

By WED PM
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O-NOTE

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2003 ASSEMBLY BILL 356

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May 22, 2003 - Introduced by Representatives UNDERHEIM, OTT, KESTELL, FREESE, MUSSER, HINES, SERATTI, BIES, J. LEHMAN, HUNDERTMARK, GRONEMUS, BERCEAU, WEBER, ALBERS, TURNER, KREIBICH, PETTIS, LOEFFELHOLZ, KREUSER, HAHN, LADWIG, OLSEN, NASS, STASKUNAS, TRAVIS and PLOUFF, cosponsored by Senators SCHULTZ, REYNOLDS, BRESKE, CHVALA, CARPENTER and HANSEN. Referred to Committee on Health.

Re
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1 AN ACT *to repeal* 16.009 (1) (h), 655.001 (10m) and 948.70 (1) (a); *to renumber*
2 146.31 (1), 146.815 (1), 185.983 (1) and 804.10 (1); *to renumber and amend*
3 148.01, 446.02 (7) (b) and 975.001; *to consolidate, renumber and amend*
4 948.70 (1) (intro.) and (b); *to amend* 15.165 (5) (a) 7., 15.197 (25) (a) 1., 15.405
5 (7m), 15.407 (1m), 15.915 (2) (b), 20.927 (1m), 29.193 (3) (a), 30.67 (6) (b), 36.25
6 (11) (b), 36.25 (13g) (b) 2., 39.16 (2) (d), 46.18 (10), 46.19 (4), 46.21 (2) (m), 46.21
7 (4m) (a), 46.245, 46.297 (2) (a), 46.298, 46.56 (3) (b) 3., 46.87 (5) (a) 1., 49.148
8 (1m) (b), 49.19 (11s) (b) 2., 49.26 (1) (g) 11., 49.43 (9), 50.09 (1) (a) (intro.), 50.36
9 (3g) (c), 50.90 (3), 55.043 (1) (b) (intro.), 59.53 (13) (a), 59.64 (1) (a), 60.23 (9),
10 66.0601 (1) (b), 70.11 (25), 94.70 (3) (b), 97.18 (5), 97.48 (2), 100.43 (3) (c),
11 102.565 (2), 106.50 (2r) (bm) 2., 115.53 (4) (a), 115.777 (1) (a), 118.135 (3), 118.29
12 (1) (e), 118.291 (1) (b), 146.0255 (2), 146.15, 146.17, 146.58 (1), 146.82 (2) (a) 5.,
13 146.89 (1), 146.89 (2) (b), 150.85 (4) (c) 2., 155.05 (2), 157.05, 157.06 (1) (h),
14 165.765 (2) (a), 180.1903 (4), 231.01 (7) (a) 2., 233.04 (3b) (a) 2., 252.23 (1) (a),

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1 302.10, 302.113 (9g) (c), 302.37 (2), 302.383 (1) (b), 302.40, 343.63 (4), 347.485
2 (2) (b), 350.155 (2), 440.08 (2) (a) 58., 441.001 (3) (a), 441.001 (4) (b), 445.14,
3 446.01 (2) (b), 446.02 (1) (b), 446.02 (2) (b), 446.02 (4), 446.02 (9) (a), 446.03
4 (intro.), 446.05 (1), 446.05 (2), 447.03 (3) (h), 449.01 (2), 449.02 (2), 450.01 (22),
5 454.02 (1), 459.035, 560.33 (1) (e), 609.22 (4m) (a), 632.76 (2) (b), 647.01 (6),
6 700.16 (4) (d), 765.03 (1), 804.10 (3) (a), 880.33 (1), 880.33 (4m) (b) 1., 891.09 (2),
7 891.40 (1), 891.40 (2), 895.48 (1), 895.48 (4) (b) 2., 938.48 (6), 939.615 (6) (e),
8 967.02 (2), 968.255 (3), 971.14 (2) (g), 971.14 (5) (am), 971.17 (3) (c) and 990.01
9 (28); and *to create* 46.27 (1) (bg), 48.02 (14k), 50.01 (4p), 50.49 (1) (d), 51.01
10 (13m), 69.01 (17m), 77.51 (10m), 95.21 (1) (dm), 101.01 (10m), 146.31 (1g),
11 146.55 (1) (fm), 146.815 (1g), 148.01 (2), 149.10 (7m), 154.01 (6), 155.01 (9m),
12 185.983 (1g), 301.45 (1d) (q), 343.045, 346.01 (3), 441.001 (2q), 444.01, 446.01
13 (1d), 446.01 (1k), 446.01 (1L), 446.01 (1m), 446.01 (1q), 446.01 (3), 446.02 (6m),
14 446.02 (7) (b) 2., 446.02 (7s), 446.025, 446.03 (8), 446.035, 446.04 (6), (7), (8), (9),
15 (10) and (11), 446.05 (3), 449.01 (5), 450.01 (15m), 454.01 (14m), 600.03 (34m),
16 767.001 (5m), 804.10 (1g), 938.02 (14g), 940.001, 941.315 (1) (c), 948.01 (3o),
17 961.01 (17m), 975.001 (2), 979.001, 990.01 (25v) and 990.01 (40m) of the
18 statutes; **relating to:** the definition of the practice of chiropractic; chiropractic
19 evaluations, treatments, and referrals to physicians; unprofessional conduct by
20 chiropractors; delegations by chiropractors to physician assistants and other
21 ~~employees~~ continuing education for chiropractors; nutritional guidance

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1 provided by chiropractors to patients; ~~statutory references to physicians and~~
2 ~~chiropractors~~ and granting rule-making authority.

Analysis by the Legislative Reference Bureau and

This bill makes changes to the regulation of chiropractors regarding all of the following: 1) the definition of the “practice of chiropractic”; 2) patient evaluations, treatments, and referrals; 3) unprofessional conduct by chiropractors; 4) delegations by chiropractors; 5) continuing education requirements; 6) nutritional guidance provided by chiropractors; ~~and 7) statutory references to physicians and chiropractors.~~ These changes are described below.

Definition of the “practice of chiropractic”

Under current law, the “practice of chiropractic” is defined, in part, as the employment or application of chiropractic adjustments and the principles or techniques of chiropractic science in the diagnosis, treatment, or prevention of conditions of human health or disease.

Under this bill, the “practice of chiropractic” has the same definition, except that the chiropractic adjustments and principles or techniques of chiropractic science must be those that are taught at a college or university approved by the Council on Chiropractic Education or any successor organization.

Patient evaluations, treatments, and referrals

This bill requires a chiropractor to evaluate a patient to determine whether the patient has a condition that is treatable by chiropractic means. The evaluation must be based on an examination that is appropriate to the patient. Also, a chiropractor must utilize chiropractic science, as defined by rule by the Chiropractic Examining Board, and the principles of education and training of the chiropractic profession.

Under the bill, a chiropractor must discontinue treatment if, at any time, the chiropractor determines, or reasonably should have determined, that the patient's condition will not respond to further chiropractic treatment. Also, if a chiropractor makes such a determination, the chiropractor must inform the patient and refer the patient to a physician. If the referral is in writing, the chiropractor must provide a copy to the patient and maintain a copy with the patient's records. If the referral is made orally, the chiropractor must notify the patient about the referral and make a written record of the referral, which must be maintained with the patient's records.

Finally, the bill creates one exception to the requirement to discontinue treatment under the circumstances described above. The exception is that the bill allows a chiropractor to provide supportive care to a patient being treated by another health care professional.

Unprofessional conduct

Under current law, the Chiropractic Examining Board may investigate allegations of misconduct against a chiropractor and, following a hearing, may revoke, limit, or suspend the chiropractor's license.

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or within ^{Six} 6 months after discharge from care or treatment

Under this bill, the Chiropractic Examining Board must establish a Peer Review Panel of qualified chiropractors to evaluate a claim that a chiropractor provided inappropriate care to a patient. Under the bill, a finding by the Peer Review Panel that the chiropractor has provided a certain number of inappropriate services to a patient constitutes misconduct for which his or her license may be suspended or revoked.

~~The provisions regarding the Peer Review Panel do not apply 30~~

The bill also creates several new categories of misconduct for which a chiropractor may have his or her license suspended, including improper billing and falsifying an insurance claim. In addition, under the bill, the Chiropractic Examining Board must suspend the license of a chiropractor who commits a third misconduct violation, for no less than six months.

30 months after the bill's effective date

INSEAT 4A

While the patient is

Finally, the bill prohibits sexual misconduct by chiropractors. Sexual misconduct is sexual contact, exposure, or gratification, sexually offensive communication, dating a patient, under the chiropractor's professional care or treatment, or other sexual behavior with or in the presence of a patient under the chiropractor's professional care or treatment. Consent is not relevant. A chiropractor who commits sexual misconduct that does not involve physical contact with a patient shall have his or her license suspended for not less than 90 days. A chiropractor who commits a second act of sexual misconduct that does not involve physical contact or a first act of sexual misconduct that does involve physical contact shall have his or her license suspended for one year, and a chiropractor who commits a third act of sexual misconduct that does not involve physical contact or a second act of sexual misconduct that does involve physical contact shall have his or her license revoked.

Delegations by chiropractors

Under current law, a chiropractor licensed by the Chiropractic Examining Board is allowed to delegate services that are adjunctive to the practice of chiropractic to individuals who are not licensed by the Chiropractic Examining Board, but only if the services are performed under the direct, on-premises supervision of the chiropractor. ~~In addition, current law prohibits a chiropractor from delegating to individuals not licensed by the Chiropractic Examining Board the making of a diagnosis, the performance of a chiropractic adjustment, the analysis of a diagnostic test or clinical information, or any practice or service that the Chiropractic Examining Board specifies in rules.~~

This bill creates an exception to the prohibition described above. Under the bill, a chiropractor may delegate to a physician assistant licensed by the Medical Examining Board the making of a diagnosis, the analysis of a diagnostic test or clinical information, or any practice or service that the Chiropractic Examining Board specifies in rules. However, a chiropractor may not delegate the performance of a chiropractic adjustment to a physician assistant. Also, a delegation may not exceed the chiropractor's scope of practice or the education, training, or experience of the physician assistant. A delegation to a physician assistant allowed under the bill does not have to be under the direct, on-premises supervision of a chiropractor.

The bill also requires a chiropractor who applies to renew his or her license to identify each employee to whom clinical work is delegated, except that the following

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do not have to be identified: nurses, ~~physician assistants~~^g, physical therapists, and athletic trainers. In addition, if the Chiropractic Examining Board has promulgated rules that require an employee who is required to be identified to complete a training program or course of instruction to perform the delegated work, the chiropractor must also provide in his or her application for renewal the name, date, and sponsoring organization for the training program or course of instruction that the employee completed.

Finally, the bill changes the definitions of "practical nursing" and "professional nursing" to include actions taken under the supervision or direction of a chiropractor, in addition to actions taken under the supervision or direction of other health care professionals that are specified under current law.

Continuing education

Under current law, a chiropractor licensed by the Chiropractic Examining Board must complete any continuing education that the board requires in order to renew his or her license, which must be renewed every two years. This bill creates additional requirements regarding continuing education.

Under the bill, the Chiropractic Examining Board must establish the minimum number of hours of continuing education courses that must be completed during the two-year licensure period. As under current law, a chiropractor does not have to begin complying with continuing education requirements under the bill until the first two-year licensure period beginning after he or she initially receives his or her license.

