

2009 DRAFTING REQUEST

Bill

Received: **04/02/2009**

Received By: **rnelson2**

Wanted: **Soon**

Identical to LRB:

For: **Peter Barca (608) 266-5504**

By/Representing: **Matt**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - civil procedure
Transportation - other
Veterans - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Barca@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Podiatrist patient privilege

Instructions:

See attached 09-0055

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson2 04/02/2009	kfollett 04/02/2009		_____			
/1			jfrantze 04/03/2009	_____	cduerst 04/03/2009	lparisi 04/30/2009	

FE Sent For:

None

<END>

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/?	rnelson2	11/2 4/2	9 4/3	9 4/3			

FE Sent For:

<END>

Nelson, Robert P.

From: Egerer, Matt
Sent: Thursday, April 02, 2009 12:37 PM
To: Nelson, Robert P.
Subject: RE:

Yes.

Matt Egerer
Office of Representative Peter Barca
608.266.5504

From: Nelson, Robert P.
Sent: Thursday, April 02, 2009 11:53 AM
To: Browne, Michael; Egerer, Matt
Subject:

Here is a copy of LRB-0055 as requested by Sen Sullivan. It has not been jacketed for Sen. Sullivan, so you can use it for your own purposes.

Do you want me to create a companion bill for the Assembly?

Robert P. Nelson
Senior Legislative Attorney
608-267-7511

4/2

2009 BILL

See Act ✓

Reger

1 AN ACT *to renumber* 45.40 (1); *to amend* 15.085 (1m) (b), 15.406 (3) (intro.),
2 25.36 (1), 29.193 (2) (b) 2., 29.193 (2) (c) 3., 29.193 (2) (e), 45.40 (2m) (a), 45.40
3 (2m) (b), 45.40 (3m), 49.45 (9), 49.855 (4m) (b), 50.36 (3) (b), 50.36 (3) (c), 50.39
4 (3), 146.37 (1g), 180.1901 (1m) (bk), 185.981 (1), 185.981 (2), 185.981 (3),
5 185.981 (4), 185.982 (1), 343.62 (4) (a) 4., subchapter IV (title) of chapter 448
6 [precedes 448.60], 448.60 (1), 450.11 (8) (bm), 632.64, 632.99, 655.45 (1), 812.30
7 (9), 814.29 (1) (d) 1., 895.48 (1m) (a) (intro.) and 2., 905.04 (title), 905.04 (1) (b),
8 905.04 (1) (c), 905.04 (2) and 905.04 (3); and *to create* 45.40 (1g), 45.40 (1t) and
9 905.04 (1) (dg) of the statutes; **relating to:** podiatrist-patient privilege,
10 immunity exemption for podiatrists providing emergency care at athletic
11 events, allowing podiatrists to determine an illness or injury and complete
12 forms for the purpose of granting assistance to needy veterans, allowing
13 podiatrists to determine disability for the purpose of issuing certain hunting
14 permits, cooperatives organized to provide sickness care, the Podiatrists

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1 Affiliated Credentialing Board, allowing podiatrists to certify driver school
2 instructors' physical fitness, allowing Medical Assistance recipients to freely
3 choose among podiatrists, and giving equal weight to certifications of disability
4 by podiatrists for insurance purposes.

Analysis by the Legislative Reference Bureau

Under current law, certain health care providers, including physicians, first responders, and dentists, who render voluntary health care to a participant in an athletic event or contest at a school are immune from civil liability for their acts or omissions. The immunity applies only if certain conditions are met, including that the health care is rendered at the site of event or contest and that there is no compensation paid to the health care provider. This bill adds podiatrists to those who are immune from civil liability for their acts or omissions while rendering voluntary health care to a participant in an athletic event or contest at a school.

Currently, a communication by a patient to certain health care professionals, including physicians, chiropractors, and psychologists, is privileged. The patient may refuse to disclose, and can prevent the health care provider from disclosing, a communication made for the purpose of diagnosis or treatment of the patient. This bill adds podiatrists to those whose communication regarding diagnosis or treatment may be prevented from being disclosed by the patient.

