

1993 Assembly Bill 172

Date of enactment: **December 13, 1993**
Date of publication*: **December 27, 1993**

1993 WISCONSIN ACT 107

AN ACT *to repeal* 15.407 (1) (a), 448.05 (4) and 448.10 (3); *to renumber* 15.01 (1), 448.01 (4) and 448.03 (2) (f); *to renumber and amend* 448.01 (3), 448.03 (2) (fm), 448.03 (3) (d) and 448.04 (1) (e); *to amend* 13.94 (4) (a) 1, 15.08 (1m) (b), 49.45 (2) (a) 12r, 49.45 (8) (a) 5, 49.495, 50.39 (3), 103.35, 111.32 (11), 440.01 (1) (b), 440.01 (2) (b), 440.01 (2) (d), 440.03 (1), 440.03 (1m), 440.03 (3), 440.03 (6), 440.035 (intro.), 440.035 (2), 440.035 (3), 440.04 (1), 440.04 (2), 440.04 (3), 440.04 (4), 440.04 (5) (intro.), 440.04 (5) (c), 440.042 (1), 440.042 (2), 440.045, 440.07 (2) (intro.), 440.08 (3) (b) and (4), 440.11 (2), 440.20 (1), 440.20 (3), 440.20 (4), 440.22 (1), 440.22 (2), 440.22 (3), 440.25, 448.02 (1), 448.03 (1), 448.03 (2) (c) and (d), 448.05 (1) (d), 448.08 (4), 609.17, 632.715, 655.45 (1), 655.465 (2) (c) 2, 940.22 (3) (b) 1, 940.22 (4) (a) and 940.22 (4) (b) 1; and *to create* 15.01 (1g), 15.085, 15.406, 440.03 (3m), subch. I (title) of ch. 448, subch. II (title) of ch. 448 and subch. III of ch. 448 of the statutes, **relating to:** the regulation of physical therapists by the department of regulation and licensing, abolishing the physical therapists examining council, creating a physical therapists affiliated credentialing board, granting rule-making authority and providing a penalty.

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

SECTION 1. 13.94 (4) (a) 1. of the statutes is amended to read:

13.94 (4) (a) 1. Every state department, board, examining board, affiliated credentialing board, commission, independent agency, council or office in the executive branch of state government; all bodies created by the legislature in the legislative or judicial branch of state government; any public body corporate and politic created by the legislature; every provider of medical assistance under ch. 49; vocational, technical and adult education district boards; development zones designated under s. 560.71; every county department under s. 51.42 or 51.437; every nonprofit corporation or cooperative to which moneys are specifically appropriated by state law; and every corporation, institution, association or other organization which receives more than 50% of its annual budget from appropriations made by state law, including subgrantee or subcontractor recipients of such funds.

SECTION 2. 15.01 (1) of the statutes is renumbered 15.01 (1r).

SECTION 3. 15.01 (1g) of the statutes is created to read:

15.01 (1g) “Affiliated credentialing board” means a part-time body that meets all of the following conditions:

(a) Is attached to an examining board to regulate a profession that does not practice independently of the profession regulated by the examining board or that practices in collaboration with the profession regulated by the examining board.

(b) With the advice of the examining board to which it is attached, sets standards of professional competence and conduct for the profession under the affiliated credentialing board’s supervision, reviews the qualifications of prospective new practitioners, grants credentials, takes disciplinary action against credential holders and performs other functions assigned to it by law.

SECTION 4. 15.08 (1m) (b) of the statutes, as affected by 1991 Wisconsin Act 160, is amended to read:

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15.08 (1m) (b) The public members of the chiropractic examining board, the dentistry examining board, the hearing and speech examining board, the medical examining board and its physical therapists examining council, podiatry examining council, occupational therapy examining council, respiratory care practitioners examining council and council on physician's assistants, the board of nursing, the nursing home administrator examining board, the veterinary examining board, the optometry examining board, the pharmacy examining board, the examining board of social workers, marriage and family therapists and professional counselors and the psychology examining board shall not be engaged in any profession or occupation concerned with the delivery of physical or mental health care.

SECTION 5. 15.085 of the statutes is created to read:

15.085 Affiliated credentialing boards. (1) SELECTION OF MEMBERS. All members of affiliated credentialing boards shall be residents of this state and shall, unless otherwise provided by law, be nominated by the governor, and with the advice and consent of the senate appointed. Appointments shall be for the terms provided by law. Terms shall expire on July 1. No member may serve more than 2 consecutive terms. No member of an affiliated credentialing board may be an officer, director or employe of a private organization which promotes or furthers the profession or occupation regulated by that board.

(1m) PUBLIC MEMBERS. (a) Public members appointed under s. 15.406 shall have all of the powers and duties of other members except that they shall not prepare questions for or grade any licensing examinations.

