

2005 Assembly Bill 683

Date of enactment: **March 23, 2006**

Date of publication\*: **April 6, 2006**

## 2005 WISCONSIN ACT 187

AN ACT *to renumber and amend* 450.01 (16) (h) and 450.13 (5); *to amend* 50.09 (1) (a) (intro.), 50.09 (1) (f) 1., 50.09 (1) (h), 50.09 (1) (k), 50.49 (1) (b) (intro.), 70.47 (8) (intro.), 146.82 (3) (a), 252.07 (8) (a) 2., 252.07 (9) (c), 252.11 (2), 252.11 (4), 252.11 (5), 252.11 (7), 252.11 (10), 252.15 (2) (a) 7. ak., 252.15 (5) (a) 11., 252.15 (5) (a) 12. b., 252.15 (5) (a) 14., 252.15 (5m) (a), 252.15 (5m) (b), 252.15 (5m) (c), 252.15 (7m) (intro.), 252.15 (7m) (b), 252.16 (3) (c) (intro.), 252.17 (3) (c) (intro.), 252.18, 343.16 (5) (a), 441.06 (title), 448.56 (1), 448.56 (1m) (b), 448.67 (2) and 450.11 (7) (b); and *to create* 50.01 (1b), 252.01 (1c), 441.06 (7), 450.01 (1m), 450.01 (16) (h) 2., 450.11 (8) (e) and 450.13 (5) (b) of the statutes; **relating to:** authorizing medically related actions by advanced practice nurse prescribers.

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

**SECTION 1.** 50.01 (1b) of the statutes is created to read:

50.01 (1b) “Advanced practice nurse prescriber” means an advanced practice nurse who is certified under s. 441.16 (2) to issue prescription orders.

**SECTION 3.** 50.09 (1) (a) (intro.) of the statutes is amended to read:

50.09 (1) (a) (intro.) Private and unrestricted communications with the resident’s family, physician, advanced practice nurse prescriber, attorney, and any other person, unless medically contraindicated as documented by the resident’s physician or advanced practice nurse prescriber in the resident’s medical record, except that communications with public officials or with the resident’s attorney shall not be restricted in any event. The right to private and unrestricted communications shall include, but is not limited to, the right to:

**SECTION 4.** 50.09 (1) (f) 1. of the statutes is amended to read:

50.09 (1) (f) 1. ‘Privacy for visits by spouse.’ If both spouses are residents of the same facility, they shall be permitted to share a room unless medically contraindicated as documented by the resident’s physician or advanced practice nurse prescriber in the resident’s medical record.

**SECTION 5.** 50.09 (1) (h) of the statutes is amended to read:

50.09 (1) (h) Meet with, and participate in activities of social, religious, and community groups at the resident’s discretion, unless medically contraindicated as documented by the resident’s physician or advanced practice nurse prescriber in the resident’s medical record.

**SECTION 6.** 50.09 (1) (k) of the statutes is amended to read:

50.09 (1) (k) Be free from mental and physical abuse, and be free from chemical and physical restraints except as authorized in writing by a physician or advanced practice nurse prescriber for a specified and limited period of time and documented in the resident’s medical record. Physical restraints may be used in an emergency when necessary to protect the resident from injury to himself or

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\* Section 991.11, WISCONSIN STATUTES 2003–04 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

herself or others or to property. However, authorization for continuing use of the physical restraints shall be secured from a physician or advanced practice nurse prescriber within 12 hours. Any use of physical restraints shall be noted in the resident's medical records. "Physical restraints" includes, but is not limited to, any article, device, or garment ~~which that~~ interferes with the free movement of the resident and ~~which that~~ the resident is unable to remove easily, and confinement in a locked room.

**SECTION 7.** 50.49 (1) (b) (intro.) of the statutes is amended to read:

50.49 (1) (b) (intro.) "Home health services" means the following items and services that are furnished to an individual, who is under the care of a physician or advanced practice nurse prescriber, by a home health agency, or by others under arrangements made by the home health agency, that are under a plan for furnishing those items and services to the individual that is established and periodically reviewed by a physician or advanced practice nurse prescriber and that are, except as provided in subd. 6., provided on a visiting basis in a place of residence used as the individual's home:

**SECTION 8.** 70.47 (8) (intro.) of the statutes is amended to read:

70.47 (8) HEARING. (intro.) The board shall hear upon oath all persons who appear before it in relation to the assessment. The board shall hear upon oath, by telephone, all ill or disabled persons who present to the board a letter from a physician, ~~surgeon or~~ osteopath, or advanced practice nurse prescriber certified under s. 441.16 (2) that confirms their illness or disability. The board at such hearing shall proceed as follows:

**SECTION 9.** 146.82 (3) (a) of the statutes is amended to read:

146.82 (3) (a) Notwithstanding sub. (1), a physician or advanced practice nurse prescriber certified under s. 441.16 (2) who treats a patient whose physical or mental condition in the physician's or advanced practice nurse prescriber's judgment affects the patient's ability to exercise reasonable and ordinary control over a motor vehicle may report the patient's name and other information relevant to the condition to the department of transportation without the informed consent of the patient.