Also under the bill, only courses that are ^{accredited} approved by the Chiropractic Examining Board may be used to satisfy the minimum hours required. The Chiropractic Examining Board may only approve a course if the organization that sponsors the course (sponsoring organization) satisfies certain requirements. The sponsoring organization must be the Wisconsin, American, or International Chiropractic Association, or an ~~approved~~ chiropractic, medical, or osteopathic college or university. Also, the sponsoring organization must carry out specified duties, including selecting the course instructor, preparing course materials, evaluating the course, maintaining transcripts, performing financial administration, proctoring attendance, providing attendance vouchers, and supplying a list of attendees to the Chiropractic Examining Board. The sponsoring organization is also allowed to delegate these duties to another organization. The Chiropractic Examining Board must withdraw or withhold approval from a sponsoring organization for a ~~two-year~~ period if the sponsoring organization fails to carry out any of the duties, or if an organization to which a duty is delegated fails to carry out any of the duties.

The bill requires the Chiropractic Examining Board periodically to publish an updated list of approved courses. A chiropractor who applies to renew his or her license must identify the courses used to satisfy the minimum hour requirement on a form provided by the Department of Regulation and Licensing. The bill requires the Department of Regulation and Licensing to audit a percentage, as determined by the department, of the renewal applications received during each two-year licensure period to determine whether an applicant has attended the courses that he or she identifies on the form.

90-day

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Finally, the bill allows the Chiropractic Examining Board to take disciplinary action against a licensed chiropractor who violates any state law or rule regulating chiropractors, including the continuing education requirements.

Nutritional guidance

This bill requires certain chiropractors licensed by the Chiropractic Examining Board to complete a postgraduate course of study in nutrition before they may provide counsel, guidance, direction, advice, or recommendations to patients regarding the health benefits of vitamins, herbs, or nutritional supplements. However, the requirement applies only to chiropractors who were granted licenses on or before January 1, 2003. In addition, the requirement does not apply to chiropractors who are also certified as dietitians by the Dietitians Affiliated Credentialing Board. The required course of study must consist of 48 hours and must be approved by the Chiropractic Examining Board.

Statutory references to physicians and chiropractors

Under current law, if the term “physician” is used in the statutes, it means a physician licensed by the Medical Examining Board, except if that meaning is inconsistent with the legislature’s manifest intent. Also, under current law, if “chiropractor” is used in the statutes, it means a chiropractor licensed by the Chiropractic Examining Board, with the same exception regarding legislative intent.

Under this bill, if the term “physician” is used in the statutes, it means either a physician licensed by the Medical Examining Board or a chiropractor licensed by the Chiropractic Examining Board, with the same exception under current law regarding legislative intent. As a result, the following provisions that refer to a “physician” under current law are changed under the bill to refer to either a physician licensed by the Medical Examining Board or a chiropractor licensed by the Chiropractic Examining Board:

1. Certifications, reports, or other requirements regarding handicap, disability, illness, physical fitness, or other physical condition that are related to class B hunting permits, testimony by telephone at tax dispute hearings conducted by a board of review, releases of land from farmland preservation agreements, polygraph testing by employers, verification of illness of striking municipal workers, duty of hospitals to provide emergency treatment, notification of the Department of Transportation about a patient’s ability to drive, and participation in a property tax loan program administered by the Wisconsin Housing and Economic Development Authority, and driver’s instructor licenses.

2. Certifications, reports, or examinations regarding handicap, disability, or other physical condition required for participation in a program for state agencies to make procurements from work centers for the severely physically handicapped, disability annuities administered by the Employee Trust Funds Board, eligibility of veterans for public employment, and exemptions of unemployed persons from certain supervision fees otherwise required by the Department of Corrections.

3. Appointments to the Private Employer Health Coverage Board in the Department of Employee Trust Funds.

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4. Privacy requirements for medical communications regarding residents of nursing homes and community-based residential facilities and for releases of information by the Department of Health and Family Services, and requirements regarding the release of employee medical records by employers.

5. Reports required for accidents involving all-terrain vehicles and snowmobiles and investigations of snowmobile accidents by the Department of Natural Resources.

6. Requirements for drawing blood for testing persons arrested for intoxicated operation of motor vehicles, all-terrain vehicles, snowmobiles, or boats.

7. Physical examinations required for civil service employees of first class cities, for participation in the Wisconsin service and conservation corps programs, and for certain school employees and statements about job applicants obtained by the Division of Merit Recruitment and Selection of the Department of Employment Relations.

8. Access to physical examinations and medical evidence in personal injury actions.

9. Requirements for participating in the Volunteer Health Care Provider program administered by the Department of Health and Family Services.

10. Eligibility of nonprofit hospitals for property tax exemption regarding certain health and fitness centers.

11. Reduced railroad rates allowed for physicians.

12. Exception to immunity from civil liability for emergency care that applies to care provided in a physician's office.

Finally, the bill specifies that other references to a "physician" under current law mean a physician licensed by the Medical Examining Board. As a result, the bill does not change the meaning of those references under current law.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.165 (5) (a) 7. of the statutes is amended to read:

2 15.165 (5) (a) 7. One member who is a physician, as defined in s. 448.01 (5).

3 **SECTION 2.** 15.197 (25) (a) 1. of the statutes is amended to read:

4 15.197 (25) (a) 1. Four physicians, as defined in s. 448.01 (5), who represent
5 urban and rural areas.

6 **SECTION 3.** 15.405 (7m) of the statutes is amended to read:

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1 15.405 (7m) NURSING HOME ADMINISTRATOR EXAMINING BOARD. There is created
2 a nursing home administrator examining board in the department of regulation and
3 licensing consisting of 9 members appointed for staggered 4-year terms and the
4 secretary of health and family services or a designee, who shall serve as a nonvoting
5 member. Five members shall be nursing home administrators licensed in this state.
6 One member shall be a physician as defined in s. 448.01 (5). One member shall be
7 a nurse licensed under ch. 441. Two members shall be public members. No more than
8 2 members may be officials or full-time employees of this state.

9 **SECTION 4.** 15.407 (1m) of the statutes is amended to read:

10 15.407 (1m) RESPIRATORY CARE PRACTITIONERS EXAMINING COUNCIL. There is
11 created a respiratory care practitioners examining council in the department of
12 regulation and licensing and serving the medical examining board in an advisory
13 capacity in the formulating of rules to be promulgated by the medical examining
14 board for the regulation of respiratory care practitioners. The respiratory care
15 practitioners examining council shall consist of 3 certified respiratory care
16 practitioners, each of whom shall have engaged in the practice of respiratory care for
17 at least 3 years preceding appointment, one physician, as defined in s. 448.01 (5), and
18 one public member. The respiratory care practitioner and physician members shall
19 be appointed by the medical examining board. The members of the examining
20 council shall serve 3-year terms. Section 15.08 (1) to (4) (a) and (6) to (10) shall apply
21 to the respiratory care practitioners examining council.

22 **SECTION 5.** 15.915 (2) (b) of the statutes is amended to read:

23 15.915 (2) (b) A representative of local health departments who is not an
24 employee of the department of health and family services, one physician, as defined
25 in s. 448.01 (5), representing clinical laboratories, one member representing private

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1 environmental testing laboratories, one member representing occupational health
2 laboratories and 3 additional members, one of whom shall be a medical examiner or
3 coroner, appointed for 3-year terms. No member appointed under this paragraph
4 may be an employee of the laboratory of hygiene.

5 **SECTION 6.** 16.009 (1) (h) of the statutes is repealed.

6 **SECTION 7.** 20.927 (1m) of the statutes is amended to read:

7 20.927 (1m) Except as provided under subs. (2) and (3), no funds of this state
8 or of any county, city, village, town or family care district under s. 46.2895 or of any
9 subdivision or agency of this state or of any county, city, village or town and no federal
10 funds passing through the state treasury shall be authorized for or paid to a
11 physician, as defined in s. 448.01 (5), or surgeon or a hospital, clinic or other medical
12 facility for the performance of an abortion.

13 **SECTION 8.** 29.193 (3) (a) of the statutes is amended to read:

14 29.193 (3) (a) Produces a certificate from a licensed physician, as defined in s.
15 448.01 (5), or optometrist stating that his or her sight is impaired to the degree that
16 he or she cannot read ordinary newspaper print with or without corrective glasses.

17 **SECTION 9.** 30.67 (6) (b) of the statutes is amended to read:

18 30.67 (6) (b) In cases of death involving a boat in which the person died within
19 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be
20 withdrawn from the body of the decedent within 12 hours after his or her death, by
21 the coroner or medical examiner or by a physician, as defined in s. 448.01 (5), so
22 designated by the coroner or medical examiner or by a qualified person at the
23 direction of the physician. All morticians shall obtain a release from the coroner or
24 medical examiner prior to proceeding with embalming any body coming under the
25 scope of this section. The blood so drawn shall be forwarded to a laboratory approved

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1 by the state health officer for analysis of the alcoholic content of the blood specimen.
2 The coroner or medical examiner causing the blood to be withdrawn shall be notified
3 of the results of each analysis made and shall forward the results of each analysis
4 to the state health officer. The state health officer shall keep a record of all
5 examinations to be used for statistical purposes only. The cumulative results of the
6 examinations, without identifying the individuals involved, shall be disseminated
7 and made public by the state health officer. The department shall reimburse
8 coroners and medical examiners for the costs incurred in submitting reports and
9 taking blood specimens and laboratories for the costs incurred in analyzing blood
10 specimens under this section.

11 **SECTION 10.** 36.25 (11) (b) of the statutes is amended to read:

12 36.25 (11) (b) The laboratory shall provide complete laboratory services in the
13 areas of water quality, air quality, public health and contagious diseases for
14 appropriate state agencies, and may perform examinations for licensed physicians,
15 as defined in s. 448.01 (5), veterinarians, local health officers, as defined in s. 250.01
16 (5), and resource management officials as may be necessary for the prevention and
17 control of those diseases and environmental hazards which cause concern for public
18 health and environmental quality.

19 **SECTION 11.** 36.25 (13g) (b) 2. of the statutes is amended to read:

20 36.25 (13g) (b) 2. Providing an environment suitable for instructing medical
21 and other health professions students, physicians, as defined in s. 448.01 (5), nurses
22 and members of other health-related disciplines.

23 **SECTION 12.** 39.16 (2) (d) of the statutes is amended to read:

24 39.16 (2) (d) Encourage the development of continuing education programs for
25 practicing physicians, as defined in s. 448.01 (5), in this state, including

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1 communication links with outlying regions of the state that would allow
2 practitioners to have access to their medical schools.

3 **SECTION 13.** 46.18 (10) of the statutes is amended to read:

4 46.18 (10) ANNUAL REPORT. On July 1 of each year the trustees shall prepare
5 a report for the preceding fiscal year and shall transmit a copy to the department of
6 health and family services and a copy to the county clerk, and keep a copy on file at
7 the institution. The report shall be accompanied by an inventory of all properties on
8 hand on the last day of the fiscal year, an estimate of the receipts and expenditures
9 for the current fiscal year, and the reports of the superintendent and visiting
10 physician, as defined in s. 448.01 (5), of the institution.