(am) Public members appointed under s. 15.406 shall not be, nor ever have been, licensed, certified, registered or engaged in any profession or occupation licensed or otherwise regulated by the affiliated credentialing board to which they are appointed, shall not be married to any person so licensed, certified, registered or engaged, and shall not employ, be employed by or be professionally associated with any person so licensed, certified, registered or engaged.

(b) The public members of the physical therapists affiliated credentialing board shall not be engaged in any profession or occupation concerned with the delivery of physical or mental health care.

(2) SELECTION OF OFFICERS. At its first meeting in each year, every affiliated credentialing board shall elect from among its members a chairperson, vice chairperson and, unless otherwise provided by law, a secretary. Any officer may be reelected to succeed himself or herself.

(3) FREQUENCY OF MEETINGS. (a) Every affiliated credentialing board shall meet annually and may meet at other times on the call of the chairperson or of a majority of its members.

(b) The chairperson of an affiliated credentialing board shall meet at least once every 6 months with the

examining board to which the affiliated credentialing board is attached to consider all matters of joint interest.

(4) QUORUM. (a) A majority of the membership of an affiliated credentialing board constitutes a quorum to do business, and a majority of a quorum may act in any matter within the jurisdiction of the affiliated credentialing board.

(b) Notwithstanding par. (a), no certificate or license which entitles the person certified or licensed to practice a trade or profession shall be suspended or revoked without the affirmative vote of two-thirds of the membership of the affiliated credentialing board.

(5) GENERAL POWERS. Each affiliated credentialing board:

(a) May compel the attendance of witnesses, administer oaths, take testimony and receive proof concerning all matters within its jurisdiction.

(b) Shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession. In addition to any other procedure under ch. 227 relating to the promulgation of rules, when promulgating a rule, other than an emergency rule under s. 227.24, an affiliated credentialing board shall do all of the following:

1. Submit the proposed rule to the examining board to which the affiliated credentialing board is attached. The proposed rule shall be submitted under this subdivision at least 60 days before the proposed rule is submitted to the legislative council staff under s. 227.15 (1).

2. Consider any comments on a proposed rule made by the examining board to which the affiliated credentialing board is attached, if the examining board submits the comments to the affiliated credentialing board within 30 days after a public hearing on the proposed rule under s. 227.18 or, if no hearing is held, within 30 days after the proposed rule is published under s. 227.16 (2) (e).

3. Include, in the report submitted to the legislature under s. 227.19 (2), any comments on the proposed rule submitted by the examining board under subd. 2 and the affiliated credentialing board's responses to those comments.

(c) May limit, suspend or revoke, or reprimand the holder of, any license, permit or certificate granted by the affiliated credentialing board.

(6) IMPROVEMENT OF THE PROFESSION. In addition to any other duties vested in it by law, each affiliated credentialing board shall foster the standards of education or training pertaining to its own trade or profession, not only in relation of the trade or profession to the interest of the individual or to organized business enterprise, but also in relation to government and to the general welfare. Each affiliated credentialing board shall endeavor, both within and outside its own trade or profession, to bring about a

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better understanding of the relationship of the particular trade or profession to the general welfare of this state.

(7) **COMPENSATION AND REIMBURSEMENT FOR EXPENSES.** Each member of an affiliated credentialing board shall, unless the member is a full-time salaried employe of this state, be paid a per diem of \$25 for each day on which the member was actually and necessarily engaged in the performance of affiliated credentialing board duties. Each member of an affiliated credentialing board shall be reimbursed for the actual and necessary expenses incurred in the performance of affiliated credentialing board duties.

(8) **OFFICIAL OATH.** Every member of an affiliated credentialing board shall take and file the official oath prior to assuming office.

(9) **ANNUAL REPORTS.** Every affiliated credentialing board shall submit to the head of the department in which it is created, upon request of that person not more often than annually, a report on the operation of the affiliated credentialing board.

(10) **SEAL.** Every affiliated credentialing board may adopt a seal.

SECTION 6. 15.406 of the statutes is created to read:

15.406 Same; attached affiliated credentialing boards. (1) **PHYSICAL THERAPISTS AFFILIATED CREDENTIALING BOARD.** There is created in the department of regulation and licensing, attached to the medical examining board, a physical therapists affiliated credentialing board consisting of the following members appointed for 4-year terms:

(a) Three physical therapists who are licensed under subch. III of ch. 448.

(b) One public member.

SECTION 7. 15.407 (1) (a) of the statutes is repealed.

SECTION 8. 49.45 (2) (a) 12r of the statutes is amended to read:

49.45 (2) (a) 12r. Notify the medical examining board, or any affiliated credentialing board attached to the medical examining board, of any decertification or suspension of a person holding a license granted by the board or the affiliated credentialing board if the grounds for the decertification or suspension include fraud or a quality of care issue.

SECTION 9. 49.45 (8) (a) 5. of the statutes is amended to read:

49.45 (8) (a) 5. "Physical therapist" has the meaning given in s. ~~448.01~~ 448.50 (3).