Under current law, the Department of Transportation (DOT) issues driver school instructors' licenses. DOT may not issue an instructor's license to an applicant unless the applicant submits a statement completed by a physician or another specified medical care provider certifying that the applicant is physically fit to teach driving. This bill adds podiatrists to the list of medical care providers that may certify to DOT that an applicant is physically fit to teach driving.

Under current law, the Department of Veterans Affairs (DVA) may grant assistance to needy veterans who have suffered a loss of income due to illness, injury, or natural disaster. By rule, DVA has defined an illness or injury as a physical or mental health problem that is diagnosed by a physician, dentist, optometrist, or audiologist. This bill expands the health care providers who can diagnose an illness or injury for DVA purposes to include podiatrists.

Under current law, the Department of Natural Resources (DNR) is authorized to issue certain hunting permits that authorize hunting by persons who have a physical disability (specialized permits). Among the privileges granted by these specialized permits is the privilege of hunting with assistance rendered by another person. In order to obtain a specialized permit from DNR, a person must submit an application furnished by DNR that includes a statement or report prepared and signed by a licensed physician or chiropractor verifying that the applicant is physically disabled. A person may also obtain a specialized permit even if the person would otherwise be ineligible for a specialized permit if DNR, based on the

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recommendation of a licensed physician or chiropractor, determines that the issuance of the permit complies with the intent of the law. This bill authorizes an applicant for a specialized permit to submit a statement, report, or recommendation from a licensed podiatrist, as well as from a physician or chiropractor, in support of a specialized permit application.

This bill changes the name of the Podiatrists Affiliated Credentialing Board to the Podiatry Affiliated Credentialing Board.

Current law permits the organization of a cooperative to provide sickness care through contracts with physicians, medical societies, chiropractors, optometrists, dentists, dental societies, hospitals, and others. This bill adds podiatrists to the list of enumerated providers of sickness care.

Under current law, life insurers, health insurers, and disability insurers are required to give equal weight to certifications of disability by physicians and by chiropractors, with respect to matters within the scope of the professional license of each. This bill requires those insurers also to give equal weight to certifications of disability by podiatrists with respect to matters within the scope of their professional licenses.

Current law provides that a person who is eligible for health care coverage under the Medical Assistance (MA) program may, unless limited by the Department of Health Services, which administers MA, use the provider of his or her choice, and lists the types of providers for which the person has free choice. The list includes physicians, chiropractors, dentists, and pharmacists. This bill adds podiatrists to the list of providers for which a person who is eligible for MA has free choice.

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

1 **SECTION 1.** 15.085 (1m) (b) of the statutes is amended to read:

2 15.085 (1m) (b) The public members of the physical therapists affiliated
3 credentialing board, ~~podiatrists~~ podiatry affiliated credentialing board or
4 occupational therapists affiliated credentialing board shall not be engaged in any
5 profession or occupation concerned with the delivery of physical or mental health
6 care.

7 **SECTION 2.** 15.406 (3) (intro.) of the statutes is amended to read:

8 15.406 (3) (intro.) ~~PODIATRISTS~~ PODIATRY AFFILIATED CREDENTIALING BOARD.

9 There is created in the department of regulation and licensing, attached to the

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1 medical examining board, a ~~pediatrists~~ podiatry affiliated credentialing board
2 consisting of the following members appointed for 4-year terms:

3 **SECTION 3.** 25.36 (1) of the statutes is amended to read:

