



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5607/1
MED/ARG/KRP:all

2019 SENATE BILL 806

February 11, 2020 - Introduced by LAW REVISION COMMITTEE. Referred to
Committee on Senate Organization.

1 **AN ACT** *to renumber and amend* 440.52 (1) (b) and 440.52 (1) (c); *to amend*
2 71.07 (5r) (a) 2., 71.28 (5r) (a) 2., 71.47 (5r) (a) 2., 145.26 (1), 227.21 (2) (b), 440.52
3 (1) (e) 3., 440.52 (1) (e) 5., 440.52 (1) (e) 6., 440.52 (2), 440.52 (7) (intro.), 440.52
4 (7) (a), 440.52 (7) (c), 440.52 (7) (e), 440.52 (7) (f), 440.52 (7) (g), 440.52 (8) (a),
5 440.52 (8) (c) 3., 440.52 (8) (g), 440.52 (10) (a), 440.52 (10) (b), 440.52 (13) (a) 1.,
6 448.05 (5r), 458.43 (1) (intro.) and 458.44 (3) (d); and *to create* 440.08 (2) (am)
7 and 440.52 (1) (dm) (intro.) of the statutes; **relating to:** incorporation of
8 standards by reference into agency administrative rules and various changes
9 to laws administered or enforced by the Department of Safety and Professional
10 Services and credentialing boards (suggested as remedial legislation by the
11 Department of Safety and Professional Services).

Analysis by the Legislative Reference Bureau

This bill makes changes regarding incorporation by reference of technical standards into agency rules and to various laws enforced or administered by the Department of Safety and Professional Services, including the following:

SENATE BILL 806***Incorporation by reference of technical standards into rules***

Current law generally requires all permanent rules that are promulgated by state agencies to be published in the Wisconsin Administrative Code. However, current law allows an agency, in order to avoid unnecessary expense, to adopt standards established by technical societies and organizations of recognized national standing by incorporating the standards in its rules by reference to the specific issue or issues of the publication in which they appear, without reproducing the standards in full in their rules. Such incorporation by reference requires the consent of the attorney general and requires the rule incorporating the standard to state that the standards are on file at the offices of the agency and the Legislative Reference Bureau.

This bill deletes the requirement that the agency state that the standards are on file at the offices of the agency and instead requires only that the agency state that the standards are on file at the Legislative Reference Bureau.

Regulation of private postsecondary schools

Under current law, DSPS regulates most private postsecondary schools, including trade schools and for-profit colleges. Among its responsibilities, DSPS inspects and approves these schools and courses of instruction offered by these schools. DSPS also issues permits for, and otherwise regulates, the solicitation of students for courses at these schools. DSPS must investigate the adequacy of courses and courses of instruction offered by these schools and approve courses of instruction meeting standards established by DSPS. Current law defines a “course of instruction” as a series of classroom or correspondence courses having a unified purpose which lead to a diploma or degree or to an occupational or vocational objective. A “course” is defined as an organized unit of subject matter in which instruction is offered within a given period of time or that covers a specified amount of related subject matter.

This bill defines “program” to incorporate the current definitions of “course” and “course of instruction” and substitutes the term “program” for “course” and “course of instruction” in various statutory provisions relating to the regulation of these private postsecondary schools.

Appraisal management companies

Current law prohibits a licensed appraisal management company (AMC) from removing an independent appraiser from its appraiser panel unless certain conditions apply. However, an exception to this prohibition provides that it does not apply within the first 60 days after a licensed AMC adds an independent appraiser to the licensed AMC’s appraiser panel. This bill eliminates this exception to this prohibition.

Also under current law, DSPS may deny a license to, or take disciplinary action against, an AMC on various grounds, including if the AMC, or a controlling individual of the AMC, has had a denial of, or disciplinary action involving, a license or other credential to act *as an appraiser* in any state, unless that credential was later granted or reinstated. The bill modifies this provision so that it applies if the AMC or individual has had a denial of, or disciplinary action involving, a license or other credential to act *as an AMC* in any state.

SENATE BILL 806***Credential renewals***

Currently, most professional credentials issued by DSPS and the credentialing boards in DSPS are subject to periodic renewal. Current law also generally provides that when a licensee has made timely and sufficient application for the renewal of a credential, the credential does not expire until the application has been finally acted upon by the agency.

This bill clarifies, for purposes of a renewal of a credential issued by DSPS or a credentialing board in DSPS, that an applicant has made timely and sufficient application for the renewal only when the applicant has submitted all forms and other documentation required for the renewal of that credential.

