



Legislative Fiscal Bureau

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January 20, 1998

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 382: Creation of a Podiatrists Affiliated Credentialing Board to Assume Regulation of Podiatrists

Assembly Bill 382 would shift the responsibility for regulating the podiatrist profession from the current Medical Examining Board to a new Podiatrists Affiliated Credentialing Board. The bill was referred to the Assembly Committee on Health, which recommended passage on a vote of 13-2.

BACKGROUND

Most of the professional regulatory boards under the Department of Regulation and Licensing (R&L) are independent, unitary entities called examining boards. All of these boards are responsible for regulating the professions or activities under their jurisdiction and are generally authorized to promulgate administrative rules defining the professional standards and the regulatory policies governing the occupations or activities under their jurisdiction. Further, within statutory limits, most boards determine the educational and experience requirements for obtaining an occupational license issued by the board, develop and evaluate licensing examinations and establish and enforce standards of professional conduct.

Not all existing independent examining boards operate as unitary boards, however. In the case of the Medical Examining Board, two of the professions currently under its overall jurisdiction (physical therapists and dietitians) are regulated by attached boards called affiliated credentialing boards. The Physical Therapists Affiliated Credentialing Board and the Dietitians Affiliated Credentialing Board are responsible for setting standards of professional competence and conduct, reviewing the qualifications of prospective licensees, granting licenses and taking disciplinary actions against, respectively, physical therapist and dietitian license holders.

An affiliated credentialing board is attached to an examining board to regulate a profession either that does not practice independently of the profession regulated by the examining board or that practices in collaboration with a profession regulated by the examining board. Affiliated credentialing boards are functionally equivalent to examining boards. However, under current law, all administrative rules developed by an affiliated credentialing board must first be submitted for review to the examining board to which the affiliated credentialing board is attached before being promulgated.

In addition to affiliated credentialing boards, some professional regulatory boards are advised by examining councils comprised of members representing a profession which is regulated by the examining board but whose profession does not have designated statutory representation on the board. In the case of the Medical Examining Board, the Board is comprised of nine medical doctors, one doctor of osteopathy, and three public members. However, in addition to doctors, the Board also currently regulates podiatrists, occupational therapists and occupational therapy assistants, physician assistants and respiratory care practitioners. Each of these occupations has a separate examining council which advises the Board on the development of rules concerning that specific occupation.

SUMMARY OF THE BILL

Assembly Bill 382 would make the following revisions to the current regulation of podiatrists. Except as specifically noted, these modifications would first be effective on the first day of the seventh month following publication of the act.

Elimination of Regulatory Oversight of Podiatrists by the Medical Examining Board. Assembly Bill 382 would delete the current authority of the Medical Examining Board to regulate podiatrists under provisions of Subchapter II of Chapter 448 of the statutes. The current Podiatrists Examining Council, which advises the Medical Examining Board on administrative rules concerning podiatrists, would also be repealed.

Transfer of Regulatory Oversight of Podiatrists to a New Podiatrists Affiliated Credentialing Board. First effective the day following publication of the act, the bill would create a new four-member Podiatrists Affiliated Credentialing Board to regulate podiatrists. This new entity would be attached administratively to the Medical Examining Board and would consist of three licensed podiatrists and one public member.

Under current law, members of affiliated credentialing boards are appointed by the Governor, with the advice and consent of the Senate, to serve staggered, four-year terms. Terms expire on July 1, and no member may serve more than two consecutive terms. Further, no member of an affiliated credentialing board may be an officer, director or employe of a private organization which promotes the profession regulated by the board. Finally, members of the new affiliated credentialing board would be eligible under current law for a \$25 per diem and the actual and necessary expenses incurred in the performance of their duties.