4 25.36 (1) Except as provided in sub. (2), all moneys appropriated or transferred
5 by law shall constitute the veterans trust fund which shall be used for the lending
6 of money to the mortgage loan repayment fund under s. 45.37 (5) (a) 12. and for the
7 veterans programs under ss. 20.485 (2) (m), (mn), (tm), (u), (v), (vo), (vy), (w), (z), and
8 (zm), 45.03 (19), 45.07, 45.20, 45.21, 45.40 ~~(1)~~ (1m), 45.41, 45.42, 45.43, and 45.82 and
9 administered by the department of veterans affairs, including all moneys received
10 from the federal government for the benefit of veterans or their dependents; all
11 moneys paid as interest on and repayment of loans under the post-war
12 rehabilitation fund; soldiers rehabilitation fund, veterans housing funds as they
13 existed prior to July 1, 1961; all moneys paid as interest on and repayment of loans
14 under this fund; all moneys paid as expenses for, interest on, and repayment of
15 veterans trust fund stabilization loans under s. 45.356, 1995 stats.; all moneys paid
16 as expenses for, interest on, and repayment of veterans personal loans; the net
17 proceeds from the sale of mortgaged properties related to veterans personal loans;
18 all mortgages issued with the proceeds of the 1981 veterans home loan revenue bond
19 issuance purchased with moneys in the veterans trust fund; all moneys received from
20 the state investment board under s. 45.42 (8) (b); all moneys received from the
21 veterans mortgage loan repayment fund under s. 45.37 (7) (a) and (c); and all gifts
22 of money received by the board of veterans affairs for the purposes of this fund.

23 **SECTION 4.** 29.193 (2) (b) 2. of the statutes is amended to read:

24 29.193 (2) (b) 2. An applicant shall submit an application on a form prepared
25 and furnished by the department, which shall include a written statement or report

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1 prepared and signed by a licensed physician ~~or~~, a licensed chiropractor, or a licensed
2 podiatrist prepared no more than 6 months preceding the application and verifying
3 that the applicant is physically disabled.

4 **SECTION 5.** 29.193 (2) (c) 3. of the statutes is amended to read:

5 29.193 (2) (c) 3. The department may issue a Class B permit to an applicant
6 who is ineligible for a permit under subd. 1., 2. or 2m. or who is denied a permit under
7 subd. 1., 2. or 2m. if, upon review and after considering the physical condition of the
8 applicant and the recommendation of a licensed physician ~~or~~, a licensed chiropractor,
9 or a licensed podiatrist selected by the applicant from a list of licensed physicians
10 ~~and~~, licensed chiropractors, and licensed podiatrists compiled by the department,
11 the department finds that issuance of a permit complies with the intent of this
12 subsection. The use of this review procedure is discretionary with the department
13 and all costs of the review procedure shall be paid by the applicant.

14 **SECTION 6.** 29.193 (2) (e) of the statutes is amended to read:

15 29.193 (2) (e) *Review of decisions.* An applicant denied a permit under this
16 subsection, except a permit under par. (c) 3., may obtain a review of that decision by
17 a licensed physician ~~or~~, a licensed chiropractor, or a licensed podiatrist designated
18 by the department and with an office located in the department district in which the
19 applicant resides. The department shall pay for the cost of a review under this
20 paragraph unless the denied application on its face fails to meet the standards set
21 forth in par. (c) 1. or 2. A review under this paragraph is the only method of review
22 of a decision to deny a permit under this subsection and is not subject to further
23 review under ch. 227.

24 **SECTION 7.** 45.40 (1) of the statutes is renumbered 45.40 (1m).

25 **SECTION 8.** 45.40 (1g) of the statutes is created to read:

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1 45.40 (1g) DEFINITIONS. In this section:

2 (a) “Health care provider” includes a podiatrist licensed under s. 448.63.

3 (b) “Illness” or “injury” means a physical or mental health problem that has
4 been diagnosed by a health care provider acting within the scope of the podiatrist’s
5 license.

6 **SECTION 9.** 45.40 (1t) of the statutes is created to read:

7 45.40 (1t) COMPLETION OF HEALTH CARE FORMS. A health care provider may
8 complete the medical forms necessary for the receipt of aid under this section if the
9 provider has diagnosed the veteran and determined the veteran’s medical condition.

10 **SECTION 10.** 45.40 (2m) (a) of the statutes is amended to read:

11 45.40 (2m) (a) The unmarried spouse and dependent children of a veteran
12 who died on active duty, or in the line of duty while on active or inactive duty for
13 training purposes, in the U.S. armed forces or forces incorporated in the U.S. armed
14 forces are eligible to receive payments under subs. (1) (1m) and (2) if the household
15 income of those persons does not exceed the income limitations established under
16 sub. (3m).

