



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-0497/P3  
MED&KRP:ah&wlj

DOA:.....Potts, BB0058 - DSPS forfeiture authority

**FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT ...; relating to:** the budget.

---

*Analysis by the Legislative Reference Bureau*

**SAFETY AND PROFESSIONAL SERVICES**

**PROFESSIONAL LICENSURE**

Under current law, DSPS and various credentialing boards in DSPS have the authority to discipline credential holders that are credentialed by DSPS or a credentialing board. This bill allows DSPS and various credentialing boards in DSPS that do not otherwise currently have the authority to assess administrative forfeitures against credential holders to, in addition to or in lieu of any disciplinary action imposed against a credential holder, assess a forfeiture of not more than \$1,000 for each separate offense against a person who commits a violation that is grounds for professional discipline if the violation presents a serious risk to public health or public safety. The bill provides that each day of continued violation constitutes a separate offense.

Also under current law, DSPS, which regulates barbers, and the Cosmetology Examining Board, which regulates cosmetologists and other related professionals, may, in addition to or in lieu of certain disciplinary actions for certain specified violations, assess a forfeiture of not more than \$1,000 for each violation, with each day of continued violation constituting a separate offense. This bill limits the circumstances under which such forfeitures may be assessed to when the violation presents a serious risk to public health or public safety.

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:*

**SECTION 1.** 101.02 (25) of the statutes is created to read:

101.02 (25) (a) In this subsection, “occupational license” means a license, permit, certificate, registration, or other approval issued by the department under this chapter or ch. 145 or s. 167.10 (6m), or under rules promulgated under this chapter or ch. 145 or s. 167.10 (6m), for an occupation, trade, or profession.

(b) The department may, in addition to or in lieu of any disciplinary action with respect to an occupational license, assess a forfeiture of not more than \$1,000 for each separate offense against a person who holds the occupational license and who violates any provision of this chapter or ch. 145 or s. 167.10 (6m), or any rule promulgated under this chapter or ch. 145 or s. 167.10 (6m), related to the occupational license if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

(c) The department shall promulgate rules specifying the procedures governing the assessment of forfeitures under par. (b).

(d) The department shall remit all forfeitures paid under par. (b) to the secretary of administration for deposit in the school fund.

**SECTION 2.** 440.03 (14) (em) of the statutes is created to read:

440.03 (14) (em) The department may, in addition to or in lieu of any disciplinary action under par. (e), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates this subsection or any rule

promulgated under par. (d) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 3.** 440.26 (6) (am) of the statutes is created to read:

440.26 **(6)** (am) The department may, in addition to or in lieu of any disciplinary action under par. (a), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates par. (a) 1. to 5. if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 4.** 440.316 (2m) of the statutes is created to read:

440.316 **(2m)** The department may, in addition to or in lieu of any disciplinary action under sub. (2), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (2) (a) to (i) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 5.** 440.88 (6) of the statutes is amended to read:

440.88 **(6)** ~~REVOCATION, DENIAL, SUSPENSION, OR LIMITATION OF CERTIFICATION~~  
DISCIPLINARY PROCEEDINGS AND ACTIONS. The department may, after a hearing held in conformity with ch. 227, revoke, deny, suspend, or limit under this subchapter the certification of any substance abuse counselor, clinical supervisor, or prevention specialist or reprimand the substance abuse counselor, clinical supervisor, or prevention specialist, for practice of fraud or deceit in obtaining the certification or any unprofessional conduct, incompetence, or professional negligence. The department may also, in addition to or in lieu of any such disciplinary action, assess a forfeiture of not more than \$1,000 for each separate instance of fraud or deceit in obtaining the certification or unprofessional conduct, incompetence, or professional

negligence, if the violation presents a serious risk to public health or public safety.

Each day of continued violation constitutes a separate offense.

