



2009 SENATE BILL 451

January 7, 2010 – Introduced by Senators ROBSON and VINEHOUT, cosponsored by Representatives ROYS, SMITH, YOUNG, BERCEAU, PASCH, SINICKI, TURNER and VRUWINK. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1 **AN ACT to repeal** 441.15 (1) (a); **to renumber and amend** 655.001 (7t); **to**
2 **amend** 441.15 (2) (b), 441.15 (4) and 655.005 (2) (a); and **to create** 50.36 (3i),
3 441.15 (1) (c), 655.001 (7t) (b) and 655.002 (2) (d) of the statutes; **relating to:**
4 hospital staff privileges for and written agreements required for
5 nurse-midwives and allowing nurse-midwives to elect to be covered under the
6 injured patients and families compensation fund.

Analysis by the Legislative Reference Bureau

Practice of nurse-midwifery

Under current law, to practice nurse-midwifery a licensed nurse-midwife must collaborate with and enter into a written agreement with a physician who has postgraduate training in obstetrics. If a person practicing nurse-midwifery discovers evidence of any aspect of care that jeopardizes the health or life of a newborn or mother, the nurse-midwife must either consult with the collaborating physician with whom the nurse-midwife has entered into a written agreement or make a referral as specified in the written agreement.

This bill eliminates the requirement that a licensed nurse-midwife collaborate with and enter into a written agreement with a physician. If a person practicing nurse-midwifery discovers evidence of any aspect of care that jeopardizes the health or life of a newborn or mother, a licensed nurse-midwife must consult with a

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qualified health care professional or make a referral. The bill defines a qualified health care professional as a health care practitioner who is performing services within his or her scope of practice. A health care practitioner is defined under current law to include an individual who is licensed, registered, or certified by the medical examining board, the board of nursing, and the pharmacy examining board.

Health care liability coverage

Under the health care liability statutes in current law, certain health care providers must carry health care liability insurance with specified limits and pay assessments to the injured patients and families compensation fund (fund). Certain other health care providers may elect to be subject to the health care liability statutes, including the insurance and assessment requirements. If a medical malpractice claim is made against a health care provider who is subject to the health care liability statutes, or against an employee of such a health care provider, the portion of the claim that exceeds the limits of the provider's health care liability insurance is paid on behalf of the provider or provider's employee by the fund. However, certain employees, called health care practitioners, who are providing services not in collaboration with a physician or under the direction and supervision of a physician or nurse anesthetist, are not covered by the fund as employees in the event that a medical malpractice claim is made against them. Nurse-midwives are not required to provide services under the direction and supervision of a physician or nurse anesthetist and since, under the bill, they are no longer required to provide services in collaboration with a physician, they would not be covered by the fund as employees. Therefore, the bill modifies the definition of a health care practitioner to exclude nurse-midwives so that a nurse-midwife is covered by the fund, as under current law, if he or she is providing services as an employee of a health care provider who is subject to the health care liability statutes.

In addition, the bill authorizes nurse-midwives to elect to be subject to the health care liability statutes. If a nurse-midwife elects to be subject to those statutes, the nurse-midwife would be required to carry health care liability insurance with the specified limits, would be required to pay the assessments, and, even if not an employee of a health care provider subject to the health care liability statutes, would be covered by the fund for damages exceeding the limits of the insurance.

Hospital staff privileges

Under current law, only a physician, dentist, or podiatrist may admit a patient to a hospital. The bill provides that a hospital may grant to nurse-midwives who are covered under the fund any hospital staff privileges that the hospital must afford to persons who are licensed to practice medicine or podiatry, including hospital staff privileges to admit, treat, and discharge patients for whom nurse-midwives are qualified to provide care.

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

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1 **SECTION 1.** 50.36 (3i) of the statutes is created to read:

2 50.36 **(3i)** A hospital may grant a nurse-midwife licensed under s. 441.15 (3)
3 who is covered under the injured patients and families compensation fund under s.
4 655.27 any hospital staff privilege that a hospital must, under sub. (3) (a), afford to
5 persons licensed to practice medicine and surgery under subch. II of ch. 448 or to
6 practice podiatry under subch. IV of 448, including hospital staff privileges to admit,
7 treat, and discharge any patient for whom a nurse-midwife is qualified to provide
8 care.

9 **SECTION 2.** 441.15 (1) (a) of the statutes is repealed.

10 **SECTION 3.** 441.15 (1) (c) of the statutes is created to read:

11 441.15 **(1)** (c) “Qualified health care professional” means a health care
12 practitioner as defined in s. 180.1901 (1m) who is performing services within his or
13 her scope of practice.

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

15 441.15 **(2)** (b) The practice occurs in a health care facility approved by the board
16 by rule under sub. (3) (c), ~~in collaboration with a physician with postgraduate~~
17 ~~training in obstetrics, and pursuant to a written agreement with that physician.~~

18 **SECTION 5.** 441.15 (4) of the statutes is amended to read:

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

24 **SECTION 6.** 655.001 (7t) of the statutes is renumbered 655.001 (7t) (a) and
25 amended to read:

SENATE BILL 451**SECTION 6**

1 655.001 **(7t)** (a) ~~“Health~~ Except as provided in par. (b), “health care
 2 practitioner” means a health care professional, as defined in s. 180.1901 (1m), who
 3 is an employee of a health care provider described in s. 655.002 (1) (d), (e), (em), or
 4 (f) and who has the authority to provide health care services that are not in
 5 collaboration with a physician under s. 441.15 (2) (b) or under the direction and
 6 supervision of a physician or nurse anesthetist.

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

8 655.001 **(7t)** (b) “Health care practitioner” does not include a person licensed
 9 to practice nurse–midwifery under s. 441.15.

10 **SECTION 8.** 655.002 (2) (d) of the statutes is created to read:

11 655.002 **(2)** (d) A person licensed to practice nurse–midwifery under s. 441.15.

12 **SECTION 9.** 655.005 (2) (a) of the statutes is amended to read:

13 655.005 **(2)** (a) An employee of a health care provider if the employee is a
 14 physician or a nurse anesthetist or is a health care practitioner who is providing
 15 health care services that are not in collaboration with a physician under s. 441.15 **(2)**
 16 ~~(b)~~ or under the direction and supervision of a physician or nurse anesthetist.

17 **(END)**