17 **SECTION 11.** 45.40 (2m) (b) of the statutes is amended to read:

18 45.40 (2m) (b) The spouse and dependent children of a member of the U.S.
19 armed forces or of the Wisconsin national guard who has been activated or deployed
20 to serve in the U.S. armed forces who are residents of this state, who have suffered
21 a loss of income due to that activation or deployment, and who experience an
22 economic emergency during the member’s activation or deployment are eligible to
23 receive assistance under subs. (1) (1m) and (2).

24 **SECTION 12.** 45.40 (3m) of the statutes is amended to read:

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1 45.40 (3m) RULES. The department shall promulgate rules establishing
2 eligibility criteria and household income limits for payments under subs. ~~(1)~~ (1m),
3 (2), and (2m).

4 **SECTION 13.** 49.45 (9) of the statutes is amended to read:

5 49.45 (9) FREE CHOICE. Any person eligible for medical assistance under s.
6 49.46, 49.468, 49.47, or 49.471 may use the physician, chiropractor, dentist,
7 pharmacist, podiatrist, hospital, skilled nursing home, health maintenance
8 organization, limited service health organization, preferred provider plan or other
9 licensed, registered or certified provider of health care of his or her choice, except that
10 free choice of a provider may be limited by the department if the department's
11 alternate arrangements are economical and the recipient has reasonable access to
12 health care of adequate quality. The department may also require a recipient to
13 designate, in any or all categories of health care providers, a primary health care
14 provider of his or her choice. After such a designation is made, the recipient may not
15 receive services from other health care providers in the same category as the primary
16 health care provider unless such service is rendered in an emergency or through
17 written referral by the primary health care provider. Alternate designations by the
18 recipient may be made in accordance with guidelines established by the department.
19 Nothing in this subsection shall vitiate the legal responsibility of the physician,
20 chiropractor, dentist, pharmacist, podiatrist, skilled nursing home, hospital, health
21 maintenance organization, limited service health organization, preferred provider
22 plan or other licensed, registered or certified provider of health care to patients. All
23 contract and tort relationships with patients shall remain, notwithstanding a
24 written referral under this section, as though dealings are direct between the
25 physician, chiropractor, dentist, pharmacist, podiatrist, skilled nursing home,

BILL**SECTION 13**

1 hospital, health maintenance organization, limited service health organization,
2 preferred provider plan or other licensed, registered or certified provider of health
3 care and the patient. No physician, chiropractor, pharmacist, podiatrist, or dentist
4 may be required to practice exclusively in the medical assistance program.

5 **SECTION 14.** 49.855 (4m) (b) of the statutes is amended to read:

6 49.855 (4m) (b) The department of revenue may provide a certification that it
7 receives under sub. (1), (2m), (2p), or (2r) to the department of administration. Upon
8 receipt of the certification, the department of administration shall determine
9 whether the obligor is a vendor or is receiving any other payments from this state,
10 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.
11 45.40 (1) (1m), this chapter, or ch. 46, 108, or 301. If the department of
12 administration determines that the obligor is a vendor or is receiving payments from
13 this state, except for wages, retirement benefits, or assistance under s. 45.352, 1971
14 stats., s. 45.40 (1) (1m), this chapter, or ch. 46, 108, or 301, it shall begin to withhold
15 the amount certified from those payments and shall notify the obligor that the state
16 intends to reduce any payments due the obligor by the amount the obligor is
17 delinquent under the support, maintenance, or receiving and disbursing fee order or
18 obligation, by the outstanding amount for past support, medical expenses, or birth
19 expenses under the court order, or by the amount due under s. 46.10 (4), 49.345 (4),
20 or 301.12 (4). The notice shall provide that within 20 days after receipt of the notice
21 the obligor may request a hearing before the circuit court rendering the order under
22 which the obligation arose. An obligor may, within 20 days after receiving notice,
23 request a hearing under this paragraph. Within 10 days after receiving a request for
24 hearing under this paragraph, the court shall set the matter for hearing. A circuit
25 court commissioner may conduct the hearing. Pending further order by the court or

