

1993 Assembly Bill 167

Date of enactment: **April 27, 1994**

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1993 WISCONSIN ACT 443

AN ACT *to renumber and amend* 632.895 (1) (b) 5; *to amend* 48.981 (2), 252.10 (7) and 655.45 (2) (intro.); and *to create* 15.406 (2), 146.81 (1) (em), 252.14 (1) (ar) 4m, 440.03 (10), 440.08 (2) (a) 27m, subch. IV of ch. 448, 450.10 (3) (a) 5m, 632.895 (1) (b) 5. a. and b. and 655.45 (1m) of the statutes, **relating to:** the regulation of dietitians, creating a dietitians affiliated credentialing board, the applicability to dietitians of laws relating to the confidentiality of and access to patient health care records and reporting a patient's use of controlled substances to other health care professionals, granting rule-making authority, making an appropriation and providing a penalty.

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

SECTION 1. 15.406 (2) of the statutes is created to read:

15.406 (2) DIETITIANS AFFILIATED CREDENTIALING BOARD. (a) There is created in the department of regulation and licensing, attached to the medical examining board, a dietitians affiliated credentialing board consisting of the following members appointed for 4-year terms:

1. Three dietitians who are certified under subch. IV of ch. 448.

2. One public member.

(b) The dietitians affiliated credentialing board does not exist after June 30, 1999.

SECTION 2. 48.981 (2) of the statutes, as affected by 1991 Wisconsin Act 160, is amended to read:

48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or mental health professional, social worker, marriage and family therapist, professional counselor, public assistance worker, school teacher, administrator or counselor, mediator under s. 767.11, child care worker in a day care center or child caring institution, day care provider, alcohol or other drug abuse counselor, member of the treatment staff employed by or working under contract with

a county department under s. 46.23, 51.42 or 51.437, physical therapist, occupational therapist, dietitian, speech-language pathologist, audiologist, emergency medical technician or police or law enforcement officer having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or having reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under sub. (2m), report as provided in sub. (3). Any other person, including an attorney, having reason to suspect that a child has been abused or neglected or reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may make such a report. No person making a report under this subsection may be discharged from employment for so doing.

SECTION 3. 146.81 (1) (em) of the statutes is created to read:

146.81 (1) (em) A dietitian certified under subch. IV of ch. 448. This paragraph does not apply after June 30, 1999.

SECTION 4. 252.10 (7) of the statutes, as affected by 1993 Wisconsin Act 27, is amended to read:

252.10 (7) Drugs necessary for the treatment of mycobacterium tuberculosis shall be purchased by the department from the appropriation under s. 20.435 (1) (e) and dispensed to patients through the public health dis-

pensaries or through health care providers, as defined in s. 146.81 (1), other than social workers, marriage and family therapists or professional counselors certified under ch. 457, speech–language pathologists or audiologists licensed under subch. II of ch. 459 or, speech and language pathologists licensed by the department of public instruction or, on or after July 1, 1995, and no later than June 30, 1999, dietitians certified under subch. IV of ch. 448.

SECTION 5. 252.14 (1) (ar) 4m of the statutes is created to read:

252.14 (1) (ar) 4m. A dietitian certified under subch. IV of ch. 448. This subdivision does not apply after June 30, 1999.

SECTION 6. 440.03 (10) of the statutes is created to read:

440.03 (10) The department shall study whether continued certification of dietitians by the dietitians affiliated credentialing board, as created by 1993 Wisconsin Act [this act], is necessary for the protection of the consumers of dietetic services. The department shall report the results of the study to the legislature under s. 13.172 (2) by July 1, 1998.

SECTION 7. 440.08 (2) (a) 27m of the statutes is created to read:

440.08 (2) (a) 27m. Dietitian: November 1 of each even–numbered year; \$36. This subdivision does not apply after June 30, 1999.

SECTION 8. Subchapter IV of chapter 448 of the statutes is created to read:

CHAPTER 448

SUBCHAPTER IV

DIETITIANS AFFILIATED

CREDENTIALING BOARD

448.70 Definitions. In this subchapter:

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

(1m) “Certified dietitian” means an individual who is certified as a dietitian under this subchapter.

