



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3936/P1
MED&KP:kjf

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Stays P2

Inserts

Repeal

1 AN ACT *to repeal* 448.52 (title), 448.527 (title), 448.565 (title), 448.567 (title),
2 448.58 (title) and 448.59 (title); *to renumber* subchapter III (title) of chapter
3 448 [precedes 448.50], 448.51 (title), 448.51 (1e), 448.51 (1s), 448.52 (1m),
4 448.522, 448.56 (1m) (title), 448.56 (1m) (a), 448.56 (3) to (5), 448.56 (7) and
5 448.59; *to renumber and amend* 180.1901 (1m) (bg), 252.14 (1) (ar) 4e.,
6 448.50, 448.51 (1), 448.51 (2), 448.52 (2m), 448.527, 448.53, 448.535, 448.54,
7 448.55, 448.56 (title), 448.56 (1), 448.56 (1m) (b), 448.56 (2), 448.56 (6), 448.565,
8 448.567, 448.57 and 448.58; *to amend* 15.405 (7r) (a), 15.405 (7r) (am), 15.406
9 (4) (a), 46.90 (5m) (br) 5., 48.78 (2) (g), 49.45 (8) (a) 5., 50.01 (2), 50.39 (3), 55.043
10 (4) (b) 5., 146.40 (1) (d), 146.81 (1) (dg), 146.89 (1) (r) 1., 146.997 (1) (d) 4., 154.01
11 (3), 155.01 (7), 231.01 (7) (d) 2., 252.14 (1) (ar) 9., 252.14 (1) (ar) 10., 252.14 (1)
12 (ar) 11., 255.40 (2) (a) (intro.), 440.03 (13) (b) (intro.), 440.15, 448.956 (1m) and
13 (4), 450.10 (3) (a) 5., 451.02 (1), 462.04 and 938.78 (2) (g); *to repeal and*
14 *recreate* 440.03 (13) (b) (intro.) and 440.15; and *to create* 14.88, 146.997 (1)
15 (d) 13e., 440.03 (11m) (c) 2m., 450.10 (3) (a) 12., chapter 464 (title), 464.03

extending the
time limit
for emergency
rule procedures
and providing
an exemption
from emergency
rule procedures

Insert analysis

1 (intro.), 464.10 (title) and subchapter II of chapter 464 [precedes 464.50] of the
2 statutes; **relating to:** ratification of the physical therapy licensure compact.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

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

3 SECTION 1. 14.88 of the statutes is created to read:

4 **14.88 Physical therapy licensure compact.** There is created a physical
5 therapy compact commission as specified in s. 464.50. The administrator of the
6 commission representing this state shall be an individual described in s. 464.50 (7)
7 (b) 2. The commission has the powers and duties granted and imposed under s.
8 464.50.

9 SECTION 2. 15.405 (7r) (a) of the statutes is amended to read:
10 15.405 (7r) (a) Three physical therapists who are licensed under subch. III I
11 of ch. 448 464.

12 SECTION 3. 15.405 (7r) (am) of the statutes is amended to read:
13 15.405 (7r) (am) One physical therapist assistant licensed under subch. III I
14 of ch. 448 464.

15 SECTION 4. 15.406 (4) (a) of the statutes is amended to read:
16 15.406 (4) (a) Four athletic trainers who are licensed under subch. VI of ch. 448
17 and who have not been issued a credential in athletic training by a governmental
18 authority in a jurisdiction outside this state. One of the athletic trainer members

448,985 ✓

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448,985 ✓

1 may also be licensed under ch. 446 or 447 ~~or, under~~ subch. II, III or IV of ch. 448, ~~or~~
2 under subch. I of ch. 464.

3 **SECTION 5.** 46.90 (5m) (br) 5. of the statutes is amended to read:

4 46.90 (5m) (br) 5. Refer the case to the department of safety and professional
5 services if the financial exploitation, neglect, self-neglect, or abuse involves an
6 individual who is required to hold a credential, as defined in s. 440.01 (2) (a), under
7 chs. 440 to ~~460~~ 480.

8 **SECTION 6.** 48.78 (2) (g) of the statutes is amended to read:

9 48.78 (2) (g) Paragraph (a) does not prohibit an agency from disclosing
10 information about an individual in its care or legal custody on the written request
11 of the department of safety and professional services or of any interested examining
12 board or affiliated credentialing board in that department for use in any
13 investigation or proceeding relating to any alleged misconduct by any person who is
14 credentialed or who is seeking credentialing under ch. 448, 455 ~~or, 457,~~ or 464.

15 Unless authorized by an order of the court, the department of safety and professional
16 services and any examining board or affiliated credentialing board in that
17 department shall keep confidential any information obtained under this paragraph
18 and may not disclose the name of or any other identifying information about the
19 individual who is the subject of the information disclosed, except to the extent that
20 redisclosure of that information is necessary for the conduct of the investigation or
21 proceeding for which that information was obtained.

22 **SECTION 7.** 49.45 (8) (a) 5. of the statutes is amended to read: ✓

23 49.45 (8) (a) 5. "Physical therapist" has the meaning given in s. 448.50 ~~464.01~~
24 (3).

25 **SECTION 8.** 50.01 (2) of the statutes is amended to read: *le*

1 50.01 (2) "Nurse aide" means a person who performs routine patient care
2 duties delegated by a registered nurse or licensed practical nurse who supervises the
3 person, for the direct health care of a patient or resident. "Nurse aide" does not mean
4 a feeding assistant, as defined in s. 146.40 (1) (aw); a person who is licensed,
5 permitted, certified, or registered under ch. 441, 448, 449, 450, 451, 455, 459, ~~or 460,~~
6 or 464; or a person whose duties primarily involve skills that are different than those
7 taught in instructional programs for nurse aides.

8 **SECTION 9.** 50.39 (3) of the statutes is amended to read:

9 50.39 (3) Facilities governed by ss. 45.50, 48.62, 49.70, 49.72, 50.02, 51.09, and
10 252.10, juvenile correctional facilities as defined in s. 938.02 (10p), correctional
11 institutions governed by the department of corrections under s. 301.02, and the
12 offices and clinics of persons licensed to treat the sick under chs. 446, 447, and 448,
13 and 464 are exempt from ss. 50.32 to 50.39. Sections 50.32 to 50.39 do not abridge
14 the rights of the medical examining board, physical therapy examining board,
15 podiatry affiliated credentialing board, dentistry examining board, pharmacy
16 examining board, chiropractic examining board, and board of nursing in carrying out
17 their statutory duties and responsibilities.

18 **SECTION 10.** 55.043 (4) (b) 5. of the statutes is amended to read:

19 55.043 (4) (b) 5. Refer the case to the department of safety and professional
20 services or the department of agriculture, trade and consumer protection, as
21 appropriate, if the financial exploitation, neglect, self-neglect, or abuse involves an
22 individual who is required to hold a credential, as defined in s. 440.01 (2) (a), under
23 chs. 440 to ~~460~~ 480 or to hold a license, certification, or permit issued under s. 89.06,
24 89.072, or 89.073.

25 **SECTION 11.** 146.40 (1) (d) of the statutes is amended to read:

1 146.40 (1) (d) "Nurse aide" means an individual who performs routine patient
2 care duties delegated by a registered nurse or licensed practical nurse who
3 supervises the individual, for the direct health care of a patient or resident. "Nurse
4 aide" does not mean a feeding assistant, an individual who is licensed, permitted,
5 certified, or registered under ch. 441, 448, 449, 450, 451, 455, 459, ~~or 460~~, or 464, or
6 an individual whose duties primarily involve skills that are different than those
7 taught in instructional programs for nurse aides approved under sub. (3) or (3g) or
8 evaluated by competency evaluation programs for nurse aides approved under sub.
9 (3m).

10 SECTION 12. 146.81 (1) (dg) of the statutes is amended to read:

11 146.81 (1) (dg) A physical therapist or physical therapist assistant who is
12 licensed under subch. ~~III I~~ of ch. ~~448~~ 464 or who holds a compact privilege under
13 subch. II of ch. 464. *IX of ch. 448*

14 SECTION 13. 146.89 (1) (r) 1. of the statutes is amended to read:

15 146.89 (1) (r) 1. Licensed as a physician under ch. 448, a dentist or dental
16 hygienist under ch. 447, a registered nurse, practical nurse, or nurse-midwife under
17 ch. 441, an optometrist under ch. 449, a physician assistant under ch. 448, a
18 pharmacist under ch. 450, a chiropractor under ch. 446, a podiatrist under subch. IV
19 of ch. 448, or a physical therapist under subch. ~~III I~~ of ch. 448 464.

20 SECTION 14. 146.997 (1) (d) 4. of the statutes is amended to read:

21 146.997 (1) (d) 4. A physician, podiatrist, or perfusionist, physical therapist,
22 or physical therapist assistant licensed under ch. 448.

