



Legislative Fiscal Bureau

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TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Summary of Assembly Amendment 4 to AB 1038

Assembly Amendment 4 to Assembly Bill 1038 would make the following modifications to the bill:

Insurance

Liability For Providers Of Health Services During The Covid-19 Public Health Emergency. The amendment would modify a provision of AB 1038 that provides civil immunity for health care providers in certain circumstance to specify that the immunity applies to actions or omissions related to any health services provided or not provided in good faith, rather than to actions or omissions that are taken in providing services to specifically address or in response to the COVID-19 outbreak.

Out-of-Network Charges and Payments During a Public Health Emergency Related to COVID-19. The amendment would modify a provision of AB 1038 that establishes restrictions on out-of-network charges for health services (when an in-network provider is unavailable) that are provided during the state public health emergency declared by the Governor on March 12, 2020, or during the public health emergency related to COVID-19 declared by the federal Secretary of the Department of Health and Human Services, to specify that the provision applies only during the state public health emergency declared by the Governor and during the 60 days following the date that the state public health emergency period terminates. References to the federal public health emergency would be deleted.

Public Instruction

Waivers For Private School Choice Programs, Special Needs Scholarship Programs, and Independent Charter Schools. The bill provides DPI with authority to waive requirements related to the special needs scholarship program, private school choice programs, or independent charter school programs. Under the amendment, specify that such a waiver could be issued at any time beginning with the declaration of the current public health emergency on March 12, 2020, and ending on October 31, 2020. Delete the requirement in the bill that schools must be closed for at least ten school days in a school year by a local health officer or the Department of Health Services for the waiver to apply, and specify that the authority to waive requirements would only apply in the 2019-20 school year.

Under the amendment, specify that waivers could be issued to establish an alternate deadline if the original deadline occurs during the period beginning on March 12, 2020, and ending on October 31, 2020, or for a deadline for a requirement that impacts a date during the period beginning on March 12, 2020, and ending on October 31, 2020. (The bill currently allows waivers to be issued for deadlines that occur or impact a date during the period beginning on the first day schools are closed by the local health officer or DHS and ending 120 days after the last day schools are closed.)

Safety And Professional Services

Temporary Practice By Formerly Credentialed Health Care Providers. Delete provisions in the bill relating to the issuance of temporary credentials by DSPS to certain health care professionals formerly credentialed in Wisconsin, including provisions specifying the types of health care providers who could be eligible for a temporary credential.

Instead, modify the bill to allow certain health care professionals formerly credentialed in Wisconsin to temporarily practice in the state without a current Wisconsin credential in the following circumstances.

Specify that, notwithstanding statutory prohibitions on practicing as a nurse, nurse-midwife, chiropractor, dentist, dental hygienist, physician, physician assistant, perfusionist, respiratory care practitioner, physical therapist, podiatrist, dietitian, occupational therapist, occupational therapist assistant, optometrist, pharmacist, acupuncturist, psychologist, clinical social worker, marriage and family therapist, professional counselor, psychotherapist, hearing instrument specialist, speech-language pathologist, audiologist, massage therapist or body work therapist unless credentialed under the appropriate statutory section, a health care provider may provide services within the scope of the credential that the health care provider previously held if all of the following apply: (a) practice by the health care provider is necessary for an identified health care facility to ensure the continued and safe delivery of health care services; (b) the identified health care facility's needs reasonably prevented the health care provider from obtaining a credential before beginning to provide health care services at the facility; (c) the health care provider applies for a temporary credential or permanent credential within ten days of beginning to provide health care services at a health care facility; and (d) the health care facility notifies the Department of Safety and Professional Services within five days of the date on which the health care provider begins providing health care services at the facility.

Require that a health care provider who provides services authorized by a temporary credential granted under these provisions, must maintain malpractice insurance that satisfies the requirements of the profession for which the health care provider has been licensed or certified.

Specify that this provision does not apply 30 days after the conclusion of the period covered by the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension.

