

## CHAPTER 253

## MATERNAL AND CHILD HEALTH

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Cross-reference: See definitions in s 250.01.

**253.01 Definition.** In this chapter, "division" means the division within the department that has primary responsibility for health issues.

History: 1993 a 27

**253.02 Department; powers and duties.** (1) In this section:

(a) "Children with special health care needs" means children who have health problems that require intervention beyond routine and basic care, including children with or at risk for disabilities, handicapping conditions, chronic illnesses and conditions, health-related educational problems and health-related behavioral problems.

(b) "Preventive health services for children" includes assessment and appropriate follow-up regarding a child's growth and development, immunization status, nutrition, vision and hearing.

(2) The department shall maintain a maternal and child health program within the division, to promote the reproductive health of individuals and the growth, development, health and safety of infants, children and adolescents. The program shall include all of the following:

(a) Reproductive health services, including health services prior to conception and family planning services.

(b) Pregnancy-related services to pregnant women from the time of confirmation of the pregnancy through the maternal postpartum period, including pregnancy information, referral and follow-up, early identification of pregnancy and prenatal services.

(c) Infant and preschool health services to children from birth to 5 years of age, including neonatal health services, preventive health services for children and parent education and support services.

(d) Child and adolescent health services to promote the physical and psychosocial health of children and adolescents, including preventive health services for children, adolescent health services, teen pregnancy prevention services, alcohol and other drug abuse prevention and mental health-related services.

(e) General maternal and child health services, including health education, oral health, nutrition, childhood and adolescent injury prevention and family health benefits counseling.

(f) Health services to children with special health care needs.

(g) Maternal and child health system coordination services that promote coordination of public and private sector activities in areas of the maternal and child health program described in pars. (a) to (f).

(2m) Nothing in this section authorizes the performance, promotion or encouragement of voluntary termination of pregnancy.

(3) The department shall designate a subunit within the division to have responsibility for the maternal and child health program. The subunit shall be comprised of an adequate number of interdisciplinary professional staff with expertise in maternal and

child health who will assume responsibility for all of the following:

(a) Planning, coordination, data collection and evaluation of the program.

(b) Providing consultation and technical assistance to local health professionals.

(c) Coordinating the program activities with related activities conducted under the authority of other state and federal agencies.

History: 1993 a 27.

**253.03 State plan; reports.** The department shall prepare and submit to the proper federal authorities a state plan for maternal and child health services. The plan shall conform with all requirements governing federal aid for this purpose and shall be designed to secure for this state the maximum amount of federal aid which can be secured on the basis of the available state, county, and local appropriations. The department shall make such reports, in such form and containing such information, as may from time to time be required by the federal authorities and shall comply with all provisions that may be prescribed to assure the correctness and verification of the reports. The secretary may appoint a maternal and child health program advisory committee under s. 15.04 (1) (c) to assist the department in meeting the requirements of this section.

History: 1993 a 27 s. 369.

**253.04 Private rights.** No official, agent or representative of the department may, under this section, enter any home over the objection of the owner or take charge of any child over the objection of the parent or of the person standing in the place of a parent or having custody of the child. Nothing in this section may be construed to limit the power of a parent, guardian or person standing in the place of a parent to determine what treatment or correction shall be provided for a child or the agency to be employed for that purpose.

History: 1993 a 27 s. 370.

**253.05 Federal funds.** The department shall use sufficient funds from the appropriation under s. 20.435 (1) (a) for the promotion of the welfare and hygiene of maternity and infancy to match federal funds received by the state.

History: 1993 a 27 s. 371.

**253.06 State supplemental food program for women, infants and children.** From the appropriation under s. 20.435 (1) (em), the department shall supplement the provision of supplemental foods, nutrition education and other services, including nutritional counseling, to low-income women, infants and children who meet the eligibility criteria under the federal special supplemental food program for women, infants and children authorized under 42 USC 1786. To the extent that funds are available under this section and to the extent that funds are available under 42 USC 1786, every county shall provide the supplemental food, nutrition education and other services authorized under this

section and shall establish or designate an agency to administer that provision.

