



1997 ASSEMBLY BILL 855

March 2, 1998 - Introduced by Representatives URBAN, WASSERMAN, DUFF, MEYER, OWENS, SCHNEIDER and JENSEN, cosponsored by Senator ROESSLER. Referred to Committee on Health.

1 **AN ACT** *to renumber and amend* 448.03 (1); *to amend* 440.03 (5), 448.02 (1),
2 448.03 (2) (d), 448.07 (1) (a), 448.07 (1) (d), 448.08 (1) (a), 448.08 (2), 448.08 (4),
3 448.08 (5) (intro.), (a) 1., 2., 3., (b), (c) and (d), 448.10 (1), 448.13 (1), 450.10 (3)
4 (a) 5. and 908.03 (6m) (a); and *to create* 440.08 (2) (a) 47., 448.01 (2b), 448.01
5 (2e), 448.01 (9b), 448.03 (1) (b), 448.04 (1) (cm), 448.05 (2m) and 448.072 of the
6 statutes; **relating to:** licensing requirements for nonresident physician
7 consultants.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, a person may not practice medicine in this state unless he or she has been granted a physician license by the medical examining board (board). This prohibition does not apply to a person licensed to practice medicine in another state or country (nonresident physician) who provides an actual consultation with a physician licensed by the board.

This bill eliminates this exception and prohibits, with certain exceptions, a person from practicing nonresident physician consulting unless he or she has been granted a nonresident physician consultant license by the board. "Practice of nonresident physician consulting" is defined as the provision of a consultation for a fee by a nonresident physician to a physician licensed by the board regarding the diagnosis or treatment of a patient in this state. The bill's prohibition does not apply

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to a person who provides less than 12 consultations per year or who provides consultations regarding less than 10 patients per year. The prohibition also does not apply to a person whose practice of nonresident physician consulting accounts for less than 1% of the person's annual billings for practicing medicine.

The bill requires the board to grant a nonresident physician consultant license to a nonresident physician who submits proof to the board that he or she has in effect health care liability insurance or self-insurance in the same minimum amounts that apply to physicians licensed by the board. A person who is granted a nonresident physician consultant license must submit such proof to the board each year. In addition, in order to renew a nonresident physician consultant license, a person must submit proof to the board every 2 years that he or she has completed at least 30 hours of continuing education. Under current law, the same renewal requirement applies to physicians licensed by the board.

For further information see the *state* 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.** 440.03 (5) of the statutes is amended to read:

2 440.03 (5) The department may investigate allegations of negligence by
3 physicians or nonresident physician consultants licensed to practice medicine and
4 surgery under ch. 448.

5 **SECTION 2.** 440.08 (2) (a) 47. of the statutes is created to read:

6 440.08 (2) (a) 47. Nonresident physician consultant: November 1 of each
7 odd-numbered year; \$41.

8 **SECTION 3.** 448.01 (2b) of the statutes is created to read:

9 448.01 (2b) "Nonresident physician" means a person who is not a resident of
10 this state and who holds a license to practice medicine and surgery that is granted
11 by a licensing authority of another state, territory or country.

12 **SECTION 4.** 448.01 (2e) of the statutes is created to read:

13 448.01 (2e) "Nonresident physician consultant" means a person who holds a
14 license to practice nonresident physician consulting that is granted by the board.

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1 **SECTION 5.** 448.01 (9b) of the statutes is created to read:

2 448.01 **(9b)** "Practice of nonresident physician consulting" means the provision
3 of a consultation for a fee, as defined in s. 455.01 (3m), by a nonresident physician
4 to a physician regarding the diagnosis or treatment of a patient who is in this state.
5 "Practice of nonresident physician consulting" does not include directing or
6 supervising any person in, or delegating to any person, the practice of medicine and
7 surgery within this state.

8 **SECTION 6.** 448.02 (1) of the statutes is amended to read:

9 448.02 **(1)** LICENSE. The board may grant licenses, including various classes
10 of temporary licenses, to practice medicine and surgery ~~and to practice, nonresident~~
11 physician consulting or podiatric medicine and surgery.

12 **SECTION 7.** 448.03 (1) of the statutes is renumbered 448.03 (1) (a) and amended
13 to read:

14 448.03 **(1)** (a) No person may practice medicine and surgery, nonresident
15 physician consulting or podiatry, or attempt to do so or make a representation as
16 authorized to do so, without a license granted by the board.

17 **SECTION 8.** 448.03 (1) (b) of the statutes is created to read:

18 448.03 **(1)** (b) Notwithstanding par. (a), a person may practice nonresident
19 physician consulting without a license granted by the board if the person's practice
20 of nonresident physician consulting satisfies any of the following:

21 1. The person provides less than 12 consultations per year to physicians
22 regarding the diagnosis or treatment of patients in this state.

23 2. The person provides consultations to physicians regarding the diagnosis or
24 treatment of less than 10 patients per year who are in this state.