Define "health care provider" to mean an individual who was at any time within the past five years, but is not currently, any of the following, if the individual's credential was never revoked, limited, suspended, or denied renewal: (a) a nurse under ch. 441 of the Wisconsin state statutes; (b) a chiropractor licensed under ch. 446 of the Wisconsin state statutes; (c) a dentist licensed under ch. 447 of the Wisconsin state statutes; (d) a physician, physician assistant, or perfusionist licensed under ch. 448 or a respiratory care practitioner certified under ch. 448 of the Wisconsin state statutes; (e) a physical therapist or physical therapist assistant licensed under ch. 448 or who holds a compact privilege under ch. 448 of the Wisconsin state statutes; (f) a podiatrist licensed under ch. 448 of the Wisconsin state statutes; (g) a dietitian certified under ch. 448 of the Wisconsin state statutes; (h) an athletic trainer licensed under ch. 448 of the Wisconsin state statutes; (i) an occupational therapist or occupational therapy assistant licensed under ch. 448 of the Wisconsin state statutes; (j) an optometrist licensed under ch. 449 of the Wisconsin state statutes; (k) a pharmacist licensed under ch. 450 of the Wisconsin state statutes; (l) an acupuncturist certified under a pharmacist licensed under ch. 451 of the Wisconsin state statutes; (m) a psychologist licensed under ch. 455 of the Wisconsin state statutes; (n) a social worker, marriage and family therapist, or professional counselor licensed under ch. 457 or an independent social worker or social worker certified under ch. 457 of the Wisconsin state statutes; (o) a speech-language pathologist or audiologist licensed under ch. 459 of the Wisconsin state statutes; or (p) a massage therapist or bodywork therapist licensed under ch. 460 of the Wisconsin state statutes.

Define "health care facility" to mean a system, care clinic, care provider, long-term care facility, or any other health care facility where health care services are provided.

Define "temporary credential" to mean a visiting, locum tenens, temporary, or similar non-permanent license or certificate.

Temporary Practice By Health Care Providers Credentialed In Another State. Delete provisions in the bill relating to the issuance of temporary credentials by DSPS to certain health care professionals credentialed in another state, including provisions specifying the types of health care providers who could be eligible for a temporary credential.

Instead, modify the bill to allow certain health care professionals credentialed in another state or territory to temporarily practice in Wisconsin without a Wisconsin credential in the following circumstances.

Specify that, notwithstanding statutory prohibitions on practicing as a nurse, nurse-midwife, chiropractor, dentist, dental hygienist, physician, physician assistant, perfusionist, respiratory care practitioner, physical therapist, podiatrist, dietitian, occupational therapist, occupational therapist assistant, optometrist, pharmacist, acupuncturist, psychologist, clinical social worker, marriage and

family therapist, professional counselor, psychotherapist, hearing instrument specialist, speech-language pathologist, audiologist, massage therapist or body work therapist unless credentialed under the appropriate statutory section, a health care provider may provide services within the scope of the credential that the health care provider holds if all of the following apply: (a) practice by the health care provider is necessary for an identified health care facility to ensure the continued and safe delivery of health care services; (b) the identified health care facility's needs reasonably prevented the health care provider from obtaining a credential before beginning to provide health care services at the facility; (c) the health care provider applies for a temporary credential or permanent credential within ten days of beginning to provide health care services at a health care facility; and (d) the health care facility notifies the Department of Safety and Professional Services within five days of the date on which the health care provider begins providing health care services at the facility.

Require that a health care provider who provides services authorized by a temporary credential granted under these provisions, must maintain malpractice insurance that satisfies the requirements of the profession for which the health care provider has been licensed or certified.

Specify that this provision does not apply 30 days after the conclusion of the period covered by the public health emergency declared on March 12, 2020, by Executive Order 72, including any extension.

