CHAPTER 448

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SUBCHAPTER I

GENERAL PROVISIONS

448.01 Definitions. In this chapter:

(2) "Disease" means any pain, injury, deformity or physical or mental illness or departure from complete health or the proper condition of the human body or any of its parts.

(5) "Physician" means an individual possessing the degree of doctor of medicine or doctor of osteopathy or an equivalent degree as determined by the medical examining board, and holding a license granted by the medical examining board. This subsection does not apply in s. 448.980.

NOTE: Sub. (5) is amended eff. 12−16−19 by 2015 Wis. Act 116 to read:

(5) "Physician" means an individual possessing the degree of doctor of medicine or doctor of osteopathy or an equivalent degree as determined by the medical examining board, and holding a license granted by the medical examining board.

(6) "Physician assistant" means an individual licensed by the medical examining board to provide medical care with physician supervision and direction.

(9) "Practice of medicine and surgery" means:

(a) To examine into the fact, condition or cause of human health or disease, or to treat, operate, prescribe or advise for the same, by any means or instrumentality.

(b) To apply principles or techniques of medical sciences in the diagnosis or prevention of any of the conditions described in par. (a) and in sub. (2).

(c) To penetrate, pierce or sever the tissues of a human being.

(d) To offer, undertake, attempt or do or hold oneself out in any manner as able to do any of the acts described in this subsection.

(9s) "Scene of an emergency" means an area not within the confines of a hospital or other institution which has hospital facilities or the office of a person licensed, certified or holding a limited permit under this chapter.

(10) "Treat the sick" means to examine into the fact, condition or cause of human health or disease, or to treat, operate, prescribe or advise for the same, or to undertake, offer, advertise, announce or hold out in any manner to do any of the aforementioned acts, for compensation, direct or indirect, or in the expectation thereof.

(12) "Warn" means to privately apprise the holder of a license or certificate of the unprofessional nature of the holder's conduct and admonish the holder that continued or repeated conduct of such nature may give the medical examining board or an attached affiliated credentialing board cause to reprimand the holder or to limit, suspend or revoke such license or certificate.

History: 1975 c. 383, 421; 1977 c. 418 ss. 845, 846, 929 (41); 1985 a. 146; 1987 a. 399; 1989 a. 229; 1993 a. 105, 107; 1995 a. 448; 1997 a. 67, 175 ss. 16 to 26, 40, 41; 1999 a. 32, 180; 2015 a. 116.

NOTE: Chapter 383, laws of 1975, which repealed and recreated chapter 448 of the statutes contains a statement of legislative policy in section 1.

A physician, subject to certain limitations, may advise a patient whether or not continued chiropractic care is necessary without engaging in the unauthorized practice of chiropractic. 68 Atty. Gen. 316.

SUBCHAPTER II

MEDICAL EXAMINING BOARD

Cross−reference: See also Med, Wis. adm. code.

448.015 Definitions. In this subchapter:

(1b) "Anesthesiologist" means a physician who has completed a residency in anesthesiology approved by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, holds an unrestricted license, and is actively engaged in clinical practice.

(1c) "Anesthesiologist assistant" means an individual licensed by the board to assist an anesthesiologist in the delivery of certain medical care with anesthesiologist supervision.

(1d) "Board" means medical examining board.

(1dm) "Compact license" means an expedited license granted by the board pursuant to the interstate medical licensure compact under s. 448.980.

NOTE: Sub. (1dm) is repealed eff. 12−16−19 by 2015 Wis. Act 116.

(1e) "Extracorporeal circulation" means the diversion of a patient's blood through a heart−lung machine or a similar device that assumes the functions of the patient's heart or lungs or both.

(1m) "Perfusion" means that branch or system of treating the sick that is limited to the operation and management of extracorporeal circulation to support, temporarily replace, measure, treat, or supplement the cardiopulmonary and circulatory system of a patient, including, when necessary to and part of the management and operation of extracorporeal circulation, the use of blood testing and advanced life support techniques and technologies, autotransfusion, and the administration of blood, blood products, and anesthetic and pharmacological agents.

(1s) "Perfusionist" means an individual who practices perfusion.

(2) "Respiratory care" means that branch or system of treating the sick which is limited to assisting in the prevention, diagnosis and therapeutic treatment of respiratory disorders by various means, including the administration of medical gases, oxygen therapy, ventilation therapy, artificial airway care, bronchial hygiene therapy, aerosolization of pharmacological agents, respiratory rehabilitation therapy and other treatment, testing, evaluation and rehabilitation procedures performed under the direction of a physician, but not including the use of general anesthetic agents.