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1 circuit court commissioner, the department of children and families or its designee,
2 whichever is appropriate, may not disburse the payments withheld from the obligor.
3 The sole issues at the hearing are whether the obligor owes the amount certified and,
4 if not and it is a support or maintenance order, whether the money withheld shall be
5 paid to the obligor or held for future support or maintenance, except that the obligor's
6 ability to pay is also an issue at the hearing if the obligation relates to an order under
7 s. 767.805 (4) (d) 1. or 767.89 (3) (e) 1. and the order specifies that the court found that
8 the obligor's income was at or below the poverty line established under 42 USC 9902
9 (2).

10 **SECTION 15.** 50.36 (3) (b) of the statutes is amended to read:

11 50.36 (3) (b) If, as a result of peer investigation or written notice thereof, a
12 hospital staff member who is licensed by the medical examining board or ~~podiatrists~~
13 podiatry affiliated credentialing board, for any reasons that include the quality of or
14 ability to practice, loses his or her hospital staff privileges, has his or her hospital
15 staff privileges reduced or resigns from the hospital staff, the hospital shall so notify
16 the medical examining board or ~~podiatrists~~ podiatry affiliated credentialing board,
17 whichever is applicable, within 30 days after the loss, reduction or resignation takes
18 effect. Temporary suspension due to incomplete records need not be reported.

19 **SECTION 16.** 50.36 (3) (c) of the statutes is amended to read:

20 50.36 (3) (c) If, as a result of peer investigation or written notice thereof, a
21 hospital staff member who is licensed by the medical examining board or ~~podiatrists~~
22 podiatry affiliated credentialing board, for reasons that do not include the quality of
23 or ability to practice, loses his or her hospital staff privileges for 30 days or more, has
24 his or her hospital staff privileges reduced for 30 days or more or resigns from the
25 hospital staff for 30 days or more, the hospital shall so notify the medical examining

BILL**SECTION 16**

1 board or ~~podiatrists~~ podiatry affiliated credentialing board, whichever is applicable,
2 within 30 days after the loss, reduction or resignation takes effect. Temporary
3 suspension due to incomplete records need not be reported.

4 **SECTION 17.** 50.39 (3) of the statutes is amended to read:

5 50.39 (3) Facilities governed by ss. 45.50, 48.62, 49.70, 49.72, 50.02, 51.09, and
6 252.10, juvenile correctional facilities as defined in s. 938.02 (10p), correctional
7 institutions governed by the department of corrections under s. 301.02, and the
8 offices and clinics of persons licensed to treat the sick under chs. 446, 447, and 448
9 are exempt from ss. 50.32 to 50.39. Sections 50.32 to 50.39 do not abridge the rights
10 of the medical examining board, physical therapists affiliated credentialing board,
11 ~~podiatrists~~ podiatry affiliated credentialing board, dentistry examining board,
12 pharmacy examining board, chiropractic examining board, and board of nursing in
13 carrying out their statutory duties and responsibilities.

14 **SECTION 18.** 146.37 (1g) of the statutes is amended to read:

15 146.37 (1g) Except as provided in s. 153.85, no person acting in good faith who
16 participates in the review or evaluation of the services of health care providers or
17 facilities or the charges for such services conducted in connection with any program
18 organized and operated to help improve the quality of health care, to avoid improper
19 utilization of the services of health care providers or facilities or to determine the
20 reasonable charges for such services, or who participates in the obtaining of health
21 care information under ch. 153, is liable for any civil damages as a result of any act
22 or omission by such person in the course of such review or evaluation. Acts and
23 omissions to which this subsection applies include, but are not limited to, acts or
24 omissions by peer review committees or hospital governing bodies in censuring,
25 reprimanding, limiting or revoking hospital staff privileges or notifying the medical

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1 examining board or ~~podiatrists~~ podiatry affiliated credentialing board under s. 50.36
2 or taking any other disciplinary action against a health care provider or facility and
3 acts or omissions by a medical director in reviewing the performance of emergency
4 medical technicians or ambulance service providers.

