



State of Wisconsin
2005 - 2006 LEGISLATURE

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2005 BILL

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1 AN ACT *to renumber and amend* 450.01 (16) (h) and 450.13 (5); *to amend* 50.09
2 (1) (a) (intro.), 50.09 (1) (f) 1., 50.09 (1) (h), 50.09 (1) (k), 50.49 (1) (b) (intro.),
3 70.47 (8) (intro.), 146.82 (3) (a), 252.07 (8) (a) 2., 252.07 (9) (c), 252.11 (2), 252.11
4 (4), 252.11 (5), 252.11 (7), 252.11 (10), 252.14 (1) (ar) 14., 252.15 (2) (a) 7. ak.,
5 252.15 (5) (a) 11., 252.15 (5) (a) 12. b., 252.15 (5) (a) 14., 252.15 (5m) (a), 252.15
6 (5m) (b), 252.15 (5m) (c), 252.15 (7m) (intro.), 252.15 (7m) (b), 252.16 (3) (c)
7 (intro.), 252.17 (3) (c) (intro.), 252.18, 343.16 (5) (a), 441.06 (title), 448.03 (5) (b),
8 448.56 (1), 448.56 (1m) (b), 448.67 (2), 450.11 (7) (b) and 450.11 (8) (b); and *to*
9 *create* 50.01 (1b), 50.01 (4p), 252.01 (1c), 252.01 (5), 441.06 (7), 450.01 (1m),
10 450.01 (15m), 450.01 (16) (h) 2., 450.01 (16) (h) 3., 450.11 (8) (e), 450.13 (5) (b)
11 and 450.13 (5) (c) of the statutes; **relating to:** authorizing medically related
12 actions by advanced practice nurse prescribers and physician assistants.

Analysis by the Legislative Reference Bureau

Under current law, the Nursing Board grants certificates to issue prescription orders to advanced practice nurses (advanced practice nurse prescribers) who meet

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education, training, and examination requirements of the Nursing Board. Also under current law, the Medical Examining Board grants physician assistant licenses to individuals who meet training and examination requirements and any other requirements established in rules promulgated by the Medical Examining Board.

The following provisions under current law authorize physicians or other health care professionals to act under specified circumstances and to affect individuals by these authorized actions:

1. Unless medically contraindicated as documented by a nursing home or community-based residential facility resident's physician in the resident's medical record, the resident has the right to private and unrestricted communications with his or her family, physician, attorney, and others; to share a room with his or her spouse if the spouse is also a resident; to participate in activities of social, religious, and community groups; and to be free from chemical and physical restraints.

2. Home health services that are provided to an individual by a home health agency must be those specified under a plan for furnishing the services that is established and periodically reviewed by a physician.

3. For hearings before the local board of review concerning assessments of property taxes, an ill or disabled person who presents to the board a letter from a physician or osteopath confirming the illness or disability may present testimony by telephone.

4. Under laws relating to confidentiality of patient health care records, a physician who treats a patient whose physical or mental condition, in the physician's judgment, affects his or her ability to exercise reasonable and ordinary control over a motor vehicle may, without the patient's informed consent, report the patient's name and other information to the Department of Transportation. Physicians are exempted from civil liability for reporting, or not reporting, this information in good faith.

5. Under laws relating to communicable diseases:

a. The Department of Health and Family Services (DHFS) may order an individual who has a confirmed diagnosis of infectious tuberculosis or symptoms indicative of tuberculosis confined to a facility if several conditions are met, including notifying a court of the confinement and providing to the court a physician's written statement affirming the tuberculosis or symptoms.

b. If a court orders confinement of an individual with infectious tuberculosis or symptoms indicative of tuberculosis, the individual must remain confined until DHFS or a local health officer, with the concurrence of a treating physician, determines that treatment is complete or that the individual is no longer a public health threat.

c. If, following a request by an officer of DHFS 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 treatment, the DHFS officer or local health officer may have the person committed to an institution for examination, treatment, or observation.

d. If a person with a sexually transmitted disease ceases or refuses treatment before reaching what is in a physician's opinion the noncommunicable stage, the

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physician must notify DHFS and the person may be committed for treatment by DHFS, a local health officer, or a court.

e. If a physician has reported to DHFS a case of sexually transmitted disease, information regarding the disease and its treatment is not privileged before a court.

