



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0257/2
MD/MS/MK/TD/GM:kjf

2015 ASSEMBLY BILL 852

February 3, 2016 - Introduced by Representatives MASON, BARNES, BARCA, BERCEAU, BROSTOFF, CONSIDINE, GENRICH, GOYKE, HEBL, JORGENSEN, KAHL, KESSLER, KOLSTE, MILROY, OHNSTAD, POPE, SINICKI, C. TAYLOR, WACHS, ZAMARRIPA, SUBECK and SPREITZER, cosponsored by Senators HARRIS DODD, C. LARSON, CARPENTER, LASSA, RINGHAND, L. TAYLOR and WIRCH. Referred to Committee on State Affairs and Government Operations.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to repeal* 441.15 (1) (a) and 655.001 (7t) (b); *to renumber and amend*
2 655.001 (7t) and 655.001 (7t) (a); *to amend* 48.983 (4) (a) 4m., 48.983 (4) (b),
3 48.983 (6) (a) (intro.), 48.983 (6) (a) 1., 48.983 (6) (a) 2., 48.983 (6) (a) 3., 48.983
4 (6) (a) 4., 48.983 (6) (a) 4m., 48.983 (6) (a) 6., 48.983 (6) (a) 6m., 48.983 (6) (b)
5 1., 48.983 (6) (c), 48.983 (6g) (a) and (b), 48.983 (6m), 48.983 (6r), 48.983 (7)
6 (title) and (a) (intro.), 48.983 (7) (ag), 48.983 (7) (ar), 48.983 (7) (b), 48.983 (7)
7 (c), 48.983 (8), 71.07 (9e) (aj) (intro.), 253.15 (2), 253.15 (6), 253.15 (7) (e), 441.15
8 (2) (b), 441.15 (3) (c), 441.15 (4), 448.02 (3) (a), 619.04 (3), 655.002 (1) (a),
9 655.002 (1) (b) (intro.), 655.002 (1) (b) 1., 655.002 (1) (b) 2., 655.002 (1) (b) 3.,
10 655.002 (1) (c), 655.002 (1) (d), 655.002 (1) (e), 655.002 (1) (em), 655.002 (2) (a),
11 655.002 (2) (b), 655.003 (1), 655.003 (3), 655.005 (2) (a), 655.005 (2) (a), 655.005
12 (2) (b), 655.23 (5m), 655.27 (3) (a) 4. and 655.27 (3) (b) 2m.; *to repeal and*
13 *recreate* 448.02 (3) (a); and *to create* 36.25 (54), 38.04 (33), 48.983 (9), 49.45
14 (24w), 49.815, 50.36 (2m), 69.02 (2) (c), 69.14 (1) (i), 71.07 (9e) (h), 253.162,

ASSEMBLY BILL 852

1 253.18, 441.15 (1) (am), 441.15 (1) (c), 441.15 (4m), 448.35, 448.40 (2) (am),
2 655.001 (7t) (b), 655.001 (9c), 655.003 (4), 655.27 (3) (b) 2f. and 655.275 (5) (b)
3 3. of the statutes; **relating to:** expanding eligibility for the earned income tax
4 credit; hospital best practices for postpartum patients and newborns; hospital
5 staff privileges and written agreements required for nurse–midwives; coverage
6 of nurse–midwives under the injured patients and families compensation fund;
7 a report on information related to hospital neonatal intensive care units; an
8 electronic application and information system to determine eligibility and
9 register for public assistance programs; directing the Department of Health
10 Services to request a Medical Assistance waiver; evidence–based home
11 visitation program services for persons who are at risk of poor birth outcomes
12 or of abusing or neglecting their children; designating race and ethnicity on
13 birth certificates; a report on fetal and infant mortality and birth outcomes;
14 requiring informed consent for performance on pregnant women of certain
15 elective procedures prior to the full gestational term of a fetus; cultural
16 competency training for certain students enrolled in the University of
17 Wisconsin System and the technical college system; granting rule–making
18 authority; and requiring the exercise of rule–making authority.

Analysis by the Legislative Reference Bureau

Medical Assistance programs and services

This bill requires the Department of Health Services (DHS) to request from the secretary of the federal Department of Health and Human Services a waiver of federal Medicaid law to permit DHS to provide services and support under the Medical Assistance (MA) program to pregnant women who face an increased risk of having a low birth weight baby, a preterm birth, or other negative birth outcome. DHS must implement the MA programs and services in Milwaukee, Racine, Kenosha, Rock, and Dane counties and in a rural multicounty region identified by DHS in collaboration with the Great Lakes Intertribal Council. The bill specifies

ASSEMBLY BILL 852

certain services or programs that DHS must consider including in its Medicaid waiver request. DHS must evaluate the programs and services implemented under the waiver request and must develop a plan to implement the effective programs and services statewide. DHS must also consider prohibiting reimbursement under the MA program for elective induction of labor or cesarean sections performed before 39 weeks gestation, unless medically indicated.

Under federal law, the earned income tax credit (EITC) is a refundable tax credit that may be claimed by low-income workers. If the amount of the claim for the credit exceeds the worker's tax liability, the claimant receives a check for the excess amount from the Internal Revenue Service. The amount of the credit for which a claimant is eligible is based, in part, on the claimant's filing status and whether the claimant has no qualifying children, one qualifying child, or more than one qualifying child.

Under current law, the refundable Wisconsin EITC may be claimed in an amount equal to a certain percentage of the federal EITC. To be eligible for the Wisconsin EITC, an individual must have one or more qualifying children who have the same principal place of abode as the claimant.

Under this bill, an individual may claim the Wisconsin EITC even if, with regard to the child about whom the claim is made, the child does not have the same principal place of abode as the claimant and even if another person claims the federal and Wisconsin credits for that child, provided that the claimant meets a statutory definition of "parent" with respect to that child and provided that the claimant is subject to and in compliance with a child support order with respect to that child.

Written agreements required for nurse-midwives

Under current law, the Board of Nursing licenses nurse-midwives. Nurse-midwives are health care professionals authorized to practice nurse-midwifery, which is defined as the management of women's health care, pregnancy, childbirth, postpartum care for newborns, family planning, and gynecological services consistent with the standards of practice of the American College of Nurse-Midwives and the education, training, and experience of the nurse-midwife.

A nurse-midwife may only practice nurse-midwifery in a health care facility approved by the Board of Nursing, in collaboration with a physician with postgraduate training in obstetrics, and pursuant to a written agreement with that physician. A nurse-midwife who discovers evidence that any aspect of care involves any complication that jeopardizes the health or life of a newborn or mother (serious complication) must consult with the collaborating physician or the collaborating physician's designee, or make a referral as specified in the written agreement with the collaborating physician.

This bill does the following with respect to these provisions governing nurse-midwives:

1. Eliminates the restriction providing that a nurse-midwife may only practice in collaboration with a physician with postgraduate training in obstetrics.

ASSEMBLY BILL 852

2. Provides that, in the case of a serious complication, the nurse-midwife must instead consult with a qualified health care professional (QHP), as defined in the bill, or make a referral to a QHP.

Hospital staff privileges for nurse-midwives and coverage of nurse-midwives under the injured patients and families compensation fund

Under current law, certain health care providers (covered health care providers), who meet certain criteria, are covered by the injured patients and families compensation fund (fund) for claims for damages for bodily injury or death due to acts or omissions of those covered health care providers. Any claims filed against a covered health care provider must follow the procedures and are subject to the restrictions in current law.

Covered health care providers, under current law, are required to maintain certain liability insurance or to qualify as a self-insurer. The insurance policy under which a covered health care provider is covered must meet certain requirements under current law. If the covered health care provider satisfies the requirements of current law, he or she is liable for malpractice for no more than the prescribed limits of a self-insured covered health care provider or no more than the maximum liability limit for which the covered health care provider is insured. The fund pays any portion of a medical malpractice claim against a covered health care provider that is in excess of the self-insured limits or the liability insurance limit, except if the damages for injury or death are caused by an intentional crime. Covered health care providers pay an annual assessment, which is deposited in the fund.