23 SECTION 15. 146.997 (1) (d) 13e. of the statutes is created to read:

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146.997 (1) (d) 13e. A physical therapist or physical therapist assistant who is licensed under subch. I of ch. 464 or who holds a compact privilege under subch. II of ch. 464^e *448*

SECTION 16. 154.01 (3) of the statutes is amended to read:

154.01 (3) "Health care professional" means a person who is licensed, certified or registered under ch. 441, 448, or 455 or subch. I of ch. 464^e or who holds a compact privilege under subch. II of ch. 464^e *IX of ch. 448*

SECTION 17. 155.01 (7) of the statutes is amended to read:

155.01 (7) "Health care provider" means a nurse licensed or permitted under ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a physician, physician assistant, perfusionist, podiatrist, physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant licensed under ch. 448, a person practicing Christian Science treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a physical therapist or physical therapist assistant who is licensed under subch. I of ch. 464 or who holds a compact privilege under subch. II of ch. 464^e, a partnership thereof, a corporation or limited liability company thereof that provides health care services, a cooperative health care association organized under s. 185.981 that directly provides services through salaried employees in its own facility, or a home health agency, as defined in s. 50.49 (1) (a).

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IX ✓ 448 ✓

SECTION 18. 180.1901 (1m) (bg) of the statutes is renumbered 180.1901 (1m) (h) and amended to read:

180.1901 (1m) (h) Physical therapy examining board under subch. III I of ch. 448 464.

SECTION 19. 231.01 (7) (d) 2. of the statutes is amended to read:

231.01 (7) (d) 2. Any office or clinic of a person licensed under ch. 446, 447, 448, 449, ~~or 455, or 464~~, or the substantially equivalent laws or rules of another state.

SECTION 20. 252.14 (1) (ar) 4e. of the statutes is ⁴renumbered 252.14 (1) (ar) 8e.

and amended to read:

252.14 (1) (ar) ^{eye}8e. A physical therapist or physical therapist assistant ^{plain} who is licensed under subch. ^{plain} III ²I of ch. ~~448~~ ⁴⁴⁸464 or who holds a compact privilege under subch. ^{eye} II of ch. ~~464~~ ⁴⁴⁸464.

SECTION 21. 252.14 (1) (ar) 9. of the statutes is amended to read:

252.14 (1) (ar) 9. An employee or agent of any provider specified under subds. 1. to ~~8.~~ ^{8e.}

SECTION 22. 252.14 (1) (ar) 10. of the statutes is amended to read:

252.14 (1) (ar) 10. A partnership of any provider specified under subds. 1. to ~~8.~~ ^{8e.}

SECTION 23. 252.14 (1) (ar) 11. of the statutes is amended to read:

252.14 (1) (ar) 11. A corporation of any provider specified under subds. 1. to ~~8.~~ ^{8e.} that provides health care services.

SECTION 24. 255.40 (2) (a) (intro.) of the statutes is amended to read:

255.40 (2) (a) (intro.) Any person licensed, certified or registered by the state under ch. 441, 448 ~~or~~, 455, or 464 who treats a patient suffering from any of the following shall report in accordance with par. (b):

SECTION 25. 440.03 (9) (a) (intro.) of the statutes is amended to read:

440.03 (9) (a) (intro.) Subject to pars. (b) and (c), the department shall, biennially, determine each fee for an initial credential for which no examination is required, for a reciprocal credential, and for a credential renewal and any fee imposed under s. ~~464.52~~ (2) by doing all of the following:

448.986 ✓

1 **SECTION 26.** 440.03 (9) (a) 2. of the statutes is amended to read:

2 440.03 (9) (a) 2. Not later than January 31 of each odd-numbered year,
3 adjusting for the succeeding fiscal biennium each fee for an initial credential for
4 which an examination is not required, for a reciprocal credential, and, subject to s.
5 440.08 (2) (a), for a credential renewal, and any fee imposed under s. 464.52 (2), if an
6 adjustment is necessary to reflect the approximate administrative and enforcement
7 costs of the department that are attributable to the regulation of the particular
8 occupation or business during the period in which the initial or reciprocal credential
9 or, credential renewal, or compact privilege is in effect and, for purposes of each fee
10 for a credential renewal, to reflect an estimate of any additional moneys available for
11 the department's general program operations as a result of appropriation transfers
12 that have been or are estimated to be made under s. 20.165 (1) (i) during the fiscal
13 biennium in progress at the time of the deadline for an adjustment under this
14 subdivision or during the fiscal biennium beginning on the July 1 immediately
15 following the deadline for an adjustment under this subdivision.

****NOTE: I provided that any fee imposed for a compact privilege would go through the same process, including review by the Joint Committee on Finance, as licensure fees do. OK? See also the first note under SECTION 78.

16 **SECTION 27.** 440.03 (11m) (c) 2m. of the statutes is created to read:

17 440.03 (11m) (c) 2m. The coordinated database and reporting system under s.
18 464.50 (8), if such disclosure is required under the physical therapy licensure
19 compact under s. 464.50.

20 **SECTION 28.** 440.03 (13) (b) (intro.) of the statutes is amended to read:

21 440.03 (13) (b) (intro.) The department may investigate whether an applicant
22 for or holder of any of the following credentials has been charged with or convicted
23 of a crime only pursuant to rules promulgated by the department under this

9448.985 ✓
1 paragraph, including rules that establish the criteria that the department will use
2 to determine whether an investigation under this paragraph is necessary, except as
3 provided in par. (c) and s. ss. 448.980 (5) (b) 3. and 464.50 (3) (a) 4.:

4 **SECTION 29.** 440.03 (13) (b) (intro.) of the statutes, as affected by 2015
5 Wisconsin Act 116, section 5m, and 2017 Wisconsin Act ... (this act), is repealed and
6 recreated to read:

7 440.03 (13) (b) (intro.) The department may investigate whether an applicant
8 for or holder of any of the following credentials has been charged with or convicted
9 of a crime only pursuant to rules promulgated by the department under this
10 paragraph, including rules that establish the criteria that the department will use
11 to determine whether an investigation under this paragraph is necessary, except as
12 provided in par. (c) and s. 464.50 (3) (a) 4. ✓

13 **SECTION 30.** 440.15 of the statutes is amended to read:

14 **440.15 No fingerprinting.** Except as provided under ss. 440.03 (13) (c) and,
15 448.980 (5) (b) 3., and 464.50 (3) (a) 4. ✓, the department or a credentialing board may
16 not require that an applicant for a credential or a credential holder be fingerprinted
17 or submit fingerprints in connection with the department's or the credentialing
18 board's credentialing.

19 **SECTION 31.** 440.15 of the statutes, as affected by 2015 Wisconsin Act 116,
20 section 12m, and 2017 Wisconsin Act ... (this act), is repealed and recreated to read:

21 **440.15 No fingerprinting.** Except as provided under ss. 440.03 (13) (c) and
22 464.50 (3) (a) 4. ✓, the department or a credentialing board may not require that an
23 applicant for a credential or a credential holder be fingerprinted or submit
24 fingerprints in connection with the department's or the credentialing board's
25 credentialing.

(3) and (3m)

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1 SECTION 32. Subchapter III (title) of chapter 448 [precedes 448.50] of the
2 statutes is renumbered subchapter I (title) of chapter 464 [precedes 464.01].

3 SECTION 33. 448.50 of the statutes is renumbered 464.01, and 464.01(3), (3m)
4 and (4) (b) 1., as renumbered, are amended to read:

5 464.01 (3) "Physical therapist" means an individual who has been graduated
6 from a school of physical therapy and holds a license to practice physical therapy
7 granted by the examining board or who holds a physical therapist compact privilege.

8 (3m) "Physical therapist assistant" means an individual who holds a license
9 as a physical therapist assistant granted by the examining board or who holds a
10 physical therapist assistant compact privilege.

11 (4) (b) 1. Using roentgen rays or radium for any purpose, except that "physical
12 therapy" includes ordering X-rays to be performed by qualified persons, subject to
13 s. 448.56 (7) 464.08 (9) (a), and using X-ray results to determine a course of care or
14 to determine whether a referral to another health care provider is necessary.

15 SECTION 34. 448.51 (title) of the statutes is renumbered 464.02 (title) and
16 amended to read:

17 464.02 (title) License required; exceptions.

18 SECTION 35. 448.51 (1) of the statutes is renumbered 464.02 (1) (a) and
19 amended to read:

20 464.02 (1) (a) Except as provided in s. 448.52 sub. (2), no person may practice
21 physical therapy unless the person is licensed as a physical therapist under this
22 subchapter or holds a valid physical therapist compact privilege.