11 **SECTION 14.** 46.19 (4) of the statutes is amended to read:

12 46.19 (4) The salaries of the superintendent, visiting physician, as defined in
13 s. 448.01 (5), and all necessary additional officers and employees shall be fixed by the
14 county board.

15 **SECTION 15.** 46.21 (2) (m) of the statutes is amended to read:

16 46.21 (2) (m) May establish and maintain in connection with such county
17 hospital, an emergency unit or department for the treatment, subject to such rules
18 as may be prescribed by the county board of supervisors, of persons in the county who
19 may meet with accidents or be suddenly afflicted with illness not contagious;
20 provided that medical care and treatment shall only be furnished in such unit or
21 department until such time as the patient may be safely removed to another hospital
22 or to his or her place of abode, or regularly admitted to the county hospital. The
23 county board of supervisors may also contract with any private hospital or nonprofit
24 hospital within the county for the use of its facilities and for medical service to be
25 furnished by a licensed physician, or physicians, as defined in s. 448.01 (5), to

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1 patients who require emergency medical treatment or first aid as a result of any
2 accident, injury or sudden affliction of illness occurring within the county, except
3 that reasonable compensation may only be authorized until the patient is regularly
4 admitted as an inpatient or safely removed to another hospital or to his place of
5 abode. In this paragraph, "hospital" includes, without limitation due to
6 enumeration, public health centers, medical facilities and general, tuberculosis,
7 mental, chronic disease and other types of hospitals and related facilities, such as
8 laboratories, outpatient departments, nurses' home and training facilities, and
9 central service facilities operated in connection with hospitals. In this paragraph,
10 "hospital" does not include any hospital furnishing primarily domiciliary care. In
11 this paragraph "nonprofit hospital" means any hospital owned and operated by a
12 corporation or association, no part of the net earnings of which inures, or may
13 lawfully inure, to the benefit of any private shareholder or individual.

14 **SECTION 16.** 46.21 (4m) (a) of the statutes is amended to read:

15 46.21 (4m) (a) The county hospitals and county sanatoriums of a county with
16 a population of 500,000 or more shall be devoted to hospital service and the
17 treatment of patients upon such terms and conditions as the county board of
18 supervisors establishes. The hospitals and sanatoriums may be utilized for
19 instruction of medical students, physicians, as defined in s. 448.01 (5), and nurses
20 and for scientific and clinical research that will promote the welfare of the patients
21 and assist the application of science to the alleviation of human suffering.

22 **SECTION 17.** 46.245 of the statutes is amended to read:

23 **46.245 Information for certain pregnant women.** Upon request, a county
24 department under s. 46.215, 46.22 or 46.23 shall distribute the materials described
25 under s. 253.10 (3) (d), as prepared and distributed by the department. A physician,

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1 as defined in s. 448.01 (5), who intends to perform or induce an abortion or another
2 qualified physician, as defined in s. 253.10 (2) (g), who reasonably believes that he
3 or she might have a patient for whom the information under s. 253.10 (3) (d) is
4 required to be given, shall request a reasonably adequate number of the materials
5 from the county department under this section or from the department under s.
6 253.10 (3) (d). An individual may request a reasonably adequate number of the
7 materials.

8 **SECTION 18.** 46.27 (1) (bg) of the statutes is created to read:

9 46.27 (1) (bg) “Physician” has the meaning given in s. 448.01 (5).

10 **SECTION 19.** 46.297 (2) (a) of the statutes is amended to read:

11 46.297 (2) (a) The person is certified as deaf or severely hearing impaired by
12 a physician, as defined in s. 448.01 (5), an audiologist licensed under subch. II of ch.
13 459, or the department.

14 **SECTION 20.** 46.298 of the statutes is amended to read:

15 **46.298 Vehicle sticker for the hearing impaired.** Upon the request of a
16 person who is certified as hearing impaired by the department, by a physician, as
17 defined in s. 448.01 (5), by a hearing instrument specialist licensed under subch. I
18 of ch. 459 or by an audiologist licensed under subch. II of ch. 459, the department
19 shall issue to the person a decal or sticker for display on a motor vehicle owned or
20 frequently operated by the person to apprise law enforcement officers of the fact that
21 the vehicle is owned or operated by a hearing-impaired person. No charge shall be
22 made for issuance of the decal or sticker. The department shall specify the design
23 of the decal or sticker. The department shall designate the location on the vehicle
24 at which the decal or sticker shall be affixed by its own adhesive.

25 **SECTION 21.** 46.56 (3) (b) 3. of the statutes is amended to read:

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1 46.56 (3) (b) 3. Physicians, as defined in s. 448.01 (5), specializing in care for
2 children.

3 **SECTION 22.** 46.87 (5) (a) 1. of the statutes is amended to read:

4 46.87 (5) (a) 1. At least one member of the household must be a person who has
5 been diagnosed by a physician, as defined in s. 448.01 (5), as having Alzheimer's
6 disease.

7 **SECTION 23.** 48.02 (14k) of the statutes is created to read:

8 48.02 (14k) "Physician" has the meaning given in s. 448.01 (5).

9 **SECTION 24.** 49.148 (1m) (b) of the statutes is amended to read:

10 49.148 (1m) (b) Receipt of a grant under this subsection constitutes
11 participation in a Wisconsin works employment position for purposes of the time
12 limits under ss. 49.145 (2) (n) and 49.147 (3) (c), (4) (b) or (5) (b) 2. if the child is born
13 to the participant more than 10 months after the date that the participant was first
14 determined to be eligible for assistance under s. 49.19 or for a Wisconsin works
15 employment position unless the child was conceived as a result of a sexual assault
16 in violation of s. 940.225 (1), (2) or (3) in which the mother did not indicate a freely
17 given agreement to have sexual intercourse or of incest in violation of s. 944.06 or
18 948.06 and that incest or sexual assault has been reported to a physician, as defined
19 in s. 448.01 (5), and to law enforcement authorities.

20 **SECTION 25.** 49.19 (11s) (b) 2. of the statutes is amended to read:

21 49.19 (11s) (b) 2. The child was conceived as a result of a sexual assault in
22 violation of s. 940.225 (1), (2) or (3) in which the mother did not indicate a freely given
23 agreement to have sexual intercourse or of incest in violation of s. 944.06 or 948.06
24 and that incest or sexual assault has been reported to a physician, as defined in s.
25 448.01 (5), and to law enforcement authorities.

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1 **SECTION 26.** 49.26 (1) (g) 11. of the statutes is amended to read:

2 49.26 (1) (g) 11. If the individual is the mother of a child, a physician, as defined
3 in s. 448.01 (5), has not determined that the individual should delay her return to
4 school after giving birth.

5 **SECTION 27.** 49.43 (9) of the statutes is amended to read:

6 49.43 ~~(9)~~ "Physician" means a person licensed to practice medicine and surgery,
7 ~~and includes graduates of osteopathic colleges holding an unlimited license to~~
8 ~~practice medicine and surgery~~ has the meaning given in s. 448.01 (5).

9 **SECTION 28.** 50.01 (4p) of the statutes is created to read:

10 50.01 **(4p)** "Physician" has the meaning given in s. 448.01 (5).

11 **SECTION 29.** 50.09 (1) (a) ~~(intro.)~~ of the statutes is amended to read:

12 50.09 **(1)** (a) ~~(intro.)~~ Private and unrestricted communications with the
13 resident's family, physician, chiropractor, attorney and any other person, unless
14 medically contraindicated as documented by the resident's physician or chiropractor
15 in the resident's medical record, except that communications with public officials or
16 with the resident's attorney shall not be restricted in any event. The right to private
17 and unrestricted communications shall include, but is not limited to, the right to:

18 **SECTION 30.** 50.36 (3g) (c) of the statutes is amended to read:

19 50.36 **(3g)** (c) If a hospital grants a psychologist hospital staff privileges or
20 limited hospital staff privileges under par. (b), the psychologist or the hospital shall,
21 prior to or at the time of hospital admission of a patient, identify an appropriate
22 physician, as defined in s. 448.01 (5), as defined in s. 448.01 (5), with admitting
23 privileges at the hospital who shall be responsible for the medical evaluation and
24 medical management of the patient for the duration of his or her hospitalization.

25 **SECTION 31.** 50.49 (1) (d) of the statutes is created to read:

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SECTION 31

1 50.49 (1) (d) “Physician” has the meaning given in s. 448.01 (5).

2 **SECTION 32.** 50.90 (3) of the statutes is amended to read:

3 50.90 (3) “Palliative care” means management and support provided for the
4 reduction or abatement of pain, for other physical symptoms and for psychosocial or
5 spiritual needs of individuals with terminal illness and includes ~~physician~~ services
6 provided by a physician, as defined in s. 448.01 (5), skilled nursing care, medical
7 social services, services of volunteers, and bereavement services. “Palliative care”
8 does not mean treatment provided in order to cure a medical condition or disease or
9 to artificially prolong life.

10 **SECTION 33.** 51.01 (13m) of the statutes is created to read:

11 51.01 (13m) “Physician” has the meaning given in s. 448.01 (5).

12 **SECTION 34.** 55.043 (1) (b) (intro.) of the statutes is amended to read:

13 55.043 (1) (b) (intro.) The county protective services agency may transport the
14 vulnerable adult for performance of a medical examination by a physician, as defined
15 in s. 448.01 (5), if any of the following applies:

16 **SECTION 35.** 59.53 (13) (a) of the statutes is amended to read:

17 59.53 (13) (a) No county, or agency or subdivision of the county, may authorize
18 funds for or pay to a physician, as defined in s. 448.01 (5), or surgeon or a hospital,
19 clinic or other medical facility for the performance of an abortion except those
20 permitted under and which are performed in accordance with s. 20.927.

21 **SECTION 36.** 59.64 (1) (a) of the statutes is amended to read:

22 59.64 (1) (a) *In general.* Every person, except jurors, witnesses and
23 interpreters, and except physicians, as defined in s. 448.01 (5), or other persons who
24 are entitled to receive from the county fees for reporting to the register of deeds births
25 or deaths, which have occurred under their care, having any claim against any

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1 county shall comply with s. 893.80. This paragraph does not apply to actions
2 commenced under s. 19.37, 19.97 or 281.99.

3 **SECTION 37.** 60.23 (9) of the statutes is amended to read:

4 60.23 (9) RESIDENT PHYSICIANS, PHYSICIAN ASSISTANTS, AND NURSES IN CERTAIN
5 TOWNS. In a town comprised entirely of one or more islands, annually appropriate
6 money to retain a physician, as defined in s. 448.01 (5), or, if no such physician is
7 available, a physician assistant or nurse practitioner, as a resident within the town.

8 **SECTION 38.** 66.0601 (1) (b) of the statutes is amended to read:

9 66.0601 (1) (b) *Payments for abortions restricted.* No city, village, town, family
10 care district under s. 46.2895 or agency or subdivision of a city, village or town may
11 authorize funds for or pay to a physician, as defined in s. 448.01 (5), or surgeon or a
12 hospital, clinic or other medical facility for the performance of an abortion except
13 those permitted under and which are performed in accordance with s. 20.927.

14 **SECTION 39.** 69.01 (17m) of the statutes is created to read:

15 69.01 (17m) "Physician" has the meaning given in s. 448.01 (5).