The bill adds nurse-midwives to the law pertaining to the fund and to the malpractice claims, and therefore, under the bill, nurse-midwives are covered by the fund and are subject to the restrictions to be covered by the fund.

The bill allows a hospital to grant to a licensed nurse-midwife who is covered under the injured patients and families compensation fund any hospital staff privilege that a hospital must afford to licensed physicians or podiatrists, including hospital staff privileges to admit, treat, and discharge any patient for whom a nurse-midwife is qualified to provide care.

Statewide systems for public assistance programs

Currently, DHS administers an electronic application and information system that enables a person to determine his or her eligibility for and register for multiple public assistance programs, including BadgerCare Plus, the Women, Infants and Children (WIC) program, and FoodShare. This bill requires DHS to expand the current electronic application and information system to include information regarding all programs designed to assist low-income persons, including housing assistance, rental assistance, and temporary child care assistance.

The bill also requires DHS to develop a statewide electronic data management and information system for all public assistance programs. Under the bill, the system must allow a person to register for multiple public assistance programs with a single application or registration. The system must also allow an administrator of a public assistance program to access data related to an individual that was previously collected for purposes of a different public assistance program. Finally,

ASSEMBLY BILL 852

the system must provide automated individual care plans that identify service activities to address assessed risks and include a scheduling or referral component that identifies available providers for individuals' service needs.

Informed consent for certain elective caesarean section and labor-inducing procedures

Under current law, a physician who treats a patient must inform the patient about the availability of reasonable alternate medical modes of treatment and about the benefits and risks of those treatments. A physician who violates this requirement is guilty of unprofessional conduct and may be subject to discipline by the Medical Examining Board (MEB), which may warn or reprimand the physician, or limit, suspend, or revoke his or her license to practice medicine and surgery. Current law requires the MEB to promulgate rules implementing these informed consent requirements.

The bill specifically prohibits a physician from performing an elective cesarean section on a pregnant woman, and prohibits a physician or a nurse-midwife from performing an elective procedure intended to induce labor in a pregnant woman, before the completion of a gestational period of 39 weeks unless the physician has first obtained the informed consent of the woman. The bill provides that a woman's consent is informed only if she receives timely information orally and in person from the physician or nurse-midwife regarding potential negative effects to the fetus of early delivery, including long-term learning and behavioral problems. Under the bill, a physician who violates the prohibition in the bill is guilty of unprofessional conduct and may be subject to the same disciplinary consequences as violations of the informed consent provisions under current law. The Board of Nursing may similarly revoke, limit, suspend, or deny renewal of the license of a nurse-midwife who violates the prohibition. The bill directs the MEB to promulgate rules implementing the provisions of the newly created prohibition and directs both the MEB and the Board of Nursing to promulgate rules defining "elective" for purposes of the prohibition in the bill.

Evidence-based home visitation services

Under current law, the Department of Children and Families (DCF) administers the Child Abuse and Neglect Prevention Program under which DCF awards grants to counties, private agencies, and Indian tribes that offer voluntary home visitation services to parents who are eligible for MA and who are at risk of poor birth outcomes or of perpetrating child abuse or neglect. Current law requires a grant applicant to provide information on how the applicant's home visitation program incorporates: 1) practice standards that have been developed for home visitation programs by entities concerned with the prevention of poor birth outcomes and child abuse and neglect; and 2) practice standards and critical elements that have been developed for successful home visitation programs by a nationally recognized home visitation program model.

This bill specifies that home visitation program services provided by a county, private agency, or Indian tribe under a child abuse and neglect prevention grant from DCF must be evidence-based. The bill also requires DCF to enter into a memorandum of understanding with DHS that provides for collaboration between

ASSEMBLY BILL 852

DCF and DHS in carrying out those evidence-based home visitation program services.

Neonatal intensive care unit reports

The bill requires DHS to collect all of the following information from a hospital that has a neonatal intensive care unit: 1) the daily census of the neonatal intensive care unit; and 2) the criteria for admission to the neonatal intensive care unit. DHS must annually prepare a report that includes all of the information collected from hospitals from the previous calendar year. DHS must make the reports available to the public and post the report on its Internet site.

Best practices for postpartum patients and newborns at hospitals

The bill requires DHS to promulgate rules requiring hospitals to ensure that best practices for postpartum patients and newborns are supported in the hospital, including rules that: 1) require hospitals to develop, for each postpartum patient, an appropriate discharge plan that ensures that, to the extent practicable, an appointment with a health care provider has been scheduled for the newborn within an appropriate time after discharge and that the postpartum patient is consulted and provided with assistance regarding health care resources and safe transportation for the newborn; 2) require, prior to discharge from the hospital, that education be provided, orally and in person, to each postpartum patient on certain topics; and 3) require that health care providers, including physicians, recommend and actively support breastfeeding for all newborns for whom breastfeeding is not medically contraindicated; provide parents with complete, up-to-date information to ensure that feeding decisions are fully informed; and provide, upon a parent's request, referrals to lactation specialists or public health nurses for home visits.

Cultural competency training for students at higher educational institutions

The bill directs the University of Wisconsin System Board of Regents and the Technical College System Board to ensure that students enrolled in health care or social work programs receive training in cultural competency to improve patient-centered care.

Indication of race on birth certificates

The bill requires a birth certificate to include the race and ethnicity of the child, as reported by the mother of the registrant, and requires DHS to promulgate rules establishing designations of race and ethnicity to be used for reporting race and ethnicity. The bill provides that the designations must be sufficiently detailed to enable compilation and analysis of data related to births and birth outcomes among all significant racial and ethnic populations in the state and to assist in the design and evaluation of programs and policies designed to improve birth outcomes. In addition, the rules must establish procedures to ensure that the racial and ethnic designations included on each certificate of birth accurately reflect the race and ethnicity of the registrant as directly reported by the child's mother.

Fetal and infant mortality and birth outcome report

The bill requires DHS to annually prepare a report relating to fetal and infant mortality and birth outcomes in this state. The report must include data related to

ASSEMBLY BILL 852

births and birth outcomes in this state in the previous calendar year and an analysis of that data. DHS must collaborate with local health departments, tribes, and other interested parties about the data and the report. DHS must ensure that the report, to the greatest extent possible, includes data and analysis that are necessary and useful for the development and evaluation of programs to address disparities in birth outcomes among racial and ethnic groups in this state and must periodically consult with interested parties to review and update the data and analysis to be included in the report as needed to ensure that this goal continues to be met.

DHS must include certain specified information about infant births and deaths in the annual report and must, in collaboration with the aforementioned persons and entities, consider including in the report data related to the type of prenatal care, if any, received by the mother of each infant whose birth data is included in the report.

DHS must annually submit the report to the appropriate standing committees of the legislature; post the report on its Internet site; and post, on its Internet site, the raw data used for the report in a manner that does not disclose or enable the identification of any individual infant, mother, or birth attendant.

Finally, DHS must explore whether any of the costs of collecting the data and creating the annual report may be funded by the MA program.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 36.25 (54) of the statutes is created to read:
2 36.25 (54) CULTURAL COMPETENCY TRAINING. The board shall ensure that all
3 students enrolled in the University of Wisconsin–Madison School of Medicine and
4 Public Health, or in any program providing instruction for a health care or social
5 work occupation, receive training in cultural competency to improve
6 patient–centered care, which shall include evidence–based training related to
7 implicit bias and emerging evidence related to cultural humility, in order to increase
8 the students’ cultural awareness and to improve the students’ ability to
9 communicate with, and effectively deliver health care to, patients from different
10 racial and ethnic backgrounds.

