



2021 ASSEMBLY BILL 218

March 31, 2021 - Introduced by Representatives PETRYK, HAYWOOD, BOWEN, DALLMAN, DITTRICH, CABRAL-GUEVARA, JAMES, KNODL, MOSES, MURSAU, PRONSHINSKE, ROZAR, STEFFEN, STUBBS, SUBECK, VANDERMEER, WICHGERS, ZIMMERMAN, SPIROS and SKOWRONSKI, cosponsored by Senators KOOYENGA, JOHNSON, MARKLEIN, STROEBEL, L. TAYLOR and WIMBERGER. Referred to Committee on Regulatory Licensing Reform.

1 **AN ACT** *to renumber and amend* 440.03 (13) (a); *to amend* 440.035 (1m)
2 (intro.), 440.035 (1m) (b) and 440.035 (2); and *to create* 440.03 (13) (a) 2.,
3 440.03 (13) (e), 440.035 (1p) and 440.035 (1r) of the statutes; **relating to:**
4 procedures for granting credentials granted by the Department of Safety and
5 Professional Services and credentialing boards, extending the time limit for
6 emergency rule procedures, and providing an exemption from emergency rule
7 procedures.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes regarding the process for the granting of professional credentials by the Department of Safety and Professional Services and credentialing boards in DSPS, including all of the following:

1. The bill explicitly allows a credentialing board to delegate authority to DSPS to make determinations regarding whether an applicant satisfies the requirements to be granted a credential and authority to grant or deny a credential in accordance with that determination.

2. Once an application for a credential is considered complete following an investigation conducted by DSPS, DSPS must, for a credential that is granted by a credentialing board, either 1) forward the application to the board or the board's designee with DSPS's recommendation regarding approval or denial of the

ASSEMBLY BILL 218

application or 2) if DSPS has been delegated the authority to make a determination on the application, directly approve or deny the application in accordance with its determination. If DSPS forwards an application to the board or the board's designee with a recommendation that it be approved, the bill requires that the application be considered automatically approved by the board on the tenth business day thereafter, unless the application is acted on sooner or unless the board or its designee takes certain other actions before that date.

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:

1 **SECTION 1.** 440.03 (13) (a) of the statutes is renumbered 440.03 (13) (a) 1. and
2 amended to read:

3 440.03 (13) (a) 1. The department may conduct an investigation to determine
4 whether an applicant for a credential satisfies any of the eligibility requirements
5 specified for the credential, including whether the applicant does not have an arrest
6 or conviction record. In conducting an investigation under this paragraph, the
7 department may require an applicant to provide any information that is necessary
8 for the investigation, except that, for an investigation of an arrest or conviction
9 record, the department shall comply with the requirements of pars. (b) and (c). Once
10 all required information has been received and the department has completed its
11 investigation, the application shall be considered complete.

12 **SECTION 2.** 440.03 (13) (a) 2. of the statutes is created to read:

13 440.03 (13) (a) 2. Once an application is considered complete following an
14 investigation as provided in subd. 1., the department shall, for a credential that is
15 granted by a credentialing board, do one of the following:

16 a. Forward the application to the credentialing board or the credentialing
17 board's designee with the results of the department's investigation and a

ASSEMBLY BILL 218

1 recommendation on whether to approve the application, approve the application
2 with limitations, deny the application, or conduct further review.

3 b. In accordance with authority delegated to the department under s. 440.035
4 (1p), approve the application, approve the application with limitations, or deny the
5 application.

6 **SECTION 3.** 440.03 (13) (e) of the statutes is created to read:

7 440.03 (13) (e) After the department submits under par. (a) 2. a. a completed
8 application for a credential to a credentialing board or the designee of the
9 credentialing board, for which the department recommends approval or approval
10 with limitations and does not recommend any further review by the credentialing
11 board or the credentialing board's designee, the department may notify the applicant
12 that, unless anything specified in s. 440.035 (1r) (a) to (d) occurs prior to that date,
13 the application will be considered to have been approved by the credentialing board
14 in accordance with the department's recommendation on the 10th business day
15 following the date of submission and the credential will be issued no later than the
16 10th business day following that date.