Assembly Bill 382 would establish initial terms for the first four members appointed to the Podiatrists Affiliated Credentialing Board. Members of the first Podiatrists Affiliated Credentialing Board would have to be appointed by the Governor by the first day of the fourth month following publication of the act. The bill also provides for the transfer of the assets and liabilities, tangible personal property, rules and orders and all pending matters before the Medical Examining Board relating to podiatrists to the new Podiatrists Affiliated Credentialing Board on the general effective date of the act. During a six-month period between the day following publication of the act and its general effective date, the Medical Examining Board would be required to cooperate with the new Podiatrists Affiliated Credentialing Board to provide an orderly and efficient transfer of all of the foregoing. Further, any podiatrist licensed by the Medical Examining Board on the general effective date of the act would be deemed automatically licensed by the new Podiatrists Affiliated Credentialing Board, and R&L would be required to issue a certificate of licensure (or temporary licensure) to that effect.

Separate Statutory Regulatory Structure Established for Podiatrists. Assembly Bill 382 would create a new Subchapter IV of Chapter 448 of the statutes. This new subchapter would generally consolidate the existing specific regulatory provisions governing podiatrists in this new subchapter. The current law Subchapter IV (relating to the establishment of the Dietitians Affiliated Credentialing Board and associated regulations) would be renumbered to be Subchapter V of Chapter 448.

In establishing a new Subchapter IV governing the regulation of podiatrists, the bill would establish regulations which essentially parallel those current law requirements which are already in place for podiatrists as they are regulated by the Medical Examining Board. While these new Subchapter IV provisions differ somewhat in language style and organization from the comparable Subchapter II regulatory provisions currently located in Subchapter II under the Medical Examining Board, they basically replicate the current law regulatory treatment of podiatrists.

Changes to Current Law Regulations Governing Podiatrists. In addition to generally replicating existing regulatory provisions governing podiatrists currently enforced by the Medical Examining Board, the bill would also make the following changes to current law podiatrist regulations:

- *Waiver of Certain Educational Requirements.* Under current law, an applicant for licensure as a podiatrist must demonstrate that the person has graduated from and possesses a degree in podiatric medicine (or the equivalent) from an approved school and has completed twelve months of postgraduate training in an approved program.

Under the bill, the Podiatrists Affiliated Credentialing Board could waive any of these educational requirements if the applicant for licensure as a podiatrist established all of the following to the satisfaction of the Board: (1) the applicant was a graduate of a podiatry school; (2) the applicant was licensed as a podiatrist in any other licensing jurisdiction in the United States; (3) the other licensing jurisdiction required the licensee to be a graduate of a school

approved by that jurisdiction or of a school that the licensing jurisdiction evaluated for educational equivalency; and (4) the applicant has actively practiced podiatry under the license issued by the other jurisdiction in the United States for at least three years immediately prior to application to the Podiatrists Affiliated Credentialing Board.

- *Examination for Proficiency in the English Language Prohibited.* A new restriction would be created prohibiting the Podiatrists Affiliated Credentialing Board from requiring an applicant for licensure as a podiatrist to take an oral examination or an examination to test English language proficiency for the sole reason that the applicant was educated at a podiatry school not in the United States. This prohibition would apply only if the applicant established to the Board's satisfaction that he or she otherwise satisfied all four of the educational attainment and practice provisions described in the preceding section which allow the Board to waive current statutory educational attainment standards.

- *Qualifications for Licensure.* Under current law, the general requirements for the licensure of professionals (including podiatrists) subject to licensure by the Medical Examining Board include: (1) not having an arrest or conviction record the circumstances of which materially relate to nature of the licensed practice; (2) meeting the specific statutory educational attainment and practice standards of current law; (3) passing all required examinations; and (4) being found qualified by three of the four members of the Medical Examining Board (or by two members of the Board for the purpose of being granted a temporary license to practice).

Assembly Bill 382 would not establish a comparable requirement that an applicant for licensure as a podiatrist be found qualified by three of the four members of the Podiatrists Affiliated Credentialing Board (or by two members of the Board for the purpose of being granted a temporary license to practice).