11 **SECTION 2.** 38.04 (33) of the statutes is created to read:

ASSEMBLY BILL 852

1 38.04 **(33)** CULTURAL COMPETENCY TRAINING. The board shall ensure that
2 technical college students enrolled in health care occupation programs receive
3 training in cultural competency to improve patient-centered care, which shall
4 include evidence-based training related to implicit bias and emerging evidence
5 related to cultural humility, in order to increase the students' cultural awareness and
6 to improve the students' ability to communicate with, and effectively deliver health
7 care to, patients from different racial and ethnic backgrounds.

8 **SECTION 3.** 48.983 (4) (a) 4m. of the statutes is amended to read:

9 48.983 **(4)** (a) 4m. To reimburse a case management provider under s. 49.45 (25)
10 (b) for the amount of the allowable charges under the Medical Assistance program
11 that is not provided by the federal government for case management services
12 provided to a Medical Assistance beneficiary described in s. 49.45 (25) (am) 9. who
13 is a child and who is a member of a family that receives evidence-based home
14 visitation program services under par. (b) 1.

15 **SECTION 4.** 48.983 (4) (b) of the statutes is amended to read:

16 48.983 **(4)** (b) *Home Evidence-based home visitation program services.* 1. A
17 county, private agency, or Indian tribe that is selected to participate in the program
18 under this section shall offer all pregnant women in the county, the area in which
19 that private agency is providing services, or the reservation of the tribe who are
20 eligible for Medical Assistance under subch. IV of ch. 49 an opportunity to undergo
21 an assessment through use of a risk assessment instrument to determine whether
22 the person assessed presents risk factors for poor birth outcomes or for perpetrating
23 child abuse or neglect. Persons who agree to be assessed shall be assessed during
24 the prenatal period. The risk assessment instrument shall be developed by the
25 department and shall be based on risk assessment instruments developed by the

ASSEMBLY BILL 852

1 department for similar programs that are in operation. The department need not
2 promulgate as rules under ch. 227 the risk assessment instrument developed under
3 this subdivision. A person who is assessed to be at risk of poor birth outcomes or of
4 abusing or neglecting his or her child shall be offered evidence-based home visitation
5 program services that shall be commenced during the prenatal period. Home
6 Evidence-based home visitation program services may be provided to a family with
7 a child identified as being at risk of child abuse or neglect until the identified child
8 reaches 3 years of age. If a family has been receiving evidence-based home visitation
9 program services continuously for not less than 12 months, those services may
10 continue to be provided to the family until the identified child reaches 3 years of age,
11 regardless of whether the child continues to be eligible for Medical Assistance under
12 subch. IV of ch. 49. If risk factors for child abuse or neglect with respect to the
13 identified child continue to be present when the child reaches 3 years of age,
14 evidence-based home visitation program services may be provided until the
15 identified child reaches 5 years of age. Home Evidence-based home visitation
16 program services may not be provided to a person unless the person gives his or her
17 written informed consent to receiving those services or, if the person is a child, unless
18 the child's parent, guardian, or legal custodian gives his or her written informed
19 consent for the child to receive those services.

20 1m. No person who is required or permitted to report suspected or threatened
21 abuse or neglect under s. 48.981 (2) may make or threaten to make such a report
22 based on a refusal of a person to receive or to continue receiving evidence-based
23 home visitation program services under subd. 1.

24 3. A county, private agency, or Indian tribe that is providing evidence-based
25 home visitation program services under subd. 1. shall provide to a person receiving

ASSEMBLY BILL 852

1 those services the information relating to shaken baby syndrome and impacted
2 babies required under s. 253.15 (6).

3 **SECTION 5.** 48.983 (6) (a) (intro.) of the statutes is amended to read:

4 48.983 (6) (a) (intro.) The part of an application, other than a renewal
5 application, submitted by a county, private agency, or Indian tribe that relates to
6 evidence-based home visitation programs shall include all of the following:

7 **SECTION 6.** 48.983 (6) (a) 1. of the statutes is amended to read:

8 48.983 (6) (a) 1. Information on how the applicant's home visitation program
9 is evidence-based, comprehensive, incorporates practice standards that have been
10 developed for home visitation programs by entities concerned with the prevention of
11 poor birth outcomes and child abuse and neglect and that are acceptable to the
12 department, and incorporates practice standards and critical elements that have
13 been developed for successful home visitation programs by a nationally recognized
14 home visitation program model and that are acceptable to the department.

15 **SECTION 7.** 48.983 (6) (a) 2. of the statutes is amended to read:

16 48.983 (6) (a) 2. Documentation that the application was developed through
17 collaboration among public and private organizations that provide services to
18 children and families, especially children who are at risk of child abuse or neglect and
19 families that are at risk of poor birth outcomes, or that are otherwise interested in
20 child welfare and a description of how that collaboration effort will support a
21 comprehensive, evidence-based home visitation program.

22 **SECTION 8.** 48.983 (6) (a) 3. of the statutes is amended to read:

23 48.983 (6) (a) 3. An identification of existing poor birth outcome and child abuse
24 and neglect prevention services that are available to residents of the county, the area
25 in which the private agency is providing services, or the reservation of the Indian

ASSEMBLY BILL 852

1 tribe and a description of how those services and any additional needed services will
2 support a comprehensive, evidence-based home visitation program.

3 **SECTION 9.** 48.983 (6) (a) 4. of the statutes is amended to read:

4 48.983 (6) (a) 4. An explanation of how the evidence-based home visitation
5 program will build on existing poor birth outcome and child abuse and neglect
6 prevention programs, including programs that provide support to families, and how
7 the evidence-based home visitation program will coordinate with those programs.

8 **SECTION 10.** 48.983 (6) (a) 4m. of the statutes is amended to read:

9 48.983 (6) (a) 4m. An explanation of how the applicant will encourage private
10 organizations to provide services under the applicant's evidence-based home
11 visitation program.

12 **SECTION 11.** 48.983 (6) (a) 6. of the statutes is amended to read:

13 48.983 (6) (a) 6. An identification of how the evidence-based home visitation
14 program is comprehensive and incorporates the practice standards and critical
15 elements for successful home visitation programs referred to in subd. 1., including
16 how services will vary in intensity levels depending on the needs and strengths of the
17 participating family.

18 **SECTION 12.** 48.983 (6) (a) 6m. of the statutes is amended to read:

19 48.983 (6) (a) 6m. An explanation of how the services to be provided under the
20 evidence-based home visitation program, including the risk assessment under sub.
21 (4) (b) 1., will be provided in a culturally competent manner.

22 **SECTION 13.** 48.983 (6) (b) 1. of the statutes is amended to read:

23 48.983 (6) (b) 1. 'Flexible fund for evidence-based home visitation programs.'
24 The applicant demonstrates in the application that the applicant has established, or
25 has plans to establish, if selected, a fund from which payments totaling not less than

ASSEMBLY BILL 852

1 \$250 per calendar year may be made for appropriate expenses of each family that is
2 participating in the evidence-based home visitation program under sub. (4) (b) 1. or
3 that is receiving home visitation services under s. 49.45 (44). The payments shall be
4 authorized by an individual designated by the applicant. If an applicant makes a
5 payment to or on behalf of a family under this subdivision, one-half of the payment
6 shall be from grant moneys received under this section and one-half of the payment
7 shall be from moneys provided by the applicant from sources other than grant
8 moneys received under this section.

9 **SECTION 14.** 48.983 (6) (c) of the statutes is amended to read:

10 48.983 (6) (c) *Case management benefit.* The applicant states in the grant
11 application that it has elected, or, if selected, that it will elect, under s. 49.45 (25) (b),
12 to make the case management benefit under s. 49.45 (25) available to the category
13 of beneficiaries under s. 49.45 (25) (am) 9. who are children and who are members
14 of families receiving evidence-based home visitation program services under sub. (4)
15 (b) 1.