f. The State Laboratory of Hygiene must examine specimens for the diagnosis of sexually transmitted disease for any physician or local health officer and must report positive results to the local health officer and DHFS.

g. If certain individuals, including emergency medical technicians, fire fighters, state patrol officers, jailers, emergency care givers, and coroners, receive a significant exposure (sustain a contact that has a potential for transmission of HIV), the person to whom they are significantly exposed may be compelled to be tested for the presence of HIV, and the test results may be provided to the affected individual. One prerequisite for compulsory testing is a written determination and certification by a physician that the individual has been significantly exposed.

h. If a test administered to a corpse indicates the presence of HIV, the deceased person's physician may provide the results of the test to persons whom the physician knows have had sexual contact or shared intravenous drug use paraphernalia with the deceased person; to emergency caregivers; and to funeral directors, coroners, and medical examiners who prepare a corpse for burial or who are significantly exposed to HIV in the course of performing an autopsy.

i. If a local health officer or DHFS officer requires it, a person who is employed in the handling of food products or is suspected of having a disease in a form that is communicable by food handling must submit to an examination by the officer or by a physician.

6. Under occupational regulation laws relating to physical therapists, a physical therapist may practice only on the written referral of a physician, chiropractor, dentist, or podiatrist, except under certain conditions, including providing services to an individual for a previously diagnosed medical condition after informing the individual's physician, chiropractor, dentist, or podiatrist.

7. Under occupational regulation laws relating to podiatrists, a podiatrist who renders chargeable services to, among others, a patient or physician, must render a statement of the charge directly to the person served.

8. Under laws relating to the practice of pharmacy, current law does the following:

a. Defines the term "practice of pharmacy" to include making therapeutic alternate drug selections in accordance with written guidelines or procedures approved by a hospital and by a physician for his or her patients for hospital stay.

b. Provides that information communicated to a physician in an effort unlawfully to procure a prescription drug is not privileged communication.

c. Requires the enforcement of prescription drug laws that apply to physicians to be the responsibility of the Department of Regulation and Licensing and the Medical Examining Board.

d. Exempts pharmacists from requirements that they provide certain information when dispensing a drug product equivalent, if the patient is in a hospital

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and the drug product equivalent is dispensed in accordance with guidelines approved by, among others, the patient's physician.

This bill expands the current laws described above that authorize physicians to act under specified circumstances and to affect individuals by these authorized actions, by similarly authorizing advanced practice nurse prescribers and individuals licensed as physician assistants. With respect to approving therapeutic alternate drug selections and exempting pharmacists from certain requirements related to dispensing drug product equivalents (items 8 a. and d. above), the bill authorizes an advanced practice nurse prescriber ~~or physician assistant~~ to act only if the advanced practice nurse prescriber ~~or physician assistant~~ has entered into a written agreement to collaborate with a physician.

For further information see the *state and local* 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.** 50.01 (1b) of the statutes is created to read:

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

4 **SECTION 2.** 50.01 (4p) of the statutes is created to read:

5 50.01 (4p) "Physician assistant" has the meaning given in s. 448.01 (6).

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

7 50.09 (1) (a) (intro.) Private and unrestricted communications with the
8 resident's family, physician, advanced practice nurse prescriber, physician assistant,
9 attorney, and any other person, unless medically contraindicated as documented by
10 the resident's physician, advanced practice nurse prescriber, or physician assistant
11 in the resident's medical record, except that communications with public officials or
12 with the resident's attorney shall not be restricted in any event. The right to private
13 and unrestricted communications shall include, but is not limited to, the right to:

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

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1 50.09 (1) (f) 1. ⁹Privacy for visits by spouse. ⁹If both spouses are residents of the
2 same facility, they shall be permitted to share a room unless medically
3 contraindicated as documented by the resident's physician, advanced practice nurse
4 prescriber, or physician assistant in the resident's medical record.

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

6 50.09 (1) (h) Meet with, and participate in activities of social, religious, and
7 community groups at the resident's discretion, unless medically contraindicated as
8 documented by the resident's physician, advanced practice nurse prescriber, or
9 physician assistant in the resident's medical record.