**SECTION 10.** 252.01 (1c) of the statutes is created to read:

252.01 (1c) "Advanced practice nurse prescriber" means an advanced practice nurse who is certified under s. 441.16 (2) to issue prescription orders.

**SECTION 12.** 252.07 (8) (a) 2. of the statutes is amended to read:

252.07 (8) (a) 2. The department or local health officer provides to the court a written statement from a physician or advanced practice nurse prescriber that the individual has infectious tuberculosis or suspect tuberculosis.

**SECTION 13.** 252.07 (9) (c) of the statutes is amended to read:

252.07 (9) (c) If the court orders confinement of an individual under this subsection, the individual shall remain confined until the department or local health officer, with the concurrence of a treating physician or advanced practice nurse prescriber, determines that treatment is complete or that the individual is no longer a substantial threat to himself or herself or to the public health. If the individual is to be confined for more than 6 months, the court shall review the confinement every 6 months.

**SECTION 14.** 252.11 (2) of the statutes is amended to read:

252.11 (2) An officer of the department or a local health officer having knowledge of any reported or reasonably suspected case or contact of a sexually transmitted disease for which no appropriate treatment is being administered, or of an actual contact of a reported case or potential contact of a reasonably suspected case, shall investigate or cause the case or contact to be investigated as necessary. If, following a request of an officer of the department or a local health officer, a person reasonably suspected of being infected with a sexually transmitted disease refuses or neglects examination by a physician or advanced practice nurse prescriber or treatment, an officer of the department or a local health officer may proceed to have the person committed under sub. (5) to an institution or system of care for examination, treatment or observation.

**SECTION 15.** 252.11 (4) of the statutes is amended to read:

252.11 (4) If a person infected with a sexually transmitted disease ceases or refuses treatment before reaching what in the a physician's or advanced practice nurse prescriber's opinion is the noncommunicable stage, the physician or advanced practice nurse prescriber shall notify the department. The department shall without delay take the necessary steps to have the person committed for treatment or observation under sub. (5), or shall notify the local health officer to take these steps.

**SECTION 16.** 252.11 (5) of the statutes is amended to read:

252.11 (5) Any court of record may commit a person infected with a sexually transmitted disease to any institution or may require the person to undergo a system of care for examination, treatment, or observation if the person ceases or refuses examination, treatment, or observation under the supervision of a physician or advanced practice nurse prescriber. The court shall summon the person to appear on a date at least 48 hours, but not more than 96 hours, after service if an officer of the department or a local health officer petitions the court and states the facts authorizing commitment. If the person fails to appear or fails to accept commitment without reasonable cause, the court may cite the person for contempt. The court may issue a warrant and may direct the sheriff, any

constable, or any police officer of the county immediately to arrest the person and bring the person to court if the court finds that a summons will be ineffectual. The court shall hear the matter of commitment summarily. Commitment under this subsection continues until the disease is no longer communicable or until other provisions are made for treatment that satisfy the department. The certificate of the petitioning officer is prima facie evidence that the disease is no longer communicable or that satisfactory provisions for treatment have been made.

**SECTION 17.** 252.11 (7) of the statutes is amended to read:

252.11 (7) Reports, examinations and inspections and all records concerning sexually transmitted diseases are confidential and not open to public inspection, and shall may not be divulged except as may be necessary for the preservation of the public health, in the course of commitment proceedings under sub. (5), or as provided under s. 938.296 (4) or (5) or 968.38 (4) or (5). If a physician or advanced practice nurse prescriber has reported a case of sexually transmitted disease to the department under sub. (4), information regarding the presence of the disease and treatment is not privileged when the patient ~~or~~ physician, or advanced practice nurse prescriber is called upon to testify to the facts before any court of record.