23 SECTION 36. 448.51 (1e) of the statutes is renumbered 464.02 (1) (b) and
24 amended to read:

448.51 (1)

license required

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448.51 (1e)

1 464.02 (1) (b) No person may designate himself or herself as a physical
2 therapist or use or assume the title "physical therapist," "physiotherapist," "physical
3 therapy technician," "licensed physical therapist," "registered physical therapist,"
4 "master of physical therapy," "master of science in physical therapy," or "doctorate
5 in physical therapy," or append to the person's name the letters "P.T.," "P.T.T.,"
6 "L.P.T.," "R.P.T.," "M.P.T.," "M.S.P.T.," or "D.P.T.," or any other title, letters, or
7 designation that represents or may tend to represent the person as a physical
8 therapist, unless the person is licensed as a physical therapist under this subchapter
9 or holds a valid physical therapist compact privilege.

10 SECTION 37. 448.51 (1s) of the statutes is (renumbered 464.02 (1) (c) and
11 amended to read:

448.51 (1s)

12 464.02 (1) (c) No person may designate himself or herself as a physical
13 therapist assistant, use or assume the title "physical therapist assistant," or append
14 to the person's name the letters "P.T.A." or any other title, letters, or designation that
15 represents or may tend to represent the person as a physical therapist assistant
16 unless the person is licensed as a physical therapist assistant under this subchapter
17 or holds a valid physical therapist assistant compact privilege.

18 SECTION 38. 448.51 (2) of the statutes is (renumbered 464.02 (1) (d) and
19 amended to read:

448.51 (2)

20 464.02 (1) (d) Except as provided in s. ~~448.52 (2m)~~ sub. (2) (b), no person may
21 claim to render physical therapy or physiotherapy services unless the person is
22 licensed as a physical therapist under this subchapter or holds a valid physical
23 therapist compact privilege.

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24 SECTION 39. 448.52 (title) of the statutes is repealed.

25 SECTION 40. 448.52 (1m) of the statutes is renumbered 464.02 (2) (a).

1 **SECTION 41.** 448.52 (2m) of the statutes is renumbered 464.02 (2) (b), and
2 464.02 (2) (b) 1., as renumbered, is amended to read:

3 464.02 (2) (b) 1. Except as provided in ~~par. (b) subd. 2.~~, a chiropractor licensed
4 under ch. 446 claiming to render physical therapy, if the physical therapy is provided
5 by a physical therapist employed by the chiropractor.

6 **SECTION 42.** 448.522 of the statutes is renumbered 464.08 (7).

7 **SECTION 43.** 448.527 (title) of the statutes is repealed.

8 **SECTION 44.** 448.527 of the statutes is renumbered 464.03 (1) and amended to
9 read:

10 464.03 (1) ~~The examining board shall promulgate~~ Promulgate rules
11 establishing a code of ethics governing the professional conduct of physical
12 therapists and physical therapist assistants.

13 **SECTION 45.** 448.53 of the statutes is renumbered 464.04, and 464.04 (1) (e), as
14 renumbered, is amended to read:

15 464.04 (1) (e) Passes an examination under s. 448.54 464.06.

16 **SECTION 46.** 448.535 of the statutes is renumbered 464.05, and 464.05 (1) (e),
17 as renumbered, is amended to read:

18 464.05 (1) (e) Passes an examination under s. 448.54 464.06.

19 **SECTION 47.** 448.54 of the statutes is renumbered 464.06, and 464.06 (3), as
20 renumbered, is amended to read:

21 464.06 (3) Notwithstanding s. 448.53 464.04 (1) (f), the examining board may
22 not require an applicant for physical therapist licensure to take an oral examination
23 or an examination to test proficiency in the English language for the sole reason that
24 the applicant was educated at a physical therapy school that is not in the United

1 States if the applicant establishes, to the satisfaction of the examining board, that
2 he or she satisfies the requirements under s. ~~448.53~~ 464.04 (3).

3 **SECTION 48.** 448.55 of the statutes is renumbered 464.07, and 464.07 (2), as
4 renumbered, is amended to read:

5 464.07 (2) The renewal dates for licenses granted under this subchapter, other
6 than temporary licenses granted under rules promulgated under s. ~~448.53~~ 464.04 (2),
7 are specified under s. 440.08 (2) (a). Renewal applications shall be submitted to the
8 department on a form provided by the department and shall include the renewal fee
9 determined by the department under s. 440.03 (9) (a) and proof of compliance with
10 the requirements established in any rules promulgated under sub. (3).

11 **SECTION 49.** 448.56 (title) of the statutes is renumbered 464.08 (title) and
12 amended to read:

13 **464.08 (title) Practice requirements and restrictions.**

14 **SECTION 50.** 448.56 (1) (title) of the statutes is renumbered 464.08 (1) (title).

15 **SECTION 51.** 448.56 (1) of the statutes is renumbered 464.08 (1) (a) and
16 amended to read:

17 464.08 (1) (a) Except as provided in this subsection paragraph and s. ~~448.52~~
18 464.02 (2), a person may practice physical therapy only upon the written referral of
19 a physician, physician assistant, chiropractor, dentist, podiatrist, or advanced
20 practice nurse prescriber certified under s. 441.16 (2). Written referral is not
21 required if a physical therapist provides services in schools to children with
22 disabilities, as defined in s. 115.76 (5), pursuant to rules promulgated by the
23 department of public instruction; provides services as part of a home health care
24 agency; provides services to a patient in a nursing home pursuant to the patient's
25 plan of care; provides services related to athletic activities, conditioning, or injury

1 prevention; or provides services to an individual for a previously diagnosed medical
2 condition after informing the individual's physician, physician assistant,
3 chiropractor, dentist, podiatrist, or advanced practice nurse prescriber certified
4 under s. 441.16 (2) who made the diagnosis. The examining board may promulgate
5 rules establishing additional services that are excepted from the written referral
6 requirements of this subsection paragraph.

7 **SECTION 52.** 448.56 (1m) (title) of the statutes is renumbered 464.08 (2) (title). ✓

8 **SECTION 53.** 448.56 (1m) (a) of the statutes is renumbered 464.08 (2).

9 **SECTION 54.** 448.56 (1m) (b) of the statutes is renumbered 464.08 (1) (b) and
10 amended to read: ✓

11 464.08 (1) (b) The examining board shall promulgate rules establishing the
12 requirements that a physical therapist must satisfy if a physician, physician
13 assistant, chiropractor, dentist, podiatrist, or advanced practice nurse prescriber
14 makes a written referral under sub. (1) par. (a). The purpose of the rules shall be to
15 ensure continuity of care between the physical therapist and the health care
16 practitioner. ✓

17 **SECTION 55.** 448.56 (2) of the statutes is renumbered 464.08 (3) and amended
18 to read:

19 464.08 (3) **FEE SPLITTING.** No licensee may give or receive, directly or indirectly,
20 to or from any other person any fee, commission, rebate, or other form of
21 compensation or anything of value for sending, referring, or otherwise inducing a
22 person to communicate with a licensee in a professional capacity, or for any
23 professional services not actually rendered personally by the licensee or at the
24 licensee's direction. ✓

25 **SECTION 56.** 448.56 (3) to (5) of the statutes are renumbered 464.08 (4) to (6).

1 **SECTION 57.** 448.56 (6) of the statutes is renumbered 464.08 (8) and amended
2 to read:

3 **464.08 (8) PHYSICAL THERAPIST ASSISTANTS.** A physical therapist assistant may
4 assist a physical therapist in the practice of physical therapy if the physical therapist
5 provides direct or general supervision of the physical therapist assistant. The
6 examining board shall promulgate rules defining "direct or general supervision" for
7 purposes of this subsection. Nothing in this subsection interferes with delegation
8 authority under any other provision of ~~this chapter~~ ch. 448.

9 **SECTION 58.** 448.56 (7) of the statutes is renumbered 464.08 (9).

10 **SECTION 59.** 448.565 (title) of the statutes is repealed.

11 **SECTION 60.** 448.565 of the statutes is renumbered 464.03 (2) and amended to
12 read:

13 **464.03 (2)** ~~The examining board shall promulgate~~ Promulgate rules
14 establishing procedures and requirements for filing complaints against licensees
15 and compact privilege holders and shall publicize the procedures and requirements.

 ****NOTE: It seems to me this provision (current s. 448.565) is probably redundant
and could be repealed. I believe that DSPS has uniform procedures for complaints, and
it looks like the PT Board's rules simply reference those rules (see s. PT 7.03, Wis. Adm.
Code).

16 **SECTION 61.** 448.567 (title) of the statutes is repealed.

17 **SECTION 62.** 448.567 of the statutes is renumbered 464.03 (3) and amended to
18 read:

19 **464.03 (3)** ~~The examining board shall promulgate~~ Promulgate rules that
20 require the examining board on a periodic basis to conduct performance self-audits
21 of its activities under this subchapter.

