

State of Wisconsin



2009 Assembly Bill 877

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2009 WISCONSIN ACT 382

AN ACT *to renumber and amend* 448.015 (4), 448.02 (4) and 448.13 (1); *to amend* 448.04 (1) (c), 448.13 (1m), 448.40 (1) and 448.40 (2) (e); and *to create* 448.015 (4) (c), 448.115 and 448.13 (1) (a) 2. of the statutes; **relating to:** duties of physicians and of the Medical Examining Board and requiring the exercise of rule-making authority.

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

SECTION 1. 448.015 (4) of the statutes is renumbered 448.015 (4) (intro.) and amended to read:

448.015 (4) (intro.) "Unprofessional conduct" means those all of the following:

(a) Those acts or attempted acts of commission or omission defined as unprofessional conduct by the board under the authority delegated to the board by s. 15.08 (5) (b) and any.

(b) Any act by a physician or physician assistant in violation of ch. 450 or 961.

SECTION 2. 448.015 (4) (c) of the statutes is created to read:

448.015 (4) (c) Failure by a physician to report as required under s. 448.115.

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

448.02 (4) (a) The board may summarily suspend any license, certificate, or limited permit granted by the board for a period not to exceed 30 days pending hearing, when the board has in its possession evidence establishing probable cause to believe that the holder of the license, certificate, or limited permit has violated the provisions of this subchapter and that it is necessary to suspend the license, certificate, or limited permit immediately to pro-

tect the public health, safety, or welfare. The holder of the license, certificate, or limited permit shall be granted an opportunity to be heard during the determination of probable cause. The board chair and 2 board members designated by the chair or, if the board chair is not available, the board vice-chair and 2 board members designated by the vice-chair, shall exercise the authority granted by this paragraph to suspend summarily a license, certificate, or limited permit in the manner provided under par. (b).

(b) An order of summary suspension shall be served upon the holder of the license, certificate, or limited permit in the manner provided in s. 801.11 for service of summons. The order of summary suspension shall be effective upon service or upon actual notice of the summary suspension given to the holder of the license, certificate, or limited permit or to the attorney of the license, permit, or limited permit holder, whichever is sooner. A notice of hearing commencing a disciplinary proceeding shall be issued no more than 10 days following the issuance of the order of summary suspension. The board may designate any of its officers to exercise the authority granted by this subsection to suspend summarily a license, certificate or limited permit, but such suspension shall be for a period of time not to exceed 72 hours. If a license, certificate or limited permit has been summarily suspended by the board or any of its officers, the board

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

may, while the hearing is in progress, extend the initial 30-day period of suspension for an additional 30 days. If the holder of the license, certificate or limited permit has caused a delay in the hearing process, the board may subsequently suspend the license, certificate or limited permit from the time the hearing is commenced until a final decision is issued or may delegate such authority to the hearing examiner order of summary suspension remains in effect until the effective date of a final decision and order in the disciplinary proceeding against the holder or until the order of summary suspension is discontinued by the board following a hearing to show cause. The holder of the license, certificate, or limited permit shall have the right to request a hearing to show cause why the order of summary suspension should not be continued and the order of summary suspension shall notify the holder of the license, certificate, or limited permit of that right. If a hearing to show cause is requested by the holder of the license, certificate, or limited permit, the hearing shall be scheduled on a date within 20 days of receipt by the board of the request for the hearing to show cause.