**History:** 1985 a 29; 1987 a 27; 1989 a 31; 1993 a 27 s 373; Stats 1993 s 253 06.

**253.07 Family planning. (1) DEFINITIONS.** In this section:

(a) "Family planning" means voluntary action by individuals to prevent or aid conception but does not include the performance, promotion or encouragement of voluntary termination of pregnancy.

(b) "Family planning services" mean counseling by trained personnel regarding family planning; distribution of information relating to family planning; and referral to licensed physicians or local health departments for consultation, examination, medical treatment and prescriptions for the purpose of family planning, but does not include the performance of voluntary termination of pregnancy.

(2) **DEPARTMENT'S DUTIES.** (a) The department shall provide for delivery of family planning services throughout the state by developing and by annually reviewing and updating a state plan for community-based family planning programs.

(b) The department shall allocate state and federal family planning funds under its control in a manner which will promote the development and maintenance of an integrated system of community health services. It shall maximize the use of existing community family planning services by encouraging local contractual arrangements.

(c) The department shall coordinate the delivery of family planning services by allocating family planning funds in a manner which maximizes coordination between the agencies.

(d) The department shall encourage maximum coordination of family planning services between county social services departments, family planning agencies and local health departments to maximize the use of health, social service and welfare resources.

(e) The department shall promulgate all rules necessary to implement and administer this section.

(3) **INDIVIDUAL RIGHTS, MEDICAL PRIVILEGE** (a) The request of any person for family planning services or his or her refusal to accept any service shall in no way affect the right of the person to receive public assistance, public health services or any other public service. Nothing in this section may abridge the right of the individual to make decisions concerning family planning, nor may any individual be required to state his or her reason for refusing any offer of family planning services.

(b) Any employe of the agencies engaged in the administration of the provisions of this section may refuse to accept the duty of offering family planning services to the extent that the duty is contrary to his or her personal beliefs. A refusal may not be grounds for dismissal, suspension, demotion, or any other discrimination in employment. The directors or supervisors of the agencies shall reassign the duties of employes in order to carry out the provisions of this section.

(c) All information gathered by any agency, entity or person conducting programs in family planning, other than statistical information compiled without reference to the identity of any individual or other information which the individual allows to be released through his or her informed consent, shall be considered a confidential medical record.

(4) **FAMILY PLANNING SERVICES** From the appropriation under s. 20.435 (1) (f), the department shall allocate funds in the following amounts, for the following services:

(a) For each fiscal year, \$225,000 to establish and maintain 2 city-based clinics for delivery of family planning services under this section, in the cities of Milwaukee, Racine or Kenosha.

(b) For each fiscal year, \$67,500 to subsidize the provision by family planning agencies under this section of papanicolaou tests to individuals with low income. In this paragraph, "low income" means adjusted gross income that is less than 200% of the poverty line established under 42 USC 9902 (2).

(c) For each fiscal year, \$54,000 to subsidize the provision by family planning agencies under this section of follow-up cancer screening.

(d) For each fiscal year, \$31,500 as grants to applying family planning agencies under this section for employment in communities of licensed registered nurses, licensed practical nurses, certified nurse-midwives or certified physician assistants who are members of a racial minority.

(e) For each fiscal year, \$36,000 to initiate, in areas of high incidence of the disease chlamydia, education and outreach programs to locate, educate and treat individuals at high risk of contracting the disease chlamydia and their partners.

**History:** 1977 c. 418; 1979 c. 89; 1991 a. 39 s. 3695; 1993 a. 27 s. 379; Stats 1993 s. 253 07; 1993 a. 105, s. 13

Toward greater reproductive freedom: Wisconsin's new family planning act 1979 WLR 509

**253.08 Pregnancy counseling services.** The department shall make grants from the appropriation under s. 20.435 (1) (eg) to individuals and organizations to provide pregnancy counseling services. For a program to be eligible under this section, an applicant must demonstrate that moneys provided in a grant under s. 20.435 (1) (eg) will not be used to perform an abortion.

**History:** 1985 a 29; 1993 a 27 s. 377; Stats 1993 s. 253 08.

**253.085 Outreach to low-income pregnant women.**

(1) The department shall conduct an outreach program to make low-income pregnant women aware of the importance of early prenatal health care and of the availability of medical assistance benefits under ss. 49.45 to 49.47 and other types of funding for prenatal care, to refer women to prenatal care services in the community and to make follow-up contacts with women referred to prenatal care services.

