

State of Wisconsin



2009 Senate Bill 191

Date of enactment: **February 11, 2010**
Date of publication*: **February 25, 2010**

2009 WISCONSIN ACT 113

AN ACT *to renumber* 45.40 (1); *to amend* 15.085 (1m) (b), 15.406 (3) (intro.), 25.36 (1), 29.193 (2) (b) 2., 29.193 (2) (c) 3., 29.193 (2) (e), 45.40 (2m) (a), 45.40 (2m) (b), 45.40 (3m), 49.45 (9), 49.855 (4m) (b), 50.36 (3) (b), 50.36 (3) (c), 50.39 (3), 146.37 (1g), 180.1901 (1m) (bk), 185.981 (1), 185.981 (2), 185.981 (3), 185.981 (4), 185.982 (1), 343.62 (4) (a) 4., subchapter IV (title) of chapter 448 [precedes 448.60], 448.60 (1), 450.11 (8) (bm), 632.64, 632.99, 655.45 (1), 812.30 (9), 814.29 (1) (d) 1., 895.48 (1m) (a) (intro.) and 2., 905.04 (title), 905.04 (1) (b), 905.04 (1) (c), 905.04 (2) and 905.04 (3); and *to create* 45.40 (1g), 45.40 (1t) and 905.04 (1) (dg) of the statutes; **relating to:** podiatrist–patient privilege, immunity exemption for podiatrists providing emergency care at athletic events, allowing podiatrists to determine an illness or injury and complete forms for the purpose of granting assistance to needy veterans, allowing podiatrists to determine disability for the purpose of issuing certain hunting permits, cooperatives organized to provide sickness care, the Podiatrists Affiliated Credentialing Board, allowing podiatrists to certify driver school instructors' physical fitness, allowing Medical Assistance recipients to freely choose among podiatrists, and giving equal weight to certifications of disability by podiatrists for insurance purposes.

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

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

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

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

15.406 (3) (intro.) ~~PODIATRISTS~~ PODIATRY AFFILIATED CREDENTIALING BOARD. There is created in the department of regulation and licensing, attached to the medical examining board, a ~~podiatrists~~ podiatry affiliated creden-

ting board consisting of the following members appointed for 4–year terms:

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

25.36 (1) Except as provided in sub. (2), all moneys appropriated or transferred by law shall constitute the veterans trust fund which shall be used for the lending of money to the mortgage loan repayment fund under s. 45.37 (5) (a) 12. and for the veterans programs under ss. 20.485 (2) (m), (mn), (tm), (u), (v), (vo), (vy), (w), (z), and (zm), 45.03 (19), 45.07, 45.20, 45.21, 45.40 (~~+~~) (1m), 45.41, 45.42, 45.43, and 45.82 and administered by the department of veterans affairs, including all moneys received from the federal government for the benefit of veterans or their dependents; all moneys paid as interest on and repayment of loans under the post–war rehabilitation fund; soldiers rehabilitation fund, veterans housing

* Section 991.11, WISCONSIN STATUTES 2007–08 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

funds as they existed prior to July 1, 1961; all moneys paid as interest on and repayment of loans under this fund; all moneys paid as expenses for, interest on, and repayment of veterans trust fund stabilization loans under s. 45.356, 1995 stats.; all moneys paid as expenses for, interest on, and repayment of veterans personal loans; the net proceeds from the sale of mortgaged properties related to veterans personal loans; all mortgages issued with the proceeds of the 1981 veterans home loan revenue bond issuance purchased with moneys in the veterans trust fund; all moneys received from the state investment board under s. 45.42 (8) (b); all moneys received from the veterans mortgage loan repayment fund under s. 45.37 (7) (a) and (c); and all gifts of money received by the board of veterans affairs for the purposes of this fund.

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

29.193 (2) (b) 2. An applicant shall submit an application on a form prepared and furnished by the department, which shall include a written statement or report prepared and signed by a licensed physician ~~or~~ a licensed chiropractor, or a licensed podiatrist prepared no more than 6 months preceding the application and verifying that the applicant is physically disabled.

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

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

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

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

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

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

45.40 (1g) DEFINITIONS. In this section:

(a) "Health care provider" means an advanced practice nurse prescriber certified under s. 441.16 (2), an audiologist licensed under ch. 459, a dentist licensed under ch. 447, an optometrist licensed under ch. 449, a physician licensed under s. 448.02, or a podiatrist licensed under s. 448.63.

(b) "Illness" or "injury" means a physical or mental health problem that has been diagnosed by a health care provider acting within the scope of the health care provider's license.

