive state funding.

(f) Other institutions or programs that provide services to children under 6 years of age.

(2) **INFORMATION REQUIREMENT.** If a program or institution is required to request written evidence of a lead screening under rules promulgated under sub. (1), the institution or program shall, at the time that it makes the request, inform the parent, guardian or legal custodian of the child in writing, in a manner that is prescribed by the department by rule, of the importance of lead screening, of how and where the lead screening may be obtained, and of the conditions under which a child is exempt from the recommended lead screening requirements under the department's rules.

SECTION 50. 254.164 of the statutes is created to read:

254.164 Care for children with lead poisoning or lead exposure. The department may promulgate rules establishing standards for the care coordination and follow-up of children under 6 years of age with lead poisoning or lead exposure. Any rules promulgated under this section shall meet any federal requirements for the care coordination and follow-up of children under 6 years of age with elevated blood lead levels. Rules promulgated under this subsection may specify different care coordination and follow-up requirements based on different blood lead levels and may, where appropriate, require that the care coordination and follow-up include any of the following:

(1) Physical, developmental and nutritional assessment.

(2) Parent education.

(3) Medical evaluation.

(4) A lead inspection of all or part of the child's dwelling or other dwellings or premises that may have contributed to the child's lead poisoning or lead exposure.

(5) Assistance in developing a plan for lead hazard reduction or other actions needed to reduce exposure to lead and the consequences of such exposure.

(6) Where necessary, assistance in obtaining permanent or temporary lead-safe housing.

(7) Nutritional supplements.

(8) Follow-up services, including monitoring the provision of services to the child.

SECTION 51. 254.167 of the statutes is created to read:

254.167 Conduct of lead inspection. Subject to the limitation under s. 254.174, the department may promulgate rules establishing procedures for conducting lead inspections of dwellings and premises. Any rules promulgated under this section shall meet, but not exceed, any requirements under regulations promulgated by the administrator of the federal environmental protection agency under section 402 of the federal

toxic substances control act, as created by section 1021 of P.L. 102-550. The rules promulgated under this section may include the following:

(1) Specific procedures for inspecting, testing or sampling painted, varnished or other finished surfaces, drinking water, household dust, soil and other materials that may contain lead.

(2) Specific procedures for the notification of owners, operators, occupants or prospective occupants, mortgagees and lienholders of lead levels identified during an inspection and of any health risks that are associated with the lead level and condition of the lead found during the inspection.

(3) The form of lead inspection reports, the requirements for filing the reports with the department and the procedures by which members of the public may obtain copies of inspection reports.

(4) Requirements for the posting of warnings, where appropriate, of the presence of a lead hazard.

SECTION 52. 254.168 of the statutes is created to read:

254.168 Lead inspections of facilities serving children under 6 years of age. Subject to the limitation under s. 254.174, the department may promulgate rules that, after June 30, 1998, require any of the following facilities to have periodic lead inspections at intervals determined by the department or to otherwise demonstrate that the facility does not contain a lead hazard, if any part of the facility was constructed before January 1, 1978:

(1) A foster home licensed under s. 48.62.

(2) A group home licensed under s. 48.625.

(3) A shelter care facility under s. 48.66.

(4) A day care provider certified under s. 48.651.

(5) A day care center licensed under s. 48.65, provisionally licensed under s. 48.69 or established or contracted for under s. 120.13 (14).

(6) A private or public nursery school or kindergarten.

(7) Any other facility serving children under 6 years of age that presents a risk for causing lead poisoning or lead exposure in children.

SECTION 53. 254.17 of the statutes is created to read:

254.17 Lead inspections of rental and leased property. Subject to the limitation under s. 254.174, the department may promulgate rules requiring that after June 30, 1997, owners or operators of rental or leased dwellings or premises have a lead inspection of the dwellings or premises, if any part of the dwellings or premises was constructed before January 1, 1978, and if the department determines that the dwellings or premises in that class are likely to contain lead hazards. The rules may specify classes of dwellings or premises based on the age, condition and location of the dwellings and premises, the age of any of the occupants of the dwelling and any other appropriate factors.

SECTION 54. 254.172 of the statutes is created to read:

254.172 Lead hazard reduction. Subject to the limitation under s. 254.174, the department may promulgate rules governing lead hazard reduction conducted after June 30, 1997, if the department determines that the rules are not preempted by federal law. Any rules promulgated under this section shall meet, but not exceed, any requirements under regulations promulgated by the administrator of the federal environmental protection agency under section 402 of the federal toxic substances control act, as created by section 1021 of P.L. 102-550. Rules promulgated under this section may include:

(1) A definition of the levels of lead from various sources and media, including lead-bearing paint, soil, dust, water and air, which shall constitute an imminent lead hazard.