16 **SECTION 15.** 48.983 (6g) (a) and (b) of the statutes are amended to read:

17 48.983 (6g) (a) Except as permitted or required under s. 48.981 (2), no person
18 may use or disclose any information concerning any individual who is selected for an
19 assessment under sub. (4) (b), including an individual who declines to undergo the
20 assessment, or concerning any individual who is offered services under ~~a~~ an
21 evidence-based home visitation program funded under this section, including an
22 individual who declines to receive those services, unless the use or disclosure is
23 connected with the administration of the evidence-based home visitation program
24 or the administration of the Medical Assistance program under ss. 49.43 to 49.497

ASSEMBLY BILL 852

1 or unless the individual has given his or her written informed consent to the use or
2 disclosure.

3 (b) A county, private agency, or Indian tribe that is selected to participate in the
4 program under this section shall provide or shall designate an individual or entity
5 to provide an explanation of the confidentiality requirements under par. (a) to each
6 individual who is offered an assessment under sub. (4) (b) or who is offered services
7 under the evidence-based home visitation program of the county, private agency, or
8 Indian tribe.

9 **SECTION 16.** 48.983 (6m) of the statutes is amended to read:

10 48.983 **(6m)** NOTIFICATION OF PARENT PRIOR TO MAKING ABUSE OR NEGLECT REPORT.
11 If a person who is providing services under ~~a~~ an evidence-based home visitation
12 program under sub. (4) (b) 1. determines that he or she is required or permitted to
13 make a report under s. 48.981 (2) about a child in a family to which the person is
14 providing those services, the person shall, prior to making the report under s. 48.981
15 (2), make a reasonable effort to notify the child's parent that a report under s. 48.981
16 (2) will be made and to encourage the parent to contact a county department to
17 request assistance. The notification requirements under this subsection do not affect
18 the reporting requirements under s. 48.981 (2).

19 **SECTION 17.** 48.983 (6r) of the statutes is amended to read:

20 48.983 **(6r)** ~~HOME~~ EVIDENCE-BASED HOME VISITATION PROGRAM INFORMATIONAL
21 MATERIALS. Any informational materials about ~~a~~ an evidence-based home visitation
22 program under sub. (4) (b) 1. that are distributed to a person who is offered or who
23 is receiving ~~home visitation program~~ services under that program shall state the
24 sources of funding for the program.

ASSEMBLY BILL 852

1 **SECTION 18.** 48.983 (7) (title) and (a) (intro.) of the statutes are amended to
2 read:

3 48.983 (7) (title) ~~HOME~~ EVIDENCE-BASED HOME VISITATION PROGRAM EVALUATION.
4 (a) (intro.) The department shall conduct or shall select an evaluator to conduct an
5 evaluation of the evidence-based home visitation program. The evaluation shall
6 measure all of the following criteria in families that have participated in the ~~home~~
7 ~~visitation~~ that program and that are selected for evaluation:

8 **SECTION 19.** 48.983 (7) (ag) of the statutes is amended to read:

9 48.983 (7) (ag) The department shall evaluate the availability of
10 evidence-based home visitation programs in the state and determine whether there
11 are gaps in evidence-based home visitation services in the state. The department
12 shall cooperate with counties, private agencies, and Indian tribes providing
13 evidence-based home visitation programs to address any gaps in services identified.

14 **SECTION 20.** 48.983 (7) (ar) of the statutes is amended to read:

15 48.983 (7) (ar) Each county, private agency, and Indian tribe providing ~~a~~ an
16 evidence-based home visitation program shall collect and report data to the
17 department, as required by the department. The department shall require each
18 county, private agency, and Indian tribe providing ~~a~~ an evidence-based home
19 visitation program to collect data using forms prescribed by the department.

20 **SECTION 21.** 48.983 (7) (b) of the statutes is amended to read:

21 48.983 (7) (b) In the evaluation, the department shall determine the number
22 of families who remained in the evidence-based home visitation program for the time
23 recommended in the family's case plan.

24 **SECTION 22.** 48.983 (7) (c) of the statutes is amended to read:

ASSEMBLY BILL 852

1 48.983 (7) (c) Each county, private agency, and Indian tribe providing ~~a~~ an
2 evidence-based home visitation program shall develop a plan for evaluating the
3 effectiveness of its program for approval by the department. The plan shall
4 demonstrate how the county, private agency, or Indian tribe will use the evaluation
5 of its program to improve the quality and outcomes of the program and to ensure
6 continued compliance with the ~~home visitation program~~ criteria under sub. (6) (a).
7 The plan shall demonstrate how the outcomes will be tracked and measured. Under
8 the plan, the extent to which all of the following outcomes are achieved shall be
9 tracked and measured:

10 1. Parents receiving evidence-based home visitation services acquiring
11 knowledge of early learning and child development and interacting with their
12 children in ways that enhance the children's development and early learning.

13 2. Children receiving evidence-based home visitation services being healthy.

14 3. Children receiving evidence-based home visitation services living in a safe
15 environment.

16 4. Families receiving evidence-based home visitation services accessing formal
17 and informal support networks.

18 5. Children receiving evidence-based home visitation services achieving
19 milestones in development and early learning.

20 6. Children receiving evidence-based home visitation services who have
21 developmental delays receiving appropriate intervention services.

22 **SECTION 23.** 48.983 (8) of the statutes is amended to read:

23 48.983 (8) TECHNICAL ASSISTANCE AND TRAINING. The department shall provide
24 technical assistance and training to counties, private agencies, and Indian tribes
25 that are selected to participate in the program under this section. The training may

ASSEMBLY BILL 852

1 not be limited to a particular evidence-based home visitation model. The training
2 shall include training in best practices regarding basic skills, uniform
3 administration of screening and assessment tools, the issues and challenges that
4 families face, and supervision and personnel skills for program managers. The
5 training may also include training on data collection and reporting.

6 **SECTION 24.** 48.983 (9) of the statutes is created to read:

7 48.983 (9) MEMORANDUM OF UNDERSTANDING. The department shall enter into
8 a memorandum of understanding with the department of health services that
9 provides for collaboration between those departments in carrying out
10 evidence-based home visiting programs under sub. (4) (b) 1.

11 **SECTION 25.** 49.45 (24w) of the statutes is created to read:

12 49.45 (24w) SERVICES FOR PREGNANT WOMEN. (a) The department shall request
13 a waiver of federal Medicaid law from the secretary of the federal department of
14 health and human services to permit the department to provide services and support
15 under Medical Assistance for pregnant women who face an increased risk of having
16 a low birth weight baby, a preterm birth, or other negative birth outcome because of
17 medical or nonmedical factors, such as psychosocial, behavioral, environmental,
18 educational, or nutritional factors. The department shall implement the programs
19 and services authorized by this waiver in Milwaukee, Racine, Kenosha, Rock, and
20 Dane counties, and in a rural multicounty region identified by the department in
21 collaboration with the Great Lakes Intertribal Council. The multicounty region
22 shall include counties experiencing the largest disparities in birth outcomes between
23 Caucasian and Native American populations and shall be of sufficient size to enable
24 meaningful implementation and evaluation of the programs and services.

ASSEMBLY BILL 852

1 (b) The department shall consider including all of the following as covered
2 services or programs in the waiver request under par. (a):

3 1. Evidence-based social marketing of programs designed to reduce fetal and
4 infant mortality, improve birth outcomes, and address needs of infants and their
5 families.

6 2. Evidence-based social-support programs, including fatherhood initiatives
7 designed to reduce fetal and infant mortality and improve birth outcomes.