17 **SECTION 4.** 440.035 (1m) (intro.) of the statutes is amended to read:

18 440.035 (1m) (intro.) ~~Each examining board or affiliated~~ Subject to subs. (1p)
19 and (1r), each credentialing board ~~attached to the department or an examining board~~
20 shall:

21 **SECTION 5.** 440.035 (1m) (b) of the statutes is amended to read:

22 440.035 (1m) (b) Be the supervising authority of all personnel, other than
23 shared personnel, engaged in the review, investigation, or handling of information
24 regarding qualifications of applicants for credentials, examination questions and
25 answers, accreditation, related investigations, and disciplinary matters affecting

ASSEMBLY BILL 218**SECTION 5**

1 persons who are credentialed by the ~~examining board or affiliated~~ credentialing
2 board, or in the establishing of regulatory policy or the exercise of administrative
3 discretion with regard to the qualifications or discipline of applicants or persons who
4 are credentialed by the ~~examining board, affiliated~~ credentialing board or
5 accreditation.

6 **SECTION 6.** 440.035 (1p) of the statutes is created to read:

7 440.035 (1p) Notwithstanding chs. 440 to 480, a credentialing board may
8 delegate authority to the department to make determinations regarding whether an
9 applicant satisfies the requirements to be granted a credential and may delegate
10 authority to the department to grant or deny a credential in accordance with that
11 determination.

12 **SECTION 7.** 440.035 (1r) of the statutes is created to read:

13 440.035 (1r) Notwithstanding chs. 440 and 480, after the department submits
14 a completed application for a credential to a credentialing board or the designee of
15 the credentialing board under s. 440.03 (13) (a) 2. a. for which the department
16 recommends approval or approval with limitations and does not recommend further
17 review by the credentialing board or the credentialing board's designee, the
18 application shall be considered to have been approved by the credentialing board in
19 accordance with the department's recommendation on the 10th business day
20 following the date of submission, unless one of the following occurs prior to that date:

21 (a) The credentialing board or the credentialing board's designee approves or
22 denies the credential.

23 (b) The credentialing board or the credentialing board's designee makes a
24 determination that additional time is required to make a determination on the

ASSEMBLY BILL 218

1 application, not to exceed any deadline established by the department under s.
2 440.03 (1m).

3 (c) The credentialing board or the credentialing board's designee determines
4 that an applicant must complete an additional examination, if the credentialing
5 board has the authority to require such an examination.

6 (d) The credentialing board makes a request, subject to s. 103.35, for further
7 information from the applicant in order to make a determination on the application.

8 **SECTION 8.** 440.035 (2) of the statutes is amended to read:

9 440.035 (2) Except as otherwise permitted in chs. 440 to 480, an examining
10 board or affiliated a credentialing board attached to the department or an examining
11 board may require a credential holder to submit proof of the continuing education
12 programs or courses that he or she has completed only if a complaint is made against
13 the credential holder.

14 **SECTION 9. Nonstatutory provisions.**

15 (1) Using the procedure under s. 227.24, the department of safety and
16 professional services and any credentialing board, as defined in s. 440.01 (2) (bm),
17 may promulgate rules that are necessary to implement the changes in this act.
18 Notwithstanding s. 227.24 (1) (a) and (3), the department or credentialing board is
19 not required to provide evidence that promulgating a rule under this subsection as
20 an emergency rule is necessary for the preservation of the public peace, health,
21 safety, or welfare and is not required to provide a finding of emergency for a rule
22 promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2),
23 emergency rules promulgated under this subsection remain in effect until May 1,

ASSEMBLY BILL 218

SECTION 9

1 2023, or the date on which permanent rules take effect, whichever is sooner, and the
2 effective period may not be further extended under s. 227.24 (2).

3 (END)