(3) "Respiratory care practitioner" means an individual who practices respiratory care.

(4) (am) "Unprofessional conduct" means all of the following:

1. Those acts or attempted acts of commission or omission defined as unprofessional conduct by the board under the authority delegated to the board by s. 15.08 (5) (b).

2. Any act by a physician or physician assistant in violation of ch. 450 or 961.

3. Failure by a physician to report as required under s. 448.115.

(bm) "Unprofessional conduct" does not include any of the following:

1. Providing expedited partner therapy as described in s. 448.035.

2. Prescribing or delivering an opioid antagonist in accordance with s. 448.037 (2).

History: 1997 a. 175 ss. 16, 23, 24, 25, 27; 1999 a. 32; 2001 a. 89, 105; 2009 a. 280, 382; 2011 a. 160, 260; 2013 a. 200; 2015 a. 116.

448.02 Authority. (1) LICENSE. The board may grant licenses, including various classes of temporary licenses, to practice medicine and surgery, to practice as an administrative physician, to practice perfusion, to practice as an anesthesiologist assistant, and to practice as a physician assistant.

(2) CERTIFICATE. The board may certify respiratory care practitioners.

(3) INVESTIGATION; HEARING; ACTION. (a) The board shall investigate allegations of unprofessional conduct and negligence in treatment by persons holding a license, certificate or limited permit granted by the board. An allegation that a physician has violated s. 253.10 (3), 448.30 or 450.13 (2) or has failed to mail or present a medical certification required under s. 69.18 (2) within 21 days after the pronouncement of death of the person who is the subject of the required certificate or that a physician has failed at least 6 times within a 6−month period to mail or present a medical certificate required under s. 69.18 (2) within 6 days after the pronouncement of death of the person who is the subject of the required certificate is an allegation of unprofessional conduct. Information contained in reports filed with the board under s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17 or 632.715, or under 42 CFR 1001.2005, shall be investigated by the board. Information contained in a report filed with the board under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the discretion of the board, be used as the basis of an investigation of a person named in the report. The board may require a person holding a license, certificate or limited permit to undergo and may consider the results of one or more physical, mental or professional competency examinations if the board believes that the results of any such examinations may be useful to the board in conducting its investigation.

NOTE: Par. (a) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(a) The board shall investigate allegations of unprofessional conduct and negligence in treatment by persons holding a license or certificate granted by the board. An allegation that a physician has violated s. 253.10 (3), 448.30 or 450.13 (2) or has failed to mail or present a medical certification required under s. 69.18 (2) within 21 days after the pronouncement of death of the person who is the subject of the required certificate or that a physician has failed at least 6 times within a 6−month period to mail or present a medical certificate required under s. 69.18 (2) within 6 days after the pronouncement of death of the person who is the subject of the required certificate is an allegation of unprofessional conduct. Information contained in reports filed with the board under s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17 or 632.715, or under 42 CFR 1001.2005, shall be investigated by the board. Information contained in a report filed with the board under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the discretion of the board, be used as the basis of an investigation of a person named in the report. The board may require a person holding a license or certificate to undergo and may consider the results of one or more physical, mental or professional competency examinations if the board believes that the results of any such examinations may be useful to the board in conducting its investigation.

(b) After an investigation, if the board finds that there is probable cause to believe that the person is guilty of unprofessional conduct or negligence in treatment, the board shall hold a hearing on such conduct. The board may use any information obtained by

the board or the department under s. 655.17 (7) (b), as created by 1985 Wisconsin Act 29, in an investigation or a disciplinary proceeding, including a public disciplinary proceeding, conducted under this subsection and the board may require a person holding a license, certificate or limited permit to undergo and may consider the results of one or more physical, mental or professional competency examinations if the board believes that the results of any such examinations may be useful to the board in conducting its hearing. A unanimous finding by a panel established under s. 655.02, 1983 stats., or a finding by a court that a physician has acted negligently in treating a patient is conclusive evidence that the physician is guilty of negligence in treatment. A finding that is not a unanimous finding by a panel established under s. 655.02, 1983 stats., that a physician has acted negligently in treating a patient is presumptive evidence that the physician is guilty of negligence in treatment. A certified copy of the findings of fact, conclusions of law and order of the panel or the order of a court is presumptive evidence that the finding of negligence in treatment was made. The board shall render a decision within 90 days after the date on which the hearing is held or, if subsequent proceedings are conducted under s. 227.46 (2), within 90 days after the date on which those proceedings are completed.