8 3. Transportation services for persons who accompany a pregnant woman to
9 prenatal appointments and transportation for the pregnant woman and her children
10 to other destinations including social services offices and locations where child care
11 is provided for her children.

12 4. Data collection, including the pregnancy risk assessment and monitoring
13 system, fetal and infant mortality review, vital statistics information, information
14 from Medical Assistance data and chart reviews, and an assessment of nonmedical
15 factors that may contribute to poor birth outcomes.

16 5. Full reimbursement for evidence-based group prenatal care, such as a
17 multifaceted model of care that integrates health assessment, education, and
18 support into a unified program within a group setting.

19 6. Mental health services.

20 7. Smoking cessation services.

21 8. Initiatives to increase the utilization of public health and other health care
22 providers with similar racial and socioeconomic backgrounds as the pregnant women
23 and families served by the health care provider.

24 9. Coordinators to create social care plans for Medical Assistance recipients,
25 to provide information and assistance regarding all programs that may impact

ASSEMBLY BILL 852

1 low-income pregnant women, including programs regarding rental assistance, the
2 earned income tax credit, available child care services for a pregnant woman's other
3 children, and to provide breastfeeding support.

4 10. Demonstration projects developed by the department to evaluate the
5 effectiveness of evidence-based programs designed to serve underserved
6 populations.

7 11. One or more initiatives, developed by the department, to increase the
8 utilization of nurse-midwives licensed under s. 441.15 (3) and labor coaches or other
9 nonmedical individuals who assist women before, during, or after childbirth in the
10 delivery of care to underserved populations and to evaluate the outcomes of that care.

11 12. The establishment of freestanding birth centers.

12 13. Extension of the prenatal care coordination services that are available as
13 a Medical Assistance benefit from the beginning of pregnancy to the first day of the
14 13th month after delivery and specifying that prenatal care coordination services are
15 available to recipients' babies during that time period.

16 14. Expansion and full reimbursement of evidence-based, home-based
17 prenatal care coordination services.

18 15. Full reimbursement for home visits made by registered nurses who are
19 public health nurses or who meet the qualifications of a public health nurse as
20 specified in s. 250.06 (1), by social workers as defined in s. 252.15 (1) (er),
21 nurse-midwives licensed under s. 441.15 (3), and by persons who receive the training
22 established under s. 38.04 (33).

23 16. Reimbursement of care provided through telehealth visits on the same
24 basis that reimbursement is provided for in-person visits.

ASSEMBLY BILL 852

1 17. Reimbursement of the costs of providing banked human donor milk to
2 newborns when medically indicated.

3 (c) The department shall evaluate the programs and services implemented
4 under the waiver under par. (a) and develop a plan to implement the effective
5 programs and services statewide.

6 (d) The department shall consider prohibiting reimbursement under Medical
7 Assistance for elective induction of labor or cesarean sections if either procedure is
8 performed before 39 weeks gestation, unless medically indicated.

9 **SECTION 26.** 49.815 of the statutes is created to read:

10 **49.815 Statewide data management and information system. (1)** The
11 department of health services shall do all of the following:

12 (a) Expand the department's electronic application and information system
13 that enables an individual to determine his or her eligibility for, and to apply for or
14 renew, benefits under the Medical Assistance program or other public assistance
15 benefits. The system shall include information regarding all programs designed to
16 assist low-income individuals, including housing assistance, rental assistance, and
17 temporary child care assistance.

18 (b) Develop and implement a statewide electronic data management and
19 information system for public assistance programs that does all of the following:

20 1. Determines an individual's eligibility for multiple public assistance
21 programs by means of a single registration or application.

22 2. Allows administrators of public assistance programs to access data related
23 to an individual that was previously collected in connection with a different public
24 assistance program.

ASSEMBLY BILL 852

1 3. Provides a single, automated care plan for an individual that identifies a
2 comprehensive array of service activities needed to address the individual's assessed
3 risks.

4 4. Provides a scheduling or referral system that matches an individual's service
5 needs with available health care, public assistance, or economic assistance
6 providers.

7 **(2)** The department of health services shall develop a detailed plan to
8 implement an expanded system under sub. (1) (a) no later than 12 months after the
9 effective date of this subsection [LRB inserts date]. The plan shall contain cost
10 estimates and a proposed timeline for implementation.

11 **(3)** The department of health services shall collaborate with appropriate state
12 agencies to expand the system under sub. (1) (a) and to develop and implement the
13 system under sub. (1) (b). State agencies shall cooperate with the department of
14 health services on these projects.

15 **SECTION 27.** 50.36 (2m) of the statutes is created to read:

16 50.36 **(2m)** The department shall promulgate rules that require hospitals to
17 ensure that best practices for postpartum patients and newborns are supported in
18 hospitals, including rules that do all of the following:

19 (a) Require hospitals to develop, for each postpartum patient, an appropriate
20 discharge plan that does all of the following:

21 1. Ensures that, to the extent practicable and in accordance with the
22 recommendations established by the American Academy of Pediatrics, an
23 appointment with a health care provider has been scheduled for the newborn within
24 an appropriate time after discharge to address the nutritional and health needs of
25 the newborn.

ASSEMBLY BILL 852

1 2. Ensures that the postpartum patient is consulted and provided with
2 assistance regarding health care resources available to her newborn and regarding
3 the safe transportation of her newborn.

4 (b) Require that education is provided, orally and in person, to each postpartum
5 patient prior to discharge on all of the following:

6 1. Newborn care, including safe sleeping arrangements.

7 2. Methods to access breastfeeding information and support, including reliable
8 information on Internet sites.

9 3. Car seat safety.

10 (c) Require that health care providers, including physicians, do all of the
11 following orally and in person:

12 1. Recommend and actively support breastfeeding for all newborns for whom
13 breastfeeding is not medically contraindicated.

14 2. Provide parents with complete, up-to-date information to ensure that
15 feeding decisions are fully informed.

16 3. Provide, upon a parent's request, referrals to lactation specialists or public
17 health nurses for home visits.

18 **SECTION 28.** 69.02 (2) (c) of the statutes is created to read:

19 69.02 (2) (c) The department shall promulgate rules establishing designations
20 of race and ethnicity to be used in reporting the race and ethnicity of a registrant
21 under s. 69.14 (1) (i). The designations shall be sufficiently detailed to enable
22 compilation and analysis of data related to births and birth outcomes among all
23 significant racial and ethnic populations in the state and to assist in the design and
24 evaluation of programs and policies designed to improve birth outcomes. The rules
25 shall establish procedures designed to ensure that the racial and ethnic designations

ASSEMBLY BILL 852

1 included on each certificate of birth accurately reflect the race and ethnicity of the
2 registrant as directly reported by the registrant's mother.

3 **SECTION 29.** 69.14 (1) (i) of the statutes is created to read:

4 69.14 (1) (i) *Registrant's race.* A certificate of birth shall include the race and
5 ethnicity of the registrant, as reported by the mother of the registrant.

6 **SECTION 30.** 71.07 (9e) (aj) (intro.) of the statutes is amended to read:

7 71.07 (9e) (aj) (intro.) For taxable years beginning after December 31, 2010,
8 and subject to par. (h), an individual may credit against the tax imposed under s.
9 71.02 an amount equal to one of the following percentages of the federal basic earned
10 income credit for which the person is eligible for the taxable year under section 32
11 (b) (1) (A) to (C) of the Internal Revenue Code:

12 **SECTION 31.** 71.07 (9e) (h) of the statutes is created to read:

13 71.07 (9e) (h) Notwithstanding the limitations in par. (aj), a person may claim
14 the credit under par. (aj) even if, with regard to the child about whom the claim is
15 made, the child does not have the same principal place of abode as the person
16 claiming the credit and even if another person claims the credit under section 32 (b)
17 (1) (A) to (C) of the Internal Revenue Code and under par. (aj) for that child, if all of
18 the following apply:

19 1. The claimant is subject to and in compliance with a child support order under
20 s. 767.511 with respect to that child.