(2) A definition of the levels of lead from various sources and media, including lead-bearing paint, soil, dust, water and air, which shall constitute a lead hazard.

Vetoed in Part (3) A requirement that the owner or operator of any dwelling or premises provide lead hazard reduction to eliminate any imminent lead hazard ~~within 5 days after its discovery.~~

(4) A priority-based schedule of the classes of dwellings and premises containing a lead hazard and of the dates by which owners or operators of these classes of dwellings and premises must undertake lead hazard reduction. This priority-based schedule may be based on the age, condition and location of the dwelling or premises, the age of the occupants, the type of lead hazard and any other appropriate factors.

(5) Acceptable lead hazard reduction methods for lead in various media.

(6) Requirements for containment and cleanup during the conduct of lead hazard reduction, reinspection of dwellings or premises having had lead hazard reduction, and the management of lead hazard reduction.

(7) Requirements that lead hazard reduction be carried out to protect the health and safety of occupants, neighbors and the public, including requirements, where necessary, that occupants be restricted to areas of a dwelling that do not contain a lead hazard or be relocated to a dwelling that does not contain a lead hazard during specified lead hazard reduction.

(8) Requirements for the safe disposal of lead-contaminated waste.

SECTION 55. 254.174 of the statutes is created to read:

254.174 Technical advisory committees. Before the department may promulgate rules under s. 254.167, 254.168, 254.17 or 254.172, the department shall appoint a technical advisory committee under s. 227.13 and shall consult with the technical advisory committee on the proposed rules. Any technical advisory committee required under this section shall

include representatives from local health departments that administer local lead programs, representatives from the housing industry, persons certified under s. 254.176 and representatives from the medical or public health professions. Any technical advisory committee required under this section before promulgating rules under s. 254.168 shall also include representatives of facilities serving children under 6 years of age.

SECTION 56. 254.176 of the statutes is created to read:

254.176 Certification requirements. (1) Except as provided in sub. (2), the department may establish by rule certification requirements for any person who performs lead hazard reduction or a lead management activity or who supervises the performance of any lead hazard reduction or lead management activity.

(2) No certification is required under this section for lead hazard reduction conducted by any of the following persons, unless the lead hazard reduction is being done to comply with an order by the department or another state or local agency that requires the use of persons certified under this section:

(a) A person whose activities are limited to interim control activities, unless the activities are directly ~~or indirectly~~ funded by a grant from the federal department of housing and urban development. **Vetoed in Part**

(b) A person whose activities do not involve lead-bearing paint or lead-contaminated soil or dust.

(c) A homeowner who engages in lead hazard reduction only in or on his or her own nonrental residential dwelling or real property.

(d) A person licensed, certified or registered under ch. 145 who engages in activities that constitute lead hazard reduction, only to the extent that these activities are within the scope of his or her license, certification or registration.

(e) A person who engages in the business of installing or servicing heating, ventilating or air conditioning equipment if the person is registered with the department of industry, labor and human relations and if the person engages in activities that constitute lead hazard reduction, only to the extent that the activities are within the scope of his or her registration.

(3) The department may promulgate rules establishing certification requirements for persons required to be certified under this section. Any rules promulgated under this section:

(a) Shall include requirements and procedures for issuing, renewing, revoking and suspending certifications issued under this section.

(b) Shall meet, but not exceed, any requirements under regulations promulgated by the administrator of the federal environmental protection agency under section 402 of the federal toxic substances control act, as created under section 1021 of P.L. 102-550.

(c) Shall require completion of an appropriate training course accredited under s. 254.178 or of a

training course determined by the department to be comparable to the appropriate training course under s. 254.178.

(d) May provide for requirements other than training as a condition for full certification.

(e) Shall specify fees for certifying persons under this section, except that no fee may be imposed on any person employed by the state or by any political subdivision of the state for a certification required to perform duties within the scope of the employment.

(f) Shall require the issuance of a photo identification card to each person certified under this section.

(4) The department shall maintain lists of all persons who are certified under this section and shall make the lists available to the public. The department may charge a fee for lists provided under this subsection to cover the department's costs in providing the lists.

(5) After notice and opportunity for hearing, the department may revoke, suspend, deny or refuse to renew any certification issued under this section in accordance with the procedures set forth in ch. 227.