16 **SECTION 40.** 70.11 (25) of the statutes is amended to read:

17 70.11 (25) NONPROFIT MEDICAL RESEARCH FOUNDATIONS. Property owned and
18 operated by a corporation, voluntary association, foundation or trust, no part of the
19 net earnings of which inure to the benefit of any shareholder, member, director or
20 officer thereof, which property is used exclusively for the purposes of medical and
21 surgical research the knowledge derived from which is applied to the cures,
22 prevention, relief and therapy of human diseases; providing instruction for
23 practicing physicians and surgeons, as defined in s. 448.01 (5), promoting education,
24 training, skill and investigative ability of physicians, as defined in s. 448.01 (5),
25 scientists and individuals engaged in work in the basic sciences which bear on

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1 medicine and surgery; or providing diagnostic facilities and treatment for deserving
2 destitute individuals not eligible for assistance from charitable or governmental
3 institutions. Such corporation, voluntary association, foundation or trust must have
4 received a certificate under section 501 (c) (3) of the internal revenue code as a
5 nonprofit organization exempt for income tax purposes.

6 **SECTION 41.** 77.51 (10m) of the statutes is created to read:

7 77.51 (10m) "Physician" has the meaning given in s. 448.01 (5).

8 **SECTION 42.** 94.70 (3) (b) of the statutes is amended to read:

9 94.70 (3) (b) Use for personal advantage or reveal, other than to federal or state
10 agencies, the courts, physicians, as defined in s. 448.01 (5), pharmacists or other
11 persons requiring the information for the performance of their duties, any
12 information relative to formulas acquired in the administration of ss. 94.67 to 94.71
13 which may be confidential under the federal act or otherwise constitute a trade secret
14 as defined in s. 134.90 (1) (c).

15 **SECTION 43.** 95.21 (1) (dm) of the statutes is created to read:

16 95.21 (1) (dm) "Physician" has the meaning given in s. 448.01 (5).

17 **SECTION 44.** 97.18 (5) of the statutes is amended to read:

18 97.18 (5) The serving of oleomargarine or margarine to students, patients or
19 inmates of any state institutions as a substitute for table butter is prohibited, except
20 that such substitution may be ordered by the institution superintendent when
21 necessary for the health of a specific patient or inmate, if directed by the physician,
22 as defined in s. 448.01 (5), in charge of the patient or inmate.

23 **SECTION 45.** 97.48 (2) of the statutes is amended to read:

24 97.48 (2) This section does not prohibit the manufacture or sale of proprietary
25 foods containing milk or skim milk to which have been added any fat or oil other than

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1 milk fat when such foods are clearly labeled to show their composition and the fact
2 that they are to be sold exclusively for use as directed by physicians, as defined in
3 s. 448.01 (5).

4 **SECTION 46.** 100.43 (3) (c) of the statutes is amended to read:

5 100.43 (3) (c) A household substance, subject to special packaging standards,
6 which is dispensed pursuant to a prescription of a physician, as defined in s. 448.01
7 (5), dentist, or other licensed medical practitioner may be sold in conventional or
8 noncomplying packages when directed in such prescription or requested by the
9 purchaser.

10 **SECTION 47.** 101.01 (10m) of the statutes is created to read:

11 101.01 (10m) "Physician" has the meaning given in s. 448.01 (5).

12 **SECTION 48.** 102.565 (2) of the statutes is amended to read:

13 102.565 (2) Upon application of any employer or employee the department may
14 direct any employee of the employer or an employee who, in the course of his or her
15 employment, has been exposed to toxic or hazardous substances or conditions, to
16 submit to examination by a physician or physicians, as defined in s. 448.01 (5), to be
17 appointed by the department to determine whether the employee has developed any
18 abnormality or condition under sub. (1), and the degree thereof. The cost of the
19 medical examination shall be borne by the person making application. The results
20 of the examination shall be submitted by the physician to the department, which
21 shall submit copies of the reports to the employer and employee, who shall have
22 opportunity to rebut the reports provided request therefor is made to the department
23 within 10 days from the mailing of the report to the parties. The department shall
24 make its findings as to whether or not it is inadvisable for the employee to continue
25 in his or her employment.

ASSEMBLY BILL 356**SECTION 49**

1 **SECTION 49.** 106.50 (2r) (bm) 2. of the statutes is amended to read:

2 106.50 (2r) (bm) 2. Subdivision 1. does not apply in the case of the rental of
3 owner-occupied housing if the owner or a member of his or her immediate family
4 occupying the housing possesses and, upon request, presents to the individual a
5 certificate signed by a physician, as defined in s. 448.01 (5), which states that the
6 owner or family member is allergic to the type of animal the individual possesses.

7 **SECTION 50.** 115.53 (4) (a) of the statutes is amended to read:

8 115.53 (4) (a) The application shall be accompanied by the report of a physician,
9 as defined in s. 448.01 (5), appointed by the director of the Wisconsin Educational
10 Services Program for the Deaf and Hard of Hearing or the director of the Wisconsin
11 Center for the Blind and Visually Impaired and shall be in the same form as reports
12 of other physicians for admission of patients to such hospital.

13 **SECTION 51.** 115.777 (1) (a) of the statutes is amended to read:

14 115.777 (1) (a) A physician, as defined in s. 448.01 (5), nurse, psychologist,
15 social worker, or administrator of a social agency who reasonably believes that a child
16 brought to him or her for services has a disability shall refer the child to the local
17 educational agency. If the local educational agency to whom the referral is made is
18 the school district in which the child resides but the child is attending a public school
19 in a nonresident school district under s. 118.51 or 121.84 (1) (a) or (4), the school
20 board of the school district in which the child resides shall provide the name of the
21 child and related information to the school board of the school district that the child
22 is attending.

23 **SECTION 52.** 118.135 (3) of the statutes is amended to read:

24 118.135 (3) To the extent feasible, the medical examining board and the
25 optometry examining board shall encourage physicians, as defined in s. 448.01 (5),

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1 and optometrists, for the purpose of this section, to conduct free eye examinations or
2 evaluations of pupils who are in financial need and do not have insurance coverage
3 for eye examinations or evaluations.

4 **SECTION 53.** 118.29 (1) (e) of the statutes is amended to read:

5 118.29 (1) (e) "Practitioner" means any physician, as defined in s. 448.01 (5),
6 dentist, optometrist, physician assistant, advanced practice nurse prescriber, or
7 podiatrist licensed in any state.

8 **SECTION 54.** 118.291 (1) (b) of the statutes is amended to read:

9 118.291 (1) (b) The pupil has the written approval of the pupil's physician, as
10 defined in s. 448.01 (5), and, if the pupil is a minor, the written approval of the pupil's
11 parent or guardian.

12 **SECTION 55.** 146.0255 (2) of the statutes is amended to read:

13 146.0255 (2) TESTING. Any hospital employee who provides health care, social
14 worker or intake worker under ch. 48 may refer an infant or an expectant mother of
15 an unborn child, as defined in s. 48.02 (19), to a physician, as defined in s. 448.01 (5),
16 for testing of the bodily fluids of the infant or expectant mother for controlled
17 substances or controlled substance analogs if the hospital employee who provides
18 health care, social worker or intake worker suspects that the infant or expectant
19 mother has controlled substances or controlled substance analogs in the bodily fluids
20 of the infant or expectant mother because of the use of controlled substances or
21 controlled substance analogs by the mother while she was pregnant with the infant
22 or by the expectant mother while she is pregnant with the unborn child. The
23 physician may test the infant or expectant mother to ascertain whether or not the
24 infant or expectant mother has controlled substances or controlled substance
25 analogs in the bodily fluids of the infant or expectant mother, if the physician

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1 determines that there is a serious risk that there are controlled substances or
2 controlled substance analogs in the bodily fluids of the infant or expectant mother
3 because of the use of controlled substances or controlled substance analogs by the
4 mother while she was pregnant with the infant or by the expectant mother while she
5 is pregnant with the unborn child and that the health of the infant, the unborn child
6 or the child when born may be adversely affected by the controlled substances or
7 controlled substance analogs. If the results of the test indicate that the infant does
8 have controlled substances or controlled substance analogs in the infant's bodily
9 fluids, the physician shall make a report under s. 46.238. If the results of the test
10 indicate that the expectant mother does have controlled substances or controlled
11 substance analogs in the expectant mother's bodily fluids, the physician may make
12 a report under s. 46.238. Under this subsection, no physician may test an expectant
13 mother without first receiving her informed consent to the testing.

14 **SECTION 56.** 146.15 of the statutes is amended to read:

15 **146.15 Information.** State officials, physicians, as defined in s. 448.01 (5), of
16 mining, manufacturing and other companies or associations, officers and agents of
17 a company incorporated by or transacting business under the laws of this state, shall
18 when requested furnish, so far as practicable, the department any information
19 required touching the public health; and for refusal shall forfeit \$10.

20 **SECTION 57.** 146.17 of the statutes is amended to read:

21 **146.17 Limitations.** Nothing in the statutes shall be construed to authorize
22 interference with the individual's right to select his or her own physician, as defined
23 in s. 448.01 (5), or mode of treatment, nor as a limitation upon the municipality to
24 enact measures in aid of health administration, consistent with statute and acts of
25 the department.

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1 **SECTION 58.** 146.31 (1) of the statutes is renumbered 146.31 (1r).

2 **SECTION 59.** 146.31 (1g) of the statutes is created to read:

3 146.31 (1g) In this section, “physician” has the meaning given in s. 448.01 (5).

4 **SECTION 60.** 146.55 (1) (fm) of the statutes is created to read:

5 146.55 (1) (fm) “Physician” has the meaning given in s. 448.01 (5).

6 **SECTION 61.** 146.58 (1) of the statutes is amended to read:

7 146.58 (1) Appoint an advisory committee of physicians, as defined in s. 448.01
8 (5), with expertise in the emergency medical services area to advise the department
9 on the criteria for selection of the state medical director for emergency medical
10 services and on the performance of the director and to advise the director on
11 appropriate medical issues.

12 **SECTION 62.** 146.815 (1) of the statutes is renumbered 146.815 (1r).

13 **SECTION 63.** 146.815 (1g) of the statutes is created to read:

14 146.815 (1g) In this section, “physician” has the meaning given in s. 448.01 (5).

15 **SECTION 64.** 146.82 (2) (a) 5. of the statutes is amended to read:

16 146.82 (2) (a) 5. In response to a written request by any federal or state
17 governmental agency to perform a legally authorized function, including but not
18 limited to management audits, financial audits, program monitoring and
19 evaluation, facility licensure or certification or individual licensure or certification.
20 The private pay patient, except if a resident of a nursing home, may deny access
21 granted under this subdivision by annually submitting to a health care provider,
22 other than a nursing home, a signed, written request on a form provided by the
23 department. The provider, if a hospital, shall submit a copy of the signed form to the
24 patient’s physician, as defined in s. 448.01 (5).

25 **SECTION 65.** 146.89 (1) of the statutes is amended to read:

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1 146.89 (1) In this section, “volunteer health care provider” means an individual
2 who is licensed as a physician under ch. 448, or who is licensed as a dentist under
3 ch. 447, registered nurse, practical nurse or nurse-midwife under ch. 441,
4 optometrist under ch. 449 or physician assistant under ch. 448 or certified as a
5 dietitian under subch. V of ch. 448 and who receives no income from the practice of
6 that health care profession or who receives no income from the practice of that health
7 care profession when providing services at the nonprofit agency specified under sub.
8 (3).