Regulation of public swimming pools

Under current law, DSPS approves plans and specifications for constructing, altering, or reconstructing “public swimming pools,” which are defined as certain structures. This bill clarifies that, to satisfy the definition, a structure must be used for swimming, therapy, training, or water recreation.

Certificates to practice respiratory care

This bill changes, for purposes of eligibility for a certificate to practice respiratory care, the name of the accrediting bodies for respiratory care courses of instruction.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Safety and Professional Services and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

- 1 **SECTION 1.** 71.07 (5r) (a) 2. of the statutes is amended to read:
- 2 71.07 (**5r**) (a) 2. “Course of instruction” ~~has the meaning given in s. 440.52 (1)~~
- 3 ~~(e) means a series of classroom or correspondence courses having a unified purpose~~
- 4 which lead to a diploma or degree or to an occupational or vocational objective.

NOTE: This SECTION replaces a cross-reference to a definition of “course of instruction” with the definition itself.

- 5 **SECTION 2.** 71.28 (5r) (a) 2. of the statutes is amended to read:

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1 71.28 **(5r)** (a) 2. “Course of instruction” has the meaning given in s. 440.52 (1)
2 ~~(e)~~ 71.07 (5r) (a) 2.

NOTE: SECTIONS 2 and 3 change a cross-reference for the definition of “course of instruction.”

3 **SECTION 3.** 71.47 (5r) (a) 2. of the statutes is amended to read:

4 71.47 **(5r)** (a) 2. “Course of instruction” has the meaning given in s. 440.52 (1)
5 ~~(e)~~ 71.07 (5r) (a) 2.

6 **SECTION 4.** 145.26 (1) of the statutes is amended to read:

7 145.26 **(1)** In this section, “public swimming pool” means a fixed or mobile
8 structure, basin, chamber, or tank and appurtenant buildings and equipment that
9 serve or are installed for use by the state, a political subdivision of the state, a motel,
10 a hotel, a resort, a camp, a club, an association, a housing development, a school, a
11 religious, charitable, or youth organization, an educative or rehabilitative facility, or
12 another entity and that are used for swimming, therapy, training, or water
13 recreation. “Public swimming pool” does not mean an inflated mobile structure,
14 basin, chamber, or tank; a swim pond; an individual therapeutic pod, tub, or bath;
15 or a fixed or mobile structure, basin, chamber, or tank that serves fewer than 3
16 individual residences.

NOTE: This SECTION provides that to be a “public swimming pool,” a structure must be used for swimming, therapy, training, or water recreation.

17 **SECTION 5.** 227.21 (2) (b) of the statutes is amended to read:

18 227.21 **(2)** (b) The attorney general shall consent to incorporation by reference
19 only in a rule of limited public interest and in a case where the incorporated
20 standards are readily available in published form or are available on optical disc or
21 in another electronic format. Each rule containing an incorporation by reference
22 shall state how the material incorporated may be obtained and, except as provided

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1 in s. 601.41 (3) (b), that the standards are on file at the offices of the agency and the
2 legislative reference bureau.

NOTE: This SECTION deletes a requirement that an agency maintain, at its offices, a copy of any standards established by technical societies and national organizations that are incorporated into its rules but not reproduced in full.

3 **SECTION 6.** 440.08 (2) (am) of the statutes is created to read:

4 440.08 (2) (am) A renewal application shall be considered complete only when
5 the applicant has submitted the fee required under par. (c) and all forms and other
6 documentation required for the renewal of that credential. An applicant has not
7 made timely and sufficient application for the renewal of the credential within the
8 meaning of s. 227.51 until the applicant has submitted a complete application as
9 provided in this paragraph.

NOTE: This SECTION provides that a renewal application for a credential is complete, and considered timely and sufficient, only when an applicant submits any required fee and all forms and other documentation required for renewal.

10 **SECTION 7.** 440.52 (1) (b) of the statutes is renumbered 440.52 (1) (dm) 1. and
11 amended to read:

12 440.52 (1) (dm) 1. ~~“Course” means an~~ An organized unit of subject matter in
13 which instruction is offered within a given period of time or that covers a specified
14 amount of related subject matter.

NOTE: SECTIONS 7 to 9 define “program” by combining the definitions of “course” and “course of instruction.”

15 **SECTION 8.** 440.52 (1) (c) of the statutes is renumbered 440.52 (1) (dm) 2. and
16 amended to read:

17 440.52 (1) (dm) 2. ~~“Course of instruction” means a~~ A series of classroom or
18 correspondence courses having a unified purpose which lead to a diploma or degree
19 or to an occupational or vocational objective.