(2) In addition to the amounts appropriated under s. 20.435 (1) (ev), the department shall allocate \$250,000 for each fiscal year from moneys received under the maternal and child health services block grant program, 42 USC 701 to 709, for the outreach program under this section.

**History:** 1987 a 399; 1991 a 39; 1993 a 27 s. 47; Stats 1993 s. 253 085.

**253.09 Abortion refused; no liability; no discrimination. (1)** No hospital shall be required to admit any patient or to allow the use of the hospital facilities for the purpose of performing a sterilization procedure or removing a human embryo or fetus. A physician or any other person who is a member of or associated with the staff of a hospital, or any employe of a hospital in which such a procedure has been authorized, who shall state in writing his or her objection to the performance of or providing assistance to such a procedure on moral or religious grounds shall not be required to participate in such medical procedure, and the refusal of any such person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person.

(2) No hospital or employe of any hospital shall be liable for any civil damages resulting from a refusal to perform sterilization procedures or remove a human embryo or fetus from a person, if such refusal is based on religious or moral precepts.

(3) No hospital, school or employer may discriminate against any person with regard to admission, hiring or firing, tenure, term, condition or privilege of employment, student status or staff status on the ground that the person refuses to recommend, aid or perform procedures for sterilization or the removal of a human embryo or fetus, if the refusal is based on religious or moral precepts.

(4) The receipt of any grant, contract, loan or loan guarantee under any state or federal law does not authorize any court or any public official or other public authority to require:

(a) Such individual to perform or assist in the performance of any sterilization procedure or removal of a human embryo or fetus if the individual's performance or assistance in the performance of such a procedure would be contrary to the individual's religious beliefs or moral convictions; or

## (b) Such entity to:

1. Make its facilities available for the performance of any sterilization procedure or removal of a human embryo or fetus if the performance of such a procedure in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions; or

2. Provide any personnel for the performance or assistance in the performance of any sterilization procedure or assistance if the performance or assistance in the performance of such procedure or the removal of a human embryo or fetus by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

**History:** 1973 c. 159; Stats. 1973 s. 140.275; 1973 c. 336 s. 54; Stats. 1973 s. 140.42; 1979 c. 34; 1993 a. 27 s. 222; Stats. 1993 s. 253.09; 1993 a. 482.

**253.10 Informed consent for abortions. (1) MEDICAL AND OTHER INFORMATION** Prior to the performance of an abortion otherwise permitted by law, the attending physician or a person who is assisting the attending physician:

(a) Shall verbally provide the pregnant woman with accurate information on each of the following:

1. Whether or not, according to the best judgment of the attending physician or the person who is assisting the attending physician, the woman is pregnant.

2. The number of weeks that have elapsed from the probable time of conception of the woman's fetus or unborn child, based upon the information provided by her as to the time of her last menstrual period, which information shall be provided after a medical history, physical examination and any appropriate laboratory tests have been completed for the woman.

3. The availability of public and private agencies and services to provide the woman with birth control information, including natural family planning information.

4. The availability of public and private agencies and services to assist the woman during pregnancy and after the birth of her child, if she chooses not to have an abortion, regardless of whether she keeps the child or places the child for adoption.

5. If the woman is a minor, the availability of services under s. 46.24 to assist a minor who is contemplating an abortion and who wishes to seek the consent of the minor's parent, guardian or legal custodian, or the consent of an adult family member, as defined in s. 48.375 (2) (b), of the minor, for the contemplated abortion, or who wishes to seek a waiver from the circuit court under s. 48.375 (7).

6. Any particular risks associated with the woman's pregnancy and the abortion technique to be employed, including at least a general description of the medical instructions it is recommended that she follow subsequent to the abortion to ensure her safe recovery and other information which in the judgment of the attending physician or the person who is assisting the attending physician is relevant to her decision whether to have an abortion or to carry her pregnancy to term.

(c) May verbally provide the pregnant woman with accurate information on the probable physical characteristics of the fetus or unborn child at the gestational point of development of the fetus or unborn child at the time the abortion is to be performed.