(2) “Dietetics” means the integration and application of principles of nutritional science, biochemistry, food science, physiology, food systems management, behavioral science and social science in order to achieve or maintain the health of an individual or group of individuals. “Dietetics” includes assessing the nutritional needs of an individual or group of individuals and determining available resources and constraints in meeting those nutritional needs; establishing priorities, goals and objectives that meet those nutritional needs and are consistent with available resources and constraints; providing nutrition counseling; or developing, implementing and managing nutritional care systems.

(3) “Dietitian” means an individual who practices dietetics.

448.72 Applicability. (1) This subchapter does not do any of the following:

(a) Require a certificate under this subchapter for any of the following:

1. A person who is lawfully practicing within the scope of a license, permit or certificate of certification or registration granted under chs. 441, 446 to 451 or 456, or who is lawfully practicing in any other health care profession that is regulated by state law.

2. A person to whom a practice or procedure is delegated by a person under subd. 1.

3. A person pursuing a supervised course of study, including internships, leading to a degree or certificate in dietetics from an accredited educational program or an educational program approved by the affiliated credentialing board.

4. A dietetic technician or assistant who is working under the supervision of a certified dietitian.

5. A dietitian who is serving in the U.S. armed forces, as defined in s. 40.02 (57m), or in the commissioned corps of the federal public health service or is employed by the U.S. veterans administration, and who is engaged in the practice of dietetics as part of that service or employment.

6. A person who markets or distributes food, food materials or dietary or food supplements, who explains the use, benefits or preparation of food, food materials or dietary or food supplements, who furnishes nutritional information on food, food materials or dietary or food supplements, or who disseminates nutritional information or literature, if the person does not use the title “dietitian” or “certified dietitian” and the person complies with applicable federal, state and local laws.

(b) Prohibit a dietetic student described in par. (a) 3. from using the title “dietitian student” or any other title, letters or designation that clearly indicates his or her status as a student or trainee.

(c) Prohibit an individual described in par. (a) 5. from using the title “dietitian” or any letters or designation that represents or may tend to represent the individual as a dietitian, if the title, letters or designation is used only in the course of the individual’s service or employment.

(d) Prohibit an individual who is registered as a dietitian with the commission on dietetic registration of the American dietetic association from using the title “dietitian” or “registered dietitian”.

(e) Prohibit an individual who is registered as a dietetic technician with the commission on dietetic registration of the American dietetic association from using the title “dietetic technician” or “dietetic technician registered”.

(f) Prohibit an individual from using the title “dietitian”, “licensed dietitian” or “certified dietitian” if the person is licensed or certified as a dietitian under the laws of another state which has licensure or certification requirements that the affiliated credentialing board determines to be substantially equivalent to the requirements under s. 448.78.

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(2) This subchapter does not apply after June 30, 1999.

448.74 Duties of affiliated credentialing board. The affiliated credentialing board shall promulgate rules that do all of the following:

(1) Establish criteria for the approval of educational programs and training under s. 448.78 (3) and (4).

(2) Establish a code of ethics to govern the professional conduct of certified dietitians.

448.76 Use of titles. Except as provided in s. 448.72 (1) (a) 5. and (b) to (f), a person who is not a certified dietitian may not designate himself or herself as a dietitian, claim to provide dietetic services or use any title or initials that represent or may tend to represent the person as certified or licensed as a dietitian or as certified or licensed in a nutrition-related field.

448.78 Certification of dietitians. The affiliated credentialing board shall grant a certificate as a dietitian to an individual who does all of the following:

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

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

(3) Submits evidence satisfactory to the affiliated credentialing board that he or she has done any of the following:

(a) Received a bachelor's, master's or doctoral degree in human nutrition, nutrition education, food and nutrition, dietetics or food systems management from a program at a college or university that is regionally accredited, as determined by the affiliated credentialing board, and that is located in a state or territory of the United States.