20 **SECTION 9.** 440.52 (1) (dm) (intro.) of the statutes is created to read:

SENATE BILL 806**SECTION 9**

1 440.52 (1) (dm) (intro.) Except in par. (e) 9. and 10., “program” means any of
2 the following:

3 **SECTION 10.** 440.52 (1) (e) 3. of the statutes is amended to read:

4 440.52 (1) (e) 3. Schools of a parochial or denominational character offering
5 ~~courses~~ programs having a sectarian objective.

NOTE: SECTIONS 10 to 22 and 24 to 25 replace “course” with “program”; “courses”
with “programs”; “course of instruction” with “program”; and “courses of instruction” with
“programs.”

6 **SECTION 11.** 440.52 (1) (e) 5. of the statutes is amended to read:

7 440.52 (1) (e) 5. ~~Courses~~ Programs conducted by employers exclusively for their
8 employees.

9 **SECTION 12.** 440.52 (1) (e) 6. of the statutes is amended to read:

10 440.52 (1) (e) 6. Schools, ~~courses of instruction,~~ and ~~training~~ programs that are
11 approved or licensed and supervised by other state agencies and boards.

12 **SECTION 13.** 440.52 (2) of the statutes is amended to read:

13 440.52 (2) RESPONSIBILITIES. The department shall protect the general public
14 by inspecting and approving private trade, correspondence, business, and technical
15 schools doing business within this state, whether located within or outside this state,
16 changes of ownership or control of the schools, teaching locations used by the schools,
17 and ~~courses of instruction~~ programs offered by the schools and regulate the soliciting
18 of students for ~~correspondence or classroom courses and courses of instruction~~
19 programs offered by the schools.

20 **SECTION 14.** 440.52 (7) (intro.) of the statutes is amended to read:

21 440.52 (7) APPROVAL OF SCHOOLS GENERALLY. (intro.) To protect students,
22 prevent fraud and misrepresentation in the sale and advertising of ~~courses and~~
23 ~~courses of instruction~~ programs, and encourage schools to maintain ~~courses and~~

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1 ~~courses of instruction~~ programs consistent in quality, content, and length with
2 generally accepted educational standards, the department shall do all of the
3 following:

4 **SECTION 15.** 440.52 (7) (a) of the statutes is amended to read:

5 440.52 (7) (a) Investigate the adequacy of ~~courses and courses of instruction~~
6 programs offered by schools to residents of this state and establish minimum
7 standards for those ~~courses of instruction~~ programs.

8 **SECTION 16.** 440.52 (7) (c) of the statutes is amended to read:

9 440.52 (7) (c) Establish rules, standards, and criteria to prevent fraud and
10 misrepresentation in the sale and advertising of ~~courses and courses of instruction~~
11 programs.

12 **SECTION 17.** 440.52 (7) (e) of the statutes is amended to read:

13 440.52 (7) (e) Establish minimum standards for refund of the unused portion
14 of tuition, fees, and other charges if a student does not enter a ~~course or course of~~
15 instruction program or withdraws or is discontinued from the ~~course~~ program.

16 **SECTION 18.** 440.52 (7) (f) of the statutes is amended to read:

17 440.52 (7) (f) Require schools offering ~~courses and courses of instruction~~
18 programs to residents of this state to furnish information concerning their facilities,
19 curricula, instructors, enrollment policies, tuition and other charges and fees, refund
20 policies, and policies concerning negotiability of promissory instruments received in
21 payment of tuition and other charges.

22 **SECTION 19.** 440.52 (7) (g) of the statutes is amended to read:

23 440.52 (7) (g) Approve ~~courses of instruction~~ programs, schools, changes of
24 ownership or control of schools, and teaching locations meeting the requirements
25 and standards established by the department and complying with rules promulgated

SENATE BILL 806**SECTION 19**

1 by the department; publish a list of the schools and ~~courses of instruction~~ programs
2 approved and a list of the schools that are authorized to use the term “college,”
3 “university,” “state,” or “Wisconsin” in their names; and make those lists of the
4 schools available on the department’s Internet site.

5 **SECTION 20.** 440.52 (8) (a) of the statutes is amended to read:

6 440.52 (8) (a) *In general.* No solicitor representing any school offering any
7 ~~course or course of instruction~~ program shall sell any ~~course or course of instruction~~
8 program or solicit students for a ~~course or course of instruction~~ program in this state
9 for a consideration or remuneration, except upon the actual business premises of the
10 school, unless the solicitor first secures a solicitor’s permit from the department. If
11 the solicitor represents more than one school, a separate permit shall be obtained for
12 each school the solicitor represents.