NOTE: Par. (b) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(b) After an investigation, if the board finds that there is probable cause to believe that the person is guilty of unprofessional conduct or negligence in treatment, the board shall hold a hearing on such conduct. The board may use any information obtained by the board or the department under s. 655.17 (7) (b), as created by 1985 Wisconsin Act 29, in an investigation or a disciplinary proceeding, including a public disciplinary proceeding, conducted under this subsection and the board may require a person holding a license or certificate to undergo and may consider the results of one or more physical, mental or professional competency examinations if the board believes that the results of any such examinations may be useful to the board in conducting its hearing. A unanimous finding by a panel established under s. 655.02, 1983 stats., or a finding by a court that a physician has acted negligently in treating a patient is conclusive evidence that the physician is guilty of negligence in treatment. A finding that is not a unanimous finding by a panel established under s. 655.02, 1983 stats., that a physician has acted negligently in treating a patient is presumptive evidence that the physician is guilty of negligence in treatment. A certified copy of the findings of fact, conclusions of law and order of the panel or the order of a court is presumptive evidence that the finding of negligence in treatment was made. The board shall render a decision within 90 days after the date on which the hearing is held or, if subsequent proceedings are conducted under s. 227.46 (2), within 90 days after the date on which those proceedings are completed.

(c) Subject to par. (cm), after a disciplinary hearing, the board may, when it determines that a panel established under s. 655.02, 1983 stats., has unanimously found or a court has found that a person has been negligent in treating a patient or when it finds a person guilty of unprofessional conduct or negligence in treatment, do one or more of the following: warn or reprimand that person, or limit, suspend or revoke any license, certificate or limited permit granted by the board to that person. The board may condition the removal of limitations on a license, certificate or limited permit or the restoration of a suspended or revoked license, certificate or limited permit upon obtaining minimum results specified by the board on one or more physical, mental or professional competency examinations if the board believes that obtaining the minimum results is related to correcting one or more of the bases upon which the limitation, suspension or revocation was imposed.

NOTE: Par. (c) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(c) Subject to par. (cm), after a disciplinary hearing, the board may, when it determines that a panel established under s. 655.02, 1983 stats., has unanimously found or a court has found that a person has been negligent in treating a patient or when it finds a person guilty of unprofessional conduct or negligence in treatment, do one or more of the following: warn or reprimand that person, or limit, suspend or revoke any license or certificate granted by the board to that person. The board may condition the removal of limitations on a license or certificate or the restoration of a suspended or revoked license or certificate upon obtaining minimum results specified by the board on one or more physical, mental or professional competency examinations if the board believes that obtaining the minimum results is related to correcting one or more of the bases upon which the limitation, suspension or revocation was imposed.

(cm) The board may initiate disciplinary action against a physician no later than one year after initiating an investigation of an allegation involving the death of a patient and no later than 3 years after initiating an investigation of any other allegation, unless the board shows to the satisfaction of the secretary that a specified extension of time is necessary for the board to determine whether a physician is guilty of unprofessional conduct or negligence in treatment. For purposes of this paragraph, the date that a matter is reopened under sub. (8) (c) is considered the date that an investigation of the matter is initiated.

(e) A person whose license, certificate or limited permit is limited under this subchapter shall be permitted to continue practice upon condition that the person will refrain from engaging in unprofessional conduct; that the person will appear before the board or its officers or agents at such times and places as may be designated by the board from time to time; that the person will fully disclose to the board or its officers or agents the nature of the person's practice and conduct; that the person will fully comply with the limits placed on his or her practice and conduct by the board; that the person will obtain additional training, education or supervision required by the board; and that the person will cooperate with the board.

NOTE: Par. (e) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(e) A person whose license or certificate is limited under this subchapter shall be permitted to continue practice upon condition that the person will refrain from engaging in unprofessional conduct; that the person will appear before the board or its officers or agents at such times and places as may be designated by the board from time to time; that the person will fully disclose to the board or its officers or agents the nature of the person's practice and conduct; that the person will fully comply with the limits placed on his or her practice and conduct by the board; that the person will obtain additional training, education or supervision required by the board; and that the person will cooperate with the board.

(f) Unless a suspended license or certificate is revoked during the period of suspension, upon the expiration of the period of suspension the license or certificate shall again become operative and effective. However, the board may require the holder of any such suspended license or certificate to pass the examinations required for the original grant of the license or certificate before allowing such suspended license or certificate again to become operative and effective.

(g) The board shall comply with rules of procedure for the investigation, hearing and action promulgated under ss. 440.03 (1) and 448.40.