22 **SECTION 63.** 448.57 of the statutes is renumbered 464.09, and 464.09 (2)
23 (intro.), (c), (d), (e) and (f), (4) and (5), as renumbered, are amended to read:

and

of the statutes

1 464.09 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
2 examining board may reprimand a licensee or compact privilege holder or may deny,
3 limit, suspend, or revoke a license granted under this subchapter or a compact
4 privilege if it finds that the applicant [^]~~or~~ [^]licensee [^]has done any of the following: [^]or compact privilege holder

5 (c) Advertised in a manner that is false, deceptive, or misleading.

6 (d) Advertised, practiced, or attempted to practice under another's name.

7 (e) Subject to ss. 111.321, 111.322, and 111.34, practiced or assisted in the
8 practice of physical therapy while the applicant's ~~or~~ licensee's, or compact privilege
9 holder's ability to practice or assist was impaired by alcohol or other drugs.

10 (f) Engaged in unprofessional or unethical conduct in violation of the code of
11 ethics established in the rules promulgated under s. ~~448.527~~ 464.03 (1).

12 (4) The examining board shall prepare and disseminate to the public an annual
13 report that describes final disciplinary action taken against licensees and compact
14 privilege holders during the preceding year.

15 (5) The examining board may report final disciplinary action taken against a
16 licensee or compact privilege holder to any national database that includes
17 information about disciplinary action taken against health care professionals.

18 **SECTION 64.** 448.58 (title) of the statutes is repealed. ✓

19 **SECTION 65.** 448.58 of the statutes is renumbered 464.10 (2) and amended to
20 read:

21 464.10 (2) If the examining board has reason to believe that any person is
22 violating this subchapter or any rule promulgated under this subchapter, the
23 examining board, the department, the attorney general, or the district attorney of
24 the proper county may investigate and may, in addition to any other remedies, bring

1 an action in the name and on behalf of this state to enjoin the person from the
2 violation.

3 **SECTION 66.** 448.59 (title) of the statutes is repealed.

4 **SECTION 67.** 448.59 of the statutes is renumbered 464.10 (1).

5 **SECTION 68.** 448.956 (1m) and (4) of the statutes are amended to read:

6 448.956 (1m) Subject to sub. (1) (a), a licensee may provide athletic training
7 to an individual without a referral, except that a licensee may not provide athletic
8 training as described under s. 448.95 (5) (d) or (e) in an outpatient rehabilitation
9 setting unless the licensee has obtained a written referral for the individual from a
10 practitioner licensed or certified under subch. II, ~~III~~^{plain}, IV, V, or VII of this chapter;
11 under ch. 446; under subch. I of ch. 464; or under s. 441.16 (2) or from a practitioner
12 who holds a compact privilege under subch. II of ch. 464.

13 (4) If a licensee or the consulting physician of the licensee determines that a
14 patient's medical condition is beyond the scope of practice of the licensee, the licensee
15 shall, in accordance with the protocol established under sub. (1) (a), refer the patient
16 to a health care practitioner who is licensed under ch. 446 ~~or~~ under ch. 447 ~~or~~ under
17 subch. II, ~~III~~^{plain} or IV of ch. 448; or under subch. I of ch. 464 or who holds a compact
18 privilege under subch. II of ch. 464 and who can provide appropriate treatment to the
19 patient.

20 **SECTION 69.** 450.10 (3) (a) 5. of the statutes is amended to read:

21 450.10 (3) (a) 5. A physician, physician assistant, podiatrist, ~~physical~~^{plain}
22 ~~therapist, physical therapist assistant,~~ occupational therapist, or occupational
23 therapy assistant licensed under ch. 448.

24 **SECTION 70.** 450.10 (3) (a) 12. of the statutes is created to read: →

e o r a
1 450.10 (3) (a) 12. A physical therapist or physical therapist assistant who is
2 licensed under subch. I of ch. 464 or who holds a compact privilege under subch. II
3 of ch. 464. *e 448*

4 SECTION 71. 451.02 (1) of the statutes is amended to read:

5 451.02 (1) An individual holding a license, permit or certificate under ch. 441,
6 446, 447, 448, or 449 or subch. I of ch. 464 or a compact privilege under subch. II *e IX*
7 ch. 464 *e 448* who engages in a practice of acupuncture that is also included within the
8 scope of his or her license, permit or certificate.

9 SECTION 72. 462.04 of the statutes is amended to read:

10 **462.04 Prescription or order required.** A person who holds a license or
11 limited X-ray machine operator permit under this chapter may not use diagnostic
12 X-ray equipment on humans for diagnostic purposes unless authorized to do so by
13 prescription or order of a physician licensed under s. 448.04 (1) (a), a dentist licensed
14 under s. 447.04 (1), a podiatrist licensed under s. 448.63, a chiropractor licensed
15 under s. 446.02, an advanced practice nurse certified under s. 441.16 (2), a physician
16 assistant licensed under s. 448.04 (1) (f), or, subject to s. 448.56 (7) 464.08 (9) (a), a
17 physical therapist *who is* licensed under s. 448.53 464.04 *plain* or who holds a compact privilege under
subch. IX of ch. 448

18 SECTION 73. Chapter 464 (title) of the statutes is created to read:

19 **CHAPTER 464**

20 **PHYSICAL THERAPY**

21 SECTION 74. 464.01 (1n) and (1o) of the statutes are created to read:

22 *448.50* 464.01 (1n) "Compact" means the physical therapy licensure compact under *e 448,50*
23 s. 464.50. *e 448.985*

24 (1o) "Compact privilege" means a compact privilege, as defined in s. 464.50 (2)
25 (d), that is granted under the compact to an individual to practice in this state. *e 448.985*

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1 SECTION 75. 464.03 (intro.) of the statutes is created to read:

2 464.03 Other duties of examining board. (intro.) The examining board
3 shall do all of the following:

4 SECTION 76. 464.10 (title) of the statutes is created to read:

5 464.10 (title) Violations and penalties. e448

e448.985

6 SECTION 77. Subchapter II of chapter 464 [precedes 464.50] of the statutes is
7 created to read:

8 CHAPTER 464 e448

9 SUBCHAPTER II eIX

10 PHYSICAL THERAPY

11 LICENSURE COMPACT

12 464.50 Physical therapy licensure compact. (1) PURPOSE. (a) The purpose

13 of this compact is to facilitate interstate practice of physical therapy with the goal
14 of improving public access to physical therapy services. The practice of physical
15 therapy occurs in the state where the patient/client is located at the time of the
16 patient/client encounter. The compact preserves the regulatory authority of states
17 to protect public health and safety through the current system of state licensure.

18 (b) This compact is designed to achieve all of the following objectives:

- 19 1. Increase public access to physical therapy services by providing for the
- 20 mutual recognition of other member state licenses.
- 21 2. Enhance the states' ability to protect the public's health and safety.
- 22 3. Encourage the cooperation of member states in regulating multistate
- 23 physical therapy practice.
- 24 4. Support spouses of relocating military members.

e448.985

1 5. Enhance the exchange of licensure, investigative, and disciplinary
2 information between member states.

3 6. Allow a remote state to hold a provider of services with a compact privilege
4 in that state accountable to that state's practice standards.

5 **(2) DEFINITIONS.** As used in this compact, and except as otherwise provided, the
6 following definitions shall apply:

7 (a) "Active duty military" means full-time duty status in the active uniformed
8 service of the United States, including members of the National Guard and Reserve
9 on active duty orders pursuant to 10 USC 1209 and 1211.

10 (b) "Adverse action" means disciplinary action taken by a physical therapy
11 licensing board based upon misconduct, unacceptable performance, or a combination
12 of both.

13 (c) "Alternative program" means a nondisciplinary monitoring or practice
14 remediation process approved by a physical therapy licensing board. This includes,
15 but is not limited to, substance abuse issues.

16 (d) "Compact privilege" means the authorization granted by a remote state to
17 allow a licensee from another member state to practice as a physical therapist or
18 work as a physical therapist assistant in the remote state under its laws and rules.
19 The practice of physical therapy occurs in the member state where the patient/client
20 is located at the time of the patient/client encounter.

21 (e) "Continuing competence" means a requirement, as a condition of license
22 renewal, to provide evidence of participation in, and/or completion of, educational
23 and professional activities relevant to practice or area of work.

24 (f) "Data system" means a repository of information about licensees, including
25 examination, licensure, investigative, compact privilege, and adverse action.

1 (g) "Encumbered license" means a license that a physical therapy licensing
2 board has limited in any way.

3 (h) "Executive board" means a group of directors elected or appointed to act on
4 behalf of, and within the powers granted to them by, the commission.

5 (i) "Home state" means the member state that is the licensee's primary state
6 of residence.

7 (j) "Investigative information" means information, records, and documents
8 received or generated by a physical therapy licensing board pursuant to an
9 investigation.

10 (k) "Jurisprudence requirement" means the assessment of an individual's
11 knowledge of the laws and rules governing the practice of physical therapy in a state.