**SECTION 6.** 440.93 (1m) of the statutes is created to read:

440.93 **(1m)** The board may, in addition to or in lieu of any disciplinary action under sub. (1), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (1) (a) to (g) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 7.** 440.968 (1m) of the statutes is created to read:

440.968 **(1m)** The department may, in addition to or in lieu of any disciplinary action under sub. (1), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (1) (a) to (d) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 8.** 440.986 (2m) of the statutes is created to read:

440.986 **(2m)** The department may, in addition to or in lieu of any disciplinary action under sub. (2), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (2) (a) to (h) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 9.** 441.07 (1i) of the statutes is created to read:

441.07 **(1i)** The board may, in addition to or in lieu of any disciplinary action under sub. (1g), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (1g) (a) to (f) if the violation presents a serious risk

to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 10.** 442.12 (1) (bm) of the statutes is created to read:

442.12 (1) (bm) In addition to or in lieu of action under par. (b), assess a forfeiture of not more than \$1,000 for each separate offense against the holder of a license or certificate under this chapter who violates this chapter or any duly promulgated standard or rule of practice or for any other sufficient cause if the action presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 11.** 443.132 of the statutes is created to read:

**443.132 Administrative forfeiture.** The appropriate section of the examining board may, in addition to or in lieu of any disciplinary action under s. 443.11, 443.12, or 443.13, assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates s. 443.11 (1) (a) to (f), 443.12 (1), or 443.13 (1) (a) to (e), if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 12.** 446.03 (title) of the statutes is repealed and recreated to read:

**446.03 (title) Disciplinary proceedings and actions.**

**SECTION 13.** 446.03 of the statutes is renumbered 446.03 (1m).

**SECTION 14.** 446.03 (2m) of the statutes is created to read:

446.03 (2m) The examining board may, in addition to or in lieu of any disciplinary action under sub. (1m), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (1m) (a) to (g) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 15.** 446.05 (1) of the statutes is amended to read:

446.05 (1) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings in regard to the conduct of any licensed chiropractor who, it has reason to believe, violated s. 446.02 or 446.03 (1m). The person complained against may proceed to review any action of the examining board under ch. 227.

**SECTION 16.** 446.05 (1m) of the statutes is amended to read:

446.05 (1m) (a) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings in regard to the conduct of any chiropractic radiological technician who, it has reason to believe, violated s. 446.025 or 446.03 (1m). The person complained against may proceed to review any action of the examining board under ch. 227.

(b) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings in regard to the conduct of any chiropractic technician who, it has reason to believe, violated s. 446.026 or 446.03 (1m). The person complained against may proceed to review any action of the examining board under ch. 227.

**SECTION 17.** 448.02 (3) (cg) of the statutes is created to read:

448.02 (3) (cg) Subject to par. (cm), the board may, in addition to or in lieu of any disciplinary action under par. (c), assess a forfeiture of not more than \$1,000 for each separate offense against a person who is guilty of unprofessional conduct or negligence in treatment if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 18.** 448.675 (1) (cg) of the statutes is created to read:

448.675 (1) (cg) The affiliated credentialing board may, in addition to or in lieu of any disciplinary action under par. (c), assess a forfeiture of not more than \$1,000 for each separate offense against a person who is guilty of unprofessional conduct or negligence in treatment if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 19.** 448.87 (3) of the statutes is created to read:

448.87 (3) The affiliated credentialing board may, in addition to or in lieu of any disciplinary action under sub. (2), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (2) (a) to (h) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 20.** 449.07 (title) of the statutes is repealed and recreated to read:

**449.07 (title) Disciplinary proceedings and actions.**

**SECTION 21.** 449.07 (2) of the statutes is created to read:

449.07 (2) The examining board may, in addition to or in lieu of any disciplinary action under sub. (1), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (1) (a) to (h) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 22.** 454.15 (3) of the statutes is amended to read:

454.15 (3) The examining board may, in addition to or in lieu of a reprimand or revocation, limitation, suspension or denial of a license or permit, assess a forfeiture of not more than \$1,000 for each separate offense against a person who has done any of the things under sub. (2) (a) to (i) ~~a forfeiture of not more than \$1,000~~

~~for each separate offense if the violation presents a serious risk to public health or public safety.~~ Each day of continued violation constitutes a separate offense.

**SECTION 23.** 454.29 (3) of the statutes is amended to read:

454.29 (3) The department may, in addition to or in lieu of a reprimand or revocation, limitation, suspension, or denial of a license or temporary permit, assess a forfeiture of not more than \$1,000 for each separate offense against a person who has done any of the things under sub. (2) (a) to (i) ~~a forfeiture of not more than \$1,000 for each separate offense if the violation presents a serious risk to public health or public safety.~~ Each day of continued violation constitutes a separate offense.