(h) Nothing in this subsection prohibits the board, in its discretion, from investigating and conducting disciplinary proceedings on allegations of unprofessional conduct by persons holding a license, certificate or limited permit granted by the board when the allegations of unprofessional conduct may also constitute allegations of negligence in treatment.

Cross−reference: See also ch. Med 10, Wis. adm. code.

NOTE: Par. (h) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(h) Nothing in this subsection prohibits the board, in its discretion, from investigating and conducting disciplinary proceedings on allegations of unprofessional conduct by persons holding a license or certificate granted by the board when the allegations of unprofessional conduct may also constitute allegations of negligence in treatment.

(4) SUSPENSION PENDING HEARING. (a) The board may summarily suspend any license, certificate, or limited permit granted by the board when the board has in its possession evidence establishing probable cause to believe that the holder of the license, certificate, or limited permit has violated the provisions of this subchapter and that it is necessary to suspend the license, certificate, or limited permit immediately to protect the public health, safety, or welfare. The holder of the license, certificate, or limited permit shall be granted an opportunity to be heard during the determination of probable cause. The board chair and 2 board members designated by the chair or, if the board chair is not available, the board vice−chair and 2 board members designated by the vice−chair, shall exercise the authority granted by this paragraph to suspend summarily a license, certificate, or limited permit in the manner provided under par. (b).

NOTE: Par. (a) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(a) The board may summarily suspend any license or certificate granted by the board when the board has in its possession evidence establishing probable cause to believe that the holder of the license or certificate has violated the provisions of this subchapter and that it is necessary to suspend the license or certificate immediately to protect the public health, safety, or welfare. The holder of the license or certificate shall be granted an opportunity to be heard during the

determination of probable cause. The board chair and 2 board members designated by the chair or, if the board chair is not available, the board vice−chair and 2 board members designated by the vice−chair, shall exercise the authority granted by this paragraph to suspend summarily a license or certificate in the manner provided under par. (b).

(b) An order of summary suspension shall be served upon the holder of the license, certificate, or limited permit in the manner provided in s. 801.11 for service of summons. The order of summary suspension shall be effective upon service or upon actual notice of the summary suspension given to the holder of the license, certificate, or limited permit or to the attorney of the license, permit, or limited permit holder, whichever is sooner. A notice of hearing commencing a disciplinary proceeding shall be issued no more than 10 days following the issuance of the order of summary suspension. The order of summary suspension remains in effect until the effective date of a final decision and order in the disciplinary proceeding against the holder or until the order of summary suspension is discontinued by the board following a hearing to show cause. The holder of the license, certificate, or limited permit shall have the right to request a hearing to show cause why the order of summary suspension should not be continued and the order of summary suspension shall notify the holder of the license, certificate, or limited permit of that right. If a hearing to show cause is requested by the holder of the license, certificate, or limited permit, the hearing shall be scheduled on a date within 20 days of receipt by the board of the request for the hearing to show cause.

NOTE: Par. (b) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(b) An order of summary suspension shall be served upon the holder of the license or certificate in the manner provided in s. 801.11 for service of summons. The order of summary suspension shall be effective upon service or upon actual notice of the summary suspension given to the holder of the license or certificate or to the attorney of the license or certificate holder, whichever is sooner. A notice of hearing commencing a disciplinary proceeding shall be issued no more than 10 days following the issuance of the order of summary suspension. The order of summary suspension remains in effect until the effective date of a final decision and order in the disciplinary proceeding against the holder or until the order of summary suspension is discontinued by the board following a hearing to show cause. The holder of the license or certificate shall have the right to request a hearing to show cause why the order of summary suspension should not be continued and the order of summary suspension shall notify the holder of the license or certificate of that right. If a hearing to show cause is requested by the holder of the license or certificate, the hearing shall be scheduled on a date within 20 days of receipt by the board of the request for the hearing to show cause.

(5) VOLUNTARY SURRENDER. The holder of any license, certificate or limited permit granted by the board may voluntarily surrender the license, certificate or limited permit to the secretary of the board, but the secretary may refuse to accept the surrender if the board has received allegations of unprofessional conduct against the holder of the license, certificate or limited permit. The board may negotiate stipulations in consideration for accepting the surrender of licenses.

NOTE: Sub. (5) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(5) VOLUNTARY SURRENDER. The holder of any license or certificate granted by the board may voluntarily surrender the license or certificate to the secretary of the board, but the secretary may refuse to accept the surrender if the board has received allegations of unprofessional conduct against the holder of the license or certificate. The board may negotiate stipulations in consideration for accepting the surrender of licenses.