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1 3. The practice of nonresident physician consulting accounts for less than 1%
2 of the person's annual billings for the practice of medicine and surgery.

3 **SECTION 9.** 448.03 (2) (d) of the statutes is amended to read:

4 448.03 (2) (d) ~~Actual consultation or demonstration by licensed physicians or~~
5 ~~podiatrists or certified respiratory care practitioners of other states or countries, or~~
6 actual consultation by such podiatrists or respiratory care practitioners, with
7 licensed physicians or podiatrists or certified respiratory care practitioners of this
8 state.

9 **SECTION 10.** 448.04 (1) (cm) of the statutes is created to read:

10 448.04 (1) (cm) *License to practice nonresident physician consulting.* A person
11 holding a license to practice nonresident physician consulting may practice as
12 defined in s. 448.01 (9b). The board may, by rule, provide for various classes of
13 temporary licenses to practice nonresident physician consulting.

14 **SECTION 11.** 448.05 (2m) of the statutes is created to read:

15 448.05 (2m) **LICENSE TO PRACTICE NONRESIDENT PHYSICIAN CONSULTING.** An
16 applicant for any class of license to practice nonresident physician consulting shall
17 submit evidence satisfactory to the board that he or she holds a valid license to
18 practice medicine and surgery granted by a licensing authority of another state,
19 territory or country and has in effect health care liability insurance or self-insurance
20 in the amounts specified in s. 655.23 (4).

21 **SECTION 12.** 448.07 (1) (a) of the statutes is amended to read:

22 448.07 (1) (a) Every person licensed or certified under this chapter shall
23 register on or before November 1 of each odd-numbered year following issuance of
24 the license or certificate with the board in such manner as the board shall designate
25 and upon forms the board shall provide. The secretary of the board, on or before

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1 October 1 of each odd-numbered year, shall mail or cause to be mailed to every
2 person required to register a registration form. The board shall furnish to each
3 person registered under this section a certificate of registration, and, except for a
4 nonresident physician consultant, the person shall display the registration
5 certificate conspicuously in the office at all times. No person may exercise the rights
6 or privileges conferred by any license or certificate granted by the board unless
7 currently registered as required under this subsection.

8 **SECTION 13.** 448.07 (1) (d) of the statutes is amended to read:

9 448.07 (1) (d) No registration may be permitted by the secretary of the board
10 in the case of any physician, nonresident physician consultant, podiatrist,
11 occupational therapist or occupational therapy assistant who has failed to meet the
12 requirements of s. 448.13 or any person whose license, certificate or limited permit
13 has been suspended or revoked and the registration of any such person shall be
14 deemed automatically annulled upon receipt by the secretary of the board of a
15 verified report of such suspension or revocation, subject to the licensee's or
16 permittee's right of appeal. A person whose license, certificate or limited permit has
17 been suspended or revoked and subsequently restored shall be registered by the
18 board upon tendering a verified report of such restoration of the license, certificate
19 or limited permit, together with an application for registration and the registration
20 fee.

21 **SECTION 14.** 448.072 of the statutes is created to read:

22 **448.072 Nonresident physician consultants; insurance.** Each
23 nonresident physician consultant shall annually submit to the board evidence
24 satisfactory to the board that he or she has in effect health care liability insurance
25 or self-insurance in the amounts specified in s. 655.23 (4). The board may suspend,

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1 revoke or refuse to renew the license of a nonresident physician consultant who fails
2 to submit the evidence specified in this section.

3 **SECTION 15.** 448.08 (1) (a) of the statutes is amended to read:

4 448.08 (1) (a) "Hospital" means an institution providing 24-hour continuous
5 service to patients confined therein which is primarily engaged in providing facilities
6 for diagnostic and therapeutic services for the surgical and medical diagnosis,
7 treatment and care, of injured or sick persons, by or under the supervision of a
8 professional staff of physicians and surgeons, and which is not primarily a place of
9 rest for the aged, drug addicts or alcoholics, or a nursing home. Such hospitals may
10 charge patients directly for the services of their employe nurses, nonphysician
11 anesthetists, physical therapists and medical assistants other than physicians,
12 nonresident physician consultants or dentists, and may engage on a salary basis
13 interns and residents who are participating in an accredited training program under
14 the supervision of the medical staff, and persons with a temporary educational
15 certificate issued under s. 448.04 (1) (c).

16 **SECTION 16.** 448.08 (2) of the statutes is amended to read:

17 448.08 (2) SEPARATE BILLING REQUIRED. Any person licensed under this chapter
18 who renders any medical or surgical service or assistance whatever, or gives any
19 medical, surgical or any similar advice or assistance whatever to any patient,
20 physician, nonresident physician consultant or corporation, or to any other
21 institution or organization of any kind, including a hospital, for which a charge is
22 made to such patient receiving such service, advice or assistance, shall, except as
23 authorized by Title 18 or Title 19 of the federal social security act, render an
24 individual statement or account of the charges therefor directly to such patient,
25 distinct and separate from any statement or account by any physician, nonresident

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1 physician consultant or other person, who has rendered or who may render any
2 medical, surgical or any similar service whatever, or who has given or may give any
3 medical, surgical or similar advice or assistance to such patient, physician,
4 nonresident physician consultant, corporation, or to any other institution or
5 organization of any kind, including a hospital.