(b) Received a bachelor's, master's or doctoral degree in human nutrition, nutrition education, food and nutrition, dietetics or food systems management from a program at a college or university that is not located in a state or territory of the United States if the affiliated credentialing board determines that the program is substantially equivalent to a program under par. (a).

(c) Received a degree from or otherwise successfully completed a program in human nutrition, nutrition education, food and nutrition, dietetics or food systems management that is approved by the affiliated credentialing board.

(4) Submits evidence satisfactory to the affiliated credentialing board that he or she has completed at least 900 hours of dietetics practice in any state or territory of the United States under the supervision of any of the following:

(a) A certified dietitian.

(b) An individual who is registered as a dietitian with the commission on dietetic registration of the American dietetic association.

(c) An individual who received a doctoral degree in human nutrition, nutrition education, food and nutrition,

dietetics or food systems management from any of the following:

1. A program at a college or university that is regionally accredited, as determined by the affiliated credentialing board, and that is located in a state or territory of the United States.

2. A program at a college or university that is not located in a state or territory of the United States if the affiliated credentialing board determines that the program is substantially equivalent to a program under subd. 1.

(5) Passes the registration examination for dietitians established by the commission on dietetic registration of the American dietetic association, or passes an equivalent examination approved by the affiliated credentialing board, and held under s. 448.84, to determine fitness to practice dietetics.

448.80 Temporary certificate. Upon application and payment of the fee specified in s. 440.05 (6), the affiliated credentialing board may grant a temporary dietitian certificate to an individual who satisfies the requirements under s. 448.78 (1) to (4) and has submitted an application to take the next available examination under s. 448.84. A temporary certificate granted under this section is valid for a period designated by the affiliated credentialing board, not to exceed 9 months, and may be renewed once by the affiliated credentialing board.

448.82 Reciprocal certificate. Upon application and payment of the fee specified in s. 440.05 (2), the affiliated credentialing board shall grant a dietitian certificate to an individual who holds a similar certificate or license in another state or territory of the United States if the affiliated credentialing board determines that the requirements for receiving the certificate in the other state or territory are substantially equivalent to the requirements under s. 448.78.

448.84 Examinations. (1) The affiliated credentialing board shall conduct or arrange for examinations for dietitian certification at least semiannually and at times and places determined by the affiliated credentialing board, and shall provide public notice of each examination at least 90 days before the date of the examination.

(2) Examinations held under sub. (1) shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in subjects substantially related to the practice of dietetics.

448.86 Issuance of certificate; expiration and renewal. (1) The department shall issue a certificate to each individual who is certified under this chapter.

(2) The renewal dates for certificates granted under this subchapter, other than temporary certificates granted under s. 448.80, 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).

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448.90 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 certified dietitian or deny, limit, suspend or revoke a certificate granted under this subchapter if it finds that the applicant or certified dietitian has done any of the following:

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

(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 dietetics.

(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 dietetics while his or her ability to practice was impaired by alcohol or other drugs.

(f) Engaged in unprofessional or unethical conduct in violation of the code of ethics established in the rules promulgated under s. 448.74 (2).

(g) Engaged in conduct while practicing dietetics 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.

448.94 Penalties. Any person who violates this subchapter or any rule promulgated under this subchapter may be fined not more than \$1,000 or imprisoned for not more than 6 months or both.

SECTION 9. 450.10 (3) (a) 5m of the statutes is created to read:

450.10 (3) (a) 5m. A dietitian certified under subch. IV of ch. 448. This subdivision does not apply after June 30, 1999.

SECTION 10. 632.895 (1) (b) 5. of the statutes is renumbered 632.895 (1) (b) 5. (intro.) and amended to read:

632.895 (1) (b) 5. (intro.) Nutrition counseling provided by or under the supervision of a registered dietitian one of the following, where such services are medically necessary as part of the home care plan:

SECTION 11. 632.895 (1) (b) 5. a. and b. of the statutes are created to read:

632.895 (1) (b) 5. a. A registered dietitian.

b. A dietitian certified under subch. IV of ch. 448, if the nutrition counseling is provided on or after July 1, 1995, and no later than June 30, 1999.

