

# State of Wisconsin



2015 Assembly Bill 769

Date of enactment: **February 29, 2016**

Date of publication\*: **March 1, 2016**

## 2015 WISCONSIN ACT 179

AN ACT *to amend* 45.44 (1) (a) 5., 54.25 (2) (c) 1. d., 55.043 (4) (b) 5., 89.06 (1), 89.063, 89.078 (1), 89.078 (2), 89.078 (3) and 93.135 (5); and *to create* 89.071, 89.0715 and 89.073 of the statutes; **relating to:** powers and duties of the Veterinary Examining Board and Department of Agriculture, Trade and Consumer Protection.

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

**SECTION 1.** 45.44 (1) (a) 5. of the statutes, as affected by [2015 Wisconsin Act 55](#), is amended to read:

45.44 (1) (a) 5. A license, certification, registration, or permit issued under s. 89.06, 89.072, ~~89.073~~, 94.10 (2), (3), or (3g), 94.50 (2), 94.704, 95.60, 97.17 (2), 97.175 (2), 97.22 (2), 98.145, 98.146, 98.18 (1) (a), or 168.23 (3).

**SECTION 2.** 54.25 (2) (c) 1. d. of the statutes, as affected by [2015 Wisconsin Act 55](#), is amended to read:

54.25 (2) (c) 1. d. The right to apply for an operator's license, a license issued under ch. 29, a license, certification, or permit issued under s. 89.06 ~~or~~, ~~89.072~~, or 89.073, or a credential, as defined in s. 440.01 (2) (a), if the court finds that the individual is incapable of understanding the nature and risks of the licensed or credentialed activity, to the extent that engaging in the activity would pose a substantial risk of physical harm to the individual or others. A failure to find that an individual is incapable of applying for a license or credential is not a finding that the individual qualifies for the license or credential under applicable laws and rules.

**SECTION 3.** 55.043 (4) (b) 5. of the statutes, as affected by [2015 Wisconsin Act 55](#), is amended to read:

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

**SECTION 4.** 89.06 (1) of the statutes, as affected by [2015 Wisconsin Act 55](#), is amended to read:

89.06 (1) Except as provided under s. 89.072 and 89.073, veterinary licenses shall be issued only to persons who successfully pass an examination conducted by the examining board and pay the fee established under s. 89.063. An applicant for an initial license shall be a graduate of a veterinary college that has been approved by the examining board or have successfully completed either the educational commission for foreign veterinary graduates certification program of the American Veterinary Medical Association or the program for the assessment of veterinary education equivalence offered by the American Association of Veterinary State Boards. Persons who qualify for examination may be granted temporary permits to engage in the practice of veterinary medicine in the employment and under the supervision of a veterinarian until the results of the next examination con-

\* Section 991.11, WISCONSIN STATUTES: 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."

ducted by the examining board are available. In case of failure at any examination, the applicant shall have the privilege of taking subsequent examinations, upon the payment of another fee for each examination.

**SECTION 5.** 89.063 of the statutes, as created by [2015 Wisconsin Act 55](#), is amended to read:

**89.063 Fees.** The department shall determine by rule the fees for each initial license, certification, and permit issued under ss. 89.06 and 89.072, and 89.073, and, if applicable, for renewal of the license, certification, or permit, including late fees, based on the department's administrative and enforcement costs under this chapter. The department shall notify the holder of each such license, certification, or permit of any fee adjustment under this subsection that affects that license, certification, or permit holder.

**SECTION 6.** 89.071 of the statutes is created to read:

**89.071 Administrative warnings.** (1) If the examining board determines during an investigation of a complaint against a person holding a license, certification, or permit issued under s. 89.06, 89.072, or 89.073 that there is evidence that the credential holder committed misconduct, the examining board may close the investigation by issuing an administrative warning to the credential holder if the examining board determines that no further disciplinary action is warranted, the complaint involves a first occurrence of a minor violation, and the issuance of an administrative warning adequately protects the public.

(2) A credential holder may obtain review of an administrative warning through a personal appearance before the examining board.

(3) (a) An administrative warning does not constitute an adjudication of guilt or the imposition of discipline and, except as provided in par. (b), may not be used as evidence that the credential holder is guilty of the alleged misconduct.

(b) If the examining board receives a subsequent complaint of misconduct by a credential holder against whom the examining board issued an administrative warning, the examining board may reopen the matter that gave rise to the administrative warning and commence disciplinary proceedings against the credential holder, and the administrative warning may be used as evidence in a subsequent disciplinary proceeding that the credential holder had actual notice that the misconduct that was the basis for the administrative warning was contrary to law.