SECTION 10. 49.495 of the statutes is amended to read:

49.495 Jurisdiction of the department of justice. The department of justice or the district attorney may institute, manage, control and direct, in the proper county, any prosecution for violation of criminal laws affecting the medical assistance program including but not limited to laws relating to medical assistance contained in this chapter and laws affecting the health, safety

and welfare of recipients of medical assistance. For this purpose the department of justice shall have and exercise all powers conferred upon district attorneys in such cases. The department of justice or district attorney shall notify the medical examining board or the interested affiliated credentialing board of any such prosecution of a person holding a license granted by the board or affiliated credentialing board.

SECTION 11. 50.39 (3) of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

50.39 (3) Facilities governed by ss. 45.365, 48.62, 49.14, 49.171, 50.02, 51.09, 58.06, 252.073, 252.076 and 252.10, secured correctional facilities as defined in s. 48.02 (15m), correctional institutions governed by the department of corrections under s. 301.02 and the offices and clinics of persons licensed to treat the sick under chs. 446, 447 and 448 are exempt from ss. 50.32 to 50.39. Sections 50.32 to 50.39 do not abridge the rights of the medical examining board, physical therapists affiliated credentialing board, dentistry examining board, pharmacy examining board, chiropractic examining board and board of nursing in carrying out their statutory duties and responsibilities.

SECTION 12. 103.35 of the statutes is amended to read:

103.35 Information required for licensure. No state office, department, board, examining board, affiliated credentialing board, commission, council or independent agency in the executive branch, the legislature or the courts may, as a condition for receiving an occupational or professional certificate, license, permit or registration, require the submission of information by the applicant which is not essential for the determination of eligibility for the issuance or renewal of the certificate, license, permit or registration. Information which is not essential to determine eligibility for issuance or renewal may be requested but the applicant shall be notified in a prominent place on or accompanying the request that she or he is not required to provide such information.

SECTION 13. 111.32 (11) of the statutes is amended to read:

111.32 (11) "Licensing agency" means any board, commission, committee, department, examining board, affiliated credentialing board or officer, except a judicial officer, in the state or any city, village, town, county or local government authorized to grant, deny, renew, revoke, suspend, annul, withdraw or amend any license.

SECTION 14. 440.01 (1) (b) of the statutes is amended to read:

440.01 (1) (b) "Grant" means the substantive act of an examining board, section of an examining board, affiliated credentialing board or the department of approving the applicant for credentialing and the preparing, executing, signing or sealing of the credentialing.

SECTION 15. 440.01 (2) (b) of the statutes is amended to read:

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440.01 (2) (b) “Credentialing” means the acts of an examining board, section of an examining board, affiliated credentialing board or the department that relate to granting, issuing, denying, limiting, suspending or revoking a credential.

SECTION 16. 440.01 (2) (d) of the statutes is amended to read:

440.01 (2) (d) “Reciprocal credential” means a credential granted by an examining board, section of an examining board, affiliated credentialing board or the department to an applicant who holds a credential issued by a governmental authority in a jurisdiction outside this state authorizing or qualifying the applicant to perform acts that are substantially the same as those acts authorized by the credential granted by the examining board, section of the examining board, affiliated credentialing board or department.

SECTION 17. 440.03 (1) of the statutes is amended to read:

440.03 (1) The department may promulgate rules defining uniform procedures to be used by the department, the real estate board, the real estate appraisers board, and all examining boards and affiliated credentialing boards attached to the department or an examining board, for receiving, filing and investigating complaints, for commencing disciplinary proceedings and for conducting hearings.

SECTION 18. 440.03 (1m) of the statutes is amended to read:

440.03 (1m) The department may promulgate rules specifying the number of business days within which the department or any examining board or affiliated credentialing board in the department must review and make a determination on an application for a permit, as defined in s. 560.41 (2), that is issued under chs. 440 to 459.

SECTION 19. 440.03 (3) of the statutes is amended to read:

440.03 (3) If the secretary reorganizes the department, no modification may be made in the powers and responsibilities of the examining boards or affiliated credentialing boards attached to the department or an examining board under s. 15.405 or 15.406.

SECTION 20. 440.03 (3m) of the statutes is created to read:

440.03 (3m) The department may investigate complaints made against a person who has been issued a credential under chs. 440 to 459.

SECTION 21. 440.03 (6) of the statutes is amended to read:

440.03 (6) The department shall have access to any information contained in the reports filed with the medical examining board, an affiliated credentialing board attached to the medical examining board and the board of nursing under s. 655.045, as created by 1985 Wisconsin Act 29, and s. 655.26.