12 (L) "Licensee" means an individual who currently holds an authorization from
13 the state to practice as a physical therapist or to work as a physical therapist
14 assistant.

15 (m) "Member state" means a state that has enacted the compact.

16 (n) "Party state" means any member state in which a licensee holds a current
17 license or compact privilege or is applying for a license or compact privilege.

18 (o) "Physical therapist" means an individual who is licensed by a state to
19 practice physical therapy.

20 (p) "Physical therapist assistant" means an individual who is licensed/certified
21 by a state and who assists the physical therapist in selected components of physical
22 therapy.

23 (q) "Physical therapy," "physical therapy practice," and "the practice of physical
24 therapy" mean the care and services provided by or under the direction and
25 supervision of a licensed physical therapist.

1 (r) "Physical therapy compact commission" or "commission" means the national
2 administrative body whose membership consists of all states that have enacted the
3 compact.

4 (s) "Physical therapy licensing board" or "licensing board" means the agency
5 of a state that is responsible for the licensing and regulation of physical therapists
6 and physical therapist assistants.

7 (t) "Remote state" means a member state other than the home state, where a
8 licensee is exercising or seeking to exercise the compact privilege.

9 (u) "Rule" means a regulation, principle, or directive promulgated by the
10 commission that has the force of law.

11 (v) "State" means any state, commonwealth, district, or territory of the United
12 States of America that regulates the practice of physical therapy.

13 **(3) STATE PARTICIPATION IN THE COMPACT.** (a) To participate in the compact, a
14 state must do all of the following:

15 1. Participate fully in the commission's data system, including using the
16 commission's unique identifier as defined in rules.

17 2. Have a mechanism in place for receiving and investigating complaints about
18 licensees.

19 3. Notify the commission, in compliance with the terms of the compact and
20 rules, of any adverse action or the availability of investigative information regarding
21 a licensee.

22 4. Fully implement a criminal background check requirement, within a time
23 frame established by rule, by receiving the results of the federal bureau of
24 investigation record search on criminal background checks and use the results in
25 making licensure decisions in accordance with par. (b).

1 5. Comply with the rules of the commission.

2 6. Utilize a recognized national examination as a requirement for licensure
3 pursuant to the rules of the commission.

4 7. Have continuing competence requirements as a condition for license
5 renewal.

6 (b) Upon adoption of this statute, the member state shall have the authority
7 to obtain biometric-based information from each physical therapy licensure
8 applicant and submit this information to the federal bureau of investigation for a
9 criminal background check in accordance with 28 USC 534 and 42 USC 14616.

10 (c) A member state shall grant the compact privilege to a licensee holding a
11 valid unencumbered license in another member state in accordance with the terms
12 of the compact and rules.

13 (d) Member states may charge a fee for granting a compact privilege.

14 (4) COMPACT PRIVILEGE. (a) To exercise the compact privilege under the terms
15 and provisions of the compact, the licensee shall satisfy all of the following:

16 1. Hold a license in the home state.

17 2. Have no encumbrance on any state license.

18 3. Be eligible for a compact privilege in any member state in accordance with
19 pars. (d), (g), and (h).

20 4. Have not had any adverse action against any license or compact privilege
21 within the previous 2 years.

22 5. Notify the commission that the licensee is seeking the compact privilege
23 within a remote state(s).

24 6. Pay any applicable fees, including any state fee, for the compact privilege.

1 7. Meet any jurisprudence requirements established by the remote state(s) in
2 which the licensee is seeking a compact privilege.

3 8. Report to the commission adverse action taken by any nonmember state
4 within 30 days from the date the adverse action is taken.

5 (b) The compact privilege is valid until the expiration date of the home license.
6 The licensee must comply with the requirements of par. (a) to maintain the compact
7 privilege in the remote state.

8 (c) A licensee providing physical therapy in a remote state under the compact
9 privilege shall function within the laws and regulations of the remote state.

10 (d) A licensee providing physical therapy in a remote state is subject to that
11 state's regulatory authority. A remote state may, in accordance with due process and
12 that state's laws, remove a licensee's compact privilege in the remote state for a
13 specific period of time, impose fines, and/or take any other necessary actions to
14 protect the health and safety of its citizens. The licensee is not eligible for a compact
15 privilege in any state until the specific time for removal has passed and all fines are
16 paid.

17 (e) If a home state license is encumbered, the licensee shall lose the compact
18 privilege in any remote state until all of the following occur:

- 19 1. The home state license is no longer encumbered.
- 20 2. Two years have elapsed from the date of the adverse action.

21 (f) Once an encumbered license in the home state is restored to good standing,
22 the licensee must meet the requirements of par. (a) to obtain a compact privilege in
23 any remote state.

1 (g) If a licensee's compact privilege in any remote state is removed, the
2 individual shall lose the compact privilege in any remote state until all of the
3 following occur:

4 1. The specific period of time for which the compact privilege was removed has
5 ended.

6 2. All fines have been paid.

7 3. Two years have elapsed from the date of the adverse action.

8 (h) Once the requirements of par. (g) have been met, the license must meet the
9 requirements in par. (a) to obtain a compact privilege in a remote state.

****NOTE: While this is "license" in the original, I believe it is a typo and should be
"licensee."

10 **(5) ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES.** A licensee who is active
11 duty military or is the spouse of an individual who is active duty military may
12 designate one of the following as the home state:

13 (a) Home of record.

14 (b) Permanent change of station (PCS).

15 (c) State of current residence if it is different than the PCS state or home of
16 record.

17 **(6) ADVERSE ACTIONS.** (a) A home state shall have exclusive power to impose
18 adverse action against a license issued by the home state.

19 (b) A home state may take adverse action based on the investigative
20 information of a remote state, so long as the home state follows its own procedures
21 for imposing adverse action.

22 (c) Nothing in this compact shall override a member state's decision that
23 participation in an alternative program may be used in lieu of adverse action and

1 that such participation shall remain nonpublic if required by the member state's
2 laws. Member states must require licensees who enter any alternative programs in
3 lieu of discipline to agree not to practice in any other member state during the term
4 of the alternative program without prior authorization from such other member
5 state.

6 (d) Any member state may investigate actual or alleged violations of the
7 statutes and rules authorizing the practice of physical therapy in any other member
8 state in which a physical therapist or physical therapist assistant holds a license or
9 compact privilege.

10 (e) A remote state shall have the authority to do all of the following:

11 1. Take adverse actions as set forth in sub. (4) (d) against a licensee's compact
12 privilege in the state.

13 2. Issue subpoenas for both hearings and investigations that require the
14 attendance and testimony of witnesses, and the production of evidence. Subpoenas
15 issued by a physical therapy licensing board in a party state for the attendance and
16 testimony of witnesses, and/or the production of evidence from another party state,
17 shall be enforced in the latter state by any court of competent jurisdiction, according
18 to the practice and procedure of that court applicable to subpoenas issued in
19 proceedings pending before it. The issuing authority shall pay any witness fees,
20 travel expenses, mileage, and other fees required by the service statutes of the state
21 where the witnesses and/or evidence are located.

22 3. If otherwise permitted by state law, recover from the licensee the costs of
23 investigations and disposition of cases resulting from any adverse action taken
24 against that licensee.

25 (f) Joint investigations:

1 1. In addition to the authority granted to a member state by its respective
2 physical therapy practice act or other applicable state law, a member state may
3 participate with other member states in joint investigations of licensees.

4 2. Member states shall share any investigative, litigation, or compliance
5 materials in furtherance of any joint or individual investigation initiated under the
6 compact.

7 **(7) ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION.** (a) The
8 compact member states hereby create and establish a joint public agency known as
9 the physical therapy compact commission:

10 1. The commission is an instrumentality of the compact states.

11 2. Venue is proper and judicial proceedings by or against the commission shall
12 be brought solely and exclusively in a court of competent jurisdiction where the
13 principal office of the commission is located. The commission may waive venue and
14 jurisdictional defenses to the extent it adopts or consents to participate in alternative
15 dispute resolution proceedings.

16 3. Nothing in this compact shall be construed to be a waiver of sovereign
17 immunity.

18 (b) Membership, voting, and meetings:

19 1. Each member state shall have and be limited to one delegate selected by that
20 member state's licensing board.

21 2. The delegate shall be a current member of the licensing board, who is a
22 physical therapist, physical therapist assistant, public member, or the board
23 administrator.

24 3. Any delegate may be removed or suspended from office as provided by the
25 law of the state from which the delegate is appointed.

1 4. The member state board shall fill any vacancy occurring in the commission.

2 5. Each delegate shall be entitled to one vote with regard to the promulgation
3 of rules and creation of bylaws and shall otherwise have an opportunity to participate
4 in the business and affairs of the commission.

5 6. A delegate shall vote in person or by such other means as provided in the
6 bylaws. The bylaws may provide for delegates' participation in meetings by
7 telephone or other means of communication.