(6) RESTORATION OF LICENSE, CERTIFICATE OR LIMITED PERMIT. The board may restore any license, certificate or limited permit which has been voluntarily surrendered or revoked under any of the provisions of this subchapter, on such terms and conditions as it may deem appropriate.

NOTE: Sub. (6) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(6) RESTORATION OF LICENSE OR CERTIFICATE. The board may restore any license or certificate that has been voluntarily surrendered or revoked under any of the provisions of this subchapter, on such terms and conditions as it may deem appropriate.

(7) HOSPITAL REPORTS. (a) Within 30 days of receipt of a report under s. 50.36 (3) (c), the board shall notify the licensee, in writing, of the substance of the report. The licensee and the licensee's authorized representative may examine the report and may place into the record a statement, of reasonable length, of the licensee's view of the correctness or relevance of any information in the report. The licensee may institute an action in circuit court to amend or expunge any part of the licensee's record related to the report.

(b) If the board determines that a report submitted under s. 50.36 (3) (c) is without merit or that the licensee has sufficiently improved his or her conduct, the board shall remove the report from the licensee's record. If no report about a licensee is filed under s. 50.36 (3) (c) for 2 consecutive years, the licensee may petition the board to remove any prior reports, which did not result in disciplinary action, from his or her record.

(c) Upon the request of a hospital, the board shall provide the hospital with all information relating to a licensee's loss, reduction or suspension of staff privileges from other hospitals and all information relating to the licensee's being found guilty of unprofessional conduct. In this paragraph, "hospital" has the meaning specified under s. 50.33 (2).

(8) ADMINISTRATIVE WARNING. (a) After an investigation by the board under sub. (3) (a) or by the department under s. 440.03 (3m) or (5), the board may issue a private and confidential administrative warning to a holder of a license, certificate or limited permit if the board determines that there is evidence of misconduct by him or her. The board may issue an administrative warning under this paragraph only if the board determines that no further action is warranted because the matter involves a first occurrence of minor misconduct and the issuance of an administrative warning adequately protects the public by putting the holder of the license, certificate or limited permit on notice that any subsequent misconduct may result in disciplinary action. The board shall review the determination if the holder of the license, certificate or limited permit makes a personal appearance before the board. Following the review, the board may affirm, rescind or modify the administrative warning. A holder of a license, certificate or limited permit may seek judicial review under ch. 227 of an affirmation or modification of an administrative warning by the board.

NOTE: Par. (a) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(a) After an investigation by the board under sub. (3) (a) or by the department under s. 440.03 (3m) or (5), the board may issue a private and confidential administrative warning to a holder of a license or certificate if the board determines that there is evidence of misconduct by him or her. The board may issue an administrative warning under this paragraph only if the board determines that no further action is warranted because the matter involves a first occurrence of minor misconduct and the issuance of an administrative warning adequately protects the public by putting the holder of the license or certificate on notice that any subsequent misconduct may result in disciplinary action. The board shall review the determination if the holder of the license or certificate makes a personal appearance before the board. Following the review, the board may affirm, rescind or modify the administrative warning. A holder of a license or certificate may seek judicial review under ch. 227 of an affirmation or modification of an administrative warning by the board.

(b) An administrative warning issued under par. (a) does not constitute an adjudication of guilt or the imposition of discipline and may not be used as evidence that the holder of a license, certificate or limited permit is guilty of misconduct.

NOTE: Par. (b) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(b) An administrative warning issued under par. (a) does not constitute an adjudication of guilt or the imposition of discipline and may not be used as evidence that the holder of a license or certificate is guilty of misconduct.

(c) Notwithstanding par. (b), if the board receives a subsequent allegation of misconduct about a holder of a license, certificate or limited permit to whom the board issued an administrative warning under par. (a), the board may reopen the matter that resulted in the issuance of the administrative warning or use the administrative warning in any subsequent disciplinary hearing under sub. (3) (b) as evidence that he or she had actual knowledge that the misconduct that was the basis for the administrative warning was contrary to law.

NOTE: Par. (c) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(c) Notwithstanding par. (b), if the board receives a subsequent allegation of misconduct about a holder of a license or certificate to whom the board issued an administrative warning under par. (a), the board may reopen the matter that resulted in the issuance of the administrative warning or use the administrative

warning in any subsequent disciplinary hearing under sub. (3) (b) as evidence that he or she had actual knowledge that the misconduct that was the basis for the administrative warning was contrary to law.