9 **SECTION 66.** 146.89 (2) (b) of the statutes is amended to read:

10 146.89 (2) (b) The department of administration may send an application to the
11 medical examining board or chiropractic examining board for evaluation. The
12 medical examining board or chiropractic examining board shall evaluate any
13 application submitted by the department of administration and return the
14 application to the department of administration with the board’s recommendation
15 regarding approval.

16 **SECTION 67.** 148.01 of the statutes is renumbered 148.01 (intro.) and amended
17 to read:

18 **148.01 (intro.) Definition Definitions.** In this chapter, “medical society”:

19 (1) “Medical society” means the State Medical Society of Wisconsin and any
20 county medical society organized or continued under this chapter.

21 **SECTION 68.** 148.01 (2) of the statutes is created to read:

22 148.01 (2) “Physician” has the meaning given in s. 448.01 (5).

23 **SECTION 69.** 149.10 (7m) of the statutes is created to read:

24 149.10 (7m) “Physician” has the meaning given in s. 448.01 (5).

25 **SECTION 70.** 150.85 (4) (c) 2. of the statutes is amended to read:

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1 150.85 (4) (c) 2. Whether any reduction in competition among physicians, as
2 defined in s. 448.01 (5), allied health professionals or other health care providers is
3 likely to result directly or indirectly from the cooperative agreement.

4 **SECTION 71.** 154.01 (6) of the statutes is created to read:

5 154.01 (6) “Physician” has the meaning given in s. 448.01 (5).

6 **SECTION 72.** 155.01 (9m) of the statutes is created to read:

7 155.01 (9m) “Physician” has the meaning given in s. 448.01 (5).

8 **SECTION 73.** 155.05 (2) of the statutes is amended to read:

9 155.05 (2) Unless otherwise specified in the power of attorney for health care
10 instrument, an individual’s power of attorney for health care takes effect upon a
11 finding of incapacity by 2 physicians, ~~as defined in s. 448.01 (5)~~, or one physician and
12 one licensed psychologist, as defined in s. 455.01 (4), who personally examine the
13 principal and sign a statement specifying that the principal has incapacity. Mere old
14 age, eccentricity or physical disability, either singly or together, are insufficient to
15 make a finding of incapacity. Neither of the individuals who make a finding of
16 incapacity may be a relative of the principal or have knowledge that he or she is
17 entitled to or has a claim on any portion of the principal’s estate. A copy of the
18 statement, if made, shall be appended to the power of attorney for health care
19 instrument.

20 **SECTION 74.** 157.05 of the statutes is amended to read:

21 **157.05 Autopsy.** Consent for a licensed physician, as defined in s. 448.01 (5),
22 to conduct an autopsy on the body of a deceased person shall be deemed sufficient
23 when given by whichever one of the following assumes custody of the body for
24 purposes of burial: Father, mother, husband, wife, child, guardian, next of kin, or in
25 the absence of any of the foregoing, a friend, or a person charged by law with the

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1 responsibility for burial. If 2 or more such persons assume custody of the body, the
2 consent of one of them shall be deemed sufficient.

3 **SECTION 75.** 157.06 (1) (h) of the statutes is amended to read:

4 157.06 (1) (h) “Physician” ~~means~~ has the meaning given in s. 448.01 (5), and
5 also includes an individual licensed or otherwise authorized to practice medicine and
6 surgery or osteopathy and surgery under the laws of any state.

7 **SECTION 76.** 165.765 (2) (a) of the statutes is amended to read:

8 165.765 (2) (a) Any physician, as defined in s. 448.01 (5), registered nurse,
9 medical technologist, physician assistant or person acting under the direction of a
10 physician who obtains a biological specimen under s. 165.76, 938.34 (15), 973.047 or
11 980.063 is immune from any civil or criminal liability for the act, except for civil
12 liability for negligence in the performance of the act.

13 **SECTION 77.** 180.1903 (4) of the statutes is amended to read:

14 180.1903 (4) Each health care professional, other than a physician, as defined
15 in s. 448.01 (5), or nurse anesthetist, who is a shareholder of a service corporation
16 and who has the authority to provide health care services that are not under the
17 direction and supervision of a physician, as defined in s. 448.01 (5), or nurse
18 anesthetist shall carry malpractice insurance that provides coverage of not less than
19 the amounts established under s. 655.23 (4).

20 **SECTION 78.** 185.983 (1) of the statutes is renumbered 185.983 (1r).

21 **SECTION 79.** 185.983 (1g) of the statutes is created to read:

22 185.983 (1g) “Physician” has the meaning given in s. 448.01 (5).

23 **SECTION 80.** 231.01 (7) (a) 2. of the statutes is amended to read:

24 231.01 (7) (a) 2. One or more structures suitable for use as a child care center,
25 health facility, laboratory, laundry, nurses’ or interns’ residence or other multi-unit

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1 housing facility for staff, employees, patients or relatives of patients admitted for
2 treatment or care in a health facility, physician's facility, administration building,
3 research facility, maintenance, storage or utility facility. In this subdivision,
4 "physician" has the meaning given in s. 448.01 (5).

5 **SECTION 81.** 233.04 (3b) (a) 2. of the statutes is amended to read:

6 233.04 (3b) (a) 2. Providing an environment suitable for instructing medical
7 and other health professions students, physicians, as defined in s. 448.01 (5), nurses
8 and members of other health-related disciplines.

9 **SECTION 82.** 252.23 (1) (a) of the statutes is amended to read:

10 252.23 (1) (a) "Tattoo" has the meaning given in s. 948.70 (1) (b).

11 **SECTION 83.** 301.45 (1d) (q) of the statutes is created to read:

12 301.45 (1d) (q) "Physician" has the meaning given in s. 448.01 (5).

13 **SECTION 84.** 302.10 of the statutes is amended to read:

14 **302.10 Solitary confinement.** For violation of the rules of the prison an
15 inmate may be confined to a solitary cell, under the care and advice of the physician,
16 as defined in s. 448.01 (5).

17 **SECTION 85.** 302.113 (9g) (c) of the statutes is amended to read:

18 302.113 (9g) (c) An inmate who meets the criteria under par. (b) may submit
19 a petition to the program review committee at the correctional institution in which
20 the inmate is confined requesting a modification of the inmate's bifurcated sentence
21 in the manner specified in par. (f). If the inmate alleges in the petition that he or she
22 has a terminal condition, the inmate shall attach to the petition affidavits from 2
23 physicians, as defined in s. 448.01 (5), setting forth a diagnosis that the inmate has
24 a terminal condition.

25 **SECTION 86.** 302.37 (2) of the statutes is amended to read:

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1 302.37 (2) Neither the sheriff or other keeper of any jail nor any other person
2 shall give, sell or deliver to any prisoner for any cause whatever any alcohol
3 beverages unless a physician, as defined in s. 448.01 (5), certifies in writing that the
4 health of the prisoner requires it, in which case the prisoner may be allowed the
5 quantity prescribed.

6 **SECTION 87.** 302.383 (1) (b) of the statutes is amended to read:

7 302.383 (1) (b) Ensure that the prisoner has been fully informed about his or
8 her treatment needs, the mental health services available to him or her and his or
9 her rights under ch. 51, and ensure that the prisoner has had an opportunity to
10 discuss his or her needs, the services available to him or her and his or her rights with
11 a ~~licensed~~ physician, as defined in s. 448.01 (5), licensed psychologist, or other mental
12 health professional.

13 **SECTION 88.** 302.40 of the statutes is amended to read:

14 **302.40 Discipline; solitary confinement.** For violating the rules of the jail,
15 an inmate may be kept in solitary confinement, under the care and advice of a
16 physician, as defined in s. 448.01 (5), but not over 10 days.

17 **SECTION 89.** 343.045 of the statutes is created to read:

18 **343.045 Definition.** In this subchapter, “physician” has the meaning given
19 in s. 448.01 (5).

20 **SECTION 90.** 343.63 (4) of the statutes is amended to read:

21 343.63 (4) The applicant shall submit with his or her application a statement
22 completed by a registered physician showing that in the physician’s judgment the
23 applicant is physically fit to teach driving.

24 **SECTION 91.** 346.01 (3) of the statutes is created to read:

25 346.01 (3) In this chapter, “physician” has the meaning given in s. 448.01 (5).

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1 **SECTION 92.** 347.485 (2) (b) of the statutes is amended to read:

2 347.485 (2) (b) Except for photosensitive corrective glasses prescribed by an
3 ophthalmologist, physician, as defined in s. 448.01 (5), oculist or optometrist, eye
4 protection worn during hours of darkness may not be tinted or darkened.

5 **SECTION 93.** 350.155 (2) of the statutes is amended to read:

6 350.155 (2) In cases of death involving a snowmobile in which the decedent died
7 within 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be
8 withdrawn from the body of the decedent within 12 hours after death, by the coroner
9 or medical examiner or by a physician, as defined in s. 448.01 (5), so designated by
10 the coroner or medical examiner or by a qualified person at the direction of such
11 physician. All funeral directors shall obtain a release from the coroner or medical
12 examiner prior to proceeding with embalming any body coming under the scope of
13 this section. The blood so drawn shall be forwarded to a laboratory approved by the
14 department of health and family services for analysis of the alcoholic content of such
15 blood specimen. The coroner or medical examiner causing the blood to be withdrawn
16 shall be notified of the results of each analysis made and shall forward the results
17 of each such analysis to the department of health and family services. The
18 department of health and family services shall keep a record of all such examinations
19 to be used for statistical purposes only. The cumulative results of the examinations,
20 without identifying the individuals involved, shall be disseminated and made public
21 by the department of health and family services. The department shall reimburse
22 coroners and medical examiners for the costs incurred in submitting reports and
23 taking blood specimens and laboratories for the costs incurred in analyzing blood
24 specimens under this section.

25 **SECTION 94.** 440.08 (2) (a) 58. of the statutes is amended to read:

ASSEMBLY BILL 356**SECTION 94**

1 440.08 (2) (a) 58. Physician licensed under subch. II of ch. 448: November 1
2 of each odd-numbered year; \$106.

3 **SECTION 95.** 441.001 (2q) of the statutes is created to read:

4 441.001 (2q) PHYSICIAN. “Physician” has the meaning given in s. 448.01 (5).

5 **SECTION 96.** 441.001 (3) (a) of the statutes is amended to read:

6 441.001 (3) (a) “Practical nursing” means the performance for compensation
7 of any simple acts in the care of convalescent, subacutely or chronically ill, injured
8 or infirm persons, or of any act or procedure in the care of the more acutely ill, injured
9 or infirm under the specific direction of a nurse, physician, chiropractor licensed
10 under ch. 446, podiatrist licensed under ch. 448, dentist licensed under ch. 447 or
11 optometrist licensed under ch. 449, or under an order of a person who is licensed to
12 practice medicine, podiatry, dentistry or optometry in another state if that person
13 prepared the order after examining the patient in that other state and directs that
14 the order be carried out in this state.

15 **SECTION 97.** 441.001 (4) (b) of the statutes is amended to read:

16 441.001 (4) (b) The execution of procedures and techniques in the treatment
17 of the sick under the general or special supervision or direction of a physician,
18 chiropractor licensed under ch. 446, podiatrist licensed under ch. 448, dentist
19 licensed under ch. 447 or optometrist licensed under ch. 449, or under an order of a
20 person who is licensed to practice medicine, podiatry, dentistry or optometry in
21 another state if the person making the order prepared the order after examining the
22 patient in that other state and directs that the order be carried out in this state.