**(2) WRITTEN INFORMATION UPON REQUEST.** The attending physician or a person who is assisting the attending physician under sub. (1) shall, upon request of the woman receiving information under that subsection provide her with the following written information provided by the county department under s. 46.245:

(a) A list of the public and private agencies and services that are available to provide the woman with birth control information, including natural family planning information.

(b) A list of the public and private agencies and services that are available to assist the woman during pregnancy and after the birth of her child, including adoption agencies and services.

**(3) CONSENT STATEMENT.** Following the provision of the information required under subs. (1) and (2), the pregnant woman shall, prior to the performance of any abortion, sign a statement

acknowledging that she has been provided with that information and stating that she consents, freely and without coercion, to the abortion.

**(4) EMERGENCY PROCEDURE.** Subsections (1) to (3) do not apply if there is an emergency requiring abortion performance because the continuation of the pregnancy constitutes an immediate threat and a grave risk to the life and health of the woman and if the attending physician so certifies in writing. The written certification shall set forth the nature of the threat or risk and the consequences which would accompany the continuation of the pregnancy. The certification shall be kept with the woman's other medical records which are maintained by the physician in the hospital, clinic or other facility in which the abortion is performed.

**(6) INAPPLICABILITY.** Section 939.61 (1) does not apply to violations of this section.

**History:** 1985 a. 56, 176; 1991 a. 263; 1993 a. 27 s. 378; Stats. 1993 s. 253.10. Discussion of state parental notification provisions *Hodgson v. Minnesota*, 497 US 417, 111 LEd 2d 344 (1990) and *Ohio v. Akron Reprod. Health Center*, 497 US 502, 111 LEd 2d 405 (1990).

**253.11 Infant blindness. (1)** For the prevention of ophthalmia neonatorum or infant blindness the attending physician or midwife shall use a prophylactic agent approved by the department.

**(2)** In a confinement not attended by a physician or nurse-midwife, if one or both eyes of an infant become inflamed, swollen and red or show an unnatural discharge at any time within 2 weeks after birth, the nurse, parents, or other person in charge shall report the facts in writing within 6 hours to the local health officer who shall immediately warn the person of the danger. The local health officer shall employ at the expense of the local health department a competent physician to examine and treat the case.

**(3)** Any person who violates this section may be required to forfeit not more than \$1,000.

**History:** 1979 c. 221; 1987 a. 332; 1993 a. 27 s. 314; Stats. 1993 s. 253.11

**253.12 Birth and developmental outcome monitoring program. (1) DEFINITIONS** In this section:

(a) "Adverse neonatal outcome" means one of the following resulting to an infant at birth or in the first month following birth:

1. Birth weight of less than 2,500 grams.
2. A condition of a chronic nature, including central nervous system hemorrhage or infection of the central nervous system, which may result in a need for long-term care.
3. An apgar score of 3 or less at 5 minutes following birth.

(b) "Apgar score" means a numerical expression of the condition of a newborn infant which is the sum of points achieved after assessing the infant's heart rate, respiratory effort, muscle tone, reflex irritability and color.

(c) "Birth defect" means one or more of the following conditions resulting to an infant or child:

1. A structural deformation.
  2. A developmental malformation.
  3. A genetic, inherited or biochemical disease.
- (d) "Developmental disability" has the meaning specified under s. 51.01 (5) (a).

(e) "Infant or child" means a human from birth to the age of 6 years.

(g) "Other severe disability" means a severe sensory impairment, severe physical handicap or developmental delay that results from injury, infection or disease, is chronic in nature and requires long-term care.

**(2) REPORTING.** (a) Beginning on April 29, 1992, the persons specified in par. (b) shall report all of the following to the department:

1. The appearance of the condition, within 90 days after a physician first makes a diagnosis or confirms a suspected diagnosis or a nurse knows or suspects that the infant or child has the condition.

2. Information which disputes, augments or clarifies the physician's diagnosis or the nurse's knowledge or suspicion under subd. 1., within 90 days after receipt of the information.

(b) The persons required to report under par. (a) are the following:

1. A physician licensed under ch. 448, regardless of whether he or she is the primary treating physician for an infant or child or is a consulting physician to whom the infant or child is referred by the primary treating physician, who is the first physician to make a diagnosis or confirm a suspected diagnosis that the infant or child has a condition resulting from an adverse neonatal outcome, a birth defect or a developmental disability or other severe disability.