6 **SECTION 17.** 448.08 (4) of the statutes is amended to read:

7 448.08 (4) PROFESSIONAL PARTNERSHIPS AND CORPORATIONS PERMITTED.
8 Notwithstanding any other provision in this section, it is lawful for 2 or more
9 physicians or physician consultants or 2 or more podiatrists, who have entered into
10 a bona fide partnership for the practice of medicine or podiatry, to render a single bill
11 for such services in the name of such partnership; and it also is lawful for a service
12 corporation to render a single bill for services in the name of the corporation;
13 provided that each individual physician, physician consultant or podiatrist that
14 renders billed services and each individual licensed, registered or certified under
15 subch. III or IV of this chapter or ch. 446, 449, 450, 455, 457 or 459 that renders billed
16 services is individually identified as having rendered such services.

17 **SECTION 18.** 448.08 (5) (intro.), (a) 1., 2., 3., (b), (c) and (d) of the statutes are
18 amended to read:

19 448.08 (5) CONTRACT EXCEPTIONS; TERMS. (intro.) Notwithstanding any other
20 provision in this section, when a hospital and its medical staff or a medical education
21 and research organization and its medical staff consider that it is in the public
22 interest, a physician or nonresident physician consultant may contract with the
23 hospital or organization as an employe or to provide consultation services for
24 attending physicians as provided in this subsection.

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1 (a) 1. Require the physician or nonresident physician consultant to be a
2 member of or acceptable to and subject to the approval of the medical staff of the
3 hospital or medical education and research organization.

4 2. Permit the physician or nonresident physician consultant to exercise
5 professional judgment without supervision or interference by the hospital or medical
6 education and research organization.

7 3. Establish the remuneration of the physician or nonresident physician
8 consultant.

9 (b) If agreeable to the contracting parties, the hospital or medical education and
10 research organization may charge the patient for services rendered by the physician
11 or nonresident physician consultant, but the statement to the patient shall indicate
12 that the services of the physician, who shall be designated by name, are included in
13 the departmental charges.

14 (c) No hospital or medical education and research organization may limit staff
15 membership to physicians or nonresident physician consultants employed under
16 this subsection.

17 (d) The responsibility of physician or nonresident physician consultant to
18 patient, particularly with respect to professional liability, shall not be altered by any
19 employment contract under this subsection.

20 **SECTION 19.** 448.10 (1) of the statutes is amended to read:

21 448.10 (1) OSTEOPATHY. Sections 448.02 (1), 448.03 (1) (a) and (3), 448.04 and
22 448.05 shall not be construed to abrogate the existing rights, privileges and
23 immunities of any person licensed to practice osteopathy and surgery, or osteopathy,
24 who does not hold license to practice medicine and surgery.

25 **SECTION 20.** 448.13 (1) of the statutes is amended to read:

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1 448.13 (1) Each physician and ~~each, nonresident physician consultant and~~
2 podiatrist shall, in each 2nd year at the time of application for a certificate of
3 registration under s. 448.07, submit proof of attendance at and completion of
4 continuing education programs or courses of study approved for at least 30 hours of
5 credit by the board within the 2 calendar years preceding the calendar year for which
6 the registration is effective. The board may waive this requirement if it finds that
7 exceptional circumstances such as prolonged illness, disability or other similar
8 circumstances have prevented a physician ~~or a, nonresident physician consultant or~~
9 podiatrist from meeting the requirement.

10 **SECTION 21.** 450.10 (3) (a) 5. of the statutes is amended to read:

11 450.10 (3) (a) 5. A physician, nonresident physician consultant, podiatrist or
12 physical therapist licensed or occupational therapist or occupational therapy
13 assistant certified under ch. 448.

14 **SECTION 22.** 908.03 (6m) (a) of the statutes is amended to read:

15 908.03 (6m) (a) *Definition.* In this subsection, “health care provider” means
16 a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a nonresident
17 physician consultant licensed under ch. 448, a physician assistant certified under ch.
18 448 or a health care provider as defined in s. 655.001 (8).

19 **SECTION 23. Nonstatutory provisions.**

20 (1) WAIVER OF CERTAIN CONTINUING EDUCATION REQUIREMENTS. Notwithstanding
21 sections 448.07 (1) (d) and 448.13 (1) of the statutes, as affected by this act, a
22 nonresident physician consultant who applies for a certificate of registration under
23 section 448.07 (1) (a) of the statutes, as affected by this act, on or before November
24 1, 1999, is not required to submit the proof specified in section 448.13 (1) of the
25 statutes, as affected by this act.