**SECTION 18.** 252.11 (10) of the statutes is amended to read:

252.11 (10) The state laboratory of hygiene shall examine specimens for the diagnosis of sexually transmitted diseases for any physician, advanced practice nurse prescriber, or local health officer in the state, and shall report the positive results of the examinations to the local health officer and to the department. All laboratories performing tests for sexually transmitted diseases shall report all positive results to the local health officer and to the department, with the name of the physician or advanced practice nurse prescriber to whom reported.

**SECTION 20.** 252.15 (2) (a) 7. ak. of the statutes is amended to read:

252.15 (2) (a) 7. ak. A physician or advanced practice nurse prescriber, based on information provided to the physician or advanced practice nurse prescriber, determines and certifies in writing that the affected person has been significantly exposed. The certification shall accompany the request for testing and disclosure. If the affected person who is significantly exposed is a physician or advanced practice nurse prescriber, he or she may not make this determination or certification. The information that is provided to a physician or advanced practice nurse prescriber to document the occurrence of a significant exposure and the physician's or advanced practice nurse prescriber's certification that an affected person has been significantly exposed, under this subd. 7. ak., shall be provided on a report form that is developed

by the department of commerce under s. 101.02 (19) (a) or on a report form that the department of commerce determines, under s. 101.02 (19) (b), is substantially equivalent to the report form that is developed under s. 101.02 (19) (a).

**SECTION 21.** 252.15 (5) (a) 11. of the statutes is amended to read:

252.15 (5) (a) 11. To a person, including a person exempted from civil liability under the conditions specified under s. 895.48, who renders to the victim of an emergency or accident emergency care during the course of which the emergency caregiver is significantly exposed to the emergency or accident victim, if a physician or advanced practice nurse prescriber, based on information provided to the physician or advanced practice nurse prescriber, determines and certifies in writing that the emergency caregiver has been significantly exposed and if the certification accompanies the request for disclosure.

**SECTION 22.** 252.15 (5) (a) 12. b. of the statutes is amended to read:

252.15 (5) (a) 12. b. The coroner, medical examiner, or appointed assistant is significantly exposed to a person whose death is under direct investigation by the coroner, medical examiner, or appointed assistant, if a physician or advanced practice nurse prescriber, based on information provided to the physician or advanced practice nurse prescriber, determines and certifies in writing that the coroner, medical examiner, or appointed assistant has been significantly exposed and if the certification accompanies the request for disclosure.

**SECTION 23.** 252.15 (5) (a) 14. of the statutes is amended to read:

252.15 (5) (a) 14. If the test results of a test administered to an individual are positive and the individual is deceased, by the individual's attending physician or advanced practice nurse prescriber, to persons, if known to the physician or advanced practice nurse prescriber, with whom the individual has had sexual contact or has shared intravenous drug use paraphernalia.

**SECTION 24.** 252.15 (5m) (a) of the statutes is amended to read:

252.15 (5m) (a) If a person, including a person exempted from civil liability under the conditions specified under s. 895.48, who renders to the victim of an emergency or accident emergency care during the course of which the emergency caregiver is significantly exposed to the emergency or accident victim and the emergency or accident victim subsequently dies prior to testing for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV, ~~and~~ if a physician or advanced practice nurse prescriber, based on information provided to the physician or advanced practice nurse prescriber, determines and certifies in writing that the emergency caregiver has been significantly exposed; and if the certification accompanies the request

for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the coroner, medical examiner, or physician who certifies the victim's cause of death under s. 69.18 (2) (b), (c) or (d).

**SECTION 25.** 252.15 (5m) (b) of the statutes is amended to read:

252.15 (5m) (b) If a funeral director, coroner, medical examiner, or appointed assistant to a coroner or medical examiner who prepares the corpse of a decedent for burial or other disposition or a person who performs an autopsy or assists in performing an autopsy is significantly exposed to the corpse, ~~and~~; if a physician or advanced practice nurse prescriber, based on information provided to the physician or advanced practice nurse prescriber, determines and certifies in writing that the funeral director, coroner, medical examiner, or appointed assistant has been significantly exposed; and if the certification accompanies the request for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the attending physician or advanced practice nurse prescriber of the funeral director, coroner, medical examiner, or appointed assistant who is so exposed.

**SECTION 26.** 252.15 (5m) (c) of the statutes is amended to read:

252.15 (5m) (c) If a health care provider or an agent or employee of a health care provider is significantly exposed to the corpse or to a patient who dies subsequent to the exposure and prior to testing for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV, ~~and~~; if a physician or advanced practice nurse prescriber who is not the health care provider, based on information provided to the physician or advanced practice nurse prescriber, determines and certifies in writing that the health care provider, agent or employee has been significantly exposed; and if the certification accompanies the request for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the physician or advanced practice nurse prescriber who certifies that the significant exposure has occurred.