21 2. The claimant meets the definition of parent under s. 48.02 (13) with respect
22 to that child.

23 **SECTION 32.** 253.15 (2) of the statutes is amended to read:

24 253.15 (2) INFORMATIONAL MATERIALS. The board shall purchase or prepare or
25 arrange with a nonprofit organization to prepare printed and audiovisual materials

ASSEMBLY BILL 852

1 relating to shaken baby syndrome and impacted babies. The materials shall include
2 information regarding the identification and prevention of shaken baby syndrome
3 and impacted babies, the grave effects of shaking or throwing on an infant or young
4 child, appropriate ways to manage crying, fussing, or other causes that can lead a
5 person to shake or throw an infant or young child, and a discussion of ways to reduce
6 the risks that can lead a person to shake or throw an infant or young child. The
7 materials shall be prepared in English, Spanish, and other languages spoken by a
8 significant number of state residents, as determined by the board. The board shall
9 make those written and audiovisual materials available to all hospitals, maternity
10 homes, and nurse-midwives licensed under s. 441.15 that are required to provide or
11 make available materials to parents under sub. (3) (a) 1., to the department and to
12 all county departments and nonprofit organizations that are required to provide the
13 materials to child care providers under sub. (4) (d), and to all school boards and
14 nonprofit organizations that are permitted to provide the materials to pupils in one
15 of grades 5 to 8 and in one of grades 10 to 12 under sub. (5). The board shall also make
16 those written materials available to all county departments and Indian tribes that
17 are providing evidence-based home visitation services under s. 48.983 (4) (b) 1. and
18 to all providers of prenatal, postpartum, and young child care coordination services
19 under s. 49.45 (44). The board may make available the materials required under this
20 subsection to be made available by making those materials available at no charge on
21 the board's Internet site.

22 **SECTION 33.** 253.15 (6) of the statutes is amended to read:

23 253.15 (6) INFORMATION TO HOME VISITATION OR CARE COORDINATION SERVICES
24 RECIPIENTS. A county department or Indian tribe that is providing evidence-based
25 home visitation services under s. 48.983 (4) (b) 1. and a provider of prenatal,

ASSEMBLY BILL 852

1 postpartum, and young child care coordination services under s. 49.45 (44) shall
2 provide to a recipient of those services, without cost, a copy of the written materials
3 purchased or prepared under sub. (2) and an oral explanation of those materials.

4 **SECTION 34.** 253.15 (7) (e) of the statutes is amended to read:

5 253.15 (7) (e) A county department or Indian tribe that is providing
6 evidence-based home visitation services under s. 48.983 (4) (b) 1. and a provider of
7 prenatal, postpartum, and young child care coordination services under s. 49.45 (44)
8 is immune from liability for any damages resulting from any good faith act or
9 omission in providing or failing to provide the written materials and oral explanation
10 specified in sub. (6).

11 **SECTION 35.** 253.162 of the statutes is created to read:

12 **253.162 Fetal and infant mortality and birth outcome report. (1)** In this
13 section:

14 (a) "Infant" means a child from birth to 12 months of age.

15 (b) "Low birth weight" means a birth weight that is more than 1,500 grams and
16 less than 2,500 grams.

17 (c) "Very low birth weight" means a birth weight of 1,500 grams or less.

18 (d) "Very premature birth" means a birth at less than 32 weeks gestation.

19 **(2)** (a) The department shall annually prepare a report relating to fetal and
20 infant mortality and birth outcomes in this state. The department shall include in
21 the report data related to births and birth outcomes in this state in the previous
22 calendar year and an analysis of that data. The department shall collaborate with
23 local health departments, tribes, and other interested parties to determine the data
24 and data analysis to be included in the report and the procedures by which the data
25 will be collected and reported to the department. The department shall ensure that

ASSEMBLY BILL 852

1 the report, to the greatest extent possible, includes data and analysis that are
2 necessary and useful for the development and evaluation of programs to address
3 disparities in birth outcomes among racial and ethnic groups in this state and shall
4 periodically consult with interested parties to review and update the data and
5 analysis to be included in the report, as is needed to ensure that this goal continues
6 to be met.

7 (b) The department shall include, at a minimum, all of the following
8 information in the report under par. (a):

- 9 1. The number and rate of infant deaths in each county.
- 10 2. The causes of infant deaths in each county.
- 11 3. The number and rate of very premature births in each county.
- 12 4. The number of low birth weight infants born in each county and the rate of
13 those births in each county.
- 14 5. The number of very low birth weight infants born in each county and the rate
15 of those births in each county.
- 16 6. The race or ethnicity of the infant provided on the birth or death certificate
17 for births or deaths identified in subds. 1., 3., 4., and 5.

18 (c) The department, in collaboration with the persons described under par. (a),
19 shall consider including in the report data related to the type of prenatal care, if any,
20 received by the mother of each infant whose birth data is included in the report.

21 (d) On June 30, 2017, and on every June 30 after that, the department shall
22 do all of the following:

- 23 1. Submit the report under par. (a) to the appropriate standing committees of
24 the legislature under s. 13.172 (3).
- 25 2. Post the report under par. (a) on its Internet site.

ASSEMBLY BILL 852

1 3. Post on its Internet site the raw data collected in the previous calendar year
2 for purposes of the annual report under par. (a). The data shall be presented in a
3 manner that does not disclose or enable the identification of any individual infant,
4 mother, or birth attendant.

5 **(3)** The department shall explore whether any of the costs of collecting the data
6 and creating the report under sub. (2) may be funded by the Medical Assistance
7 program.

8 **SECTION 36.** 253.18 of the statutes is created to read:

9 **253.18 Neonatal intensive care unit report. (1)** In this section, “neonatal
10 intensive care unit” means a hospital unit on which special equipment and skilled
11 medical personnel for the care of high-risk infants requiring immediate or
12 continuous attention are concentrated.

13 **(2)** (a) Beginning on July 1, 2016, the department shall collect all of the
14 following information from a hospital that has a neonatal intensive care unit:

- 15 1. The daily census of the neonatal intensive care unit.
- 16 2. The criteria for admission to the neonatal intensive care unit.

17 (b) On June 30, 2017, and on every June 30 after that, the department shall
18 annually prepare a report that includes all of the information in par. (a) from the
19 previous calendar year. The department shall make the report available to the public
20 and post the report on the department’s Internet site.

21 **SECTION 37.** 441.15 (1) (a) of the statutes is repealed.

22 **SECTION 38.** 441.15 (1) (am) of the statutes is created to read:

23 441.15 **(1)** (am) “Nurse-midwife” means a person licensed under this section
24 to engage in the practice of nurse-midwifery.

25 **SECTION 39.** 441.15 (1) (c) of the statutes is created to read:

ASSEMBLY BILL 852

1 441.15 (1) (c) “Qualified health care professional” means a health care
2 professional, as defined in s. 180.1901 (1m), who is performing services within his
3 or her scope of practice.

4 **SECTION 40.** 441.15 (2) (b) of the statutes is amended to read:

5 441.15 (2) (b) The practice occurs in a health care facility approved by the board
6 by rule under sub. (3) (c), ~~in collaboration with a physician with postgraduate~~
7 ~~training in obstetrics, and pursuant to a written agreement with that physieian.~~

8 **SECTION 41.** 441.15 (3) (c) of the statutes is amended to read:

9 441.15 (3) (c) The board shall promulgate rules necessary to administer this
10 section, including the establishment of appropriate limitations on the scope of the
11 practice of nurse-midwifery, the facilities in which such practice may occur, the
12 definition of “elective” for purposes of the prohibition in sub. (4m), and the granting
13 of temporary permits to practice nurse-midwifery pending qualification for
14 certification.