SECTION 57. 254.178 of the statutes is created to read:

254.178 Accreditation of lead training courses and approval of lead instructors. (1) (a) No person may advertise or conduct a training course in lead hazard reduction, or in a lead management activity, that is represented as qualifying persons for certification under s. 254.176 unless the course is accredited by the department under this section.

(b) No person may function as an instructor of a lead training course accredited under this section unless the person is approved by the department under this section.

(2) The department shall promulgate rules establishing requirements for accreditation of lead training courses and approval of lead instructors. These rules:

(a) Shall include requirements and procedures for granting, renewing, revoking and suspending lead training course accreditations and lead instructor approvals.

(b) Shall meet, but not exceed, any requirements under regulations promulgated by the administrator of the federal environmental protection agency under section 402 of the federal toxic substances control act, as created under section 1021 of P.L. 102-550.

(c) May provide for full or contingent accreditation or approval.

(d) Shall specify fees for accrediting lead training courses and approving lead instructors.

(3) The department shall maintain lists of all lead training courses accredited, and all lead instructors approved, under this section and shall make the lists available to the public. The department may charge a fee for lists provided under this subsection to cover the department's costs in providing the lists.

(4) After notice and opportunity for hearing, the department may revoke, suspend, deny or refuse to renew any accreditation or approval issued under this section in accordance with the procedures set forth in ch. 227.

SECTION 58. 254.28 (intro.) and (1) of the statutes, as affected by 1993 Wisconsin Act 27, are repealed.

SECTION 59. 254.28 (2) of the statutes, as created by 1993 Wisconsin Act 27, is repealed.

SECTION 60. 254.30 (title) of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

254.30 (title) Enforcement; penalties.

SECTION 61. 254.30 (1) of the statutes, as affected by 1993 Wisconsin Act 27, is renumbered 254.30 (1) (b) and amended to read:

254.30 (1) (b) The department ~~shall~~ may report any violation of ss. 254.11 to ~~254.16~~ 254.178 or rules promulgated, or orders issued, under those sections to the district attorney of the county in which the dwelling is located. The district attorney shall enforce ss. 254.11 to ~~254.16~~ or 254.178 and rules promulgated, and orders issued, under those sections. ~~A. If a circuit court determines that an owner of a rented or leased dwelling or premises has failed to comply with an order issued under ss. 254.11 to 254.178, the circuit court may order the occupants of the affected dwelling or premises to withhold rent in escrow until the lead-bearing paints are removed, replaced or securely and permanently covered~~ owner of the dwelling or premises complies with the order.

SECTION 62. 254.30 (1) (a) and (c) of the statutes are created to read:

254.30 (1) (a) The department may enter, at any reasonable time, a dwelling or premises undergoing any lead hazard reduction to determine if all persons engaged in lead hazard reduction have been appropriately certified if required under s. 254.176. ~~No person may refuse entry to, or otherwise hamper or interfere with, any agent of the department seeking admission to a dwelling or premises for this purpose if the agent presents a valid identification card issued by the department and complies with any health and safety procedures established by the department for conducting lead hazard reduction.~~

(c) Sections 254.11 to 254.178 do not limit the ability of the department to require abatement of human health hazards involving lead under s. 254.59.

SECTION 63. 254.30 (2) (title) of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

254.30 (2) (title) PENALTIES.

SECTION 64. 254.30 (2) of the statutes, as affected by 1993 Wisconsin Act 27, is renumbered 254.30 (2) (a) and amended to read:

254.30 (2) (a) (title) *Civil penalty.* Any person who violates ss. 254.11 to ~~254.16~~ 254.178 or rules promul-

Vetoed
in Part

gated, or orders issued, under those sections may be required to forfeit not less than \$100 nor more than \$1,000. Each day of continued violation constitutes a separate offense.

SECTION 65. 254.30 (2) (b) of the statutes is created to read:

254.30 (2) (b) *Criminal penalty.* Any person who knowingly violates any provision of ss. 254.11 to 254.178 or any rule promulgated, or order issued, under those sections shall be fined not less than \$100 nor more than \$5,000. The court may place the person on probation under s. 973.09 for a period not to exceed 2 years.

SECTION 66. 609.85 of the statutes is created to read:

609.85 Coverage of lead screening. Health maintenance organizations and preferred provider plans are subject to s. 632.895 (10).

SECTION 67. 632.895 (10) of the statutes is created to read:

632.895 (10) **LEAD POISONING SCREENING.** (a) Except as provided in par. (b), every disability insurance policy and every health care benefits plan provided on a self-insured basis by a county board under s. 59.07 (2), by a city or village under s. 66.184 or by a school district under s. 120.13 (2) shall provide coverage for blood lead tests for children under 6 years of age, which shall be conducted in accordance with any recommended lead screening methods and intervals contained in any rules promulgated by the department of health and social services under s. 254.158.