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

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

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

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

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

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

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

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

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

49.45 (9) FREE CHOICE. Any person eligible for medical assistance under s. 49.46, 49.468, 49.47, or 49.471 may use the physician, chiropractor, dentist, pharmacist, podiatrist, hospital, skilled nursing home, health mainte-

nance organization, limited service health organization, preferred provider plan or other licensed, registered or certified provider of health care of his or her choice, except that free choice of a provider may be limited by the department if the department's alternate arrangements are economical and the recipient has reasonable access to health care of adequate quality. The department may also require a recipient to designate, in any or all categories of health care providers, a primary health care provider of his or her choice. After such a designation is made, the recipient may not receive services from other health care providers in the same category as the primary health care provider unless such service is rendered in an emergency or through written referral by the primary health care provider. Alternate designations by the recipient may be made in accordance with guidelines established by the department. Nothing in this subsection shall vitiate the legal responsibility of the physician, chiropractor, dentist, pharmacist, podiatrist, skilled nursing home, hospital, health maintenance organization, limited service health organization, preferred provider plan or other licensed, registered or certified provider of health care to patients. All contract and tort relationships with patients shall remain, notwithstanding a written referral under this section, as though dealings are direct between the physician, chiropractor, dentist, pharmacist, podiatrist, skilled nursing home, hospital, health maintenance organization, limited service health organization, preferred provider plan or other licensed, registered or certified provider of health care and the patient. No physician, chiropractor, pharmacist, podiatrist, or dentist may be required to practice exclusively in the medical assistance program.

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

49.855 (4m) (b) The department of revenue may provide a certification that it receives under sub. (1), (2m), (2p), or (2r) to the department of administration. Upon receipt of the certification, the department of administration shall determine whether the obligor is a vendor or is receiving any other payments from this state, except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s. 45.40 (4) (1m), this chapter, or ch. 46, 108, or 301. If the department of administration determines that the obligor is a vendor or is receiving payments from this state, except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s. 45.40 (4) (1m), this chapter, or ch. 46, 108, or 301, it shall begin to withhold the amount certified from those payments and shall notify the obligor that the state intends to reduce any payments due the obligor by the amount the obligor is delinquent under the support, maintenance, or receiving and disbursing fee order or obligation, by the outstanding amount for past support, medical expenses, or birth expenses under the court order, or by the amount due under s. 46.10 (4), 49.345 (4), or 301.12 (4). The notice

shall provide that within 20 days after receipt of the notice the obligor may request a hearing before the circuit court rendering the order under which the obligation arose. An obligor may, within 20 days after receiving notice, request a hearing under this paragraph. Within 10 days after receiving a request for hearing under this paragraph, the court shall set the matter for hearing. A circuit court commissioner may conduct the hearing. Pending further order by the court or circuit court commissioner, the department of children and families or its designee, whichever is appropriate, may not disburse the payments withheld from the obligor. The sole issues at the hearing are whether the obligor owes the amount certified and, if not and it is a support or maintenance order, whether the money withheld shall be paid to the obligor or held for future support or maintenance, except that the obligor's ability to pay is also an issue at the hearing if the obligation relates to an order under s. 767.805 (4) (d) 1. or 767.89 (3) (e) 1. and the order specifies that the court found that the obligor's income was at or below the poverty line established under 42 USC 9902 (2).

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

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

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

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

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

50.39 (3) Facilities governed by ss. 45.50, 48.62, 49.70, 49.72, 50.02, 51.09, and 252.10, juvenile correctional facilities as defined in s. 938.02 (10p), correctional

institutions governed by the department of corrections under s. 301.02, and the offices and clinics of persons licensed to treat the sick under chs. 446, 447, and 448 are exempt from ss. 50.32 to 50.39. Sections 50.32 to 50.39 do not abridge the rights of the medical examining board, physical therapists affiliated credentialing board, ~~podiatrists~~ podiatry affiliated credentialing board, dentistry examining board, pharmacy examining board, chiropractic examining board, and board of nursing in carrying out their statutory duties and responsibilities.

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

146.37 (1g) Except as provided in s. 153.85, no person acting in good faith who participates in the review or evaluation of the services of health care providers or facilities or the charges for such services conducted in connection with any program organized and operated to help improve the quality of health care, to avoid improper utilization of the services of health care providers or facilities or to determine the reasonable charges for such services, or who participates in the obtaining of health care information under ch. 153, is liable for any civil damages as a result of any act or omission by such person in the course of such review or evaluation. Acts and omissions to which this subsection applies include, but are not limited to, acts or omissions by peer review committees or hospital governing bodies in censuring, reprimanding, limiting or revoking hospital staff privileges or notifying the medical examining board or ~~podiatrists~~ podiatry affiliated credentialing board under s. 50.36 or taking any other disciplinary action against a health care provider or facility and acts or omissions by a medical director in reviewing the performance of emergency medical technicians or ambulance service providers.