13 **SECTION 21.** 440.52 (8) (c) 3. of the statutes is amended to read:

14 440.52 (8) (c) 3. Presenting information to prospective students relating to the
15 school, ~~a course,~~ or a ~~course of instruction~~ program that is false, fraudulent, or
16 misleading.

17 **SECTION 22.** 440.52 (8) (g) of the statutes is amended to read:

18 440.52 (8) (g) *Recovery on contracts.* No recovery shall be had by any school or
19 its assignee on any contract for or in connection with a ~~course or course of instruction~~
20 program if the representative who sold or solicited the ~~course~~ program was not the
21 holder of a solicitor’s permit under this subsection at the time of the sale or
22 solicitation.

23 **SECTION 23.** 440.52 (10) (a) of the statutes is amended to read:

24 440.52 (10) (a) *Authority.* All proprietary schools shall be examined and
25 approved by the department before operating in this state. Approval shall be granted

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1 to schools meeting the criteria established by the department for a period not to
2 exceed one year. No school may advertise in this state unless approved by the
3 department. All approved schools shall submit quarterly reports, including
4 information on enrollment, number of teachers and their qualifications, ~~course~~
5 ~~offerings~~ programs, number of graduates, number of graduates successfully
6 employed, and such other information as the department considers necessary. If a
7 school closure results in losses to students, parents, or sponsors, the department may
8 authorize the full or partial payment of those losses from the appropriation under s.
9 20.165 (1) (jt).

NOTE: This SECTION replaces “course offerings” with “programs.”

10 **SECTION 24.** 440.52 (10) (b) of the statutes is amended to read:

11 440.52 (10) (b) *Application.* Application for initial approval of a school or a
12 ~~course of instruction~~ program, approval of a teaching location, change of ownership,
13 or control of a school, renewal of approval of a school or reinstatement of approval
14 of a school or ~~course of instruction~~ program that has been revoked shall be made on
15 a form furnished by the department and shall be accompanied by a fee set by the
16 department under par. (c) and any other information as the department considers
17 necessary to evaluate the school in carrying out the purpose of this section.

18 **SECTION 25.** 440.52 (13) (a) 1. of the statutes is amended to read:

19 440.52 (13) (a) 1. “Academic credential” means a degree, transcript, certificate,
20 or other similar document that indicates the completion of a program, ~~course, or~~
21 ~~course of instruction~~ leading to, or the earning of academic credit toward, the
22 granting of an associate, baccalaureate, or graduate degree.

23 **SECTION 26.** 448.05 (5r) of the statutes is amended to read:

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1 448.05 **(5r)** CERTIFICATE AS RESPIRATORY CARE PRACTITIONER. An applicant for a
2 certificate or a temporary certificate to practice respiratory care shall submit
3 evidence satisfactory to the board that the applicant is a graduate of a school with
4 a course of instruction in respiratory care approved by the ~~commission on~~
5 ~~accreditation of allied health education programs of the American Medical~~
6 ~~Association Joint Review Committee on Education in Respiratory Care or the~~
7 Commission on Accreditation for Respiratory Care or the successor organization of
8 any of the foregoing.

NOTE: This SECTION changes the names of the bodies that approve courses of instruction in respiratory care.

9 **SECTION 27.** 458.43 (1) (intro.) of the statutes is amended to read:

10 458.43 **(1)** (intro.) ~~Except within the first 60 days after a licensed appraisal~~
11 ~~management company adds an independent appraiser to the licensed appraisal~~
12 ~~management company's appraiser panel, a~~ A licensed appraisal management
13 company may not remove an independent appraiser from its appraiser panel unless
14 the licensed appraisal management company does the following:

NOTE: This SECTION deletes an exception to the requirement that a licensed appraisal management company follow certain steps to remove an independent appraiser from its appraiser panel. The exception provides that the steps do not apply within the first 60 days after a company adds an independent appraiser to its appraiser panel.

15 **SECTION 28.** 458.44 (3) (d) of the statutes is amended to read:

16 458.44 **(3)** (d) Had a license or other credential to act as an ~~appraiser~~ appraisal
17 management company in any state denied, refused, canceled, revoked, or
18 surrendered in lieu of a revocation, unless that license or other credential was later
19 granted or reinstated.

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NOTE: This SECTION replaces “appraiser” with “appraisal management company” in one of the provisions for denying a license for, or disciplining, an appraisal management company.

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(END)