**SECTION 27.** 252.15 (7m) (intro.) of the statutes is amended to read:

252.15 (7m) REPORTING OF PERSONS SIGNIFICANTLY EXPOSED. (intro.) If a positive, validated test result is obtained from a test subject, the test subject's physician or advanced practice nurse prescriber who maintains a record of the test result under sub. (4) (c) may report to the state epidemiologist the name of any person known to the physician or advanced practice nurse prescriber to have been significantly exposed to the test subject, only after the physician or advanced practice nurse prescriber has done all of the following:

**SECTION 28.** 252.15 (7m) (b) of the statutes is amended to read:

252.15 (7m) (b) Notified the test subject that the name of any person known to the physician or advanced

practice nurse prescriber to have been significantly exposed to the test subject will be reported to the state epidemiologist.

**SECTION 29.** 252.16 (3) (c) (intro.) of the statutes is amended to read:

252.16 (3) (c) (intro.) Has submitted to the department a certification from a physician, as defined in s. 448.01 (5), or advanced practice nurse prescriber of all of the following:

**SECTION 30.** 252.17 (3) (c) (intro.) of the statutes is amended to read:

252.17 (3) (c) (intro.) Has submitted to the department a certification from a physician, as defined in s. 448.01 (5), or advanced practice nurse prescriber of all of the following:

**SECTION 31.** 252.18 of the statutes is amended to read:

**252.18 Handling foods.** No person in charge of any public eating place or other establishment where food products to be consumed by others are handled may knowingly employ any person handling food products who has a disease in a form that is communicable by food handling. If required by the local health officer or any officer of the department for the purposes of an investigation, any person who is employed in the handling of foods or is suspected of having a disease in a form that is communicable by food handling shall submit to an examination by the officer or by a physician or advanced practice nurse prescriber designated by the officer. The expense of the examination, if any, shall be paid by the person examined. Any person knowingly infected with a disease in a form that is communicable by food handling who handles food products to be consumed by others and any persons knowingly employing or permitting such a person to handle food products to be consumed by others shall be punished as provided by s. 252.25.

**SECTION 32.** 343.16 (5) (a) of the statutes is amended to read:

343.16 (5) (a) The secretary may require any applicant for a license or any licensed operator to submit to a special examination by such persons or agencies as the secretary may direct to determine incompetency, physical or mental disability, disease, or any other condition ~~which that~~ might prevent such applicant or licensed person from exercising reasonable and ordinary control over a motor vehicle. ~~When~~ If the department requires the applicant to submit to an examination, the applicant shall pay for the cost thereof examination. If the department receives an application for a renewal or duplicate license after voluntary surrender under s. 343.265 or receives a report from a physician, advanced practice nurse prescriber certified under s. 441.16 (2), or optometrist under s. 146.82 (3), or if the department has a report of 2 or more arrests within a one-year period for any combination of violations of s. 346.63 (1) or (5) or a local ordinance in conformity ~~therewith~~ with s. 346.63 (1) or (5) or a law of

a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) or (5), or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the department shall determine, by interview or otherwise, whether the operator should submit to an examination under this section. The examination may consist of an assessment. If the examination indicates that education or treatment for a disability, disease or condition concerning the use of alcohol, a controlled substance or a controlled substance analog is appropriate, the department may order a driver safety plan in accordance with s. 343.30 (1q). If there is noncompliance with assessment or the driver safety plan, the department shall revoke the person's operating privilege in the manner specified in s. 343.30 (1q) (d).

**SECTION 33.** 441.06 (title) of the statutes is amended to read:

**441.06 (title) Licensure; civil liability exemption exemptions.**

**SECTION 34.** 441.06 (7) of the statutes is created to read:

441.06 (7) No person certified as an advanced practice nurse prescriber under s. 441.16 (2) is liable for civil damages for any of the following:

(a) Reporting in good faith to the department of transportation under s. 146.82 (3) a patient's name and other information relevant to a physical or mental condition of the patient that in the advanced practice nurse prescriber's judgment impairs the patient's ability to exercise reasonable and ordinary control over a motor vehicle.

(b) In good faith, not reporting to the department of transportation under s. 146.82 (3) a patient's name and other information relevant to a physical or mental condition of the patient that in the advanced practice nurse prescriber's judgment does not impair the patient's ability to exercise reasonable and ordinary control over a motor vehicle.