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

11 50.09 (1) (k) Be free from mental and physical abuse, and be free from chemical
12 and physical restraints except as authorized in writing by a physician, advanced
13 practice nurse prescriber, or physician assistant for a specified and limited period of
14 time and documented in the resident's medical record. Physical restraints may be
15 used in an emergency when necessary to protect the resident from injury to himself
16 or herself or others or to property. However, authorization for continuing use of the
17 physical restraints shall be secured from a physician, advanced practice nurse
18 prescriber, or physician assistant within 12 hours. Any use of physical restraints
19 shall be noted in the resident's medical records. "Physical restraints" includes, but
20 is not limited to, any article, device, or garment ~~which~~ that interferes with the free
21 movement of the resident and ~~which~~ that the resident is unable to remove easily, and
22 confinement in a locked room.

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

24 50.49 (1) (b) (intro.) "Home health services" means the following items and
25 services that are furnished to an individual, who is under the care of a physician, an

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1 advanced practice nurse prescriber, or physician assistant, by a home health agency,
2 or by others under arrangements made by the home health agency, that are under
3 a plan for furnishing those items and services to the individual that is established
4 and periodically reviewed by a physician, advanced practice nurse prescriber, or
5 physician assistant and that are, except as provided in subd. 6., provided on a visiting
6 basis in a place of residence used as the individual's home:

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

8 70.47 (8) HEARING. (intro.) The board shall hear upon oath all persons who
9 appear before it in relation to the assessment. The board shall hear upon oath, by
10 telephone, all ill or disabled persons who present to the board a letter from a
11 physician, ~~surgeon or osteopath~~, advanced practice nurse prescriber certified under
12 s. 441.16 (2), or physician assistant, as defined in s. 448.01 (6), that confirms their
13 illness or disability. The board at such hearing shall proceed as follows:

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

15 146.82 (3) (a) Notwithstanding sub. (1), a physician, advanced practice nurse
16 prescriber certified under s. 441.16 (2), or physician assistant, as defined in s. 448.01
17 (6), who treats a patient whose physical or mental condition in the physician's,
18 advanced practice nurse prescriber's, or physician assistant's judgment affects the
19 patient's ability to exercise reasonable and ordinary control over a motor vehicle may
20 report the patient's name and other information relevant to the condition to the
21 department of transportation without the informed consent of the patient.

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

23 252.01 (1c) "Advanced practice nurse prescriber" means an advanced practice
24 nurse who is certified under s. 441.16 (2) to issue prescription orders.

25 **SECTION 11.** 252.01 (5) of the statutes is created to read:

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1 252.01 (5) “Physician assistant” has the meaning given in s. 448.01 (6).

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

3 252.07 (8) (a) 2. The department or local health officer provides to the court a
4 written statement from a physician, advanced practice nurse prescriber, or physician
5 assistant that the individual has infectious tuberculosis or suspect tuberculosis.

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

7 252.07 (9) (c) If the court orders confinement of an individual under this
8 subsection, the individual shall remain confined until the department or local health
9 officer, with the concurrence of a treating physician, advanced practice nurse
10 prescriber, or physician assistant, determines that treatment is complete or that the
11 individual is no longer a substantial threat to himself or herself or to the public
12 health. If the individual is to be confined for more than 6 months, the court shall
13 review the confinement every 6 months.

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

15 252.11 (2) An officer of the department or a local health officer having
16 knowledge of any reported or reasonably suspected case or contact of a sexually
17 transmitted disease for which no appropriate treatment is being administered, or of
18 an actual contact of a reported case or potential contact of a reasonably suspected
19 case, shall investigate or cause the case or contact to be investigated as necessary.
20 If, following a request of an officer of the department or a local health officer, a person
21 reasonably suspected of being infected with a sexually transmitted disease refuses
22 or neglects examination by a physician, advanced practice nurse prescriber, or
23 physician assistant or treatment, an officer of the department or a local health officer
24 may proceed to have the person committed under sub. (5) to an institution or system
25 of care for examination, treatment or observation.

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

2 252.11 (4) If a person infected with a sexually transmitted disease ceases or
3 refuses treatment before reaching what in ~~the~~ a physician's, advanced practice nurse
4 prescriber's, or physician assistant's opinion is the noncommunicable stage, the
5 physician, advanced practice nurse prescriber, or physician assistant shall notify the
6 department. The department shall without delay take the necessary steps to have
7 the person committed for treatment or observation under sub. (5), or shall notify the
8 local health officer to take these steps.

