

2007 BILL

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
3 health care facilities that use volunteer providers during a declared state of
4 emergency.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill 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

BILL

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

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

11 250.042 **(4)** (b) A behavioral health provider, health care provider, pupil
12 services provider, or substance abuse prevention provider who, during a state of
13 emergency declared under s. 166.03 (1) (b) 1. or 166.23, provides behavioral health
14 services, health care services, pupil services, or substance abuse prevention services
15 for which the behavioral health provider, health care provider, pupil services
16 provider, or substance abuse prevention provider has been licensed or certified or, as
17 a nurse’s assistant, has met requirements, is, for the provision of these services a

BILL

1 state agent of the department for purposes of ss. 165.25 (6), 893.82, and 895.46 and
2 is an employee of the state for purposes of worker's compensation benefits. The
3 behavioral health services, health care services, pupil services, or substance abuse
4 prevention services shall be provided on behalf of a health care facility on a
5 voluntary, unpaid basis, except that the behavioral health provider, health care
6 provider, pupil services provider, or substance abuse prevention provider may accept
7 reimbursement for travel, lodging, and meals. The health care facility on whose
8 behalf the services are provided is, for the provision of the services, a state agent of
9 the department for purposes of ss. 165.25 (6), 893.82, and 895.46.

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

11 893.82 (2) (d) 1n. A behavioral health provider, health care provider, pupil
12 services provider, or substance abuse prevention provider who provides services
13 under s. 250.042 (4) and a health care facility on whose behalf services are provided
14 under s. 250.042 (4), for the provision of those services.

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

16 895.46 (5) (am) A behavioral health provider, health care provider, pupil
17 services provider, or substance abuse prevention provider who provides services
18 under s. 250.042 (4) and a health care facility on whose behalf services are provided
19 under s. 250.042 (4).

20 (END)