**SECTION 36.** 448.56 (1) of the statutes is amended to read:

448.56 (1) WRITTEN REFERRAL. Except as provided in this subsection and s. 448.52, a person may practice physical therapy only upon the written referral of a physician, chiropractor, dentist ~~or~~ podiatrist, or advanced practice nurse prescriber certified under s. 441.16 (2). Written referral is not required if a physical therapist provides services in schools to children with disabilities, as defined in s. 115.76 (5), pursuant to rules promulgated by the department of public instruction; provides services as part of a home health care agency; provides services to a patient in a nursing home pursuant to the patient's plan of care; provides services related to athletic activities, conditioning, or injury prevention; or provides services to an individual for a previously diagnosed medical condition after informing the individual's physician, chiropractor, dentist ~~or~~ podiatrist, or advanced practice nurse pre-

scriber certified under s. 441.16 (2) who made the diagnosis. The affiliated credentialing board may promulgate rules establishing additional services that are excepted from the written referral requirements of this subsection.

**SECTION 37.** 448.56 (1m) (b) of the statutes is amended to read:

448.56 (1m) (b) The affiliated credentialing board shall promulgate rules establishing the requirements that a physical therapist must satisfy if a physician, chiropractor, dentist, ~~or~~ podiatrist, or advanced practice nurse prescriber makes a written referral under sub. (1). The purpose of the rules shall be to ensure continuity of care between the physical therapist and the health care practitioner.

**SECTION 38.** 448.67 (2) of the statutes is amended to read:

448.67 (2) SEPARATE BILLING REQUIRED. Except as provided in sub. (4), a licensee who renders any podiatric service or assistance ~~whatever~~, or gives any podiatric advice or any similar advice or assistance ~~whatever~~, to any patient, podiatrist, physician, advanced practice nurse prescriber certified under s. 441.16 (2), partnership, or corporation, or to any other institution or organization ~~of any kind~~, including a hospital, for which a charge is made to a patient, shall, except as authorized by Title 18 or Title 19 of the federal Social Security Act, render an individual statement or account of the charge directly to the patient, distinct and separate from any statement or account by any other podiatrist, physician, advanced practice nurse prescriber, or other person.

**SECTION 39.** 450.01 (1m) of the statutes is created to read:

450.01 (1m) "Advanced practice nurse prescriber" means an advanced practice nurse who is certified under s. 441.16 (2).

**SECTION 41.** 450.01 (16) (h) of the statutes is renumbered 450.01 (16) (h) (intro.) and amended to read:

450.01 (16) (h) (intro.) Making therapeutic alternate drug selections, if made in accordance with written guidelines or procedures previously established by a pharmacy and therapeutics committee of a hospital and approved by the hospital's medical staff and ~~by an individual use of the therapeutic alternate drug selection has been approved for a patient during the period of the patient's stay within the hospital by any of the following:~~

1. The patient's physician for his or her patients for the period of each patient's stay within the hospital.

**SECTION 42.** 450.01 (16) (h) 2. of the statutes is created to read:

450.01 (16) (h) 2. The patient's advanced practice nurse prescriber, if the advanced practice nurse prescriber has entered into a written agreement to collaborate with a physician.

**SECTION 44.** 450.11 (7) (b) of the statutes is amended to read:

450.11 (7) (b) Information communicated to a physician or advanced practice nurse prescriber in an effort to procure unlawfully a prescription drug or the administration of a prescription drug is not a privileged communication.

**SECTION 46.** 450.11 (8) (e) of the statutes is created to read:

450.11 (8) (e) The board of nursing, insofar as this section applies to advanced practice nurse prescribers.

**SECTION 47.** 450.13 (5) of the statutes is renumbered 450.13 (5) (intro.) amended to read:

450.13 (5) **USE OF DRUG PRODUCT EQUIVALENT IN HOSPITALS.** (intro.) Subsections (1) to (4) do not apply to a pharmacist who dispenses a drug product equivalent that is prescribed for a patient in a hospital if the pharmacist dispenses the drug product equivalent in accordance with written guidelines or procedures previously established

by a pharmacy and therapeutics committee of the hospital and approved by the hospital's medical staff and use of the drug product equivalent has been approved for a patient during the period of the patient's stay within the hospital by the any of the following:

(a) ~~The patient's individual physician for the period of the patient's stay within the hospital.~~

**SECTION 48.** 450.13 (5) (b) of the statutes is created to read:

450.13 (5) (b) The patient's advanced practice nurse prescriber, if the advanced practice nurse prescriber has entered into a written agreement to collaborate with a physician.

**SECTION 50. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 448.56 (1) of the statutes takes effect on April 1, 2006.

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