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

(9) JUDICIAL REVIEW. No injunction, temporary injunction, stay, restraining order or other order may be issued by a court in any proceeding for review that suspends or stays an order of the board to discipline a physician under sub. (3) (c) or to suspend a physician's license under sub. (4), except upon application to the court and a determination by the court that all of the following conditions are met:

(a) The board has received notice of the application and the court has provided advance notice to the board of the date of the court hearing on the application.

(b) There is a substantial likelihood that the applicant will prevail in the proceeding for review.

(c) The applicant will suffer irreparable harm if the order is not suspended or stayed.

(d) There is no substantial likelihood of harm to patients of the applicant if the board's order is suspended or stayed.

History: 1975 c. 383, 421; 1977 c. 418; 1981 c. 135, 375, 391; 1983 a. 188 s. 10; 1983 a. 189 s. 329 (5); 1983 a. 253, 538; 1985 a. 29; 1985 a. 146 s. 8; 1985 a. 315, 332, 340; 1987 a. 27, 399, 403; 1989 a. 229; 1991 a. 186; 1993 a. 105, 107; 1995 a. 309; 1997 a. 67, 175, 191, 311; 1999 a. 32, 180; 2001 a. 89; 2009 a. 382; 2011 a. 160; 2013 a. 240.

Cross−reference: See also Med, Wis. adm. code.

Reading sub. (3) (b) in conjunction with s. 227.46 (2), a "hearing" for purposes of computing the time period for rendering a decision includes the taking of evidence and all subsequent proceedings. Sweet v. Medical Examining Board, 147 Wis. 2d 539, 433 N.W.2d 614 (Ct. App. 1988).

There is a 5−prong test to guide the Board in determining whether a physician improperly treated a patient. The Board must provide a written decision that separately identifies the 5 elements and discusses the evidence that relates to each element and provides details of why the evidence supports the Board's findings. Gimenez v. State Medical Examining Board, 203 Wis. 2d 349, 552 N.W.2d 863 (Ct. App. 1996), 95−2641.

As used in this section, "negligence in treatment" means medical negligence, as defined by Wisconsin courts, which holds a doctor to the standard of reasonable care. The "reasonable physician" is not synonymous with the "average physician." Dept. of Regulation and Licensing v. Medical Examining Board, 215 Wis. 2d 188, 572 N.W.2d 508 (Ct. App. 1997), 97−0452.

The 5−pronged test of *Gimenez* does not apply to cases in which fraud and misrepresentation are alleged. *Gimenez* expressly limits the application of the test to cases where the medical professional is charged with choosing a course of treatment that is dangerous or detrimental to his or her patient or the public. It does not apply to allegations of unprofessional conduct by perpetrating a fraud on a patient in an attempt to obtain compensation. Krahenbuhl v. Wisconsin Dentistry Examining Board, 2006 WI App 73, 292 Wis. 2d 154, 713 N.W.2d 152, 05−1376.

The 90−day direction in sub. (3) (b) for rendering a decision is mandatory. 72 Atty. Gen. 147.

The medical examining board does not deny due process by both investigating and adjudicating a charge of professional misconduct. Withrow v. Larkin, 421 U.S. 35, 95 S. Ct. 1456, 43 L. Ed. 2d 712 (1975).

448.03 License or certificate required to practice; use of titles; civil immunity; practice of Christian Science.

(1) LICENSE REQUIRED TO PRACTICE. (a) No person may practice medicine and surgery, or attempt to do so or make a representation as authorized to do so, without a license to practice medicine and surgery granted by the board.

(b) No person may practice as a physician assistant unless he or she is licensed by the board as a physician assistant.

(c) No person may practice perfusion, attempt to do so, or make a representation as authorized to do so, without a license to practice perfusion granted by the board.

(d) No person may practice as an anesthesiologist assistant unless he or she is licensed by the board as an anesthesiologist assistant.

(1m) CERTIFICATE REQUIRED TO PRACTICE. No person may practice respiratory care, or attempt to do so or make a representation as authorized to do so, without a certificate as a respiratory care practitioner granted by the board.

(2) EXCEPTIONS. Nothing in this subchapter shall be construed either to prohibit, or to require, a license or certificate under this subchapter for any of the following:

(a) Any person lawfully practicing within the scope of a license, permit, registration, certificate or certification granted to practice midwifery under subch. XIII of ch. 440, to practice professional or practical nursing or nurse−midwifery under ch. 441, to practice chiropractic under ch. 446, to practice dentistry or dental hygiene under ch. 447, to practice optometry under ch. 449, to practice acupuncture under ch. 451 or under any other statutory provision, or as otherwise provided by statute.

(b) The performance of official duties by a physician or perfusionist of any of the armed services or federal health services of the United States.