SECTION 22. 440.035 (intro.) of the statutes is amended to read:

440.035 (title) **General duties of examining boards and affiliated credentialing boards.** (intro.) Each examining board or affiliated credentialing board attached to the department or an examining board shall:

SECTION 23. 440.035 (2) of the statutes is amended to read:

440.035 (2) Be the supervising authority of all personnel, other than shared personnel, engaged in the review, investigation or handling of information regarding qualifications of applicants for credentials, examination questions and answers, accreditation, related investigations and disciplinary matters affecting persons who are credentialed by the examining board or affiliated credentialing board, or in the establishing of regulatory policy or the exercise of administrative discretion with regard to the qualifications or discipline of applicants or persons who are credentialed by the examining board, affiliated credentialing board or accreditation.

SECTION 24. 440.035 (3) of the statutes is amended to read:

440.035 (3) Maintain, in conjunction with their operations, in central locations designated by the department, all records ~~of the examining boards~~ pertaining to the functions independently retained by them.

SECTION 25. 440.04 (1) of the statutes is amended to read:

440.04 (1) Centralize, at the capital and in such district offices as the operations of the department and the attached examining boards and affiliated credentialing boards require, the routine housekeeping functions required by the department and, the examining boards and the affiliated credentialing boards.

SECTION 26. 440.04 (2) of the statutes is amended to read:

440.04 (2) Provide the bookkeeping, payroll, accounting and personnel advisory services required by the department and the legal services, except for representation in court proceedings and the preparation of formal legal opinions, required by the attached examining boards and affiliated credentialing boards.

SECTION 27. 440.04 (3) of the statutes is amended to read:

440.04 (3) Control the allocation, disbursement and budgeting of the funds received by the examining boards and affiliated credentialing boards in connection with their credentialing and regulation.

SECTION 28. 440.04 (4) of the statutes is amended to read:

440.04 (4) Employ, assign and reassign such staff as are required by the department and the attached examining boards and affiliated credentialing boards in the performance of their functions.

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SECTION 29. 440.04 (5) (intro.) of the statutes is amended to read:

440.04 (5) (intro.) With the advice of the examining boards or affiliated credentialing boards:

SECTION 30. 440.04 (5) (c) of the statutes is amended to read:

440.04 (5) (c) Provide such other services as the examining boards or affiliated credentialing boards request.

SECTION 31. 440.042 (1) of the statutes, as created by 1993 Wisconsin Act 16, is amended to read:

440.042 (1) The secretary may appoint persons or advisory committees to advise the department and the boards ~~and~~ examining boards and affiliated credentialing boards in the department on matters relating to the regulation of credential holders. A person or an advisory committee member appointed under this subsection shall serve without compensation, but may be reimbursed for his or her actual and necessary expenses incurred in the performance of his or her duties.

SECTION 32. 440.042 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

440.042 (2) Any person who in good faith testifies before the department or any examining board, affiliated credentialing board or board in the department or otherwise provides the department or any examining board, affiliated credentialing board or board in the department with advice or information on a matter relating to the regulation of a person holding a credential is immune from civil liability for his or her acts or omissions in testifying or otherwise providing such advice or information. The good faith of any person specified in this subsection shall be presumed in any civil action and an allegation that such a person has not acted in good faith must be proven by clear and convincing evidence.

SECTION 33. 440.045 of the statutes is amended to read:

440.045 Disputes. Any dispute between an examining board or an affiliated credentialing board and the secretary shall be arbitrated by the governor or the governor's designee after consultation with the disputants.

SECTION 34. 440.07 (2) (intro.) of the statutes is amended to read:

440.07 (2) (intro.) The department ~~or~~ examining board or affiliated credentialing board having authority to credential applicants may do any of the following:

SECTION 35. 440.08 (3) (b) and (4) of the statutes are amended to read:

440.08 (3) (b) The department or the interested examining board or affiliated credentialing board, as appropriate, may promulgate rules requiring the holder of a credential who fails to renew the credential within 5 years after its renewal date to complete requirements in order to restore the credential, in addition to the applicable requirements for renewal established under chs. 440 to 459, that the department ~~or~~ examining board or affili-

ated credentialing board determines is necessary to protect the public health, safety or welfare. The rules may not require the holder to complete educational requirements or pass examinations that are more extensive than the educational or examination requirements that must be completed in order to obtain an initial credential from the department ~~or~~ the examining board or the affiliated credentialing board.

(4) DENIAL OF CREDENTIAL RENEWAL. If the department or the interested examining board or affiliated credentialing board, as appropriate, determines that an applicant for renewal has failed to comply with sub. (2) (c) or (3) or with any other applicable requirement for renewal established under chs. 440 to 459 or that the denial of an application for renewal of a credential is necessary to protect the public health, safety or welfare, the department ~~or~~ examining board or affiliated credentialing board may summarily deny the application for renewal by mailing to the holder of the credential a notice of denial that includes a statement of the facts or conduct that warrant the denial and a notice that the holder may, within 30 days after the date on which the notice of denial is mailed, have the denial reviewed at a hearing before the department ~~or~~ examining board or affiliated credentialing board.