2. If no physician licensed under ch. 448 has treated an infant or child, a nurse registered, permitted or licensed under ch. 441 who knows or suspects with reasonable medical certainty that an infant or child visited by the nurse has a condition resulting from an adverse neonatal outcome, a birth defect or a developmental disability or other severe disability.

(3) **DEPARTMENTAL POWERS AND DUTIES** From the appropriations under s. 20.435 (1) (md) and (8) (n), the department shall perform all of the following for the program under this section:

(a) Develop and implement a system for the collection, updating and analysis of information reported under sub. (2), including the publication and distribution of report forms.

(b) Disseminate data and information, publish an annual report, submit the report annually to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3) and provide county-specific information to counties in this state on the results of information collected under sub. (2).

(c) Coordinate data dissemination activities of the department with those of the division for learning support, equity and advocacy in the department of public instruction with respect to the information collected under sub. (2).

(4) **RULE-MAKING AUTHORITY.** (a) The department, following consultation with the early intervention interagency coordinating council, shall promulgate rules:

1. To define a condition requiring report under sub. (2).

2. To determine form content and format and procedures necessary for submittal to the department of a report under sub. (2).

(b) The department may promulgate rules specifying the types of information and the conditions under which that information may be released under sub. (5) (a).

(5) **CONFIDENTIALITY.** (a) The department may not release information specifically identifying an infant or child that is obtained from reports under sub. (2), except the following, under the following conditions:

1. To the parent or guardian of an infant or child for whom a report is made under sub. (2), upon receipt of a written request from the parent or guardian.

2. To a local health officer, under sub. (6).

3. To the division for learning support, equity and advocacy in the department of public instruction, upon request, the name and address of an infant or child for whom a report is made under sub. (2) and other information necessary to aid the division in providing services to the infant or child. The department shall notify the parent or guardian of an infant or child about whom information is released under this subdivision, of the release. The division for learning support, equity and advocacy in the department of public instruction may disclose information received under this paragraph only as necessary to provide services to the infant or child.

4. To a physician or nurse reporting under sub. (2), for the purpose of verification of information reported by the physician or nurse.

5. To a representative of a federal or state agency, upon written request, information necessary to perform a legally authorized

function of that agency, including investigation of causes, mortality, methods of prevention, treatment or care of birth defects, associated diseases or disabilities, except that the information may not include the name or address of an infant or child with a condition reported under sub. (2). The department shall notify the parent or guardian of an infant or child about whom information is released under this subdivision, of the release. The representative of the federal or state agency may disclose information received under this paragraph only as necessary to perform the legally authorized function of that agency for which the information was requested.

6. To any person who has the informed, written consent of the parent or guardian of an infant or child with a condition reported under sub. (2), any information concerning that infant or child, solely for the purpose of research in accordance with rules promulgated by the department.

(b) The department shall, not more than 10 years from the date of receipt of a report under sub. (2), delete from any file of the department the name of an infant or child that is contained in the report.

(6) **LOCAL HEALTH OFFICER ACCESS TO INFORMATION.** (a) If a local health officer submits to the department a written request for receipt of information submitted under sub. (2), the department shall forward to the local health officer an abstract of information received for an infant or child for whom the parent or guardian has provided informed, written consent to a release of the information and who resides in the area of jurisdiction of the public health officer.

(b) The local health officer may disclose information in the abstract under par. (a) only as necessary to aid that local health officer in rendering or coordinating follow-up care for the infant or child or for conducting a health, demographic or epidemiologic investigation. The local health officer shall destroy all information obtained under par. (a) no later than 365 days after he or she receives it, except that this requirement does not apply to information, including individual medical records, obtained by the local health officer subsequent to his or her receipt of information under par. (a).

(c) The written request submitted under par. (a) is invalid after December 31 of the year in which the department receives it.

(7) **EXCEPTION** Nothing in this section authorizes or requires the administration of a physical examination or medical care or treatment to an infant or child if the parent or legal guardian of the infant or child objects on the ground that the examination or care or treatment conflicts with his or her religious tenets or practices.