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

10 252.11 (5) Any court of record may commit a person infected with a sexually
11 transmitted disease to any institution or may require the person to undergo a system
12 of care for examination, treatment, or observation if the person ceases or refuses
13 examination, treatment, or observation under the supervision of a physician,
14 advanced practice nurse prescriber, or physician assistant. The court shall summon
15 the person to appear on a date at least 48 hours, but not more than 96 hours, after
16 service if an officer of the department or a local health officer petitions the court and
17 states the facts authorizing commitment. If the person fails to appear or fails to
18 accept commitment without reasonable cause, the court may cite the person for
19 contempt. The court may issue a warrant and may direct the sheriff, any constable,
20 or any police officer of the county immediately to arrest the person and bring the
21 person to court if the court finds that a summons will be ineffectual. The court shall
22 hear the matter of commitment summarily. Commitment under this subsection
23 continues until the disease is no longer communicable or until other provisions are
24 made for treatment that satisfy the department. The certificate of the petitioning

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1 officer is prima facie evidence that the disease is no longer communicable or that
2 satisfactory provisions for treatment have been made.

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

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

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

15 252.11 (10) The state laboratory of hygiene shall examine specimens for the
16 diagnosis of sexually transmitted diseases for any physician, advanced practice
17 nurse prescriber, physician assistant, or local health officer in the state, and shall
18 report the positive results of the examinations to the local health officer and to the
19 department. All laboratories performing tests for sexually transmitted diseases
20 shall report all positive results to the local health officer and to the department, with
21 the name of the physician, advanced practice nurse prescriber, or physician assistant
22 to whom reported.

23 **SECTION 19.** 252.14 (1) (ar) 14. of the statutes is amended to read:

24 252.14 (1) (ar) 14. A physician assistant ~~licensed under ch. 448.~~

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

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1 252.15 (2) (a) 7. ak. A physician, advanced practice nurse prescriber, or
2 physician assistant, based on information provided to the physician, advanced
3 practice nurse prescriber, or physician assistant, determines and certifies in writing
4 that the affected person has been significantly exposed. The certification shall
5 accompany the request for testing and disclosure. If the affected person who is
6 significantly exposed is a physician, advanced practice nurse prescriber, or physician
7 assistant, he or she may not make this determination or certification. The
8 information that is provided to a physician, advanced practice nurse prescriber, or
9 physician assistant to document the occurrence of a significant exposure and the
10 physician's, advanced practice nurse prescriber's, or physician assistant's
11 certification that an affected person has been significantly exposed, under this subd.
12 7. ak., shall be provided on a report form that is developed by the department of
13 commerce under s. 101.02 (19) (a) or on a report form that the department of
14 commerce determines, under s. 101.02 (19) (b), is substantially equivalent to the
15 report form that is developed under s. 101.02 (19) (a).

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

17 252.15 (5) (a) 11. To a person, including a person exempted from civil liability
18 under the conditions specified under s. 895.48, who renders to the victim of an
19 emergency or accident emergency care during the course of which the emergency
20 caregiver is significantly exposed to the emergency or accident victim, if a physician,
21 advanced practice nurse prescriber, or physician assistant, based on information
22 provided to the physician, advanced practice nurse prescriber, or physician
23 assistant, determines and certifies in writing that the emergency caregiver has been
24 significantly exposed and if the certification accompanies the request for disclosure.

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

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1 252.15 (5) (a) 12. b. The coroner, medical examiner, or appointed assistant is
2 significantly exposed to a person whose death is under direct investigation by the
3 coroner, medical examiner, or appointed assistant, if a physician, advanced practice
4 nurse prescriber, or physician assistant, based on information provided to the
5 physician, advanced practice nurse prescriber, or physician assistant, determines
6 and certifies in writing that the coroner, medical examiner, or appointed assistant
7 has been significantly exposed and if the certification accompanies the request for
8 disclosure.

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

10 252.15 (5) (a) 14. If the test results of a test administered to an individual are
11 positive and the individual is deceased, by the individual's attending physician,
12 advanced practice nurse prescriber, or physician assistant, to persons, if known to
13 the physician, advanced practice nurse prescriber, or physician assistant, with
14 whom the individual has had sexual contact or has shared intravenous drug use
15 paraphernalia.