8 7. The commission shall meet at least once during each calendar year.
9 Additional meetings shall be held as set forth in the bylaws.

10 (c) The commission shall have all of the following powers and duties:

11 1. Establish the fiscal year of the commission.

12 2. Establish bylaws.

13 3. Maintain its financial records in accordance with the bylaws.

14 4. Meet and take such actions as are consistent with the provisions of this
15 compact and the bylaws.

16 5. Promulgate uniform rules to facilitate and coordinate implementation and
17 administration of this compact. The rules shall have the force and effect of law and
18 shall be binding in all member states.

19 6. Bring and prosecute legal proceedings or actions in the name of the
20 commission, provided that the standing of any state physical therapy licensing board
21 to sue or be sued under applicable law shall not be affected.

22 7. Purchase and maintain insurance and bonds.

23 8. Borrow, accept, or contract for services of personnel, including, but not
24 limited to, employees of a member state.

1 9. Hire employees, elect or appoint officers, fix compensation, define duties,
2 grant such individuals appropriate authority to carry out the purposes of the
3 compact, and to establish the commission's personnel policies and programs relating
4 to conflicts of interest, qualifications of personnel, and other related personnel
5 matters.

6 10. Accept any and all appropriate donations and grants of money, equipment,
7 supplies, materials, and services, and to receive, utilize, and dispose of the same;
8 provided that at all times the commission shall avoid any appearance of impropriety
9 and/or conflict of interest.

10 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to
11 own, hold, improve, or use, any property, real, personal, or mixed; provided that at
12 all times the commission shall avoid any appearance of impropriety.

13 12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
14 dispose of any property, real, personal, or mixed.

15 13. Establish a budget and make expenditures.

16 14. Borrow money.

17 15. Appoint committees, including standing committees composed of members,
18 state regulators, state legislators or their representatives, and consumer
19 representatives, and such other interested persons as may be designated in this
20 compact and the bylaws.

21 16. Provide and receive information from, and cooperate with, law enforcement
22 agencies.

23 17. Establish and elect an executive board.

1 18. Perform such other functions as may be necessary or appropriate to achieve
2 the purposes of this compact consistent with the state regulation of physical therapy
3 licensure and practice.

4 (d) The executive board:

5 1. The executive board shall have the power to act on behalf of the commission
6 according to the terms of this compact.

7 2. The executive board shall be composed of nine members:

8 a. Seven voting members who are elected by the commission from the current
9 membership of the commission.

10 b. One ex-officio, nonvoting member from the recognized national physical
11 therapy professional association.

12 c. One ex-officio, nonvoting member from the recognized membership
13 organization of the physical therapy licensing boards.

14 3. The ex-officio members will be selected by their respective organizations.

15 4. The commission may remove any member of the executive board as provided
16 in bylaws.

17 5. The executive board shall meet at least annually.

18 6. The executive board shall have all of the following duties and
19 responsibilities:

20 a. Recommend to the entire commission changes to the rules or bylaws, changes
21 to this compact legislation, fees paid by compact member states such as annual dues,
22 and any commission compact fee charged to licensees for the compact privilege.

23 b. Ensure compact administration services are appropriately provided,
24 contractual or otherwise.

25 c. Prepare and recommend the budget.

1 d. Maintain financial records on behalf of the commission.

2 e. Monitor compact compliance of member states and provide compliance
3 reports to the commission.

4 f. Establish additional committees as necessary.

5 g. Other duties as provided in rules or bylaws.

6 (e) Meetings of the commission:

7 1. All meetings shall be open to the public, and public notice of meetings shall
8 be given in the same manner as required under the rule-making provisions in sub.
9 (9).

10 2. The commission or the executive board or other committees of the
11 commission may convene in a closed, nonpublic meeting if the commission or
12 executive board or other committees of the commission must discuss any of the
13 following:

14 a. Noncompliance of a member state with its obligations under the compact.

15 b. The employment, compensation, discipline or other matters, practices, or
16 procedures related to specific employees or other matters related to the commission's
17 internal personnel practices and procedures.

18 c. Current, threatened, or reasonably anticipated litigation.

19 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or
20 real estate.

21 e. Accusing any person of a crime or formally censuring any person.

22 f. Disclosure of trade secrets or commercial or financial information that is
23 privileged or confidential.

24 g. Disclosure of information of a personal nature where disclosure would
25 constitute a clearly unwarranted invasion of personal privacy.

1 h. Disclosure of investigative records compiled for law enforcement purposes.

2 i. Disclosure of information related to any investigative reports prepared by or
3 on behalf of or for use of the commission or other committee charged with
4 responsibility of investigation or determination of compliance issues pursuant to the
5 compact.

6 j. Matters specifically exempted from disclosure by federal or member state
7 statute.

8 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
9 commission's legal counsel or designee shall certify that the meeting may be closed
10 and shall reference each relevant exempting provision.

11 4. The commission shall keep minutes that fully and clearly describe all
12 matters discussed in a meeting and shall provide a full and accurate summary of
13 actions taken, and the reasons therefore, including a description of the views
14 expressed. All documents considered in connection with an action shall be identified
15 in such minutes. All minutes and documents of a closed meeting shall remain under
16 seal, subject to release by a majority vote of the commission or order of a court of
17 competent jurisdiction.

18 (f) Financing of the commission:

19 1. The commission shall pay, or provide for the payment of, the reasonable
20 expenses of its establishment, organization, and ongoing activities.

21 2. The commission may accept any and all appropriate revenue sources,
22 donations, and grants of money, equipment, supplies, materials, and services.

23 3. The commission may levy on and collect an annual assessment from each
24 member state or impose fees on other parties to cover the cost of the operations and
25 activities of the commission and its staff, which must be in a total amount sufficient

1 to cover its annual budget as approved each year for which revenue is not provided
2 by other sources. The aggregate annual assessment amount shall be allocated based
3 upon a formula to be determined by the commission, which shall promulgate a rule
4 binding upon all member states.

5 4. The commission shall not incur obligations of any kind prior to securing the
6 funds adequate to meet the same; nor shall the commission pledge the credit of any
7 of the member states, except by and with the authority of the member state.

8 5. The commission shall keep accurate accounts of all receipts and
9 disbursements. The receipts and disbursements of the commission shall be subject
10 to the audit and accounting procedures established under its bylaws. However, all
11 receipts and disbursements of funds handled by the commission shall be audited
12 yearly by a certified or licensed public accountant, and the report of the audit shall
13 be included in and become part of the annual report of the commission.

14 (g) Qualified immunity, defense, and indemnification:

15 1. The members, officers, executive director, employees, and representatives
16 of the commission shall be immune from suit and liability, either personally or in
17 their official capacity, for any claim for damage to or loss of property or personal
18 injury or other civil liability caused by or arising out of any actual or alleged act,
19 error, or omission that occurred, or that the person against whom the claim is made
20 had a reasonable basis for believing occurred within the scope of commission
21 employment, duties, or responsibilities; provided that nothing in this paragraph
22 shall be construed to protect any such person from suit and/or liability for any
23 damage, loss, injury, or liability caused by the intentional or willful or wanton
24 misconduct of that person.

1 2. The commission shall defend any member, officer, executive director,
2 employee, or representative of the commission in any civil action seeking to impose
3 liability arising out of any actual or alleged act, error, or omission that occurred
4 within the scope of commission employment, duties, or responsibilities, or that the
5 person against whom the claim is made had a reasonable basis for believing occurred
6 within the scope of commission employment, duties, or responsibilities; provided
7 that nothing herein shall be construed to prohibit that person from retaining his or
8 her own counsel; and provided further, that the actual or alleged act, error, or
9 omission did not result from that person's intentional or willful or wanton
10 misconduct.

11 3. The commission shall indemnify and hold harmless any member, officer,
12 executive director, employee, or representative of the commission for the amount of
13 any settlement or judgment obtained against that person arising out of any actual
14 or alleged act, error, or omission that occurred within the scope of commission
15 employment, duties, or responsibilities, or that such person had a reasonable basis
16 for believing occurred within the scope of commission employment, duties, or
17 responsibilities, provided that the actual or alleged act, error, or omission did not
18 result from the intentional or willful or wanton misconduct of that person.

19 **(8) DATA SYSTEM.** (a) The commission shall provide for the development,
20 maintenance, and utilization of a coordinated database and reporting system
21 containing licensure, adverse action, and investigative information on all licensed
22 individuals in member states.

23 (b) Notwithstanding any other provision of state law to the contrary, a member
24 state shall submit a uniform data set to the data system on all individuals to whom

1 this compact is applicable as required by the rules of the commission, including all
2 of the following:

- 3 1. Identifying information.
- 4 2. Licensure data.
- 5 3. Adverse actions against a license or compact privilege.
- 6 4. Nonconfidential information related to alternative program participation.
- 7 5. Any denial of application for licensure, and the reason(s) for such denial.
- 8 6. Other information that may facilitate the administration of this compact, as
9 determined by the rules of the commission.

