



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1804/1
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**SENATE AMENDMENT 1,
TO 2009 SENATE BILL 451**

March 22, 2010 – Offered by Senator ROBSON.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 23: after that line insert:

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

4 619.04 (3) The plan shall operate subject to the supervision and approval of a
5 board of governors consisting of 3 representatives of the insurance industry
6 appointed by and to serve at the pleasure of the commissioner, a person to be named
7 by the State Bar Association, a person to be named by the Wisconsin Academy of Trial
8 Lawyers, 2 persons to be named by the Wisconsin Medical Society, a person to be
9 named by the Wisconsin Hospital Association, the commissioner or a designated
10 representative employed by the office of the commissioner, and 4 public members at
11 least one of whom is named by the Wisconsin Nurses Association and at least 2 of
12 whom are not attorneys or physicians and are not professionally affiliated with any
13 hospital or insurance company, appointed by the governor for staggered 3-year

1 terms. The commissioner or the commissioner’s representative shall be the
2 chairperson of the board of governors. Board members shall be compensated at the
3 rate of \$50 per diem plus actual and necessary travel expenses.”.

4 **2.** Page 4, line 6: after that line insert:

5 “**SECTION 6m.** 655.001 (7t) (a) of the statutes, as affected by 2009 Wisconsin Act
6 (this act), is renumbered 655.001 (7t) and amended to read:

7 655.001 (7t) ~~Except as provided in par. (b), “health~~ “Heath care practitioner”
8 means a health care professional, as defined in s. 180.1901 (1m), who is an employee
9 of a health care provider described in s. 655.002 (1) (d), (e), (em), or (f) and who has
10 the authority to provide health care services that are not under the direction and
11 supervision of a physician ~~or, nurse anesthetist, or nurse-midwife.~~”.

12 **3.** Page 4, line 8: delete the material beginning with “person” and ending with
“s. 441.15” on line 9 and substitute “nurse-midwife”.

13 **4.** Page 4, line 9: after that line insert:

14 “**SECTION 7b.** 655.001 (7t) (b) of the statutes, as created by 2009 Wisconsin Act
15 (this act), is repealed.

16 **SECTION 7d.** 655.001 (9c) of the statutes is created to read:

17 655.001 (9c) “Nurse-midwife” means a person who is licensed to practice
18 nurse-midwifery under s. 441.15.

19 **SECTION 7f.** 655.002 (1) (a) of the statutes is amended to read:

20 655.002 (1) (a) A physician ~~or, a nurse anesthetist, or a nurse-midwife~~ for
21 whom this state is a principal place of practice and who practices his or her profession
22 in this state more than 240 hours in a fiscal year.

23 **SECTION 7h.** 655.002 (1) (b) (intro.) of the statutes is amended to read:

1 655.002 (1) (b) (intro.) A physician ~~or~~, a nurse anesthetist, or a nurse-midwife
2 for whom Michigan is a principal place of practice, if all of the following apply:

3 **SECTION 7i.** 655.002 (1) (b) 1. of the statutes is amended to read:

4 655.002 (1) (b) 1. The physician ~~or~~, nurse anesthetist, or nurse-midwife is a
5 resident of this state.

6 **SECTION 7j.** 655.002 (1) (b) 2. of the statutes is amended to read:

7 655.002 (1) (b) 2. The physician ~~or~~, nurse anesthetist, or nurse-midwife
8 practices his or her profession in this state or in Michigan or a combination of both
9 more than 240 hours in a fiscal year.

10 **SECTION 7k.** 655.002 (1) (b) 3. of the statutes is amended to read:

11 655.002 (1) (b) 3. The physician ~~or~~, nurse anesthetist, or nurse-midwife
12 performs more procedures in a Michigan hospital than in any other hospital. In this
13 subdivision, “Michigan hospital” means a hospital located in Michigan that is an
14 affiliate of a corporation organized under the laws of this state that maintains its
15 principal office and a hospital in this state.