15 **SECTION 42.** 441.15 (4) of the statutes is amended to read:

16 441.15 (4) A nurse-midwife who discovers evidence that any aspect of care
17 involves any complication which jeopardizes the health or life of a newborn or mother
18 shall consult with ~~the collaborating physician under sub. (2) (b) or the physician’s~~
19 ~~designee, or make a referral as specified in a written agreement under sub. (2) (b) or~~
20 make a referral to a qualified health care professional.

21 **SECTION 43.** 441.15 (4m) of the statutes is created to read:

22 441.15 (4m) No nurse-midwife may perform an elective procedure intended
23 to induce labor in a pregnant woman before the completion of a gestational period
24 of 39 weeks unless the nurse-midwife has first obtained the informed consent of the
25 woman. A woman’s consent is informed for purposes of this subsection only if she

ASSEMBLY BILL 852

1 receives timely information orally and in person from the nurse-midwife regarding
2 potential negative effects to the fetus of early delivery, including long-term learning
3 and behavioral problems.

4 **SECTION 44.** 448.02 (3) (a) of the statutes is amended to read:

5 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct
6 and negligence in treatment by persons holding a license, certificate, or limited
7 permit granted by the board. An allegation that a physician has violated s. 253.10
8 (3), 448.30, 448.35, or 450.13 (2); or has failed to mail or present a medical
9 certification required under s. 69.18 (2) within 21 days after the pronouncement of
10 death of the person who is the subject of the required certificate; or that a physician
11 has failed at least 6 times within a 6-month period to mail or present a medical
12 certificate required under s. 69.18 (2) within 6 days after the pronouncement of death
13 of the person who is the subject of the required certificate is an allegation of
14 unprofessional conduct. Information contained in reports filed with the board under
15 s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17, or 632.715, or under 42 CFR 1001.2005, shall
16 be investigated by the board. Information contained in a report filed with the board
17 under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of
18 negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the
19 discretion of the board, be used as the basis of an investigation of a person named in
20 the report. The board may require a person holding a license, certificate, or limited
21 permit to undergo, and may consider the results of, one or more physical, mental, or
22 professional competency examinations if the board believes that the results of any
23 such examinations may be useful to the board in conducting its investigation.

24 **SECTION 45.** 448.02 (3) (a) of the statutes, as affected by 2013 Wisconsin Act 240
25 and 2015 Wisconsin Act (this act), is repealed and recreated to read:

ASSEMBLY BILL 852

1 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct
2 and negligence in treatment by persons holding a license or certificate granted by the
3 board. An allegation that a physician has violated s. 253.10 (3), 448.30, 448.35, or
4 450.13 (2); or has failed to mail or present a medical certification required under s.
5 69.18 (2) within 21 days after the pronouncement of death of the person who is the
6 subject of the required certificate; or that a physician has failed at least 6 times
7 within a 6-month period to mail or present a medical certificate required under s.
8 69.18 (2) within 6 days after the pronouncement of death of the person who is the
9 subject of the required certificate is an allegation of unprofessional conduct.
10 Information contained in reports filed with the board under s. 49.45 (2) (a) 12r., 50.36
11 (3) (b), 609.17, or 632.715, or under 42 CFR 1001.2005, shall be investigated by the
12 board. Information contained in a report filed with the board under s. 655.045 (1),
13 as created by 1985 Wisconsin Act 29, which is not a finding of negligence or in a report
14 filed with the board under s. 50.36 (3) (c) may, within the discretion of the board, be
15 used as the basis of an investigation of a person named in the report. The board may
16 require a person holding a license or certificate to undergo, and may consider the
17 results of, one or more physical, mental, or professional competency examinations if
18 the board believes that the results of any such examinations may be useful to the
19 board in conducting its investigation.

20 **SECTION 46.** 448.35 of the statutes is created to read:

21 **448.35 Informed consent for certain elective procedures.** No physician
22 may perform an elective cesarean section on a pregnant woman, or an elective
23 procedure intended to induce labor in a pregnant woman, before the completion of
24 a gestational period of 39 weeks unless the physician has first obtained the informed
25 consent of the woman. A woman's consent is informed for purposes of this section

ASSEMBLY BILL 852

1 only if she receives timely information orally and in person from the physician
2 regarding potential negative effects to the fetus of early delivery, including
3 long-term learning and behavioral problems.

4 **SECTION 47.** 448.40 (2) (am) of the statutes is created to read:

5 448.40 (2) (am) Defining “elective” for purposes of s. 448.35 and implementing
6 s. 448.35.

7 **SECTION 48.** 619.04 (3) of the statutes is amended to read:

8 619.04 (3) The plan shall operate subject to the supervision and approval of a
9 board of governors consisting of 3 representatives of the insurance industry
10 appointed by and to serve at the pleasure of the commissioner, a person to be named
11 by the State Bar Association, a person to be named by the Wisconsin Academy of Trial
12 Lawyers, 2 persons to be named by the Wisconsin Medical Society, a person to be
13 named by the Wisconsin Hospital Association, the commissioner or a designated
14 representative employed by the office of the commissioner, and 4 public members at
15 least one of whom is named by the Wisconsin Nurses Association and at least 2 of
16 whom are not attorneys or physicians and are not professionally affiliated with any
17 hospital or insurance company, appointed by the governor for staggered 3-year
18 terms. The commissioner or the commissioner’s representative shall be the
19 chairperson of the board of governors. Board members shall be compensated at the
20 rate of \$50 per diem plus actual and necessary travel expenses.

21 **SECTION 49.** 655.001 (7t) of the statutes is renumbered 655.001 (7t) (a) and
22 amended to read:

23 655.001 (7t) (a) “~~Health~~ Except as provided in par. (b), “health care
24 practitioner” means a health care professional, as defined in s. 180.1901 (1m), who
25 is an employee of a health care provider described in s. 655.002 (1) (d), (e), (em), or

ASSEMBLY BILL 852

1 (f) and who has the authority to provide health care services that are not in
2 collaboration with a physician under s. 441.15 (2) (b) or under the direction and
3 supervision of a physician or nurse anesthetist.

4 **SECTION 50.** 655.001 (7t) (a) of the statutes, as affected by 2015 Wisconsin Act
5 (this act), is renumbered 655.001 (7t) and amended to read:

6 655.001 (7t) ~~Except as provided in par. (b), “health~~ “Health care practitioner”
7 means a health care professional, as defined in s. 180.1901 (1m), who is an employee
8 of a health care provider described in s. 655.002 (1) (d), (e), (em), or (f) and who has
9 the authority to provide health care services that are not under the direction and
10 supervision of a physician ~~or~~, nurse anesthetist, or nurse-midwife.

11 **SECTION 51.** 655.001 (7t) (b) of the statutes is created to read:

12 655.001 (7t) (b) “Health care practitioner” does not include a person licensed
13 to practice nurse-midwifery under s. 441.15.

14 **SECTION 52.** 655.001 (7t) (b) of the statutes, as created by 2015 Wisconsin Act
15 (this act), is repealed.

16 **SECTION 53.** 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 54.** 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 55.** 655.002 (1) (b) (intro.) of the statutes is amended to read:

24 655.002 (1) (b) (intro.) A physician ~~or~~, a nurse anesthetist, or a nurse-midwife
25 for whom Michigan is a principal place of practice, if all of the following apply:

ASSEMBLY BILL 852

1 **SECTION 56.** 655.002 (1) (b) 1. of the statutes is amended to read:

2 655.002 (1) (b) 1. The physician ~~or~~, nurse anesthetist, or nurse-midwife is a
3 resident of this state.