5 **SECTION 19.** 180.1901 (1m) (bk) of the statutes is amended to read:

6 180.1901 (1m) (bk) ~~Podiatrists~~ Podiatry affiliated credentialing board under
7 subch. IV of ch. 448.

8 **SECTION 20.** 185.981 (1) of the statutes is amended to read:

9 185.981 (1) Cooperative associations may be organized under this chapter
10 without capital stock, exclusively to establish and operate in the state or in any
11 county or counties therein a nonprofit plan or plans for sickness care, including
12 hospital care, for their members and their dependents through contracts with
13 physicians, medical societies, chiropractors, optometrists, dentists, dental societies,
14 hospitals, podiatrists and others.

15 **SECTION 21.** 185.981 (2) of the statutes is amended to read:

16 185.981 (2) Such associations shall operate only on a cooperative nonprofit
17 basis and for the purpose of establishing, maintaining and operating a voluntary
18 nonprofit health, dental or vision care plan or plans or for constructing, operating
19 and maintaining nonprofit hospitals or other facilities whereby sickness care,
20 including hospital, dental or vision care, is provided at the expense of such
21 association, its members or both, to such persons or groups of persons as shall become
22 subscribers to such plan, under contracts which will entitle each such subscriber to
23 definite medical, surgical, chiropractic, vision, dental or hospital care, appliances
24 and supplies, by physicians and surgeons licensed and registered under ch. 448,
25 podiatrists licensed under ch. 448, optometrists licensed under ch. 449, chiropractors

BILL**SECTION 21**

1 licensed under ch. 446 and dentists licensed under ch. 447 in their offices, in
2 hospitals, in other facilities and in the home.

3 **SECTION 22.** 185.981 (3) of the statutes is amended to read:

4 185.981 (3) No cooperative association organized for the purposes provided in
5 ss. 185.981 to 185.983 shall be prevented from contracting with any hospital in this
6 state for the rendition of such hospital care as is included within such a plan because
7 such hospital participates in any other such plan, or in a plan organized and operated
8 under ss. 148.03 and 613.80. No hospital may discriminate against any physician
9 and surgeon, chiropractor ~~or~~, dentist, or podiatrist with respect to the use of such
10 hospital's facilities by reason of his or her participation in a sickness care plan of a
11 cooperative.

12 **SECTION 23.** 185.981 (4) of the statutes is amended to read:

13 185.981 (4) No contract by or on behalf of any such cooperative association shall
14 provide for the payment of any cash, indemnity or other material benefit by that
15 association to the subscriber or the subscriber's estate on account of death, illness or
16 injury, nor be in any way related to the payment of any such benefit by any other
17 agency, but any such association may stipulate in its plan that it will pay any
18 nonparticipating physician and surgeon, optometrist, chiropractor, dentist ~~or~~,
19 podiatrist, or hospital outside of its normal territory for sickness or hospital care
20 rendered any covered member or a member's covered dependent who is in need of the
21 benefits of such plan when he or she is outside of the territory of such association in
22 which the benefits of such plan are normally available. Any such plan may prescribe
23 monetary limitations with respect to such extraterritorial benefits.

24 **SECTION 24.** 185.982 (1) of the statutes is amended to read:

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1 185.982 (1) No sickness care plan or contract issued thereunder by such
2 cooperative association shall interfere with the manner or mode of the practice of
3 medicine, optometry, chiropractic ~~or~~, dentistry, or podiatry, the relationship of
4 physician, chiropractor, optometrist ~~or~~, dentist, or podiatrist and patient, nor the
5 responsibility of physician, chiropractor, optometrist ~~or~~, dentist, or podiatrist to
6 patient. A plan may require persons covered to utilize health care providers
7 designated by the cooperative association. The cooperative association may provide
8 health care services directly through providers who are employees of the cooperative
9 association or through agreements with individual providers or groups of providers
10 organized on a group practice or individual practice basis. In making such
11 agreements, no plan may refuse to provide coverage for vision care services or
12 procedures provided by an optometrist licensed under ch. 449 within the scope of the
13 practice of optometry, as defined in s. 449.01 (1), if the plan provides coverage for the
14 same services or procedures when provided by another health care provider.