Define "health care provider" to mean an individual who holds a valid, unexpired license, certificate, or registration granted by another state or territory that authorizes or qualifies the individual to perform acts that are substantially the same as the acts that any of the following are licensed or certified to perform: (a) a nurse under ch. 441 of the Wisconsin state statutes; (b) a chiropractor licensed under ch. 446 of the Wisconsin state statutes; (c) a dentist licensed under ch. 447 of the Wisconsin state statutes; (d) a physician, physician assistant, or perfusionist licensed under ch. 448 or a respiratory care practitioner certified under ch. 448 of the Wisconsin state statutes; (e) a physical therapist or physical therapist assistant licensed under ch. 448 or who holds a compact privilege under ch. 448 of the Wisconsin state statutes; (f) a podiatrist licensed under ch. 448 of the Wisconsin state statutes; (g) a dietitian certified under ch. 448 of the Wisconsin state statutes; (h) an athletic trainer licensed under ch. 448 of the Wisconsin state statutes; (i) an occupational therapist or occupational therapy assistant licensed under ch. 448 of the Wisconsin state statutes; (j) an optometrist licensed under ch. 449 of the Wisconsin state statutes; (k) a pharmacist licensed under ch. 450 of the Wisconsin state statutes; (l) an acupuncturist certified under a pharmacist licensed under ch. 451 of the Wisconsin state statutes; (m) a psychologist licensed under ch. 455 of the Wisconsin state statutes; (n) a social worker, marriage and family therapist, or professional counselor licensed under ch. 457 or an independent social worker or social worker certified under ch. 457 of the Wisconsin state statutes; (o) a speech-language pathologist or audiologist licensed under ch. 459 of the Wisconsin state statutes; or (p) a massage therapist or bodywork therapist licensed under ch. 460 of the Wisconsin state statutes.

Define "health care facility" to mean a system, care clinic, care provider, long-term care facility, or any other health care facility where health care services are provided.

Define "temporary credential" to mean a visiting, locum tenens, temporary, or similar non-

permanent license or certificate.

Shared Revenue and Tax Relief

The amendment makes the following modifications to AB 1038 relating to the payment of 2020 property taxes: (a) consider taxes that are paid under protest to be timely if paid in full by October 1, 2020, or by an installment date after October 1, 2020; (b) specify that a taxation district may not waive interest and penalties otherwise due unless the county board of the county where the taxation district is located first adopts a resolution authorizing such a waiver and the taxation district subsequently adopts a similar resolution; (c) specify that the resolution must also establish criteria for determining hardship; (d) specify that a county that has adopted a waiver resolution would be required to settle any taxes, interest, or penalties collected on or before July 31, 2020, on August 20, 2020, as provided under current law, and the remainder of any unpaid taxes, interest, and penalties by September 20, 2020; and (e) require that the taxes, interest, and penalties of the August 20, 2020 settlement be distributed proportionally to the underlying taxing jurisdictions.

Wisconsin Economic Development Corporation

The amendment would require the Wisconsin Economic Development Corporation (WEDC) to include "forest products" as one of the major industries in Wisconsin for which it must include a plan for providing support in response to the COVID-19 public health emergency. Under the bill, WEDC would be required to submit a plan to support certain major industries to the Governor and the chief clerk of each house of the Legislature no later than June 30, 2020.

Workforce Development

Unemployment Insurance -- Work-Share Plan Requirements. The amendment would allow an employer with a work-share plan governed by the work-share law that was in effect prior to the suspension period to apply for a modification to the plan during the suspension period. Any modified application under this provision would be governed by the work-share law in effect during the suspension period.

Worker's Compensation -- Presumptive Liability For COVID-19 Injuries. In applying the bill's presumption that a first responder's COVID-19 injury is a result of a person's employment, specify the person must have been exposed to others with confirmed cases of COVID-19 in the course of employment.

Further, modify the definition of "first responder" to include those providing medical treatment of COVID-19. The amendment would replace language defining a first responder as providing, among other occupations, "medical or other emergency services." The amendment would not affect the bill's inclusion of firefighters or law enforcement personnel as first responders.

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