23 **SECTION 98.** 444.01 of the statutes is created to read:

24 **444.01 Definition.** In this chapter, “physician” has the meaning given in s.
25 448.01 (5).

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1 **SECTION 99.** 445.14 of the statutes is amended to read:

2 **445.14 Funeral directors; who to employ.** No public officer, employee or
3 officer of any public institution, ~~physician or surgeon, as defined in s. 448.01 (5),~~ shall
4 send, or cause to be sent, to any funeral director, the corpse of any deceased person,
5 without having first made due inquiry as to the desires of the next of kin, or any
6 persons who may be chargeable with the funeral expenses of such deceased person,
7 and if any such kin or person is found, his or her authority or direction shall be
8 received as to the disposal of such corpse.

9 **SECTION 100.** 446.01 (1d)[✓] of the statutes is created to read:

10 446.01 (1d) “Generally accepted standards” means a level of diagnosis, care,
11 skill, and treatment that is recognized by a reasonably prudent chiropractor as being
12 appropriate under similar conditions and circumstances.

13 **SECTION 101.** 446.01 (1k)[✓] of the statutes is created to read:

14 446.01 (1k) “Patient” means an individual who receives treatment or services
15 from a chiropractor or who has received treatment or services under the supervision,
16 direction, or delegation of a chiropractor.

17 **SECTION 102.** 446.01 (1L)[✓] of the statutes is created to read:

18 446.01 (1L) “Pattern of conduct” means more than one occurrence.

19 **SECTION 103.** 446.01 (1m)[✓] of the statutes is created to read:

20 446.01 (1m) “Peer review” means an evaluation based on generally accepted
21 standards, by a peer review panel appointed under s. 446.035 (1)[✓], of the
22 appropriateness, quality, and utilization of chiropractic health care provided to a
23 patient or the conduct of a chiropractor alleged to have violated s. 446.04 (1)^{12✓}.

24 **SECTION 104.** 446.01 (1q) of the statutes is created to read:

ASSEMBLY BILL 356

1 446.01 (1c) "Physician assistant" means a physician assistant licensed under
2 subch. II of ch. 448.

3 SECTION 105. 446.01 (2) (b) of the statutes is amended to read:

4 446.01 (2) (b) To employ or apply chiropractic adjustments, and the principles
5 or techniques of chiropractic science, that are taught at a chiropractic college or
6 university approved by the Council on Chiropractic Education or ~~any~~ successor
7 organization in the diagnosis, treatment or prevention of any of the conditions
8 described in s. 448.01 (10).

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9 SECTION 106. 446.01 (3) of the statutes is created to read:

10 446.01 (3) "Utilization" means the treatment or services provided to a patient,
11 including the frequency and duration of the treatment or services.

12 SECTION 107. 446.02 (1) (b) of the statutes is amended to read:

13 446.02 (1) (b) Meets the requirements of continuing education for license
14 renewal ~~as the examining board may require~~ under s. 446.025. During the time
15 between initial licensure and commencement of a full 2-year licensure period new
16 licensees shall not be required to meet continuing education requirements. Any
17 person who has not engaged in the practice of chiropractic for 2 years or more, while
18 holding a valid license under this chapter, and desiring to engage in such practice,
19 shall be required by the examining board to complete a continuing education course
20 at a school of chiropractic approved by the examining board or pass a practical
21 examination administered by the examining board or both.

22 SECTION 108. 446.02 (2) (b) of the statutes is amended to read:

23 446.02 (2) (b) The examining board shall promulgate rules establishing
24 educational requirements for obtaining a license under par. (a). The rules shall
25 require that an application for the license that is received by the department after

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1 June 30, 1998, be accompanied by satisfactory evidence that the applicant has a
2 bachelor's degree from a college or university accredited by an accrediting body listed
3 as nationally recognized by the secretary of the federal department of education, and
4 has graduated from a college or university of chiropractic approved by the examining

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boards INSERT 33-5

6 SECTION 109. 446.02 (4) of the statutes is amended to read:

7 446.02 (4) The renewal date and renewal fee for all licenses granted by the
8 examining board are specified under s. 440.08 (2) (a). In an application for renewal,
9 the applicant shall identify each employee, other than a nurse licensed under ch. 441,
10 ~~physician assistant,~~ physical therapist licensed under subch. III of ch. 448, or
11 athletic trainer licensed under subch. VI of ch. 448, to whom clinical work is
12 delegated. If the examining board has promulgated rules requiring such an
13 employee to complete a training program or course of instruction to perform the
14 delegated work, the applicant shall also provide the name, date, and sponsoring
15 organization for the training program or course of instruction that the employee
16 completed. Except as provided in sub. (1) (b), the examining board may not renew
17 a license unless the applicant for renewal identifies on a form provided by the
18 department the continuing education courses approved under s. 446.025 (2) that the
19 applicant has completed to satisfy the minimum number of hours required under s.
20 446.025 (1).

21 SECTION 110. 446.02 (6m) of the statutes is created to read:

22 446.02 (6m) (a) Except as provided in par. (b), a chiropractor who is granted
23 a license under this chapter on or before January 1, 2003, may provide counsel,
24 guidance, direction, advice, or recommendations to a patient regarding the health
25 benefits of vitamins, herbs, or nutritional supplements only if the chiropractor has

ASSEMBLY BILL 356

1 completed 48 hours in a postgraduate course of study in nutrition that is approved
2 by the examining board.

3 (b) Paragraph (a) does not apply to a chiropractor licensed under this chapter
4 who is certified as a dietitian under subch. V of ch. 448.

5 **SECTION 111.** 446.02 (7) (b) of the statutes is renumbered 446.02 (7) (b) 1. and
6 amended to read:

7 446.02 (7) (b) 1. ~~A- Except as provided in subd. 2., a chiropractor may not~~
8 ~~delegate to a person who is not licensed under this chapter the making of a diagnosis,~~
9 ~~the performance of a chiropractic adjustment, the analysis of a diagnostic test or~~
10 ~~clinical information or any practice or service that the examining board, by rule,~~
11 ~~prohibits a chiropractor from delegating to a person who is not licensed under this~~
12 ~~chapter.~~

13 **SECTION 112.** 446.02 (7) (b) 2. of the statutes is created to read:

14 446.02 (7) (b) 2. A chiropractor may delegate to a physician assistant the
15 making of a diagnosis, the analysis of a diagnostic test or clinical information, or any
16 practice or service specified by the examining board by rule, except that a
17 chiropractor may not delegate to a physician assistant the performance of a
18 chiropractic adjustment and except that a chiropractor may not delegate to a
19 physician assistant any practice or service that exceeds the scope of practice of the
20 chiropractor or that exceeds the education, training, or experience of the physician
21 assistant.

22 **SECTION 113.** 446.02 (7s) of the statutes is created to read:

23 446.02 (7s) (a) A chiropractor shall evaluate each patient to determine whether
24 the patient has a condition that is treatable by chiropractic means. An evaluation
25 shall be based on an examination that is appropriate to the patient. In conducting

ASSEMBLY BILL 356

1 an evaluation, a chiropractor shall utilize chiropractic science, as defined by rule by
2 the examining board, and the principles of education and training of the chiropractic
3 profession. A chiropractor shall discontinue treatment by chiropractic means if, at
4 any time, the chiropractor determines, or reasonably should have determined, that
5 the patient's condition will not respond to further treatment by chiropractic means,
6 except that a chiropractor may provide supportive care to a patient being treated by
7 another health care professional.

8 (b) If a chiropractor determines, or reasonably should have determined, at any
9 time, that a patient has a condition that is not treatable by chiropractic means, or
10 will not respond to further treatment by chiropractic means, the chiropractor shall
11 inform the patient and refer the patient to a physician licensed under subch. II of ch.
12 448. In making a referral under this paragraph, a chiropractor shall do one of the
13 following:

14 1. Make a written referral to the physician that describes the chiropractor's
15 findings, provide a copy of the written referral to the patient, and maintain a copy
16 of the written referral in the patient record under sub. (7m) (a).

17 2. Make an oral referral to the physician or the physician's staff that describes
18 the chiropractor's findings, notify the patient about the referral, make a written
19 record of the referral, including the name of the physician or staff member and date
20 of the referral, and maintain the written record in the patient record under sub. (7m)
21 (a).

22 **SECTION 114.** 446.02 (9) (a) of the statutes is amended to read:

23 446.02 (9) (a) A student or graduate of a college or university of chiropractic

24 who practices chiropractic, in a program for the clinical training of students and
25 graduates that is reviewed and approved by the examining board, under the

INSERT 35-24

ASSEMBLY BILL 356

1 supervision of a chiropractor who is approved by the examining board to supervise
2 the clinical training of the student or graduate and who is licensed under this chapter
3 and is responsible for the student's or graduate's practice in an infirmary, clinic,
4 hospital or private chiropractic office that is connected or associated for training
5 purposes with a college or university of chiropractic ~~approved by the examining~~

6 board

INSERT 36-6 ✓

7 SECTION 115. 446.025 of the statutes is created to read:

8 **446.025 Continuing education.** (1) The examining board shall specify the
9 minimum number of hours of continuing education courses that, except as provided
10 in s. 446.02 (1) (b), an applicant for renewal of a license under this chapter is required
11 to complete during a 2-year licensure period. Only courses approved by the
12 examining board under sub. (2) may be used to satisfy the hours required. The
13 examining board shall periodically publish updated lists of the courses that are
14 approved under sub. (2).

15 (2) (a) The examining board may not approve a continuing education course
16 unless the organization that sponsors the course satisfies all of the following:

17 1. The organization is the Wisconsin, American, or International Chiropractic
18 Association or its successor, ~~a college or university of chiropractic approved by the~~
19 ~~examining board~~, or a college or university of medicine or osteopathy accredited by
20 an accrediting body listed as nationally recognized by the secretary of the federal
21 department of education.

22 2. The organization selects the instructor for the course. ~~If the instructor is a~~
23 ~~member of the undergraduate or postgraduate faculty of a college or university of~~
24 ~~chiropractic, the organization shall provide a written statement to the examining~~
25 ~~board verifying that the instructor has been appointed by the college or university~~

ASSEMBLY BILL 356

1 in accordance with the accreditation standards of the Council on Chiropractic
2 Education or its successor

3 3. The organization establishes the objectives of the course, prepares course
4 materials, evaluates the subject matter prepared by the instructor, conducts a
5 post-course evaluation, maintains course transcripts, and performs financial
6 administration necessary for the course.

7 4. The organization proctors course attendance through ~~the instructor or an~~
8 ~~officer, director, or employee of the organization.~~ INSERT 37-8 ✓

9 5. The organization provides attendance vouchers to course attendees.

10 6. The organization supplies a list of course attendees to the examining board
11 in a manner prescribed by the examining board.

12 (b) Notwithstanding par. (a), the examining board may approve a continuing
13 education course sponsored by an organization that does not satisfy a requirement
14 under par. (a) 2. to 5. if the organization delegates satisfaction of the requirement to
15 another organization and the other organization satisfies the requirement.