16 **SECTION 7m.** 655.002 (1) (c) of the statutes is amended to read:

17 655.002 (1) (c) A physician ~~or~~, nurse anesthetist, or nurse-midwife who is
18 exempt under s. 655.003 (1) or (3), or a nurse-midwife who is exempt under s. 655.03
19 (4), but who practices his or her profession outside the scope of the exemption and
20 who fulfills the requirements under par. (a) in relation to that practice outside the
21 scope of the exemption. For a physician ~~or a~~, nurse anesthetist, or nurse-midwife
22 who is subject to this chapter under this paragraph, this chapter applies only to
23 claims arising out of practice that is outside the scope of the exemption under s.
24 655.003 (1) or (3) or (4).

25 **SECTION 7p.** 655.002 (1) (d) of the statutes is amended to read:

1 655.002 (1) (d) A partnership comprised of physicians ~~or~~, nurse anesthetists,
2 or nurse-midwives and organized and operated in this state for the primary purpose
3 of providing the medical services of physicians ~~or~~, nurse anesthetists, or
4 nurse-midwives.

5 **SECTION 7q.** 655.002 (1) (e) of the statutes is amended to read:

6 655.002 (1) (e) A corporation organized and operated in this state for the
7 primary purpose of providing the medical services of physicians ~~or~~, nurse
8 anesthetists, or nurse-midwives.

9 **SECTION 7r.** 655.002 (1) (em) of the statutes is amended to read:

10 655.002 (1) (em) Any organization or enterprise not specified under par. (d) or
11 (e) that is organized and operated in this state for the primary purpose of providing
12 the medical services of physicians ~~or~~, nurse anesthetists, or nurse-midwives.

13 **SECTION 7t.** 655.002 (2) (a) of the statutes is amended to read:

14 655.002 (2) (a) A physician ~~or~~, nurse anesthetist, or nurse-midwife for whom
15 this state is a principal place of practice but who practices his or her profession fewer
16 than 241 hours in a fiscal year, for a fiscal year, or a portion of a fiscal year, during
17 which he or she practices his or her profession.

18 **SECTION 7v.** 655.002 (2) (b) of the statutes is amended to read:

19 655.002 (2) (b) Except as provided in sub. (1) (b), a physician ~~or~~, nurse
20 anesthetist, or nurse-midwife for whom this state is not a principal place of practice,
21 for a fiscal year, or a portion of a fiscal year, during which he or she practices his or
22 her profession in this state. For a health care provider who elects to be subject to this
23 chapter under this paragraph, this chapter applies only to claims arising out of
24 practice that is in this state and that is outside the scope of an exemption under s.
25 655.003 (1) or (3) or (4).”.

1 **5.** Page 4, line 10: delete lines 10 and 11.

2 **6.** Page 4, line 11: after that line insert:

3 “**SECTION 8f.** 655.003 (1) of the statutes is amended to read:

4 655.003 (1) A physician ~~or~~, a nurse anesthetist, or a nurse-midwife who is a
5 state, county, or municipal employee, or federal employee or contractor covered
6 under the federal tort claims act, as amended, and who is acting within the scope of
7 his or her employment or contractual duties.

8 **SECTION 8h.** 655.003 (3) of the statutes is amended to read:

9 655.003 (3) A physician ~~or~~, a nurse anesthetist, or a nurse-midwife who
10 provides professional services under the conditions described in s. 146.89 or 250.042
11 (4) (b), with respect to those professional services provided by the physician ~~or~~, nurse
12 anesthetist, or nurse-midwife for which he or she is covered by s. 165.25 and
13 considered an agent of the department, as provided in s. 165.25 (6) (b).

14 **SECTION 8j.** 655.003 (4) of the statutes is created to read:

15 655.003 (4) A nurse-midwife who is considered to be an employee of the federal
16 public health service under 42 USC 233 (g).”.

17 **7.** Page 4, line 16: after that line insert:

18 “**SECTION 10.** 655.005 (2) (a) of the statutes, as affected by 2009 Wisconsin Act
19 (this act), is amended to read:

20 655.005 (2) (a) An employee of a health care provider if the employee is a
21 physician ~~or a~~, nurse anesthetist, or nurse-midwife or is a health care practitioner
22 who is providing health care services that are not under the direction and
23 supervision of a physician ~~or~~, nurse anesthetist, or nurse-midwife.