(8) **ADMISSIBILITY OF INFORMATION AS EVIDENCE.** Information collected under this section is not admissible as evidence in any legal action or proceeding before any court, tribunal, board, agency, person or for the purpose of determining insurability, except for the purpose of enforcing this section.

**History:** 1987 a. 371; 1991 a. 178; 1993 a. 27 ss. 347, 349; Stats. 1993 s. 253.12; 1993 a. 335.

**253.13 Tests for congenital disorders.** (1) **BLOOD TESTS** The attending physician or nurse certified under s. 441.15 shall cause every infant born in each hospital or maternity home, prior to its discharge therefrom, to be subjected to blood tests for congenital and metabolic disorders, as specified in rules promulgated by the department. If the infant is born elsewhere than in a hospital or maternity home, the attending physician, nurse certified under s. 441.15 or birth attendant who attended the birth shall cause the infant, within one week of birth, to be subjected to these blood tests.

(1m) **URINE TESTS** The department may establish a urine test program to test infants for causes of congenital disorders. The state laboratory of hygiene board may establish the methods of obtaining urine specimens and testing such specimens, and may develop materials for use in the tests. No person may be required to participate in programs developed under this subsection.

(2) **TESTS; DIAGNOSTIC, DIETARY AND FOLLOW-UP COUNSELING PROGRAM; FEES** The department shall contract with the state labo-

ratory of hygiene to perform the tests specified under this section and to furnish materials for use in the tests. The department shall provide necessary diagnostic services, special dietary treatment as prescribed by a physician for a patient with a congenital disorder as identified by tests under sub. (1) or (1m) and follow-up counseling for the patient and his or her family. The state laboratory of hygiene board, on behalf of the department, shall impose a fee for tests performed under this section sufficient to pay for services provided under the contract and shall include as part of this fee and pay to the department an amount the department determines is sufficient to fund the provision of diagnostic and counseling services, special dietary treatment and periodic evaluation of infant screening programs under this section.

(3) **EXCEPTIONS.** This section shall not apply if the parents or legal guardian of the child object thereto on the grounds that the test conflicts with their religious tenets and practices. No tests may be performed under sub. (1) or (1m) unless the parents or legal guardian are fully informed of the purposes of testing under this section and have been given reasonable opportunity to object as authorized in this subsection or in sub. (1m) to such tests.

(4) **CONFIDENTIALITY OF TESTS AND RELATED INFORMATION.** The state laboratory of hygiene shall provide the test results to the physician, who shall advise the parents or legal guardian of the results. No information obtained under this section from the parents or guardian or from specimens from the infant may be disclosed except for use in statistical data compiled by the department without reference to the identity of any individual and except as provided in s. 146.82(2). The state laboratory of hygiene board

shall provide to the department the names and addresses of parents of infants who have positive test results.

(5) **RELATED SERVICES.** The department shall disseminate information to families whose children suffer from congenital disorders and to women of child-bearing age with a history of congenital disorders concerning the need for and availability of follow-up counseling and special dietary treatment and the necessity for testing infants. The department shall also refer families of children who suffer from congenital disorders to available health and social services programs and shall coordinate the provision of these programs. The department shall periodically consult appropriate experts in reviewing and evaluating the state's infant screening programs.

**History:** 1977 c. 160; 1983 a. 157; 1985 a. 255; 1987 a. 27; 1989 a. 31; 1991 a. 39, 177; 1993 a. 27 s. 316; Stats. 1993 s. 253.13

A physician and parent may enter an agreement to perform a PKU test after the infant has left the hospital without violating (1): 61 Atty. Gen. 66.

**253.14 Sudden infant death syndrome.** (1) The department shall prepare and distribute printed informational materials relating to sudden infant death syndrome. The materials shall be directed toward the concerns of parents of victims of sudden infant death syndrome and shall be distributed to maximize availability to the parents.

(2) The department shall make available upon request follow-up counseling by trained health care professionals for parents and families of victims of sudden infant death syndrome.

**History:** 1977 c. 246; Stats. 1977 s. 146.025; 1977 c. 447; Stats. 1977 s. 146.026; 1993 a. 27 s. 343; Stats. 1993 s. 253.14