SECTION 36. 440.11 (2) of the statutes is amended to read:

440.11 (2) The department or any examining board, affiliated credentialing board or board in the department may serve any process, notice or demand on the holder of any credential by mailing it to the last-known address of the holder as indicated in the records of the department, examining board, affiliated credentialing board or board.

SECTION 37. 440.20 (1) of the statutes is amended to read:

440.20 (1) Any person may file a complaint before the department or any examining board, affiliated credentialing board or board in the department and request the department, examining board, affiliated credentialing board or board to commence disciplinary proceedings against any holder of a credential.

SECTION 38. 440.20 (3) of the statutes is amended to read:

440.20 (3) The burden of proof in disciplinary proceedings before the department or any examining board, affiliated credentialing board or board in the department is a preponderance of the evidence.

SECTION 39. 440.20 (4) of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

440.20 (4) In addition to any grounds for discipline specified in chs. 440 to 459, the department or appropriate examining board, affiliated credentialing board or board in the department may reprimand the holder of a credential or deny, limit, suspend or revoke the credential of any person who intentionally violates s. 252.14 (2) or

intentionally discloses the results of a blood test in violation of s. 252.15 (5) (a) or (5m).

SECTION 40. 440.22 (1) of the statutes is amended to read:

440.22 (1) In this section, “costs of the proceeding” means the compensation and reasonable expenses of hearing examiners and of prosecuting attorneys for the department ~~or, examining board or affiliated credentialing board,~~ a reasonable disbursement for the service of process or other papers, amounts actually paid out for certified copies of records in any public office, postage, telephoning, adverse examinations and depositions and copies, expert witness fees, witness fees and expenses, compensation and reasonable expenses of experts and investigators, and compensation and expenses of a reporter for recording and transcribing testimony.

SECTION 41. 440.22 (2) of the statutes is amended to read:

440.22 (2) In any disciplinary proceeding against a holder of a credential in which the department or an examining board, affiliated credentialing board or board in the department orders suspension, limitation or revocation of the credential or reprimands the holder, the department, examining board, affiliated credentialing board or board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the holder. Costs assessed under this subsection are payable to the department.

SECTION 42. 440.22 (3) of the statutes is amended to read:

440.22 (3) In addition to any other discipline imposed, if the department, examining board, affiliated credentialing board or board assesses costs of the proceeding to the holder of the credential under sub. (2), the department, examining board, affiliated credentialing board or board may not restore, renew or otherwise issue any credential to the holder until the holder has made payment to the department under sub. (2) in the full amount assessed.

SECTION 43. 440.25 of the statutes is amended to read:

440.25 Judicial review. The department may seek judicial review under ch. 227 of any final disciplinary decision of the medical examining board ~~or affiliated credentialing board attached to the medical examining board.~~ The department shall be represented in such review proceedings by an attorney within the department. Upon request of the medical examining board ~~or the interested affiliated credentialing board,~~ the attorney general may represent the board. If the attorney general declines to represent the board, the board may retain special counsel which shall be paid for out of the appropriation under s. 20.165 (1) (g).

SECTION 44. Subchapter I (title) of chapter 448 of the statutes is created to read:

CHAPTER 448

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SUBCHAPTER I

GENERAL PROVISIONS

SECTION 45. 448.01 (3) of the statutes is renumbered 448.50 (3) and amended to read:

448.50 (3) “Physical therapist” means an individual who has been graduated from a school of physical therapy; and ~~holding~~ holds a license to practice physical therapy granted by the affiliated credentialing board.

SECTION 46. 448.01 (4) of the statutes is renumbered 448.50 (4).

SECTION 47. Subchapter II (title) of chapter 448 of the statutes is created to read:

CHAPTER 448

SUBCHAPTER II

MEDICAL EXAMINING BOARD

SECTION 48. 448.02 (1) of the statutes is amended to read:

448.02 (1) LICENSE. The board may grant licenses, including various classes of temporary licenses, to practice medicine and surgery; and to practice podiatric medicine and surgery ~~and to practice physical therapy.~~

SECTION 49. 448.03 (1) of the statutes is amended to read:

448.03 (1) LICENSE REQUIRED TO PRACTICE. No person may practice medicine and surgery, ~~or~~ podiatry ~~or physical therapy,~~ or attempt to do so or make a representation as authorized to do so, without a license granted by the board.

SECTION 50. 448.03 (2) (c) and (d) of the statutes are amended to read:

448.03 (2) (c) The activities of a medical student, podiatry student, ~~physical therapy student,~~ respiratory care student or physician’s assistant student required for such student’s education and training; or the activities of a medical school graduate required for training as required in s. 448.05 (2).

(d) Actual consultation or demonstration by licensed physicians, ~~or~~ podiatrists ~~or physical therapists~~ or certified respiratory care practitioners of other states or countries with licensed physicians, ~~or~~ podiatrists ~~or physical therapists~~ or certified respiratory care practitioners of this state.

SECTION 51. 448.03 (2) (f) of the statutes is renumbered 448.52 (2).