(b) This subsection does not apply to any of the following:

1. A disability insurance policy that covers only certain specified diseases.
2. A health care plan offered by a limited service health organization, as defined in s. 609.01 (3).
3. A long-term care insurance policy, as defined in s. 600.03 (28g).
4. A medicare replacement policy, as defined in s. 600.03 (28p).
5. A medicare supplement policy, as defined in s. 600.03 (28r).

SECTION 68. **Nonstatutory provisions.** (1) **STUDY.** The joint legislative council is requested to study the implementation of this act and its success in reducing the incidence of lead poisoning and lead exposure in children. The study shall specifically review the effectiveness and the implementation of the lead poisoning or lead exposure prevention grants under section 254.151 of the statutes, as created by this act; any childhood lead poisoning screening requirements under rules promulgated under sections 254.158 and 254.162 of the statutes, as created by this act; any requirements regarding care coordination and follow-up for children with lead poisoning or lead exposure required under rules promulgated under section 254.164 of the statutes, as created by this act; the departmental response to reports of lead poisoning or

lead exposure under section 254.166 of the statutes; any lead inspection requirements under rules promulgated under sections 254.167, 254.168 and 254.17 of the statutes, as created by this act; any lead hazard reduction requirements under rules promulgated under section 254.172 of the statutes, as created by this act; and certification, accreditation and approval requirements under sections 254.176 and 254.178 of the statutes, as created by this act. The study shall consider the need for remedial legislation needed to reduce the incidence of lead poisoning and lead exposure of children in the state. The joint legislative council is requested to report its findings, conclusions and recommendations in the manner provided under section 13.172 (3) of the statutes by the first day of the 31st month beginning after the effective date of this subsection.

SECTION 69. **Appropriation changes; health and social services.** (1) **POSITION AUTHORIZATIONS.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (1) (a) of the statutes, as affected by the acts of 1993, the dollar amount is increased by \$84,300 for fiscal year 1994-95 to increase the authorized FTE positions for the department by 2.0 GPR positions to assist the department in carrying out its responsibilities relating to lead poisoning or lead exposure prevention under sections 254.11 to 254.178 and 254.30 of the statutes, as affected by this act.

(2) **MEDICAL ASSISTANCE.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (1) (b) of the statutes, as affected by the acts of 1993, the dollar amount is increased by \$236,500 for fiscal year 1994-95 to pay the state share of medical assistance program benefits relating to lead exposure under section 49.46 (2) (b) 13 of the statutes, as created by this act.

(3) **LEAD POISONING OR LEAD EXPOSURE GRANTS.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (1) (ef) of the statutes, as affected by the acts of 1993, the dollar amount is increased by \$879,100 for fiscal year 1994-95 to fund grants under section 254.151 (1) (b) and (c) and (2) of the statutes, as created by this act.

SECTION 70. **Appropriation changes; Joint committee on finance supplemental appropriation.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the joint committee on finance under section 20.865 (4) (a) of the statutes, as affected by the acts of 1993, the dollar amount is decreased by \$1,200,000 for fiscal year 1993-94 to reduce the funds available to supplement appropriations of the general fund.

SECTION 71. **Initial applicability.** (1) **MANDATORY INSURANCE COVERAGE.** The treatment of sections 40.51 (8), 66.184, 120.13 (2) (g), 185.981 (4t), 185.983

(1) (intro.), 609.85 and 632.895 (10) of the statutes first applies to insurance policies or plans entered into, renewed, extended or modified on the first day of the 6th month after the effective date of this subsection.

(2) **PENALTIES.** The renumbering and amendment of section 254.30 (2) of the statutes and the creation of section 254.30 (2) (b) of the statutes first apply to violations that occur on the effective date of this subsection.

SECTION 72. Effective dates. This act takes effect on the 2nd day after publication, except as follows:

(1) The treatment of sections 151.01 (3c) and (3w), 151.03 (3) and (4) and 151.12 (2) to (4) of the statutes takes effect retroactively to August 12, 1993.

(2) The treatment of sections 151.01 (3n), 254.11 (7r), (8g), (8j) and (8w), 254.176 and 254.178 of the statutes takes effect retroactively to November 1, 1993.

(3) The treatment of sections 49.46 (2) (b) 13 and 254.151 (1) (b) and (c) and (2) of the statutes takes effect on July 1, 1994, or on the day after publication, whichever is later.