10 (c) Investigative information pertaining to a licensee in any member state will
11 only be available to other party states.

12 (d) The commission shall promptly notify all member states of any adverse
13 action taken against a licensee or an individual applying for a license. Adverse action
14 information pertaining to a licensee in any member state will be available to any
15 other member state.

16 (e) Member states contributing information to the data system may designate
17 information that may not be shared with the public without the express permission
18 of the contributing state.

19 (f) Any information submitted to the data system that is subsequently required
20 to be expunged by the laws of the member state contributing the information shall
21 be removed from the data system.

22 **(9) RULE MAKING.** (a) The commission shall exercise its rule-making powers
23 pursuant to the criteria set forth in this section and the rules adopted thereunder.
24 Rules and amendments shall become binding as of the date specified in each rule or
25 amendment.

1 (b) If a majority of the legislatures of the member states rejects a rule, by
2 enactment of a statute or resolution in the same manner used to adopt the compact
3 within 4 years of the date of adoption of the rule, then such rule shall have no further
4 force and effect in any member state.

5 (c) Rules or amendments to the rules shall be adopted at a regular or special
6 meeting of the commission.

7 (d) Prior to promulgation and adoption of a final rule or rules by the
8 commission, and at least 30 days in advance of the meeting at which the rule will be
9 considered and voted upon, the commission shall file a notice of proposed rule
10 making at all of the following:

11 1. On the website of the commission or other publicly accessible platform.

12 2. On the website of each member state physical therapy licensing board or
13 other publicly accessible platform or the publication in which each state would
14 otherwise publish proposed rules.

15 (e) The notice of proposed rule making shall include all of the following:

16 1. The proposed time, date, and location of the meeting in which the rule will
17 be considered and voted upon.

18 2. The text of the proposed rule or amendment and the reason for the proposed
19 rule.

20 3. A request for comments on the proposed rule from any interested person.

21 4. The manner in which interested persons may submit notice to the
22 commission of their intention to attend the public hearing and any written
23 comments.

1 (f) Prior to adoption of a proposed rule, the commission shall allow persons to
2 submit written data, facts, opinions, and arguments, which shall be made available
3 to the public.

4 (g) The commission shall grant an opportunity for a public hearing before it
5 adopts a rule or amendment if a hearing is requested by any of the following:

6 1. At least 25 persons.

7 2. A state or federal governmental subdivision or agency.

8 3. An association having at least 25 members.

9 (h) 1. If a hearing is held on the proposed rule or amendment, the commission
10 shall publish the place, time, and date of the scheduled public hearing. If the hearing
11 is held via electronic means, the commission shall publish the mechanism for access
12 to the electronic hearing.

13 2. All persons wishing to be heard at the hearing shall notify the executive
14 director of the commission or other designated member in writing of their desire to
15 appear and testify at the hearing not less than 5 business days before the scheduled
16 date of the hearing.

17 3. Hearings shall be conducted in a manner providing each person who wishes
18 to comment a fair and reasonable opportunity to comment orally or in writing.

19 4. All hearings will be recorded. A copy of the recording will be made available
20 on request.

21 5. Nothing in this section shall be construed as requiring a separate hearing
22 on each rule. Rules may be grouped for the convenience of the commission at
23 hearings required by this section.

1 (i) Following the scheduled hearing date, or by the close of business on the
2 scheduled hearing date if the hearing was not held, the commission shall consider
3 all written and oral comments received.

4 (j) If no written notice of intent to attend the public hearing by interested
5 parties is received, the commission may proceed with promulgation of the proposed
6 rule without a public hearing.

7 (k) The commission shall, by majority vote of all members, take final action on
8 the proposed rule and shall determine the effective date of the rule, if any, based on
9 the rule-making record and the full text of the rule.

10 (L) Upon determination that an emergency exists, the commission may
11 consider and adopt an emergency rule without prior notice, opportunity for
12 comment, or hearing, provided that the usual rule-making procedures provided in
13 the compact and in this section shall be retroactively applied to the rule as soon as
14 reasonably possible, in no event later than 90 days after the effective date of the rule.
15 For the purposes of this provision, an emergency rule is one that must be adopted
16 immediately in order to do any of the following:

- 17 1. Meet an imminent threat to public health, safety, or welfare.
- 18 2. Prevent a loss of commission or member state funds.
- 19 3. Meet a deadline for the promulgation of an administrative rule that is
20 established by federal law or rule.
- 21 4. Protect public health and safety.

22 (m) The commission or an authorized committee of the commission may direct
23 revisions to a previously adopted rule or amendment for purposes of correcting
24 typographical errors, errors in format, errors in consistency, or grammatical errors.
25 Public notice of any revisions shall be posted on the website of the commission. The

1 revision shall be subject to challenge by any person for a period of 30 days after
2 posting. The revision may be challenged only on grounds that the revision results
3 in a material change to a rule. A challenge shall be made in writing, and delivered
4 to the chair of the commission prior to the end of the notice period. If no challenge
5 is made, the revision will take effect without further action. If the revision is
6 challenged, the revision may not take effect without the approval of the commission.

7 (10) OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT. (a) *Oversight*. 1. The
8 executive, legislative, and judicial branches of state government in each member
9 state shall enforce this compact and take all actions necessary and appropriate to
10 effectuate the compact's purposes and intent. The provisions of this compact and the
11 rules promulgated hereunder shall have standing as statutory law.

12 2. All courts shall take judicial notice of the compact and the rules in any
13 judicial or administrative proceeding in a member state pertaining to the subject
14 matter of this compact which may affect the powers, responsibilities, or actions of the
15 commission.

16 3. The commission shall be entitled to receive service of process in any such
17 proceeding, and shall have standing to intervene in such a proceeding for all
18 purposes. Failure to provide service of process to the commission shall render a
19 judgment or order void as to the commission, this compact, or promulgated rules.

20 (b) *Default, technical assistance, and termination*. 1. If the commission
21 determines that a member state has defaulted in the performance of its obligations
22 or responsibilities under this compact or the promulgated rules, the commission
23 shall do all of the following:

1 a. Provide written notice to the defaulting state and other member states of the
2 nature of the default, the proposed means of curing the default, and/or any other
3 action to be taken by the commission.

4 b. Provide remedial training and specific technical assistance regarding the
5 default.

6 2. If a state in default fails to cure the default, the defaulting state may be
7 terminated from the compact upon an affirmative vote of a majority of the member
8 states, and all rights, privileges, and benefits conferred by this compact may be
9 terminated on the effective date of termination. A cure of the default does not relieve
10 the offending state of obligations or liabilities incurred during the period of default.

11 3. Termination of membership in the compact shall be imposed only after all
12 other means of securing compliance have been exhausted. Notice of intent to
13 suspend or terminate shall be given by the commission to the governor, the majority
14 and minority leaders of the defaulting state's legislature, and each of the member
15 states.

16 4. A state that has been terminated is responsible for all assessments,
17 obligations, and liabilities incurred through the effective date of termination,
18 including obligations that extend beyond the effective date of termination.

19 5. The commission shall not bear any costs related to a state that is found to
20 be in default or that has been terminated from the compact, unless agreed upon in
21 writing between the commission and the defaulting state.

22 6. The defaulting state may appeal the action of the commission by petitioning
23 the U.S. District Court for the District of Columbia or the federal district where the
24 commission has its principal offices. The prevailing member shall be awarded all
25 costs of such litigation, including reasonable attorney's fees.

1 (c) *Dispute resolution.* 1. Upon request by a member state, the commission
2 shall attempt to resolve disputes related to the compact that arise among member
3 states and between member and nonmember states.

4 2. The commission shall promulgate a rule providing for both mediation and
5 binding dispute resolution for disputes as appropriate.

6 (d) *Enforcement.* 1. The commission, in the reasonable exercise of its
7 discretion, shall enforce the provisions and rules of this compact.

8 2. By majority vote, the commission may initiate legal action in the U.S.
9 District Court for the District of Columbia or the federal district where the
10 commission has its principal offices against a member state in default to enforce
11 compliance with the provisions of the compact and its promulgated rules and bylaws.
12 The relief sought may include both injunctive relief and damages. In the event
13 judicial enforcement is necessary, the prevailing member shall be awarded all costs
14 of such litigation, including reasonable attorney's fees.

15 3. The remedies herein shall not be the exclusive remedies of the commission.
16 The commission may pursue any other remedies available under federal or state law.

17 **(11) DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL**
18 **THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS.** (a) The
19 compact shall come into effect on the date on which the compact statute is enacted
20 into law in the 10th member state. The provisions, which become effective at that
21 time, shall be limited to the powers granted to the commission relating to assembly
22 and the promulgation of rules. Thereafter, the commission shall meet and exercise
23 rule-making powers necessary to the implementation and administration of the
24 compact.