SECTION 52. 448.03 (2) (fm) of the statutes is renumbered 448.52 (3) and amended to read:

448.52 (3) A physical therapist assistant assisting a physical therapist in practice under the general supervision of the physical therapist. In this ~~paragraph~~ subsection, “physical therapist assistant” means an individual who has graduated from a physical therapist assistant associate degree program approved by the American physical therapy association. ~~Upon the advice of the physical therapists examining council, the~~ The affiliated credentialing board shall promulgate rules defining

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“general supervision” for purposes of this ~~paragraph subsection.~~

SECTION 53. 448.03 (3) (d) of the statutes is renumbered 448.51 and amended to read:

448.51 (title) **License required.** ~~No person not a physical therapist may~~ Except as provided in s. 448.52, no person may practice physical therapy or designate himself or herself as a physical therapist or use or assume the title “physical therapist” or “physiotherapist” or “physical therapy technician” or append to the person’s name the letters “P.T.,” “P.T.T.” or “R.P.T.” or any other title, letters or designation which represents or may tend to represent the person as a physical therapist unless the person is licensed under this subchapter.

SECTION 54. 448.04 (1) (e) of the statutes is renumbered 448.56 (1) and amended to read:

448.56 (1) (title) **WRITTEN REFERRAL.** ~~A person holding a license to practice physical therapy may practice as defined in s. 448.01 (4) Except as provided in this subsection and s. 448.52, a person may practice physical therapy only upon the written referral of a physician, chiropractor, dentist or podiatrist. Written referral is not required if a physical therapist is providing provides services in schools to children with exceptional educational needs pursuant to rules promulgated by the department of public instruction; provides services as part of a home health care agency; provides services to a patient in a nursing home pursuant to the patient’s plan of care; provides services related to athletic activities, conditioning or injury prevention; or provides services to an individual for a previously diagnosed medical condition after informing the individual’s physician, chiropractor, dentist or podiatrist who made the diagnosis. The affiliated credentialing board may promulgate rules establishing additional services that are excepted from the written referral requirements of this paragraph and may promulgate rules providing for various classes of temporary licenses to practice physical therapy subsection.~~

SECTION 55. 448.05 (1) (d) of the statutes is amended to read:

448.05 (1) (d) Be found qualified by three-fourths of the members of the board, except that an applicant for a temporary license under s. 448.04 (1) (b) 1. and 3., and (d) ~~and (e)~~ must be found qualified by 2 members of the board.

SECTION 56. 448.05 (4) of the statutes is repealed.

SECTION 57. 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, or 2 or more podiatrists ~~or 2 or more physical therapists~~, who have entered into a bona fide partnership for the practice of medicine, or 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 phy-

sicians, or podiatrists ~~or physical therapists~~ to render a single bill for such services in the name of the corporation; provided that each individual physician, or podiatrist ~~or physical therapist~~ rendering services so billed for shall be individually identified as having rendered such services.

SECTION 58. 448.10 (3) of the statutes is repealed.

SECTION 59. Subchapter III of chapter 448 of the statutes is created to read:

CHAPTER 448**SUBCHAPTER III****PHYSICAL THERAPISTS****AFFILIATED CREDENTIALING BOARD**

448.50 Definitions. In this subchapter:

(1) “Affiliated credentialing board” means the physical therapists affiliated credentialing board.

(2) “Licensee” means a person who is licensed under this subchapter.

448.52 Applicability. This subchapter does not require a license under this subchapter for any of the following:

(1) Any person lawfully practicing within the scope of a license, permit, registration or certification granted by this state or the federal government.

(4) A physical therapy student practicing physical therapy within the scope of the student’s education or training.

(5) A physical therapist who is licensed to practice physical therapy in another state or country and is providing a consultation or demonstration with a physical therapist who is licensed under this subchapter.

448.53 Licensure of physical therapists. (1) The affiliated credentialing board shall grant a license as a physical therapist to a person who does all of the following:

(a) Submits an application for the license to the department on a form provided by the department.

(b) Pays the fee specified in s. 440.05 (1).

(c) Subject to ss. 111.321, 111.322 and 111.335, submits evidence satisfactory to the affiliated credentialing board that the applicant does not have an arrest or conviction record.

(d) Submits evidence satisfactory to the affiliated credentialing board that the applicant is a graduate of a school of physical therapy approved by the affiliated credentialing board, unless the affiliated credentialing board waives this requirement under sub. (3).

(e) Passes an examination under s. 448.54.

(2) The affiliated credentialing board may promulgate rules providing for various classes of temporary licenses to practice physical therapy.

(3) The affiliated credentialing board may waive the requirement under sub. (1) (d) for an applicant who establishes, to the satisfaction of the affiliated credentialing board, all of the following:

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(a) That he or she is a graduate of a physical therapy school.

(b) That he or she is licensed as a physical therapist by another licensing jurisdiction in the United States.