16 (3) If an organization that sponsors a course approved under sub. (2) fails to
17 satisfy any requirement under sub. (2) (a) 2. to 5., the examining board shall, for a
18 period of ~~thirty~~ ^{90 days}, withdraw or withhold approval of all continuing education courses

19 sponsored by the organization. If an organization to whom satisfaction of any
20 requirement under sub. (2) (a) 2. to 5. is delegated under sub. (2) (b) fails to satisfy
21 the requirement, the examining board shall, for a period of ~~thirty~~ ^{90 days}, withdraw or
22 withhold approval of all continuing education courses sponsored by the organization
23 that made the delegation.

24 (4) During each 2-year licensure period, the department shall audit a
25 percentage, as determined by the department, of the applications for renewal of a

1 license under this chapter to verify that an applicant has completed the continuing
2 education courses identified by the applicant under s. 446.02 (4).

3 SECTION 116. 446.03 (intro.) of the statutes is amended to read:

4 446.03 Reprimand; license ¹²revocation, limitation or suspension.

5 (intro.) The Subject to ss. 446.04 (1) (d) and 446.05 (3), the examining board, by
6 order, may reprimand a licensee or registrant and may deny, limit, suspend or revoke
7 any license or certificate of registration if the licensee or registrant:

8 SECTION 117. 446.03 (8) of the statutes is created to read:

9 446.03 (8) Has violated this chapter or any rule promulgated under this
10 chapter.

11 SECTION 118. 446.035 of the statutes is created to read:

12 446.035 Peer review. (1) APPOINTMENT OF PEER REVIEW PANEL. (a) The
13 examining board shall appoint a peer review panel of no fewer than 6 nor more than
14 12 members, pursuant to par. (b).

15 (b) ~~A peer review panel may be selected from a list of nominees that is~~
16 ~~submitted every 24 months by the Wisconsin Chiropractic Association. If the~~
17 ~~Wisconsin Chiropractic Association fails to submit a list of nominees,~~ the examining
18 board may solicit nominations for the peer review panel pursuant to a process
19 developed by the department. TINSEAT 38-19

20 (c) A nominee under par. (b) shall meet all of the following requirements:

- 21 1. Possess a valid license to practice chiropractic in this state.
22 2. Have no less than 10 years in practice for a minimum of 20 hours per week
23 within the preceding 2 years of his or her nomination for the peer review panel or,
24 if the nominee is not in active practice at the time of his or her nomination due to a

ASSEMBLY BILL 356

1 disability, have at least 5 years of practice for a minimum of 20 hours per week prior
2 to the onset of his or her disability.

3 3. Be ~~diploma~~^{diplomate} eligible in a specialty that requires at least 300 hours of
4 postgraduate credit hours ^{that are} approved by the American Chiropractic Association or the
5 International Chiropractors Association INSEAT 39-5 ✓

6 4. Not have been subject to disciplinary action under this chapter or by any
7 regulatory or government agency.

8 5. Have completed an annual utilization review course approved by the
9 examining board.

10 (d) The examining board may summarily remove a chiropractor from the peer
11 review panel if the board finds that the reviewer is unqualified or if it finds that the
12 reviewer's methods or practices are unprofessional.

13 (2) PROCEDURE. (a) A patient, a chiropractor, an insurer, or the examining
14 board may request a peer review, if the cost of the care in dispute for a course of
15 treatment exceeds \$500, by submitting a written request to the department and any
16 fee required under par. (b). Within 5 business days of submitting the request, the
17 patient, chiropractor, insurer, or examining board shall submit the following
18 documents to the department:

- 19 1. A written statement of the matter he or she wishes to be reviewed.
- 20 2. Clinical documentation relating to the course of treatment or the conduct he
21 or she wishes to be reviewed.
- 22 3. Any other information the patient, chiropractor, insurer, or examining board
23 wishes to include to support his or her request for review.

24 (b) The department shall charge a patient, chiropractor, or insurer that request^s
25 a peer review a fee of ~~\$250~~. The department shall adjust the fee each year to reflect

\$275

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SECTION 118

Within 15 business days of

1 adjustments to the U.S. consumer price index for all consumers, U.S. city average,
2 as determined by the U.S. department of labor.

3 (c) ~~Upon~~ receipt of the documents and fee specified under par. (a), the
4 department shall notify each patient, chiropractor, or insurer named in the request
5 for review. Within 10 business days of receiving notification that a review has been
6 requested, the patient, chiropractor, or insurer shall submit the following to the
7 department:

- 8 1. A written statement of response to the matter that is being reviewed.
- 9 2. Clinical documentation relating to the course of treatment or conduct that
10 is being reviewed.
- 11 3. Any other information the patient, chiropractor, or insurer wishes to include
12 to support his or her response.

13 ~~(d) No patient, chiropractor, or insurer may appear before the peer review panel
14 or a peer reviewer.~~

15 (e) The department shall remove identifying information regarding a
16 chiropractor named in the request for review and, within 5 business days of receipt,
17 shall forward all of the documents received under pars. (a) and (c) and payment of
18 \$235 to a peer reviewer chosen at random from the peer review panel. The
19 department shall adjust the fee each year to reflect adjustments to the U.S. consumer
20 price index for all consumers, U.S. city average, as determined by the U.S.

21 department of labor. A peer reviewer chosen under this paragraph or par. (h) may
22 not have a material professional, familial, or financial interest during the 12 months
23 preceding his or her performance as a peer reviewer relating to a patient,
24 chiropractor, insurer, or any agent or affiliate of a patient, chiropractor, or insurer
25 named or involved in the peer review request.

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1 (f) Within 30 business days of receiving the documents specified in par. (e), the
2 peer reviewer shall make a determination of the quality, appropriateness, or
3 utilization of the chiropractic services rendered to the patient. The peer reviewer
4 shall determine that the chiropractor acted unprofessionally if he or she finds that,
5 applying generally accepted standards, 50% or more of the chiropractic services
6 identified in the request for peer review were inappropriate, unnecessary, or of
7 substandard quality. The peer reviewer shall sign, with his or her name and address,
8 and remit his or her findings to the department and the department shall issue a copy
9 of the findings to each patient, chiropractor, or insurer named in the request and to
10 the examining board.

11 (g) Within 30 days after the date of receipt of the peer reviewer's findings, a
12 patient, chiropractor, insurer, or the examining board may request an appeal. The
13 person requesting the appeal shall submit a written request to the department and
14 pay a fee of \$750. The department shall adjust the fee each year to reflect
15 adjustments to the U.S. consumer price index for all consumers, U.S. city average,
16 as determined by the U.S. department of labor.

17 (h) Upon receipt of a request for appeal and the fee specified in par. (g), the
18 department shall forward all of the documents received under pars. (a), (c), and (f)
19 and a payment of \$235 each to 3 additional peer reviewers chosen at random from
20 the peer review panel. The department shall adjust the fee each year to reflect
21 adjustments to the U.S. consumer price index for all consumers, U.S. city average,
22 as determined by the U.S. department of labor. The reviewers shall conduct a joint
23 review of the submitted materials. Each peer reviewer shall determine that the
24 chiropractor acted unprofessionally if he or she finds that, applying generally
25 accepted standards, 50% or more of the chiropractic services identified in the request

ASSEMBLY BILL 356

1 for peer review were inappropriate, unnecessary, or of substandard quality. Each
2 peer reviewer shall sign, with his or her name and address, and remit his or her
3 findings to the department. The department shall forward a copy of the joint review
4 to each patient, chiropractor, or insurer named in the request for peer review. The
5 department shall adopt the determination reached by a majority of the peer
6 reviewers appointed under this paragraph of the quality, appropriateness, or
7 utilization of the chiropractic services rendered to the patient or the conduct of the
8 chiropractor.

9 (3) CIVIL LIABILITY. A member of a peer review panel is immune from civil
10 liability for a finding, evaluation, recommendation, or other action he or she makes
11 or takes while performing a peer review under this section. This subsection does not
12 apply if the member of the peer review panel acts in fraud, conspiracy, or malice.

13 (4) INSURANCE COVERAGE. No finding, evaluation, or recommendation reached
14 by a peer reviewer may be used to determine whether insurance coverage or
15 reimbursement is appropriate.

16 SECTION 119. 446.04 (6), (7), (8), (9), (10) and (11) of the statutes are created
17 to read:

18 ~~446.04 (6)~~ A determination under s. 446.035 that 50% or more of the
19 chiropractic services identified in a request for peer review were inappropriate,
20 unnecessary, or of substandard quality.

21 (7) Billing for a service that was not performed. This includes:

22 (a) Billing for a service that was performed by a staff person without the
23 training required by the laws of this state.

24 (b) A pattern of conduct in which a chiropractor bills a Current Procedural
25 Terminology Code in a manner inconsistent with the published standards of the

INSERT 42-15

INSERT 42-17

and (12)

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1 Current Procedural Terminology Code, the Current Procedural Terminology
2 Assistant, the Wisconsin Chiropractic Association, the American Chiropractic
3 Association, or the International Chiropractic Association.

4 (c) A pattern of conduct in which a chiropractor bills for a service using a higher
5 level Current Procedural Terminology Code than the service that was actually
6 provided to the patient with the intent of obtaining unearned reimbursement.

7 ²⁹ (8) Failure to collect a deductible or co-payment required by a patient's insurer.

8 This subsection does not apply ^{INSERT 43-8} if the patient has financial hardship and the
9 chiropractor documents the financial hardship.

10 ¹⁰ (9) Falsifying a claim.

11 ¹¹ (10) A pattern of conduct that involves billing for a unit of service that was not
12 actually performed with the intent of obtaining unearned reimbursement.

13 ¹² (11) Sexual misconduct. (a) Under this subsection, a chiropractor engages in
14 sexual misconduct if he or she engages in sexual contact, exposure, or gratification,
15 sexually offensive communication, dating a patient ^{while the patient is} under the chiropractor's
16 professional care or treatment, or other sexual behavior with or in the presence of a
17 patient under the chiropractor's professional care or treatment and a reasonably
18 prudent chiropractor under similar conditions and circumstances would find the
19 conduct unprofessional. Consent is not an issue under this subsection.

20 (b) Under this subsection, "contact violation" means any violation of par. (a)
21 that involves physical contact with a patient under the chiropractor's professional
22 care or treatment.

23 (c) Under this subsection, "noncontact violation" means any violation of par. (a)
24 that does not involve physical contact with a patient under the chiropractor's
25 professional care or treatment.

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SECTION 119

1 (d) 1. The examining board shall require a chiropractor who commits a first
2 noncontact violation under this subsection to attend training approved by the
3 department regarding sexual misconduct and shall suspend his or her chiropractic
4 license for not less than 90 days.

5 2. The examining board shall suspend the chiropractic license of a chiropractor
6 who commits a 2nd noncontact violation or a first contact violation under this
7 subsection for one year.

8 3. The examining board shall revoke the chiropractic license of a chiropractor
9 who commits a 3rd noncontact or a 2nd contact violation under this subsection.

10 SECTION 120. 446.05 (1) of the statutes is amended to read:

11 446.05 Procedure for hearings. (1) Subject to the rules promulgated under
12 s. 440.03 (1), the examining board may make investigations and conduct hearings
13 in regard to the conduct of any licensed chiropractor who, it has reason to believe,
14 violated s. 446.02 ~~or 446.03~~ (1), (6), (7), (7m), or (8) or committed any offense listed
15 in s. 446.03. The person complained against may proceed to review any action of the
16 examining board under ch. 227.