15 **SECTION 25.** 343.62 (4) (a) 4. of the statutes is amended to read:

16 343.62 (4) (a) 4. The applicant submits with the application a statement
17 completed within the immediately preceding 24 months, except as provided by rule,
18 by a physician licensed to practice medicine in any state, from an advanced practice
19 nurse licensed to practice nursing in any state, from a physician assistant licensed
20 or certified to practice in any state, from a podiatrist licensed to practice in any state,
21 from a chiropractor licensed to practice chiropractic in any state, or from a Christian
22 Science practitioner residing in this state, and listed in the Christian Science journal
23 certifying that, in the medical care provider's judgment, the applicant is physically
24 fit to teach driving.

BILL

1 **632.99 Certifications of disability.** ~~Every~~ For the purpose of insurance
2 policies that they issue, every insurer doing a health or disability insurance business
3 in this state shall afford equal weight to a certification of disability signed by a
4 physician with respect to matters within the scope of the physician's professional
5 license and, to a certification of disability signed by a chiropractor with respect to
6 matters within the scope of the chiropractor's professional license ~~for the purpose of~~
7 ~~insurance policies they issue, and to a certification of disability signed by a podiatrist~~
8 with respect to matters within the scope of the podiatrist's professional license. This
9 section does not require an insurer to treat any certification of disability as
10 conclusive evidence of disability.

11 **SECTION 31.** 655.45 (1) of the statutes is amended to read:

12 655.45 (1) For the quarter beginning on July 1, 1986, and for each quarter
13 thereafter, the director of state courts shall file reports complying with sub. (2) with
14 the medical examining board, the physical therapists affiliated credentialing board,
15 the ~~podiatrists~~ podiatry affiliated credentialing board, the board of nursing and the
16 department, respectively, regarding health care providers licensed by the respective
17 bodies.

18 **SECTION 32.** 812.30 (9) of the statutes is amended to read:

19 812.30 (9) "Need-based public assistance" means aid to families with
20 dependent children, relief funded by a relief block grant under ch. 49, relief provided
21 by counties under s. 59.53 (21), medical assistance, supplemental security income,
22 food stamps, or benefits received by veterans under s. 45.40 (1) ~~(1m)~~ or under 38 USC
23 501 to 562.

24 **SECTION 33.** 814.29 (1) (d) 1. of the statutes is amended to read:

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1 814.29 (1) (d) 1. That the person is a recipient of means-tested public
2 assistance, including aid to families with dependent children, relief funded by a relief
3 block grant under ch. 49, relief provided by counties under s. 59.53 (21), medical
4 assistance, supplemental security income, food stamps or benefits received by
5 veterans under s. 45.40 ~~(1)~~ (1m) or under 38 USC 501 to 562.

6 **SECTION 34.** 895.48 (1m) (a) (intro.) and 2. of the statutes are amended to read:

7 895.48 **(1m)** (a) Except as provided in par. (b), any physician, physician
8 assistant, podiatrist, or athletic trainer licensed under ch. 448, chiropractor licensed
9 under ch. 446, dentist licensed under ch. 447, emergency medical technician licensed
10 under s. 256.15, first responder certified under s. 256.15 (8), ~~physician assistant~~
11 ~~licensed under ch. 448~~, registered nurse licensed under ch. 441, or a massage
12 therapist or bodyworker issued a certificate under ch. 460 who renders voluntary
13 health care to a participant in an athletic event or contest sponsored by a nonprofit
14 corporation, as defined in s. 66.0129 (6) (b), a private school, as defined in s. 115.001
15 (3r), a public agency, as defined in s. 46.856 (1) (b), or a school, as defined in s. 609.655
16 (1) (c), is immune from civil liability for his or her acts or omissions in rendering that
17 care if all of the following conditions exist:

18 2. The physician, podiatrist, athletic trainer, chiropractor, dentist, emergency
19 medical technician, first responder, physician assistant, registered nurse, massage
20 therapist or bodyworker does not receive compensation for the health care, other
21 than reimbursement for expenses.