(c) The activities of a medical student, respiratory care student, perfusion student, anesthesiologist assistant student, or physician assistant student required for such student's education and training, or the activities of a medical school graduate required for training as required in s. 448.05 (2).

(d) Actual consultation or demonstration by licensed physicians or perfusionists or certified respiratory care practitioners of other states or countries with licensed physicians or perfusionists or certified respiratory care practitioners of this state.

(e) Any person other than a physician assistant or an anesthesiologist assistant who is providing patient services as directed, supervised and inspected by a physician who has the power to direct, decide and oversee the implementation of the patient services rendered.

(g) Ritual circumcision by a rabbi.

(h) The gratuitous domestic administration of family remedies.

(i) Any person furnishing medical assistance or first aid at the scene of an emergency.

(j) Any person assisting a respiratory care practitioner in practice under the direct, immediate, on−premises supervision of the respiratory care practitioner.

(k) Any persons, other than physician assistants, anesthesiologist assistants, or perfusionists, who assist physicians.

(L) A person performing autotransfusion or blood conservation techniques under the direction and supervision of a licensed physician.

(m) A person practicing perfusion for not more than 30 days in a year, if the person is certified or eligible to be certified as a clinical perfusionist by the American Board of Cardiovascular Perfusion.

(n) A person employed as a perfusionist by a federal agency, as defined in s. 59.57 (2) (c) 1., if the person provides perfusion services solely under the direction or control of the federal agency by which he or she is employed.

(p) The provision of services by a health care provider under s. 257.03.

(q) The administration of an epinephrine auto−injector in accordance with s. 118.2925 or 255.07.

(3) USE OF TITLES. (a) Except as provided in s. 257.03, no person may use or assume the title "doctor of medicine" or append to the person's name the letters "M.D." unless one of the following applies:

1. The person possesses the degree of doctor of medicine.

2. The person is licensed as a physician under this subchapter because the person satisfied the degree requirement of s. 448.05 (2) by possessing a medical degree that was conferred by a medical school recognized and listed as such by the World Health Organization of the United Nations.

(b) Except as provided in s. 257.03, no person not possessing the degree of doctor of osteopathy may use or assume the title "doctor of osteopathy" or append to the person's name the letters "D.O.".

(e) Except as provided in s. 257.03, no person may designate himself or herself as a "physician assistant" or use or assume the title "physician assistant" or append to the person's name the

words or letters "physician assistant" or "P.A." or any other titles, letters or designation which represents or may tend to represent the person as a physician assistant unless he or she is licensed as a physician assistant by the board.

(f) A person who is not licensed to practice perfusion by the board may not designate himself or herself as a perfusionist, use or assume the title "licensed perfusionist" or the abbreviation "L.P.," or use any other title, letters, or designation that represents or may tend to represent the person as a perfusionist. This paragraph does not apply to any of the following:

1. Any person employed as a perfusionist by a federal agency, as defined in s. 59.57 (2) (c) 1., if the person provides perfusion services solely under the direction or control of the federal agency by which he or she is employed.

2. Any person pursuing a supervised course of study leading to a degree or certificate in perfusion under an accredited or approved educational program, if the person is designated by a title that clearly indicates his or her status as a student or trainee.

3. Any person practicing perfusion under a temporary license issued under s. 448.04 (1) (e), if the person is designated by a title that clearly indicates that he or she is practicing under a temporary license.

(g) No person may designate himself or herself as an "anesthesiologist assistant" or use or assume the title "anesthesiologist assistant" or append to the person's name the words or letters "anesthesiologist assistant" or "A.A." or any other titles, letters, or designation that represents or may tend to represent the person as an anesthesiologist assistant unless he or she is licensed as an anesthesiologist assistant by the board. An anesthesiologist assistant shall be clearly identified as an anesthesiologist assistant.

(5) CIVIL LIABILITY; CERTAIN MEDICAL PROCEDURES AND REPORTS. (a) No person licensed or certified under this subchapter shall be liable for any civil damages resulting from such person's refusal to perform sterilization procedures or to remove or aid in the removal of a human embryo or fetus from a person if such refusal is based on religious or moral precepts.

(b) No physician or physician assistant shall be liable for any civil damages for either of the following:

1. Reporting in good faith to the department of transportation under s. 146.82 (3) a patient's name and other information relevant to a physical or mental condition of the patient which in the physician's or physician assistant's judgment impairs the patient's ability to exercise reasonable and ordinary control over a motor vehicle.

2. In good faith, not reporting to the department of transportation under s. 146.82 (3) a patient's name and other information relevant to a physical or mental condition of the patient which in the physician's or physician assistant's judgment does not impair the patient's ability to exercise reasonable and ordinary control over a motor vehicle.