17 SECTION 121. 446.05 (2) of the statutes is amended to read:

18 446.05 (2) ~~Upon~~ ² Except as provided in sub. (3) ^{and (4)} upon application and
19 satisfactory proof that the cause of such revocation or suspension no longer exists,
20 the examining board may reinstate any license or registration suspended or revoked
21 by it. This subsection does not apply to a license or registration that is suspended
22 under s. 440.13 (2) (c) or that is revoked under s. 440.12.

23 SECTION 122. 446.05 (3) of the statutes is created to read:

24 446.05 (3) The examining board shall suspend the license of a chiropractor who
25 commits a third violation of s. 446.04 (1) to (10) ¹¹ for not less than 6 months.

1 INSEPT 44-25 ✓

ASSEMBLY BILL 356

1 **SECTION 123.** 447.03 (3) (h) of the statutes is amended to read:

2 447.03 (3) (h) A physician ~~or surgeon licensed in this state, as defined in s.~~
3 ~~448.01 (5)~~, who extracts teeth, or operates upon the palate or maxillary bones and
4 investing tissues, or who administers anesthetics, either general or local.

5 **SECTION 124.** 449.01 (2) of the statutes is amended to read:

6 449.01 (2) DISPENSING OPTICIANS. A dispensing optician is one who practices
7 optical dispensing. The practice of optical dispensing comprises the taking of
8 necessary facial measurements and the processing, fitting and adjusting of
9 mountings, frames, lenses and kindred products in the filling of prescriptions of ~~duly~~
10 ~~licensed~~ physicians or optometrists for ophthalmic lenses. Duplications,
11 replacements or reproductions not requiring optometric service may be done without
12 prescription. Nothing herein contained shall change the responsibility of physician
13 to patient, or optometrist to patient.

14 **SECTION 125.** 449.01 (5) of the statutes is created to read:

15 449.01 (5) PHYSICIAN. In this chapter, “physician” has the meaning given in s.
16 448.01 (5).

17 **SECTION 126.** 449.02 (2) of the statutes is amended to read:

18 449.02 (2) This section shall not apply to physicians and surgeons ~~duly licensed~~
19 ~~as such in Wisconsin~~ nor shall this section apply to the sale of spectacles containing
20 simple lenses of a plus power only at an established place of business incidental to
21 other business conducted therein, without advertising other than price marking on
22 the spectacles, if no attempt is made to test the eyes. The term “simple lens” shall
23 not include bifocals.

24 **SECTION 127.** 450.01 (15m) of the statutes is created to read:

25 450.01 (15m) “Physician” has the meaning given in s. 448.01 (5).

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1 **SECTION 128.** 450.01 (22) of the statutes is amended to read:

2 450.01 (22) “Vaccination protocol” means a written protocol agreed to by a
3 physician, ~~as defined in s. 448.01 (5),~~ and a pharmacist that establishes procedures
4 and record-keeping and reporting requirements for the administration of a vaccine
5 by a pharmacist for a period specified in the protocol that may not exceed 2 years.

6 **SECTION 129.** 454.01 (14m) of the statutes is created to read:

7 454.01 (14m) “Physician” has the meaning given in s. 448.01 (5).

8 **SECTION 130.** 454.02 (1) of the statutes is amended to read:

9 454.02 (1) Licenses to practice barbering or cosmetology do not confer the right
10 to diagnose, prescribe for or treat diseases or conditions except as indicated in the
11 definition of barbering or cosmetology in s. 454.01 (5) or under the direction of a
12 licensed and practicing physician.

13 **SECTION 131.** 459.035 of the statutes is amended to read:

14 **459.035 Medical exam before being fitted.** A hearing aid shall not be fitted
15 for or sold to a child 16 years of age or younger unless within 90 days prior to the
16 fitting the person to be fitted has been examined by a physician, as defined in s.
17 448.01 (5), to determine whether or not he or she has any physical deficiencies that
18 would prohibit the effective use of a hearing aid.

19 **SECTION 132.** 560.33 (1) (e) of the statutes is amended to read:

20 560.33 (1) (e) The business is not predominantly engaged in professional
21 services provided by accountants, lawyers, or physicians, as defined in s. 448.01 (5).

22 **SECTION 133.** 600.03 (34m) of the statutes is created to read:

23 600.03 (34m) “Physician” has the meaning given in s. 448.01 (5).

24 **SECTION 134.** 609.22 (4m) (a) of the statutes is amended to read:

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1 609.22 (4m) (a) A defined network plan that provides coverage of obstetric or
2 gynecologic services may not require a female enrollee of the defined network plan
3 to obtain a referral for covered obstetric or gynecologic benefits provided by a
4 participating provider who is a physician licensed under ch. 448 and who specializes
5 in obstetrics and gynecology, regardless of whether the participating provider is the
6 enrollee's primary provider. Notwithstanding sub. (4), the defined network plan may
7 not require the enrollee to obtain a standing referral under the procedure established
8 under sub. (4) (a) for covered obstetric or gynecologic benefits.

9 **SECTION 135.** 632.76 (2) (b) of the statutes is amended to read:

10 632.76 (2) (b) Notwithstanding par. (a), no claim for loss incurred or disability
11 commencing after 6 months from the date of issue of a medicare supplement policy,
12 medicare replacement policy or long-term care insurance policy may be reduced or
13 denied on the ground that a disease or physical condition existed prior to the effective
14 date of coverage. A medicare supplement policy, medicare replacement policy or
15 long-term care insurance policy may not define a preexisting condition more
16 restrictively than a condition for which medical advice was given or treatment was
17 recommended by or received from a physician, as defined in s. 448.01 (5), within 6
18 months before the effective date of coverage. Notwithstanding par. (a), if on the basis
19 of information contained in an application for insurance a medicare supplement
20 policy, medicare replacement policy or long-term care insurance policy excludes
21 from coverage a condition by name or specific description, the exclusion must
22 terminate no later than 6 months after the date of issue of the medicare supplement
23 policy, medicare replacement policy or long-term care insurance policy. The
24 commissioner may by rule exempt from this paragraph certain classes of medicare
25 supplement policies, medicare replacement policies and long-term care insurance

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1 policies, if the commissioner finds the exemption is not adverse to the interests of
2 policyholders and certificate holders.

3 **SECTION 136.** 647.01 (6) of the statutes is amended to read:

4 647.01 (6) "Medical services" means those services pertaining to medical or
5 dental care that are performed on behalf of patients by or at the direction of a
6 physician licensed under ch. 448 or a dentist licensed under ch. 447.

7 **SECTION 137.** 655.001 (10m) of the statutes is repealed.

8 **SECTION 138.** 700.16 (4) (d) of the statutes is amended to read:

9 700.16 (4) (d) Transfers, outright or in trust, to the state society of physicians
10 ~~and surgeons, as defined in s. 448.01 (5),~~ incorporated under the law of this state,
11 when the transfer is for the advancement of medical science;

12 **SECTION 139.** 765.03 (1) of the statutes is amended to read:

13 765.03 (1) No marriage shall be contracted while either of the parties has a
14 husband or wife living, nor between persons who are nearer of kin than 2nd cousins
15 except that marriage may be contracted between first cousins where the female has
16 attained the age of 55 years or where either party, at the time of application for a
17 marriage license, submits an affidavit signed by a physician, as defined in s. 448.01
18 (5), stating that either party is permanently sterile. Relationship under this section
19 shall be computed by the rule of the civil law, whether the parties to the marriage are
20 of the half or of the whole blood. A marriage may not be contracted if either party
21 has such want of understanding as renders him or her incapable of assenting to
22 marriage.

23 **SECTION 140.** 767.001 (5m) of the statutes is created to read:

24 767.001 (5m) "Physician" has the meaning given in s. 448.01 (5).

25 **SECTION 141.** 804.10 (1) of the statutes is renumbered 804.10 (1r).

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1 **SECTION 142.** 804.10 (1g) of the statutes is created to read:

2 804.10 (1g) In this section, “physician” has the meaning given in s. 448.01 (5).

3 **SECTION 143.** 804.10 (3) (a) of the statutes is amended to read:

4 804.10 (3) (a) No evidence obtained by an adverse party by a court-ordered
5 examination under sub. (1) (1r) or inspection under sub. (2) shall be admitted upon
6 the trial by reference or otherwise unless true copies of all reports prepared pursuant
7 to such examination or inspection and received by such adverse party have been
8 delivered to the other party or attorney not later than 10 days after the reports are
9 received by the adverse party. The party claiming damages shall deliver to the
10 adverse party, in return for copies of reports based on court-ordered examination or
11 inspection, a true copy of all reports of each person who has examined or treated the
12 claimant with respect to the injuries for which damages are claimed.

13 **SECTION 144.** 880.33 (1) of the statutes is amended to read:

14 880.33 (1) Whenever it is proposed to appoint a guardian on the ground of
15 incompetency, a licensed physician, as defined in s. 448.01 (5), or licensed
16 psychologist, or both, shall furnish a written statement concerning the mental
17 condition of the proposed ward, based upon examination. The privilege under s.
18 905.04 shall not apply to this statement. A copy of the statement shall be provided
19 to the proposed ward, guardian ad litem and attorney. Prior to the examination,
20 under this subsection, of a person alleged to be not competent to refuse psychotropic
21 medication under s. 880.07 (1m), the person shall be informed that his or her
22 statements may be used as a basis for a finding of incompetency and an order for
23 protective services, including psychotropic medication. The person shall also be
24 informed that he or she has a right to remain silent and that the examiner is required
25 to report to the court even if the person remains silent. The issuance of such a

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1 warning to the person prior to each examination establishes a presumption that the
2 person understands that he or she need not speak to the examiner.

3 **SECTION 145.** 880.33 (4m) (b) 1. of the statutes is amended to read:

4 880.33 (4m) (b) 1. Order the appropriate county department under s. 46.23,
5 51.42 or 51.437 to develop or furnish, to provide to the ward, and to submit to the
6 court, a treatment plan specifying the protective services, including psychotropic
7 medication as ordered by the treating physician, as defined in s. 448.01 (5), that the
8 proposed ward should receive.

9 **SECTION 146.** 891.09 (2) of the statutes is amended to read:

10 891.09 (2) CHURCH AND DOCTOR'S RECORDS. Any church, parish or baptismal
11 record, and any record of a physician, as defined in s. 448.01 (5), or a person
12 authorized to solemnize marriages, in which record are preserved the facts relating
13 to any birth, stillbirth, fetal death, marriage or death, including the names of the
14 persons, dates, places and other material facts, may be admitted as prima facie
15 evidence of any fact aforesaid. But such record must be produced by its proper
16 custodian and be supported by the custodian's oath that it is such a record as it
17 purports to be and is genuine to the best of the custodian's knowledge and belief.

18 **SECTION 147.** 891.40 (1) of the statutes is amended to read:

19 891.40 (1) If, under the supervision of a licensed physician, as defined in s.
20 448.01 (5), and with the consent of her husband, a wife is inseminated artificially
21 with semen donated by a man not her husband, the husband of the mother at the time
22 of the conception of the child shall be the natural father of a child conceived. The
23 husband's consent must be in writing and signed by him and his wife. The physician
24 shall certify their signatures and the date of the insemination, and shall file the
25 husband's consent with the department of health and family services, where it shall