1 (b) Any state that joins the compact subsequent to the commission's initial
2 adoption of the rules shall be subject to the rules as they exist on the date on which
3 the compact becomes law in that state. Any rule that has been previously adopted
4 by the commission shall have the full force and effect of law on the day the compact
5 becomes law in that state.

6 (c) 1. Any member state may withdraw from this compact by enacting a statute
7 repealing the same.

8 2. A member state's withdrawal shall not take effect until 6 months after
9 enactment of the repealing statute.

10 3. Withdrawal shall not affect the continuing requirement of the withdrawing
11 state's physical therapy licensing board to comply with the investigative and adverse
12 action reporting requirements of this act prior to the effective date of withdrawal.

13 (d) Nothing contained in this compact shall be construed to invalidate or
14 prevent any physical therapy licensure agreement or other cooperative arrangement
15 between a member state and a nonmember state that does not conflict with the
16 provisions of this compact.

17 (e) This compact may be amended by the member states. No amendment to this
18 compact shall become effective and binding upon any member state until it is enacted
19 into the laws of all member states.

20 **(12) CONSTRUCTION AND SEVERABILITY.** This compact shall be liberally construed
21 so as to effectuate the purposes thereof. The provisions of this compact shall be
22 severable and if any phrase, clause, sentence, or provision of this compact is declared
23 to be contrary to the constitution of any party state or of the United States or the
24 applicability thereof to any government, agency, person, or circumstance is held
25 invalid, the validity of the remainder of this compact and the applicability thereof to

1 any government, agency, person, or circumstance shall not be affected thereby. If this
2 compact shall be held contrary to the constitution of any party state, the compact
3 shall remain in full force and effect as to the remaining party states and in full force
4 and effect as to the party state affected as to all severable matters.

5 SECTION 78. ^{448,986}464.52 of the statutes is created to read:

6 ^{448,986}**464.52 Implementation of the physical therapy licensure compact. (1)**

7 In this section:

8 (a) "Compact" means the physical therapy licensure compact under s. ^{448,985}464.50.

9 (b) "Compact privilege" means a compact privilege, as defined in s. ^{448,985}464.50 (2)

10 (d), that is granted under the compact to an individual to practice in this state.

11 (c) "Examining board" means the physical therapy examining board.

12 (2) The department may impose a fee for an individual to receive a compact
13 privilege as provided in s. ^{448,985}464.50 (3) (d).

***NOTE: The compact allows a state to charge a fee. I therefore put in authorization for DSPS to charge a fee for a compact privilege. You could take this out, however, as states are not *required* to charge a fee.

14 (3) The examining board may, by rule, require an individual seeking a compact ✓
15 privilege to meet a jurisprudence requirement in accordance with s. ^{448,985}464.50 (4) (a) 7.,
16 if such a requirement is imposed by the examining board under s. ^{448,54}464.06 in order to ✓
17 obtain a license under s. ^{448,53 or 448,535}464.04 or 464.05.

***NOTE: It appears that licensees in Wisconsin are required to complete a jurisprudence exam testing their knowledge of Wisconsin laws relating to physical therapy. This provision allows the board to impose this requirement upon compact privilege holders as well, as I assume the board would want to require compact privilege holders to have the same knowledge of Wisconsin law that licensees are required to have. OK?

18 (4) (a) An individual who holds a compact privilege shall comply with s. 440.03
19 (13) (am).

e 448.985 ✓

1 (b) Subject to s. 464.50 and any rules promulgated thereunder, ss. 440.20 to
2 440.22 and the rules promulgated under s. 440.03 (1) shall apply to an individual who
3 holds a compact privilege in the same manner that they apply to holders of licenses
4 issued under subch. *I III*

****NOTE: I added this to make clear that some of the general disciplinary and related provisions that apply to credential holders apply to individuals who have compact privileges in this state.

****NOTE: Let me know if you want to give the board emergency rule authority to implement the compact.

Ins
44-4

5 **SECTION 79.** 938.78 (2) (g) of the statutes is amended to read:
6 938.78 (2) (g) Paragraph (a) does not prohibit an agency from disclosing
7 information about an individual in its care or legal custody on the written request
8 of the department of safety and professional services or of any interested examining
9 board or affiliated credentialing board in that department for use in any
10 investigation or proceeding relating to any alleged misconduct by any person who is
11 credentialed or who is seeking credentialing under ch. 448, 455 or, 457, or 464.
12 Unless authorized by an order of the court, the department of safety and professional
13 services and any examining board or affiliated credentialing board in that
14 department shall keep confidential any information obtained under this paragraph
15 and may not disclose the name of or any other identifying information about the
16 individual who is the subject of the information disclosed, except to the extent that
17 redisclosure of that information is necessary for the conduct of the investigation or
18 proceeding for which that information was obtained.

19 **SECTION 80. Effective dates.** This act takes effect on the day after publication,
20 except as follows:

INSERT ANALYSIS

This bill ratifies and enters Wisconsin into the Physical Therapy Licensure Compact (compact), which provides for the ability of a physical therapist or physical therapist assistant licensed in one member state (licensee) to obtain a “compact privilege” to practice in a remote state without obtaining a license in that remote state. Significant provisions of the compact include:

1. The creation of a Physical Therapy Compact Commission (commission), which includes one member of the licensure boards of each member state. The commission has various powers and duties granted in the compact, including overseeing the administration of the compact, enforcing the compact, adopting bylaws, promulgating binding rules for the compact, employing an executive director and employees, and establishing and electing an executive board. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff.

2. A process whereby a licensee may obtain a compact privilege to practice in another member state. A licensee’s primary state of residence is considered to be his or her home state, and any other member state in which the licensee wishes to practice is considered a remote state. A licensee providing physical therapy in a remote state under a compact privilege is subject to that state’s regulatory authority. A remote state may take action against a licensee’s compact privilege in the remote state, and the licensee is then not eligible for a compact privilege in any state until certain criteria are met. If a licensee’s compact privilege in any remote state is removed, the individual loses his or her compact privilege in any remote state until certain criteria are met. However, a home state has the exclusive power to impose adverse action against a license issued by the home state. If a home state license is encumbered (i.e., suspended), the licensee loses his or her compact privilege in any remote state until certain criteria are met. Member states may charge a fee for granting a compact privilege and may impose a jurisprudence requirement for granting a compact privilege that assesses an individual’s knowledge of the laws and rules governing the practice of physical therapy in a particular state.

3. The ability for member boards to conduct joint investigations of licensees and the ability of member states to issue subpoenas that are enforceable in other states.

4. The creation of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states. A member state must submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission.

5. Various provisions regarding resolutions of disputes between the commission and member states and between member and nonmember states, including a process for termination of a state’s membership in the compact if the state defaults on its obligations under the compact.

Having already been enacted by more than ten states, the compact becomes effective in this state upon enactment of the bill. The compact provides that it may

be amended upon enactment of an amendment by all member states. A state may withdraw from the compact by repealing the statute authorizing the compact, but the compact provides that a withdrawal does not take effect until six months after the effective date of that repeal.

INSERT 44-4

1 **SECTION 1. Nonstatutory provisions.**

2 (1) The physical therapy examining board may promulgate emergency rules
3 under section 227.24 of the statutes necessary to implement this act.
4 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
5 promulgated under this subsection remain in effect until May 1, 2019, or the date on
6 which permanent rules take effect, whichever is sooner. Notwithstanding section
7 227.24 (1) (a) and (3) of the statutes, the board is not required to provide evidence that
8 promulgating a rule under this subsection as an emergency rule is necessary for the
9 preservation of the public peace, health, safety, or welfare and is not required to
10 provide a finding of emergency for a rule promulgated under this subsection.

INSERT 11-24

1 **SECTION 1.** 448.56 (2) of the statutes is amended to read:

2 448.56 (2) **FEE SPLITTING.** No licensee or compact privilege holder may give or
3 receive, directly or indirectly, to or from any other person any fee, commission,
4 rebate, or other form of compensation or anything of value for sending, referring, or
5 otherwise inducing a person to communicate with a licensee or compact privilege
6 holder in a professional capacity, or for any professional services not actually
7 rendered personally by the licensee or compact privilege holder or at the licensee's
8 or compact privilege holder's direction.

History: 1993 a. 107 ss. 54, 59; 1995 a. 27 s. 9145 (1); 1997 a. 27, 164; 2001 a. 70; 2003 a. 154; 2005 a. 187; 2009 a. 149; 2011 a. 161; 2015 a. 375.

9 **SECTION 2.** 448.565 of the statutes is amended to read:

10 **448.565 Complaints.** The examining board shall promulgate rules
11 establishing procedures and requirements for filing complaints against licensees
12 and compact holders and shall publicize the procedures and requirements.

History: 2001 a. 70; 2009 a. 149.