

1993 Senate Bill 618

Date of enactment: **April 28, 1994**
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1993 WISCONSIN ACT 473

AN ACT to amend 180.1903 (1), 180.1911 (1), 180.1915, 180.1921 (2), 448.08 (4), 655.005 (2) and 655.23 (3) (a); to repeal and recreate 448.08 (4); and to create 180.1901 (1m), 180.1903 (3), 180.1903 (4), 655.001 (7t), 655.005 (2t) and 655.27 (3) (a) 4 of the statutes, relating to: health care professional service corporations and to employ coverage under the patients compensation fund.

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

SECTION 1. 180.1901 (1m) of the statutes is created to read:

180.1901 (1m) "Health care professional" means an individual who is licensed, registered or certified by any of the following:

- (a) Board of nursing under ch. 441.
- (b) Medical examining board under ch. 448.
- (c) Optometry examining board under ch. 449.
- (d) Pharmacy examining board under ch. 450.
- (e) Psychology examining board under ch. 455.
- (f) Examining board of social workers, marriage and family therapists and professional counselors under ch. 457.

SECTION 2. 180.1903 (1) of the statutes is amended to read:

180.1903 (1) One or more natural persons licensed, certified or registered pursuant to any provisions of the statutes, if all have the same license, certificate or registration or if all are health care professionals, may organize and own shares in a service corporation. A service corporation may own, operate and maintain an establishment and otherwise serve the convenience of its shareholders in carrying on the particular profession, calling or trade for which the licensure, certification or registration of its organizers is required.

SECTION 3. 180.1903 (3) of the statutes is created to read:

180.1903 (3) Liability may not accrue to a service corporation or its shareholders solely as a result of a decision to organize under sub. (1) or solely as a result of a decision to include or exclude a category of health care professionals as eligible to become shareholders of the service corporation.

SECTION 4. 180.1903 (4) of the statutes is created to read:

180.1903 (4) Each health care professional, other than a physician or nurse anesthetist, who is a shareholder of a service corporation and who has the authority to provide health care services that are not under the direction and supervision of a physician or nurse anesthetist shall carry malpractice insurance that provides coverage of not less than the amounts established under s. 655.23 (4).

SECTION 5. 180.1911 (1) of the statutes is amended to read:

180.1911 (1) ~~Each~~ Except as provided in s. 180.1913, each shareholder, director and officer of a service corporation must at all times be licensed, certified or registered by a state agency in the same field of endeavor, ~~except as provided in s. 180.1913~~ or be a health care professional. An individual who is not so licensed, certified or registered may not have any part in the ownership or control of the service corporation, except that the nonparticipant spouse of a married individual has the rights of ownership provided under ch. 766. A proxy to vote any shares of the service corporation may not be given to a person who is not so licensed, certified or registered.

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SECTION 6. 180.1915 of the statutes is amended to read:

180.1915 Contract and tort relationships preserved. Sections 180.1901 to 180.1921 do not alter any contract, tort or other legal relationship between a person receiving professional services and one or more persons who are licensed, certified or registered to render ~~the~~ those professional services and who are shareholders in the same service corporation. Any legal liability which may arise out of the professional service shall be joint and several among ~~the~~ those shareholders of the same service corporation. A shareholder, director, officer or employe of a service corporation is not personally liable for the debts or other contractual obligations of the service corporation. A service corporation may charge for the services of its directors, officers, employes or agents, may collect such charges and may compensate those who render such personal services.

SECTION 7. 180.1921 (2) of the statutes is amended to read:

180.1921 (2) The report shall show the name and post-office address of each shareholder, director and officer of the service corporation and shall certify that, with the exceptions permitted in s. 180.1913, each shareholder, director and officer is ~~duly~~ licensed, certified, registered or otherwise legally authorized to render the same professional or other personal service in this state or is a health care professional. The service corporation shall prepare the report on forms prescribed and furnished by the secretary of state, and the report shall contain no fiscal or other information except that expressly called for by this section. The secretary of state shall forward report blanks by 1st class mail to every service corporation in good standing, at least 60 days before the date on which the service corporation is required by this section to file an annual report.

SECTION 8. 448.08 (4) of the statutes is amended to read:

448.08 (4) PROFESSIONAL PARTNERSHIPS AND CORPORATIONS PERMITTED. Notwithstanding any other provision in this section, it is lawful for 2 or more physicians, 2 or more podiatrists or 2 or more physical therapists, who have entered into a bona fide partnership for the practice of medicine, podiatry or physical therapy, to render a single bill for such services in the name of such partnership; and it also is lawful for a service corporation ~~of physicians, podiatrists or physical therapists~~ to render a single bill for such services in the name of the corporation; provided that each individual physician, podiatrist or physical therapist ~~rendering that renders billed services so billed for shall be~~ and each individual licensed, registered or certified under ch. 449, 450, 455 or 457 that renders billed services is individually identified as having rendered such services.

SECTION 9. 448.08 (4) of the statutes, as affected by 1993 Wisconsin Acts 107 and (this act), is repealed and recreated to read:

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

SECTION 10. 655.001 (7t) of the statutes is created to read:

655.001 (7t) "Health care practitioner" means a health care professional, as defined in s. 180.1901 (1m), who is an employe of a health care provider described in s. 655.002 (1) (d), (e) or (f) and who has the authority to provide health care services that are not under the direction and supervision of a physician or nurse anesthetist.

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

655.005 (2) The fund shall provide coverage, under s. 655.27, for claims against the health care provider or the employe of the health care provider due to the acts or omissions of the employe acting within the scope of his or her employment and providing health care services. This subsection does not apply to an employe of a health care provider if the employe is a physician or a nurse anesthetist or is a health care practitioner who is not providing health care services under the direction and supervision of a physician or nurse anesthetist.

SECTION 12. 655.005 (2t) of the statutes is created to read:

655.005 (2t) Subsection (2) does not affect the liability of a health care provider described in s. 655.002 (1) (d), (e) or (f) for the acts of its employes.

SECTION 13. 655.23 (3) (a) of the statutes is amended to read:

655.23 (3) (a) Except as provided in par. (d), every health care provider either shall insure and keep insured the health care provider's liability by a policy of health care liability insurance issued by an insurer authorized to do business in this state or shall qualify as a self-insurer. Qualification as a self-insurer is subject to conditions established by the commissioner and is valid only when approved by the commissioner. The commissioner may establish conditions that permit a self-insurer to self-insure for claims that are against employes who are health care practitioners and that are not covered by the fund.

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

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

SECTION 15. Initial applicability. The treatment of section 655.27 (3) (a) 4. of the statutes first applies to fees set for fiscal years beginning after June 30, 1995.

SECTION 16. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The repeal and recreation of section 448.08 (4) of the statutes takes effect on July 1, 1994.