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

17 252.15 (5m) (a) If a person, including a person exempted from civil liability
18 under the conditions specified under s. 895.48, who renders to the victim of an
19 emergency or accident emergency care during the course of which the emergency
20 caregiver is significantly exposed to the emergency or accident victim and the
21 emergency or accident victim subsequently dies prior to testing for the presence of
22 HIV, antigen or nonantigenic products of HIV, or an antibody to HIV, ~~and~~; if a
23 physician, advanced practice nurse prescriber, or physician assistant, based on
24 information provided to the physician, advanced practice nurse prescriber, or
25 physician assistant, determines and certifies in writing that the emergency

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1 caregiver has been significantly exposed; and if the certification accompanies the
2 request for testing and disclosure. Testing of a corpse under this paragraph shall be
3 ordered by the coroner, medical examiner, or physician who certifies the victim's
4 cause of death under s. 69.18 (2) (b), (c) or (d).

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

6 252.15 (5m) (b) If a funeral director, coroner, medical examiner, or appointed
7 assistant to a coroner or medical examiner who prepares the corpse of a decedent for
8 burial or other disposition or a person who performs an autopsy or assists in
9 performing an autopsy is significantly exposed to the corpse, ~~and~~; if a physician,
10 advanced practice nurse prescriber, or physician assistant, based on information
11 provided to the physician, advanced practice nurse prescriber, or physician
12 assistant, determines and certifies in writing that the funeral director, coroner,
13 medical examiner, or appointed assistant has been significantly exposed; and if the
14 certification accompanies the request for testing and disclosure. Testing of a corpse
15 under this paragraph shall be ordered by the attending physician, advanced practice
16 nurse prescriber, or physician assistant of the funeral director, coroner, medical
17 examiner, or appointed assistant who is so exposed.

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

19 252.15 (5m) (c) If a health care provider or an agent or employee of a health
20 care provider is significantly exposed to the corpse or to a patient who dies
21 subsequent to the exposure and prior to testing for the presence of HIV, antigen or
22 nonantigenic products of HIV, or an antibody to HIV, ~~and~~; if a physician, advanced
23 practice nurse prescriber, or physician assistant who is not the health care provider,
24 based on information provided to the physician, advanced practice nurse prescriber,
25 or physician assistant, determines and certifies in writing that the health care

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1 provider, agent or employee has been significantly exposed; and if the certification
2 accompanies the request for testing and disclosure. Testing of a corpse under this
3 paragraph shall be ordered by the physician, advanced practice nurse prescriber, or
4 physician assistant who certifies that the significant exposure has occurred.

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

6 252.15 (7m) REPORTING OF PERSONS SIGNIFICANTLY EXPOSED. (intro.) If a positive,
7 validated test result is obtained from a test subject, the test subject's physician,
8 advanced practice nurse prescriber, or physician assistant who maintains a record
9 of the test result under sub. (4) (c) may report to the state epidemiologist the name
10 of any person known to the physician, advanced practice nurse prescriber, or
11 physician assistant to have been significantly exposed to the test subject, only after
12 the physician, advanced practice nurse prescriber, or physician assistant has done
13 all of the following:

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

15 252.15 (7m) (b) Notified the test subject that the name of any person known
16 to the physician, advanced practice nurse prescriber, or physician assistant to have
17 been significantly exposed to the test subject will be reported to the state
18 epidemiologist.

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

20 252.16 (3) (c) (intro.) Has submitted to the department a certification from a
21 physician, as defined in s. 448.01 (5), advanced practice nurse prescriber, or
22 physician assistant of all of the following:

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

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1 252.17 (3) (c) (intro.) Has submitted to the department a certification from a
2 physician, as defined in s. 448.01 (5), advanced practice nurse prescriber, or
3 physician assistant of all of the following:

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

5 **252.18 Handling foods.** No person in charge of any public eating place or
6 other establishment where food products to be consumed by others are handled may
7 knowingly employ any person handling food products who has a disease in a form
8 that is communicable by food handling. If required by the local health officer or any
9 officer of the department for the purposes of an investigation, any person who is
10 employed in the handling of foods or is suspected of having a disease in a form that
11 is communicable by food handling shall submit to an examination by the officer or
12 by a physician, advanced practice nurse prescriber, or physician assistant
13 designated by the officer. The expense of the examination, if any, shall be paid by the
14 person examined. Any person knowingly infected with a disease in a form that is
15 communicable by food handling who handles food products to be consumed by others
16 and any persons knowingly employing or permitting such a person to handle food
17 products to be consumed by others shall be punished as provided by s. 252.25.