(4) The record that an administrative warning was issued shall be a public record. The contents of the administrative warning shall be private and confidential.

**SECTION 7.** 89.0715 of the statutes is created to read:

**89.0715 Assessment of costs.** (1) In this section, "costs of the proceeding" means all of the following:

(a) Compensation and reasonable expenses of hearing examiners and prosecuting attorneys for the department and examining board.

(b) A reasonable disbursement for the service of process or other papers.

(c) Amounts actually paid out for certified copies of records in any public office and for postage, telephoning, adverse examinations and depositions, copies, expert witness fees, and witness fees and expenses.

(d) Compensation and reasonable expenses of experts and investigators.

(e) Compensation and reasonable expenses of a reporter for recording and transcribing testimony.

(2) In any disciplinary proceeding against a holder of a license, certification, or permit issued under s. 89.06, 89.072, or 89.073 in which the examining board orders suspension, limitation, or revocation of the credential or reprimands the credential holder, the examining board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the credential holder. Costs assessed under this subsection are payable to the department. Interest shall accrue on costs assessed under this subsection at a rate of 12 percent per year beginning on the date that payment of the costs are due as ordered by the examining board. Upon the request of the department, the department of justice may commence an action to recover costs assessed under this subsection and any accrued interest.

(3) In addition to any other discipline imposed, if the examining board assesses costs of the proceeding to a credential holder under sub. (2), the examining board may not restore, renew, or otherwise issue any credential to the holder until the holder has made payment to the department under sub. (2) in the full amount assessed, together with all accrued interest.

**SECTION 8.** 89.073 of the statutes is created to read:

**89.073 Temporary reciprocal credentials for the spouses of service members.** (1) In this section, "service member" means a member of the U.S. armed forces, a reserve unit of the U.S. armed forces, or the national guard of any state.

(2) The examining board shall grant a temporary license, certification, or permit specified under s. 89.06 to an individual who the examining board determines meets all of the following requirements:

(a) The individual applies for a temporary credential under this section on a form prescribed by the examining board.

(b) The individual is the spouse of a service member and the spouse and service member temporarily reside in this state as a result of the service member's service in the U.S. armed forces, a reserve unit of the U.S. armed forces, or the national guard of any state.

(c) The individual holds a credential that was granted by a governmental authority in a jurisdiction outside this state that qualifies the individual to perform the acts authorized under the appropriate credential specified under s. 89.06.

(d) The individual pays the fee established under s. 89.063.

(e) The individual meets all other requirements established by the examining board by rule.

(3) A temporary credential granted under this section expires 180 days after the date the examining board issues it unless, upon application by the holder of the credential, the examining board extends the credential.

**SECTION 9.** 89.078 (1) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

89.078 (1) The examining board may conduct an investigation to determine whether an applicant for a license, certification, or permit issued under s. 89.06 ~~or~~ 89.072, or 89.073 satisfies any of the eligibility requirements specified for the license, certification, or permit, including, subject to ss. 111.321, 111.322, and 111.335, whether the applicant does not have an arrest or conviction record. In conducting an investigation under this subsection, the examining board may require an applicant to provide any information that is necessary for the investigation.

**SECTION 10.** 89.078 (2) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

89.078 (2) A person holding a license, certification, or permit issued under s. 89.06 ~~or~~ 89.072, or 89.073 who is convicted of a felony or misdemeanor anywhere shall send a notice of the conviction by 1st class mail to the examining board within 48 hours after the entry of the judgment of conviction. The examining board shall by rule determine what information and documentation the person holding the credential shall include with the written notice.

**SECTION 11.** 89.078 (3) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

89.078 (3) The examining board may investigate whether an applicant for or holder of a license, certification, or permit issued under s. 89.06 ~~or~~ 89.072, or 89.073 has been charged with or convicted of a crime.

**SECTION 12.** 93.135 (5) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

93.135 (5) The department shall deny an application for an initial license, certification, or permit issued under s. 89.06 ~~or~~ 89.072, 89.073, or, if applicable, an application for renewal of that license, certification, or permit or revoke a license, certification, or permit issued under s. 89.06 ~~or~~ 89.072, or 89.073 to an individual for whom the department receives a record of a declaration under s. 54.25 (2) (c) 1. d. stating that the individual is incompetent to apply for or hold that license, certification, or permit.