(c) That the jurisdiction in which he or she is licensed required the licensee to be a graduate of a school approved by the licensing jurisdiction or of a school that the licensing jurisdiction evaluated for education equivalency.

(d) That he or she has actively practiced physical therapy, under the license issued by the other licensing jurisdiction in the United States, for at least 3 years immediately preceding the date of his or her application.

448.54 Examination. (1) The affiliated credentialing board shall conduct or arrange for examinations for physical therapist licensure at least semiannually and at times and places determined by the affiliated credentialing board.

(2) Except as provided in sub. (3), examinations shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in subjects substantially related to the practice of physical therapy.

(3) The affiliated credentialing board may not require an applicant to take an oral examination or an examination to test proficiency in the English language for the sole reason that the applicant was educated at a physical therapy school that is not in the United States if the applicant establishes, to the satisfaction of the affiliated credentialing board, that he or she satisfies the requirements under s. 448.53 (3).

448.55 Issuance of license; expiration and renewal. (1) The department shall issue a certificate of licensure to each person who is licensed under this subchapter.

(2) The renewal dates for licenses granted under this subchapter, other than temporary licenses granted under rules promulgated under s. 448.53 (2), are specified under s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include the renewal fee specified in s. 440.08 (2) (a).

448.56 Practice requirements.

(2) **FEE SPLITTING.** No licensee may give or receive, directly or indirectly, to or from any other person any fee, commission, rebate or other form of compensation or anything of value for sending, referring or otherwise inducing a person to communicate with a licensee in a professional capacity, or for any professional services not actually rendered personally by the licensee or at the licensee's direction.

(3) **BILLING BY PROFESSIONAL PARTNERSHIPS AND CORPORATIONS.** If 2 or more physical therapists have entered into a bona fide partnership or have formed a service corporation for the practice of physical therapy, the partnership or corporation may not render a single bill for physical therapy services provided in the name of the

partnership or corporation unless each physical therapist who provided services that are identified on the bill is identified on the bill as having rendered those services.

448.57 Disciplinary proceedings and actions. (1) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may make investigations and conduct hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred.

(2) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may reprimand a licensee or may deny, limit, suspend or revoke a license granted under this subchapter if it finds that the applicant or licensee has done any of the following:

(a) Made a material misstatement in an application for a license or for renewal of a license.

(b) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the circumstances of which substantially relate to the practice of physical therapy.

(c) Advertised in a manner that is false, deceptive or misleading.

(d) Advertised, practiced or attempted to practice under another's name.

(e) Subject to ss. 111.321, 111.322 and 111.34, practiced physical therapy while the applicant's or licensee's ability to practice was impaired by alcohol or other drugs.

(f) Engaged in unprofessional or unethical conduct.

(g) Engaged in conduct while practicing physical therapy which evidences a lack of knowledge or ability to apply professional principles or skills.

(h) Violated this subchapter or any rule promulgated under this subchapter.

448.58 Injunctive relief. If the affiliated credentialing board has reason to believe that any person is violating this subchapter or any rule promulgated under this subchapter, the affiliated credentialing board, the department, the attorney general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring an action in the name and on behalf of this state to enjoin the person from the violation.

448.59 Penalties. Any person who violates this subchapter or any rule promulgated under this subchapter may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

SECTION 60. 609.17 of the statutes is amended to read:

609.17 Reports of disciplinary action. Every health maintenance organization, limited service health organization and preferred provider plan shall notify the medical examining board or appropriate affiliated credentialing board attached to the medical examining board of any disciplinary action taken against a selected provider who holds a license or certificate granted by the board or affiliated credentialing board.

SECTION 61. 632.715 of the statutes is amended to read:

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632.715 Reports of action against health care provider. Every insurer that has taken any action against a person who holds a license granted by the medical examining board ~~that may relate to unprofessional conduct or negligence in treatment by the person or an affiliated credentialing board attached to the medical examining board~~ shall notify the board or affiliated credentialing board of the action taken against the person if the action relates to unprofessional conduct or negligence in treatment by the person who holds the license.

SECTION 62. 655.45 (1) of the statutes is amended to read:

655.45 (1) For the quarter beginning on July 1, 1986, and for each quarter thereafter, the director of state courts shall file reports complying with sub. (2) with the medical examining board, the physical therapists affiliated credentialing board, the board of nursing and the department, respectively, regarding health care providers licensed by the respective bodies.

SECTION 63. 655.465 (2) (c) 2. of the statutes is amended to read:

655.465 (2) (c) 2. Except as provided in subds. 4 and 5, if none of the respondents named in the request for mediation is a physician, a health care provider who is licensed to practice in this state in the same health care field as the respondent and who is selected from a list prepared by the department or the examining board or affiliated credentialing board that regulates health care providers in that health care field.

SECTION 64. 940.22 (3) (b) 1. of the statutes is amended to read:

940.22 (3) (b) 1. The department, if the reporter believes the subject of the report is licensed by the state. The department shall promptly communicate the information to the appropriate examining board or affiliated credentialing board.

