

1 **AN ACT** to amend 165.25 (6) (b), 250.042 (4) (b), 893.82 (2) (d) 1n. and 895.46 (5)
 2 (am) of the statutes; **relating to:** designation of state agency status for certain health
 3 care facilities that use volunteer providers during a declared state of emergency.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on Disaster Preparedness Planning.

Under current law, a behavioral health provider, health care provider, pupil services provider, or substance abuse prevention provider who, during a declared emergency, provides behavioral health services, health care services, pupil services, or substance abuse prevention services for which the person has been licensed or certified is, for the provision of those services, a state agent of the Department of Health and Family Services (DHFS) for purposes of several specified statutes. The services must have been provided on behalf of a health care facility on a voluntary, unpaid basis, except that the provider may accept reimbursement for travel, lodging, and meals.

For purposes of this statute, the term “health care facility” is defined by reference to another statute that includes various facilities approved or licensed by DHFS, and specifically mentions hospitals, nursing homes, and community-based residential facilities. In addition, the terms “behavioral health provider”, “health care provider”, “pupil services provider”, and “substance abuse prevention provider” are defined as persons who have held specified types of state credentials (e.g., psychologists, physicians, nurses, school counselors, and substance abuse counselors) at any time within 10 years before the emergency is declared. However, this statute does not apply to persons whose credentials have been limited, suspended, revoked, or denied renewal.

Persons who satisfy the above requirements are considered under current law to be state agents of DHFS for the purpose of specified statutes. Those statutes require notice to the Department of Justice (DOJ) within a specified time period in order for a civil action to be brought, allow DOJ to represent the person in civil or administrative actions, limit damages

to \$250,000 (with no punitive damages allowed), and require that the damages be paid by the state.

This bill draft also designates the health care facilities on whose behalf the services are provided during a declared state of emergency to be state agents of DHFS for purposes of those statutes.

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

2 165.25 (6) (b) Volunteer health care providers who provide services under s. 146.89 or
3 250.042 (4) and volunteer behavioral health providers, pupil services providers, and substance
4 abuse prevention providers who provide services under s. 250.042 (4) and health care facilities
5 on whose behalf services are provided under s. 250.042 (4) are, for the provision of those
6 services, covered by this section and shall be considered agents of the department of health
7 and family services for purposes of determining which agency head may request the attorney
8 general to appear and defend them.

9 **SECTION 2.** 250.042 (4) (b) of the statutes is amended to read:

10 250.042 (4) (b) A behavioral health provider, health care provider, pupil services
11 provider, or substance abuse prevention provider who, during a state of emergency declared
12 under s. 166.03 (1) (b) 1. or 166.23, provides behavioral health services, health care services,
13 pupil services, or substance abuse prevention services for which the behavioral health
14 provider, health care provider, pupil services provider, or substance abuse prevention provider
15 has been licensed or certified or, as a nurse's assistant, has met requirements, is, for the
16 provision of these services a state agent of the department for purposes of ss. 165.25 (6),
17 893.82, and 895.46 and is an employee of the state for purposes of worker's compensation
18 benefits. The behavioral health services, health care services, pupil services, or substance
19 abuse prevention services shall be provided on behalf of a health care facility on a voluntary,
20 unpaid basis, except that the behavioral health provider, health care provider, pupil services
21 provider, or substance abuse prevention provider may accept reimbursement for travel,

1 lodging, and meals. The health care facility on whose behalf the services are provided is, for
2 the provision of the services, a state agent of the department for purposes of ss. 165.25 (6),
3 893.82, and 895.46.

4 **SECTION 3.** 893.82 (2) (d) 1n. of the statutes is amended to read:

5 893.82 (2) (d) 1n. A behavioral health provider, health care provider, pupil services
6 provider, or substance abuse prevention provider who provides services under s. 250.042 (4)
7 and a health care facility on whose behalf services are provided under s. 250.042 (4), for the
8 provision of those services.

9 **SECTION 4.** 895.46 (5) (am) of the statutes is amended to read:

10 895.46 (5) (am) A behavioral health provider, health care provider, pupil services
11 provider, or substance abuse prevention provider who provides services under s. 250.042 (4)
12 and a health care facility on whose behalf services are provided under s. 250.042 (4).

13 (END)