SECTION 12. 655.45 (1m) of the statutes is created to read:

655.45 (1m) For the quarter beginning on July 1, 1995, and for each quarter thereafter until the quarter ending June 30, 1999, the director of state courts shall file reports complying with sub. (2) with the dietitians affiliated credentialing board regarding health care providers certified by the dietitians affiliated credentialing board.

SECTION 13. 655.45 (2) (intro.) of the statutes is amended to read:

655.45 (2) (intro.) The reports under sub. (1) or, if required, under sub. (1m), shall set forth all of the following:

SECTION 14. Nonstatutory provisions. (1) INITIAL APPOINTMENTS. (a) Notwithstanding section 15.406 (2) of the statutes, as created by this act, the initial dietitian members of the dietitians affiliated credentialing board need not be certified under subchapter IV of chapter 448 of the statutes, as created by this act, to be appointed to and serve as members of the affiliated credentialing board.

(b) Notwithstanding section 15.406 (2) of the statutes, as created by this act, the initial members of the dietitians affiliated credentialing board shall be appointed by the first day of the 4th month beginning after the effective date of this paragraph for the following terms:

1. One dietitian member, for a term expiring on July 1, 1997.

2. One dietitian member and one public member, for terms expiring on July 1, 1998.

3. One dietitian member, for a term expiring on July 1, 1999.

(2) WAIVER OF CERTAIN CERTIFICATION REQUIREMENTS.

(a) Notwithstanding section 448.78 (4) and (5) of the statutes, as created by this act, the dietitians affiliated credentialing board shall grant a dietitian certificate under section 448.78 of the statutes, as created by this act, to any individual who, not later than the last day of the 12th month beginning after the effective date of this paragraph, satisfies the requirements under section 448.78 (1) to (3) of the statutes, as created by this act, and submits evidence satisfactory to the affiliated credentialing board of one of the following:

1. That he or she has been engaged in the practice of dietetics, as defined in section 448.70 (2) of the statutes, as created by this act, for at least 2 years during the 5-year period immediately preceding the date on which he or she submits the application for the certificate under section 448.78 (1) of the statutes, as created by this act.

2. That he or she is competent to practice dietetics, as defined in section 448.70 (2) of the statutes, as created by this act. Evidence that an individual is competent to practice dietetics includes proof that the individual passed an examination substantially equivalent to the examination under section 448.78 (5) of the statutes, as created by this act, or proof of satisfactory completion of a period of supervised practice that is substantially equivalent to the

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supervised practice under section 448.78 (4) of the statutes, as created by this act.

(b) Notwithstanding section 448.78 (3) to (5) of the statutes, as created by this act, the dietitians affiliated credentialing board shall grant a dietitian certificate under section 448.78 of the statutes, as created by this act, to any individual who, not later than the last day of the 12th month beginning after the effective date of this paragraph, satisfies the requirements under section 448.78 (1) and (2) of the statutes, as created by this act, and submits evidence satisfactory to the affiliated credentialing board that he or she is registered as a dietitian with the commission on dietetic registration of the American dietetic association.

(3) **RULES.** The dietitians affiliated credentialing board shall submit proposed rules under section 448.74 of the statutes, as created by this act, to establish criteria for the approval of educational programs and training and to establish a code of ethics for certified dietitians to the legislative council staff under section 227.15 (1) of the

statutes no later than the first day of the 10th month beginning after the effective date of this subsection.

SECTION 15. Appropriation changes; regulation and licensing. (1) **GENERAL PROGRAM OPERATIONS.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of regulation and licensing under section 20.165 (1) (g) of the statutes, as affected by the acts of 1993, the dollar amount is increased by \$41,500 for fiscal year 1993–94 and the dollar amount is increased by \$25,300 for fiscal year 1994–95 to increase the authorized FTE positions for the department by 0.5 PR position for the performance of services for the dietitians affiliated credentialing board and to fund the initial expenses of the dietitians affiliated credentialing board.

SECTION 16. Effective dates. This act takes effect on July 1, 1995, except as follows:

(1) The treatment of section 15.406 (2) of the statutes and SECTION 14 (1) and (3) of this act take effect on the day after publication.