22 **SECTION 35.** 905.04 (title) of the statutes is amended to read:

23 **905.04** (title) **Physician-patient, registered nurse-patient,**
24 **chiropractor-patient, psychologist-patient, social worker-patient,**

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1 **marriage and family therapist-patient, podiatrist-patient and**
2 **professional counselor-patient privilege.**

3 **SECTION 36.** 905.04 (1) (b) of the statutes is amended to read:

4 905.04 (1) (b) A communication or information is “confidential” if not intended
5 to be disclosed to 3rd persons other than those present to further the interest of the
6 patient in the consultation, examination, or interview, ~~or~~ to persons reasonably
7 necessary for the transmission of the communication or information, or to persons
8 who are participating in the diagnosis and treatment under the direction of the
9 physician, podiatrist, registered nurse, chiropractor, psychologist, social worker,
10 marriage and family therapist or professional counselor, including the members of
11 the patient’s family.

12 **SECTION 37.** 905.04 (1) (c) of the statutes is amended to read:

13 905.04 (1) (c) “Patient” means an individual, couple, family or group of
14 individuals who consults with or is examined or interviewed by a physician,
15 podiatrist, registered nurse, chiropractor, psychologist, social worker, marriage and
16 family therapist or professional counselor.

17 **SECTION 38.** 905.04 (1) (dg) of the statutes is created to read:

18 905.04 (1) (dg) “Podiatrist” means a person licensed under s. 448.63 or a person
19 reasonably believed by the patient to be a podiatrist.

20 **SECTION 39.** 905.04 (2) of the statutes is amended to read:

21 905.04 (2) GENERAL RULE OF PRIVILEGE. A patient has a privilege to refuse to
22 disclose and to prevent any other person from disclosing confidential
23 communications made or information obtained or disseminated for purposes of
24 diagnosis or treatment of the patient’s physical, mental or emotional condition,
25 among the patient, the patient’s physician, the patient’s podiatrist, the patient’s

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1 registered nurse, the patient's chiropractor, the patient's psychologist, the patient's
2 social worker, the patient's marriage and family therapist, the patient's professional
3 counselor or persons, including members of the patient's family, who are
4 participating in the diagnosis or treatment under the direction of the physician,
5 podiatrist, registered nurse, chiropractor, psychologist, social worker, marriage and
6 family therapist or professional counselor.

7 **SECTION 40.** 905.04 (3) of the statutes is amended to read:

8 905.04 (3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the
9 patient, by the patient's guardian or conservator, or by the personal representative
10 of a deceased patient. The person who was the physician, podiatrist, registered
11 nurse, chiropractor, psychologist, social worker, marriage and family therapist or
12 professional counselor may claim the privilege but only on behalf of the patient. The
13 authority so to do is presumed in the absence of evidence to the contrary.

14 **SECTION 41. Initial applicability.**

15 (1) CERTIFICATIONS OF DISABILITY BY PODIATRISTS.

16 (a) *Life insurance.* If a life insurance policy that is in effect on the effective date
17 of this subsection contains a provision that is inconsistent with the treatment of
18 section 632.64 of the statutes, the treatment of section 632.64 of the statutes first
19 applies to that life insurance policy on the date on which it is renewed.

20 (b) *Health or disability insurance.* If a health or disability insurance policy that
21 is in effect on the effective date of this subsection contains a provision that is
22 inconsistent with the treatment of section 632.99 of the statutes, the treatment of
23 section 632.99 of the statutes first applies to that health or disability insurance policy
24 on the date on which it is renewed.

25 (END)

Parisi, Lori

From: Egerer, Matt
Sent: Thursday, April 30, 2009 10:14 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-2538/1 Topic: Podiatrist patient privilege

Please Jacket LRB 09-2538/1 for the ASSEMBLY.