**SECTION 24.** 455.09 (title) of the statutes is repealed and recreated to read:

**455.09 (title) Disciplinary proceedings and actions.**

**SECTION 25.** 455.09 (1m) of the statutes is created to read:

455.09 (1m) The examining board may, in addition to or in lieu of any disciplinary action under sub. (1), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (1) (a) to (h) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 26.** 456.10 (title) of the statutes is repealed and recreated to read:

**456.10 (title) Disciplinary proceedings and actions.**

**SECTION 27.** 456.10 (3) of the statutes is created to read:

456.10 (3) The examining board may, in addition to or in lieu of any disciplinary action under sub. (2), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (1) (a) to (d) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.



**SECTION 28.** 457.26 (3) of the statutes is created to read:

457.26 (3) The appropriate section of the examining board may, in addition to or in lieu of any disciplinary action under sub. (2), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (2) (a) to (h) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 29.** 459.46 (2) of the statutes is created to read:

459.46 (2) The department may, in addition to or in lieu of any disciplinary action under sub. (1), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates this subchapter or any rule promulgated under this subchapter if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

\*\*\*\*NOTE: This is reconciled s. 459.46 (2). This SECTION has been affected by drafts with the following LRB numbers: -0497/P2 and -1397/P1.

**SECTION 30.** 462.07 (3) of the statutes is created to read:

462.07 (3) The board may, in addition to or in lieu of any disciplinary action under sub. (2), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (2) (a) to (f) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

**SECTION 31.** 464.09 (2m) of the statutes is created to read:

464.09 (2m) The examining board may, in addition to or in lieu of any disciplinary action under sub. (2), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (2) (a) to (h) if the violation

presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

\*\*\*\*NOTE: This is reconciled s. 464.09 (2m). This SECTION has been affected by drafts with the following LRB numbers: -0497/P2 and -1397/P1.

**SECTION 32.** 464.26 (3) of the statutes is created to read:

464.26 (3) The examining board may, in addition to or in lieu of any disciplinary action under sub. (2), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (2) (a) to (h) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

\*\*\*\*NOTE: This is reconciled s. 464.26 (3). This SECTION has been affected by drafts with the following LRB numbers: -0497/P2 and -1397/P1.

**SECTION 33.** 464.71 (2r) of the statutes is created to read:

464.71 (2r) The examining board may, in addition to or in lieu of any disciplinary action under sub. (2) or (2m), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (2) (a) to (j) or (2m) (a) or (b) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

\*\*\*\*NOTE: This is reconciled s. 464.71 (2r). This SECTION has been affected by drafts with the following LRB numbers: -0497/P2 and -1397/P1.

**SECTION 34.** 470.08 (2m) of the statutes is created to read:

470.08 (2m) The department may, in addition to or in lieu of any disciplinary action under sub. (2), assess a forfeiture of not more than \$1,000 for each separate offense against a person who violates sub. (2) (a) to (k) if the violation presents a serious risk to public health or public safety. Each day of continued violation constitutes a separate offense.

\*\*\*\*NOTE: This is reconciled s. 470.08 (2m). This SECTION has been affected by drafts with the following LRB numbers: -0497/P2 and -0249/P4.

**SECTION 9339. Initial applicability; Safety and Professional Services.**

(1) FORFEITURE AUTHORITY. The treatment of sections 101.02 (25), 440.03 (14) (em), 440.26 (6) (am), 440.316 (2m), 440.88 (6), 440.93 (1m), 440.968 (1m), 440.986 (2m), 441.07 (1i), 442.12 (1) (b), 443.132, 446.05 (1) and (1m), 448.02 (3) (cg), 448.675 (1) (cg), 448.87 (3), 449.07 (2), 454.15 (3), 454.29 (3), 455.09 (1m), 456.10 (3), 457.26 (3), 459.46 (2), 462.07 (3), 464.09 (2m), 464.26 (3), 464.71 (2r), and 470.08 (2m) of the statutes, the renumbering of section 446.03 of the statutes, and the creation of section 446.03 (2m) of the statutes first apply to a violation that occurs on the effective date of this subsection.

(END)