4 **SECTION 57.** 655.002 (1) (b) 2. of the statutes is amended to read:

5 655.002 (1) (b) 2. The physician ~~or~~, nurse anesthetist, or nurse-midwife
6 practices his or her profession in this state or in Michigan or a combination of both
7 more than 240 hours in a fiscal year.

8 **SECTION 58.** 655.002 (1) (b) 3. of the statutes is amended to read:

9 655.002 (1) (b) 3. The physician ~~or~~, nurse anesthetist, or nurse-midwife
10 performs more procedures in a Michigan hospital than in any other hospital. In this
11 subdivision, "Michigan hospital" means a hospital located in Michigan that is an
12 affiliate of a corporation organized under the laws of this state that maintains its
13 principal office and a hospital in this state.

14 **SECTION 59.** 655.002 (1) (c) of the statutes is amended to read:

15 655.002 (1) (c) A physician ~~or~~, nurse anesthetist, or nurse-midwife who is
16 exempt under s. 655.003 (1) or (3), or a nurse-midwife who is exempt under s.
17 655.003 (4), but who practices his or her profession outside the scope of the exemption
18 and who fulfills the requirements under par. (a) in relation to that practice outside
19 the scope of the exemption. For a physician ~~or a~~, nurse anesthetist, or
20 nurse-midwife who is subject to this chapter under this paragraph, this chapter
21 applies only to claims arising out of practice that is outside the scope of the exemption
22 under s. 655.003 (1) ~~or~~, (3), or (4).

23 **SECTION 60.** 655.002 (1) (d) of the statutes is amended to read:

24 655.002 (1) (d) A partnership comprised of physicians ~~or~~, nurse anesthetists,
25 or nurse-midwives and organized and operated in this state for the primary purpose

ASSEMBLY BILL 852

1 of providing the medical services of physicians ~~or~~, nurse anesthetists, or
2 nurse-midwives.

3 **SECTION 61.** 655.002 (1) (e) of the statutes is amended to read:

4 655.002 (1) (e) A corporation organized and operated in this state for the
5 primary purpose of providing the medical services of physicians ~~or~~, nurse
6 anesthetists, or nurse-midwives.

7 **SECTION 62.** 655.002 (1) (em) of the statutes is amended to read:

8 655.002 (1) (em) Any organization or enterprise not specified under par. (d) or
9 (e) that is organized and operated in this state for the primary purpose of providing
10 the medical services of physicians ~~or~~, nurse anesthetists, or nurse-midwives.

11 **SECTION 63.** 655.002 (2) (a) of the statutes is amended to read:

12 655.002 (2) (a) A physician ~~or~~, nurse anesthetist, or nurse-midwife for whom
13 this state is a principal place of practice but who practices his or her profession fewer
14 than 241 hours in a fiscal year, for a fiscal year, or a portion of a fiscal year, during
15 which he or she practices his or her profession.

16 **SECTION 64.** 655.002 (2) (b) of the statutes is amended to read:

17 655.002 (2) (b) Except as provided in sub. (1) (b), a physician ~~or~~, nurse
18 anesthetist, or nurse-midwife for whom this state is not a principal place of practice,
19 for a fiscal year, or a portion of a fiscal year, during which he or she practices his or
20 her profession in this state. For a health care provider who elects to be subject to this
21 chapter under this paragraph, this chapter applies only to claims arising out of
22 practice that is in this state and that is outside the scope of an exemption under s.
23 655.003 (1) ~~or~~, (3), or (4).

24 **SECTION 65.** 655.003 (1) of the statutes is amended to read:

ASSEMBLY BILL 852

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

5 **SECTION 66.** 655.003 (3) of the statutes is amended to read:

6 655.003 (3) Except for a physician ~~or~~, nurse anesthetist, or nurse-midwife who
7 meets the criteria under s. 146.89 (5) (a), a physician ~~or~~, a nurse anesthetist, or a
8 nurse-midwife who provides professional services under the conditions described in
9 s. 146.89 or 257.03 (1), with respect to those professional services provided by the
10 physician ~~or~~, nurse anesthetist, or nurse-midwife for which he or she is covered by
11 s. 165.25 and considered an agent of the department, as provided in s. 165.25 (6) (b).

12 **SECTION 67.** 655.003 (4) of the statutes is created to read:

13 655.003 (4) A nurse-midwife who is considered to be an employee of the federal
14 public health service under 42 USC 233 (g).

15 **SECTION 68.** 655.005 (2) (a) of the statutes is amended to read:

16 655.005 (2) (a) An employee of a health care provider if the employee is a
17 physician or a nurse anesthetist or is a health care practitioner who is providing
18 health care services that are not ~~in collaboration with a physician under s. 441.15 (2)~~
19 ~~(b) or~~ under the direction and supervision of a physician or nurse anesthetist.

20 **SECTION 69.** 655.005 (2) (a) of the statutes, as affected by 2015 Wisconsin Act
21 (this act), is amended to read:

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

ASSEMBLY BILL 852

1 **SECTION 70.** 655.005 (2) (b) of the statutes is amended to read:

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

11 **SECTION 71.** 655.23 (5m) of the statutes is amended to read:

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

15 **SECTION 72.** 655.27 (3) (a) 4. of the statutes is amended to read:

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

20 **SECTION 73.** 655.27 (3) (b) 2f. of the statutes is created to read:

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

ASSEMBLY BILL 852

1 **SECTION 74.** 655.27 (3) (b) 2m. of the statutes is amended to read:

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

9 **SECTION 75.** 655.275 (5) (b) 3. of the statutes is created to read:

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

12 **SECTION 76. Nonstatutory provisions.**

13 (1) EXPIRATION OF TERM OF MEMBER ON BOARD OF GOVERNORS. Notwithstanding
14 the length of terms specified for the members of the board of governors under section
15 619.04 (3) of the statutes, as affected by this act, the initial public member named
16 by the Wisconsin Nurses Association shall be appointed for a term expiring on May
17 1, 2017.

18 (2) NOTICE OF EFFECTIVE DATE OF RULE FOR FEES. The commissioner of insurance
19 shall promulgate a rule under section 655.27 (3) (b) of the statutes, as affected by this
20 act, that takes into account participation in the injured patients and families
21 compensation fund by nurse-midwives. When the rule has been promulgated and
22 is in effect, the commissioner of insurance shall publish a notice in the Wisconsin
23 Administrative Register that specifies the effective date of the rule.

24 **SECTION 77. Initial applicability.**

ASSEMBLY BILL 852

1 (1) The treatment of section 71.07 (9e) (h) of the statutes first applies to taxable
2 years beginning on January 1 of the year in which this subsection takes effect, except
3 that if this subsection takes effect on or after August 1 the treatment of section 71.07
4 (9e) (h) of the statutes first applies to taxable years beginning on January 1 of the
5 year following the year in which this subsection takes effect.

6 **SECTION 78. Effective dates.** This act takes effect on the day after publication,
7 except as follows:

8 (1) INJURED PATIENTS AND FAMILIES COMPENSATION FUND. The treatment of
9 sections 655.002 (1) (a), (b) (intro.) 1., 2., and 3., (c), (d), (e), and (em) and (2) (a) and
10 (b), 655.003 (1), (3), and (4), 655.005 (2) (a) (by SECTION 69) and (b), 655.23 (5m), and
11 655.275 (5) (b) 3. of the statutes, the repeal of section 655.001 (7t) (b) of the statutes,
12 and the renumbering and amendment of section 655.001 (7t) (a) of the statutes take
13 effect on the first day of the 3rd month beginning after the date published by the
14 commissioner of insurance in the Wisconsin Administrative Register under SECTION
15 76 (2) of this act.

16 (2) INFORMED CONSENT FOR ELECTIVE PROCEDURES. The repeal and recreation of
17 section 448.02 (3) (a) of the statutes takes effect on April 1, 2017.

18

(END)