SECTION 65. 940.22 (4) (a) of the statutes is amended to read:

940.22 (4) (a) All reports and records made from reports under sub. (3) and maintained by the department, examining boards, affiliated credentialing boards, district attorneys and other persons, officials and institutions shall be confidential and are exempt from disclosure under s. 19.35 (1). Information regarding the identity of a victim or alleged victim of sexual contact by a therapist shall not be disclosed by a reporter or by persons who have received or have access to a report or record unless disclosure is consented to in writing by the victim or alleged victim. The report of information under sub. (3) and the disclosure of a report or record under this subsection does not violate any person's responsibility for maintaining the confidentiality of patient health care records, as defined in s. 146.81 (4) and as required under s. 146.82. Reports and records may be disclosed only to appropriate staff of a district attorney or a law enforcement agency

within this state for purposes of investigation or prosecution.

SECTION 66. 940.22 (4) (b) 1. of the statutes is amended to read:

940.22 (4) (b) 1. The department, a district attorney ~~or~~, an examining board or an affiliated credentialing board within this state may exchange information from a report or record on the same subject.

SECTION 67. Nonstatutory provisions; physical therapists affiliated credentialing board. (1) INITIAL APPOINTMENTS. Notwithstanding section 15.406 (1) of the statutes, as created by this act, the initial members of the physical therapists affiliated credentialing board shall be appointed by the first day of the 4th month beginning after the effective date of this subsection for the following terms:

(a) One physical therapist member, for a term expiring on July 1, 1996.

(b) One physical therapist member, for a term expiring on July 1, 1997.

(c) The public member, for a term expiring on July 1, 1998.

(d) One physical therapist member, for a term expiring on July 1, 1999.

(2) TRANSFER OF AUTHORITY AND RECORDS FROM MEDICAL EXAMINING BOARD AND PHYSICAL THERAPISTS EXAMINING COUNCIL; TRANSITIONAL PROVISIONS. During the period beginning on the effective date of this subsection and ending on the first day of the 7th month beginning after the effective date of this subsection, the medical examining board shall cooperate with the physical therapists affiliated credentialing board, as created by this act, in providing orderly and efficient transfers under this subsection. On the first day of the 7th month beginning after the effective date of this subsection, all of the following apply:

(a) The assets and liabilities of the medical examining board pertaining to the regulation of physical therapists and the assets and liabilities of the physical therapists examining council shall become the assets and liabilities of the physical therapists affiliated credentialing board.

(b) All equipment, supplies and records of the medical examining board pertaining to the regulation of physical therapists and all equipment, supplies and records of the physical therapists examining council are transferred to the physical therapists affiliated credentialing board.

(c) All rules pertaining to the regulation of physical therapists that have been promulgated by the medical examining board and that are in effect on the first day of the 7th month beginning after the effective date of this paragraph shall become rules of the physical therapists affiliated credentialing board and shall remain in effect until their specified expiration dates or until amended or repealed by the physical therapists affiliated credential-

ing board acting under the authority granted by this act. All orders pertaining to the regulation of physical therapists that have been issued by the medical examining board and that are in effect on the first day of the 7th month beginning after the effective date of this paragraph shall become orders of the physical therapists affiliated credentialing board and shall remain in effect until their specified expiration dates or until modified or rescinded by the physical therapists affiliated credentialing board acting under the authority granted by this act.

(d) Any matter relating to the regulation of physical therapists that is pending with the medical examining board, and any matter pending with the physical therapists examining council, on the first day of the 7th month beginning after the effective date of this paragraph are transferred to the physical therapists affiliated credentialing board, and all materials submitted to or actions taken by the medical examining board or physical therapists examining council with respect to the pending matter are considered to have been submitted to or taken by the physical therapists affiliated credentialing board.

(e) The physical therapists affiliated credentialing board may collect any amount payable under the statutes before the first day of the 7th month beginning after the effective date of this paragraph for the costs of materials,

activities or services that were provided by the medical examining board which relate to the regulation of physical therapists or that were provided by the physical therapists examining council.

(f) Notwithstanding section 448.53 of the statutes, as created by this act, any person who, on the first day of the 7th month beginning after the effective date of this paragraph, is licensed as a physical therapist by the medical examining board under subchapter II of chapter 448 of the statutes, as created by this act, is considered to be licensed under subchapter III of chapter 448 of the statutes, as created by this act, without meeting any of the requirements in section 448.53 of the statutes, as created by this act, and the department of regulation and licensing shall issue to such persons a certificate of licensure or temporary licensure, as appropriate, under section 448.55 (1) of the statutes, as created by this act.

SECTION 68. Effective dates. This act takes effect on the first day of the 7th month beginning after publication, except as follows:

(1) The treatment of sections 15.01 (1) and (1g), 15.08 (1m) (b), 15.085 and 15.406 of the statutes and SECTION 67 of this act take effect on the day after publication.