SECTION 4. 448.04 (1) (c) of the statutes is amended to read:

448.04 (1) (c) *Temporary educational permit to practice medicine and surgery.* Application for a temporary educational permit to practice medicine and surgery may be made to the board by a person who meets the requirements of s. 448.05 (2). Such permit may be issued for a period not to exceed one year and may be renewed annually for not more than 4 years. Such permit shall entitle the holder to take postgraduate educational training in a facility approved by the board. The holder of such permit may, under the direction of a person licensed to practice medicine and surgery in this state, perform services requisite to the training authorized by this section. Acting under such direction, the holder of such permit shall also have the right to prescribe drugs ~~other than narcotics~~ and to sign any certificates, reports, or other papers for the use of public authorities which are required of or permitted to persons licensed to practice medicine and surgery. The holder of such permit shall confine training and practice to the facility in which the holder is taking the training. The purpose of this paragraph is solely to provide opportunities in this state for the postgraduate education of certain persons having training in medicine and surgery satisfactory to the board, without compliance with the licensure requirements of this subchapter. Nothing in this paragraph changes in any respect the requirements for licensure to practice medicine and surgery in this state. The violation of this paragraph by the holder of such permit shall constitute cause for the revocation of the permit. All holders of such permits shall be subject to such provisions of this subchapter as the board, by rule, determines are appropriate and to any penalties applicable to those with a temporary or regular license to practice

medicine and surgery. The board may require an applicant for licensure under this paragraph to appear before a member of the board for an interview and oral examination.

SECTION 5. 448.115 of the statutes is created to read:

448.115 Duty to report. (1) A physician who has reason to believe any of the following about another physician shall promptly submit a written report to the board that shall include facts relating to the conduct of the other physician:

(a) The other physician is engaging or has engaged in acts that constitute a pattern of unprofessional conduct.

(b) The other physician is engaging or has engaged in an act that creates an immediate or continuing danger to one or more patients or to the public.

(c) The other physician is or may be medically incompetent.

(d) The other physician is or may be mentally or physically unable safely to engage in the practice of medicine or surgery.

(2) No physician who reports to the board under sub. (1) may be held civilly or criminally liable or be found guilty of unprofessional conduct for reporting in good faith.

SECTION 6. 448.13 (1) of the statutes is renumbered 448.13 (1) (a) (intro.) and amended to read:

448.13 (1) (a) (intro.) ~~Each~~ Except as provided in par. (b), each physician shall, in each 2nd year at the time of application for a certificate of registration under s. 448.07, submit proof of attendance at and completion of ~~continuing~~ all of the following:

1. Continuing education programs or courses of study approved for at least 30 hours of credit by the board within the 2 calendar years preceding the calendar year for which the registration is effective.

(b) The board may waive ~~this requirement~~ any of the requirements under par. (a) if it finds that exceptional circumstances such as prolonged illness, disability or other similar circumstances have prevented a physician from meeting the ~~requirement~~ requirements.

SECTION 7. 448.13 (1) (a) 2. of the statutes is created to read:

448.13 (1) (a) 2. Professional development and maintenance of certification or performance improvement or continuing medical education programs or courses of study required by the board by rule under s. 448.40 (1) and completed within the 2 calendar years preceding the calendar year for which the registration is effective.

SECTION 8. 448.13 (1m) of the statutes is amended to read:

448.13 (1m) The board shall, on a random basis, verify the accuracy of proof submitted by physicians under sub. (1) (a) and may, at any time during the 2 calendar years specified in sub. (1) (a), require a physician to submit proof of any continuing education, professional development, and maintenance of certification or perfor-

mance improvement or continuing medical education programs or courses of study that he or she has attended and completed at that time during the 2 calendar years.

SECTION 9. 448.40 (1) of the statutes is amended to read:

448.40 (1) The board may promulgate rules to carry out the purposes of this subchapter, including rules requiring the completion of continuing education, professional development, and maintenance of certification or performance improvement or continuing medical education programs for renewal of a license to practice medicine and surgery.

SECTION 10. 448.40 (2) (e) of the statutes is amended to read:

448.40 (2) (e) Establishing the criteria for the substitution of uncompensated hours of professional assistance volunteered to the department of health services for some or all of the hours of continuing education credits required under s. 448.13 (1) (a) 1. for physicians specializing in psychiatry. The eligible substitution hours shall involve professional evaluation of community programs for the certification and recertification of community mental health programs, as defined in s. 51.01 (3n), by the department of health services.