- *Registration with the Board as a Condition of License Renewal Eliminated.* Under current law, a licensed podiatrist must register biennially with the Medical Examining Board on or before November 1 of each odd-numbered year, meet current biennial training (continuing education) requirements, pay the appropriate renewal fee (currently \$180 biennially for podiatrists) and display the certificate of registration. Every registration made by the Board is deemed to be presumptive evidence in a court that the licensee is legally registered and that all statutory requirements for license renewal have been met.

Under the bill, a podiatrist's initial license would actually be issued by R&L rather than the Board. Registration with the Podiatrists Affiliated Credentialing Board would not be required for the purpose of license renewal. Instead, a renewal license would be issued by R&L on a form provided by the Department once the applicant: (1) paid the appropriate biennial renewal fee; and (2) provided proof that he or she had completed all current law continuing education requirements. In general, these initial and renewal license issuance modifications conform the procedures governing podiatrist licenses with general statutory provisions under chapter 440 of the statutes which specify that R&L, rather than a professional board, actually issues the initial or renewal license.

- *Repeal of Previous Practice Licensure Exemption.* Under current law, if a podiatrist had been granted a certificate of registration, as governed by the relevant registration provisions of the 1973 Wisconsin Statutes, the podiatrist was authorized to continue practice until one year after June 15, 1976. Furthermore, the licensee was granted the right to apply for and be granted a license to practice podiatry without further examination or payment of an additional fee, provided the application was made to the Medical Examining Board prior to June 15, 1976.

Assembly Bill 382 would repeal this archaic provision.

- *Administrative Rules.* In addition to transferring the existing authority to promulgate the administrative rules necessary to regulate the profession to the Podiatrists Affiliated Credentialing Board, the bill would authorize the new Board to promulgate rules defining the acts or attempted acts of commission or omission that constitute unprofessional conduct.

- *Injunctive Relief.* Assembly Bill 382 would newly extend to R&L (in addition to the professional board, the Attorney General or a district attorney, as currently provided) the authority to investigate or bring an action to enjoin any violation of the new Subchapter IV of Chapter 448 or a rule of the Podiatrists Affiliated Credentialing Board.

FISCAL EFFECT

Since the bill would establish a new four-member board, whose members would qualify under current law for a \$25 per diem and actual and necessary meeting expenses, additional Board-related expenses would occur once the new Board members assumed office. R&L estimates that the new Podiatrists Affiliated Credentialing Board would meet six times annually at a cost of \$646 PR in per diems with an additional \$3,456 PR annually for members' lodging, meals and travel expenses. Further, as a result of establishing a separate regulatory structure for podiatrists, R&L anticipates that it would prepare a separate edition of the relevant statutes and administrative rules applicable to the practice of podiatry and would distribute these materials to licensees. The estimated costs associated with printing (\$2,750 PR) and postage (\$500 PR) would amount to \$3,250 PR and would likely be incurred during the first year following enactment. In summary, the total Board meeting and related code printing and distribution costs are estimated at \$7,352 PR during the first year following enactment of the bill.

Other potential expenses identified by R&L include \$1,500 PR annually for Board travel to the annual conference of the National Board Association of Podiatrists and \$750 PR annually for Association dues. These National Association expenses are not currently incurred by the Department, and there is no requirement in the bill that the Department or the Podiatrists Affiliated Credentialing Board participate in the organization; consequently, it is unknown whether these expenditures would actually be made.

Assembly Bill 382 does not appropriate any additional funds to R&L associated with the transfer of regulatory authority over podiatrists to a new Podiatrists Affiliated Credentialing

Board. To the extent that the Department would incur any of the expenses identified above following the effective date of the act, these additional costs would have to be supported from existing budgeted resources available to the agency.

Prepared by: Tony Mason

MO# passage

BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
SCHULTZ	Y	N	A
ROSENZWEIG	Y	N	A
GARD	Y	N	A
ZOURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

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