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

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

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

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

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

185.981 (2) Such associations shall operate only on a cooperative nonprofit basis and for the purpose of establishing, maintaining and operating a voluntary nonprofit health, dental or vision care plan or plans or for constructing, operating and maintaining nonprofit hospitals or other facilities whereby sickness care, including

hospital, dental or vision care, is provided at the expense of such association, its members or both, to such persons or groups of persons as shall become subscribers to such plan, under contracts which will entitle each such subscriber to definite medical, surgical, chiropractic, vision, dental or hospital care, appliances and supplies, by physicians and surgeons licensed and registered under ch. 448, podiatrists licensed under ch. 448, optometrists licensed under ch. 449, chiropractors licensed under ch. 446 and dentists licensed under ch. 447 in their offices, in hospitals, in other facilities and in the home.

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

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

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

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

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

185.982 (1) No sickness care plan or contract issued thereunder by such cooperative association shall interfere with the manner or mode of the practice of medicine, optometry, chiropractic ~~or~~ dentistry, or podiatry, the relationship of physician, chiropractor, optometrist ~~or~~ dentist, or podiatrist and patient, nor the responsibility of physician, chiropractor, optometrist ~~or~~ dentist, or podiatrist to patient. A plan may require persons covered to utilize health care providers designated by the cooperative association. The cooperative association may provide health care services directly through providers who are employees of the cooperative association or through

agreements with individual providers or groups of providers organized on a group practice or individual practice basis. In making such agreements, no plan may refuse to provide coverage for vision care services or procedures provided by an optometrist licensed under ch. 449 within the scope of the practice of optometry, as defined in s. 449.01 (1), if the plan provides coverage for the same services or procedures when provided by another health care provider.

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

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

SECTION 26. Subchapter IV (title) of chapter 448 [precedes 448.60] of the statutes is amended to read:

CHAPTER 448

SUBCHAPTER IV

PODIATRISTS PODIATRY AFFILIATED CREDENTIALING BOARD

SECTION 27. 448.60 (1) of the statutes is amended to read:

448.60 (1) "Affiliated credentialing board" means the podiatrists podiatry affiliated credentialing board.

SECTION 28. 450.11 (8) (bm) of the statutes is amended to read:

450.11 (8) (bm) The podiatrists podiatry affiliated credentialing board, insofar as this section applies to podiatrists.

SECTION 29. 632.64 of the statutes is amended to read:

632.64 Certification of disability. Insurers For the purpose of insurance policies that they issue, insurers doing a life insurance business in this state shall afford equal weight to a certification of disability signed by a physician with respect to matters within the scope of the physician's professional license and, to a certification of disability signed by a chiropractor with respect to matters within the scope of the chiropractor's professional license for the purpose of insurance policies they issue, and to a certification of disability signed by a podiatrist with respect to matters within the scope of the podiatrist's professional license. This section does not require an insurer to treat a certificate of disability as conclusive evidence of disability.

SECTION 30. 632.99 of the statutes is amended to read:

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

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

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

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

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

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

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

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

895.48 (1m) (a) Except as provided in par. (b), any physician, physician assistant, podiatrist, or athletic trainer licensed under ch. 448, chiropractor licensed under ch. 446, dentist licensed under ch. 447, emergency medical technician licensed under s. 256.15, first responder certified under s. 256.15 (8), physician assistant licensed under ch. 448, registered nurse licensed under ch. 441, or a massage therapist or bodyworker issued a certificate under ch. 460 who renders voluntary

health care to a participant in an athletic event or contest sponsored by a nonprofit corporation, as defined in s. 66.0129 (6) (b), a private school, as defined in s. 115.001 (3r), a public agency, as defined in s. 46.856 (1) (b), or a school, as defined in s. 609.655 (1) (c), is immune from civil liability for his or her acts or omissions in rendering that care if all of the following conditions exist:

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

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

905.04 (title) Physician–patient, registered nurse–patient, chiropractor–patient, psychologist–patient, social worker–patient, marriage and family therapist–patient, podiatrist–patient and professional counselor–patient privilege.

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

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

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

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

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

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

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

905.04 (2) **GENERAL RULE OF PRIVILEGE.** A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made or information obtained or disseminated for purposes of diagnosis or treatment of the patient’s physical, mental or emotional condition, among the patient, the patient’s physician, the patient’s podiatrist, the patient’s registered nurse, the patient’s chiropractor, the patient’s psychologist, the patient’s social worker, the patient’s marriage and family therapist, the patient’s professional counselor or persons, including members of the patient’s family, who are participating in the diagnosis or treatment under the direction of the physician, podiatrist, registered nurse, chiropractor, psychologist, social worker, marriage and family therapist or professional counselor.

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

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

SECTION 41. Initial applicability.

(1) **CERTIFICATIONS OF DISABILITY BY PODIATRISTS.**

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

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