24 **SECTION 11.** 655.005 (2) (b) of the statutes is amended to read:

1 655.005 (2) (b) A service corporation organized under s. 180.1903 by health care
2 professionals, as defined under s. 180.1901 (1m), if the board of governors determines
3 that it is not the primary purpose of the service corporation to provide the medical
4 services of physicians ~~or~~, nurse anesthetists, or nurse-midwives. The board of
5 governors may not determine under this paragraph that it is not the primary purpose
6 of a service corporation to provide the medical services of physicians ~~or~~, nurse
7 anesthetists, or nurse-midwives unless more than 50% of the shareholders of the
8 service corporation are ~~neither~~ not physicians ~~nor~~, nurse anesthetists, or
9 nurse-midwives.

10 **SECTION 12.** 655.23 (5m) of the statutes is amended to read:

11 655.23 (5m) The limits set forth in sub. (4) shall apply to any joint liability of
12 a physician ~~or~~, nurse anesthetist, or nurse-midwife and his or her corporation,
13 partnership, or other organization or enterprise under s. 655.002 (1) (d), (e), or (em).

14 **SECTION 13.** 655.27 (3) (a) 4. of the statutes is amended to read:

15 655.27 (3) (a) 4. For a health care provider described in s. 655.002 (1) (d), (e),
16 (em), or (f), risk factors and past and prospective loss and expense experience
17 attributable to employees of that health care provider other than employees licensed
18 as a physician ~~or~~, nurse anesthetist, or nurse-midwife.

19 **SECTION 14.** 655.27 (3) (b) 2f. of the statutes is created to read:

20 655.27 (3) (b) 2f. With respect to fees paid by nurse-midwives, the rule may
21 provide for a separate payment classification or for a payment classification that is
22 combined with one or more other categories of health care providers, as the
23 commissioner, after approval by the board of governors, determines is appropriate
24 for pooling risks under the fund.

25 **SECTION 15.** 655.27 (3) (b) 2m. of the statutes is amended to read:

1 655.27 (3) (b) 2m. In addition to the fees and payment classifications described
2 under subds. 1. ~~and 2. to 2f.~~, the commissioner, after approval by the board of
3 governors, may by rule establish a separate payment classification for physicians
4 satisfying s. 655.002 (1) (b) ~~and~~, a separate fee for nurse anesthetists satisfying s.
5 655.002 (1) (b), and a separate fee for nurse-midwives satisfying s. 655.002 (1) (b)
6 which take into account the loss experience of health care providers for whom
7 Michigan is a principal place of practice.

8 **SECTION 16.** 655.275 (5) (b) 3. of the statutes is created to read:

9 655.275 (5) (b) 3. If a claim was paid for damages arising out of the rendering
10 of care by a nurse-midwife, with at least one nurse-midwife.

11 **SECTION 17. Nonstatutory provisions.**

12 (1) EXPIRATION OF TERM OF MEMBER ON BOARD OF GOVERNORS. Notwithstanding
13 the length of terms specified for the members of the board of governors under section
14 619.04 (3) of the statutes, as affected by this act, the initial public member named
15 by the Wisconsin Nurses Association shall be appointed for a term expiring on May
16 1, 2013.

17 (2) NOTICE OF EFFECTIVE DATE OF RULE FOR FEES. The commissioner of insurance
18 shall promulgate a rule under section 655.27 (3) (b) of the statutes, as affected by this
19 act, that takes into account participation in the injured patients and families
20 compensation fund by nurse-midwives. The rule may provide for a separate
21 payment classification or for a payment classification that is combined with one or
22 more other categories of health care providers, as the commissioner, after approval
23 by the board of governors, determines is appropriate for pooling risks under the fund.
24 When the rule has been promulgated and is in effect, the commissioner of insurance

1 shall publish a notice in the Wisconsin Administrative Register that specifies the
2 effective date of the rule.

3 **SECTION 18. Effective dates.** This act takes effect on the first day of the 3rd
4 month beginning after the date published by the commissioner of insurance in the
5 Wisconsin Administrative Register under 2009 Wisconsin Act (this act), section
6 17 (2), except as follows:

7 (1) The treatment of sections 50.36 (3i), 441.51 (1) (a) and (c), (2) (b), and (4),
8 619.04 (3), 655.001 (9c), and 655.005 (2) (a) (by SECTION 9) of the statutes, the
9 renumbering and amendment of section 655.001 (7t) of the statutes, the creation of
10 section 655.001 (7t) (b) of the statutes, and SECTION 17 of this act take effect on the
11 day after publication.”.

12

(END)