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

19 343.16 (5) (a) The secretary may require any applicant for a license or any
20 licensed operator to submit to a special examination by such persons or agencies as
21 the secretary may direct to determine incompetency, physical or mental disability,
22 disease, or any other condition ~~which~~ that might prevent such applicant or licensed
23 person from exercising reasonable and ordinary control over a motor vehicle. ~~When~~
24 If the department requires the applicant to submit to an examination, the applicant
25 shall pay for the cost thereof examination. If the department receives an application

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1 for a renewal or duplicate license after voluntary surrender under s. 343.265 or
2 receives a report from a physician, advanced practice nurse prescriber certified
3 under s. 441.16 (2), physician assistant, as defined in s. 448.01 (6), or optometrist
4 under s. 146.82 (3), or if the department has a report of 2 or more arrests within a
5 one-year period for any combination of violations of s. 346.63 (1) or (5) or a local
6 ordinance in conformity ~~therewith~~ with s. 346.63 (1) or (5) or a law of a federally
7 recognized American Indian tribe or band in this state in conformity with s. 346.63
8 (1) or (5), or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or (6) or 940.25, or s. 940.09
9 where the offense involved the use of a vehicle, the department shall determine, by
10 interview or otherwise, whether the operator should submit to an examination under
11 this section. The examination may consist of an assessment. If the examination
12 indicates that education or treatment for a disability, disease or condition concerning
13 the use of alcohol, a controlled substance or a controlled substance analog is
14 appropriate, the department may order a driver safety plan in accordance with s.
15 343.30 (1q). If there is noncompliance with assessment or the driver safety plan, the
16 department shall revoke the person's operating privilege in the manner specified in
17 s. 343.30 (1q) (d).

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

19 **441.06 (title) Licensure; civil liability exemption exemptions.**

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

21 441.06 (7) No person certified as an advanced practice nurse prescriber under
22 s. 441.16 (2) is liable for civil damages for any of the following:

23 (a) Reporting in good faith to the department of transportation under s. 146.82
24 (3) a patient's name and other information relevant to a physical or mental condition

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1 of the patient that in the advanced practice nurse prescriber's judgment impairs the
2 patient's ability to exercise reasonable and ordinary control over a motor vehicle.

3 (b) In good faith, not reporting to the department of transportation under s.
4 146.82 (3) a patient's name and other information relevant to a physical or mental
5 condition of the patient that in the advanced practice nurse prescriber's judgment
6 does not impair the patient's ability to exercise reasonable and ordinary control over
7 a motor vehicle.

8 **SECTION 35.** 448.03 (5) (b) of the statutes is amended to read:

9 448.03 (5) (b) No physician or physician assistant shall be liable for any civil
10 damages for either of the following:

11 1. Reporting in good faith to the department of transportation under s. 146.82
12 (3) a patient's name and other information relevant to a physical or mental condition
13 of the patient which in the physician's or physician assistant's judgment impairs the
14 patient's ability to exercise reasonable and ordinary control over a motor vehicle.

15 2. In good faith, not reporting to the department of transportation under s.
16 146.82 (3) a patient's name and other information relevant to a physical or mental
17 condition of the patient which in the physician's or physician assistant's judgment
18 does not impair the patient's ability to exercise reasonable and ordinary control over
19 a motor vehicle.

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

21 448.56 (1) WRITTEN REFERRAL. Except as provided in this subsection and s.
22 448.52, a person may practice physical therapy only upon the written referral of a
23 physician, physician assistant, chiropractor, dentist ~~or~~, podiatrist, or advanced
24 practice nurse prescriber certified under s. 441.16 (2). Written referral is not
25 required if a physical therapist provides services in schools to children with

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1 disabilities, as defined in s. 115.76 (5), pursuant to rules promulgated by the
2 department of public instruction; provides services as part of a home health care
3 agency; provides services to a patient in a nursing home pursuant to the patient's
4 plan of care; provides services related to athletic activities, conditioning, or injury
5 prevention; or provides services to an individual for a previously diagnosed medical
6 condition after informing the individual's physician, physician assistant,
7 chiropractor, dentist or, podiatrist, or advanced practice nurse prescriber certified
8 under s. 441.16 (2) who made the diagnosis. The affiliated credentialing board may
9 promulgate rules establishing additional services that are excepted from the written
10 referral requirements of this subsection.

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

12 448.56 (1m) (b) The affiliated credentialing board shall promulgate rules
13 establishing the requirements that a physical therapist must satisfy if a physician,
14 physician assistant, chiropractor, dentist, or podiatrist, or advanced practice nurse
15 prescriber makes a written referral under sub. (1). The purpose of the rules shall be
16 to ensure continuity of care between the physical therapist and the health care
17 practitioner.

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

19 448.67 (2) SEPARATE BILLING REQUIRED. Except as provided in sub. (4), a licensee
20 who renders any podiatric service or assistance ~~whatever~~, or gives any podiatric
21 advice or any similar advice or assistance ~~whatever~~, to any patient, podiatrist,
22 physician, physician assistant, advanced practice nurse prescriber certified under s.
23 441.16 (2), partnership, or corporation, or to any other institution or organization of
24 ~~any kind~~, including a hospital, for which a charge is made to a patient, shall, except
25 as authorized by Title 18 or Title 19 of the federal Social Security Act, render an

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1 individual statement or account of the charge directly to the patient, distinct and
2 separate from any statement or account by any other podiatrist, physician, physician
3 assistant, advanced practice nurse prescriber, or other person.

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

5 450.01 (1m) "Advanced practice nurse prescriber" means an advanced practice
6 nurse who is certified under s. 441.16 (2).

7 **SECTION 40.** 450.01 (15m) of the statutes is created to read:

8 450.01 (15m) "Physician assistant" has the meaning given in s. 448.01 (6).

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

11 450.01 (16) (h) (intro.) Making therapeutic alternate drug selections, if made
12 in accordance with written guidelines or procedures previously established by a
13 pharmacy and therapeutics committee of a hospital and approved by the hospital's
14 medical staff and by an individual the guidelines or procedures have been approved
15 for a patient during the period of the patient's stay within the hospital by any of the
16 following:

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

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

20 450.01 (16) (h) 2. An advanced practice nurse prescriber who has entered into
21 a written agreement to collaborate with a physician. *The patient's*

22 **SECTION 43.** 450.01 (16) (h) 3. of the statutes is created to read:

23 450.01 (16) (h) 3. A physician assistant who has entered into a written
24 agreement to collaborate with a physician. *if the advanced practice nurse prescriber*
keep

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

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1 450.11 (7) (b) Information communicated to a physician, advanced practice
2 nurse prescriber, or physician assistant in an effort to procure unlawfully a
3 prescription drug or the administration of a prescription drug is not a privileged
4 communication.

5 **SECTION 45.** 450.11 (8) (b) of the statutes is amended to read:

6 450.11 (8) (b) The medical examining board, insofar as this section applies to
7 physicians and physician assistants.

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

9 450.11 (8) (e) The board of nursing, insofar as this section applies to advanced
10 practice nurse prescribers.

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

13 450.13 (5) USE OF DRUG PRODUCT EQUIVALENT IN HOSPITALS. (intro.) Subsections
14 (1) to (4) do not apply to a pharmacist who dispenses a drug product equivalent that
15 is prescribed for a patient in a hospital if the pharmacist dispenses the drug product
16 equivalent in accordance with written guidelines or procedures previously
17 established by a pharmacy and therapeutics committee of the hospital and approved
18 by the hospital's medical staff and the guidelines or procedures have been approved
19 for a patient during the period of the patient's stay within the hospital by the any of
20 the following: *use of the drug product equivalent has*

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

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

24 450.13 (5) (b) *or the patient's* An advanced practice nurse prescriber *who* has entered into a
25 written agreement to collaborate with a physician.

if the advanced practice nurse prescriber

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0832/3dn

CTS:.....

mk

(date)

✓
Representative Vukmir:

This is a redraft of LRB-0832/2 based on instructions from Dick Sweet. I have made minor changes in proposed ss. 450.01 (16) (h) 2. and 450.13 (5) (b) to enhance readability, but the substance is unaffected. ✓

Please let me know if you have any questions or if you would like to make further changes. ✓

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0832/3dn

CTS:lmk:ch

May 3, 2005

Representative Vukmir:

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Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

Northrop, Lori

From: Cady, Dean
Sent: Monday, September 12, 2005 1:31 PM
To: LRB.Legal
Subject: Draft review: LRB 05-0832/3 Topic: Advanced practice nurse prescribers and physician assistants

It has been requested by <Cady, Dean> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-0832/3 Topic: Advanced practice nurse prescribers and physician assistants