(c) A physician who in good faith provides the board with information concerning an allegation that another physician has engaged in unprofessional conduct or acted negligently in treating a patient is immune from liability for any damage that results from any act or omission in providing the information and may not be disciplined by the board for providing the information. In any administrative or court proceeding, the good faith of a physician who provides such information shall be presumed.

(6) PRACTICE OF CHRISTIAN SCIENCE. No law of this state regulating the practice of medicine and surgery may be construed to interfere with the practice of Christian Science. A person who elects Christian Science treatment in lieu of medical or surgical treatment for the cure of disease may not be compelled to submit to medical or surgical treatment.

(7) SUPERVISION OF ANESTHESIOLOGIST ASSISTANTS. An anesthesiologist may not supervise more than the number of anesthesiologist assistants permitted by reimbursement standards for Part A or Part B of the federal Medicare program under Title XVIII of the federal Social Security Act, 42 USC 1395 to 1395hhh.

History: 1975 c. 383, 421; 1977 c. 164; 1979 c. 317; 1985 a. 29; 1987 a. 40, 399; 1989 a. 31, 229; 1991 a. 23; 1993 a. 105, 107, 490; 1995 a. 27, 201; 1997 a. 67, 175, 311; 1999 a. 32, 180; 2001 a. 89; 2005 a. 96, 292; 2007 a. 97; 2009 a. 42, 282; 2011 a. 160, 161; 2013 a. 239; 2015 a. 35.

Cross−reference: See also Med, Wis. adm. code.

Restrictions on business corporations providing medical, legal and dental services is discussed. 75 Atty. Gen. 200.

448.035 Expedited partner therapy. (1) In this section:

(a) "Certified advanced practice nurse prescriber" means a nurse who is certified under s. 441.16 (2).

(b) "Antimicrobial drug" means a drug identified for the treatment of a chlamydial infection, gonorrhea, or trichomoniasis in the most current guidelines for the treatment of sexually transmitted diseases of the federal centers for disease control and prevention. "Antimicrobial drug" does not include a substance listed in the schedules in ss. 961.14, 961.16, 961.18, 961.20, and 961.22 or substances added to these schedules by the controlled substances board acting under s. 961.11 (1).

(c) "Expedited partner therapy" means to prescribe, dispense, or furnish to a patient an antimicrobial drug to be used by a sexual partner of the patient to treat a chlamydial infection, gonorrhea, or trichomoniasis without physical examination of the sexual partner.

(2) Notwithstanding the requirements of s. 448.30, a physician, physician assistant, or certified advanced practice nurse prescriber may provide expedited partner therapy if the patient is diagnosed as infected with a chlamydial infection, gonorrhea, or trichomoniasis and the patient has had sexual contact with a sexual partner during which the chlamydial infection, gonorrhea, or trichomoniasis may have been transmitted to or from the sexual partner. The physician, physician assistant, or certified advanced practice nurse prescriber shall attempt to obtain the name of the patient's sexual partner. A prescription order for an antimicrobial drug prepared under this subsection shall include the name and address of the patient's sexual partner, if known. If the physician, physician assistant, or certified advanced practice nurse prescriber is unable to obtain the name of the patient's sexual partner, the prescription order shall include, in ordinary bold−faced capital letters, the words, "expedited partner therapy" or the letters "EPT."

(3) The physician, physician assistant, or certified advanced practice nurse prescriber shall provide the patient with a copy of the information sheet prepared by the department of health services under s. 46.03 (44) and shall request that the patient give the information sheet to the person with whom the patient had sexual contact.

(4) (a) Except as provided in par. (b), a physician, physician assistant, or certified advanced practice nurse prescriber is immune from civil liability for injury to or the death of a person who takes any antimicrobial drug if the antimicrobial drug is prescribed, dispensed, or furnished under this section and if expedited partner therapy is provided as specified under this section.

(b) The immunity under par. (a) does not extend to the donation, distribution, furnishing, or dispensing of an antimicrobial drug by a physician, physician assistant, or certified advanced practice nurse prescriber whose act or omission involves reckless, wanton, or intentional misconduct.

History: 2009 a. 280.

448.037 Prescriptions for and delivery of opioid antagonists. (1) In this section:

(a) "Administer" has the meaning given in s. 450.01 (1).

(b) "Deliver" has the meaning given in s. 450.01 (5).

(c) "Dispense" has the meaning given in s. 450.01 (7).

(d) "Opioid antagonist" has the meaning given in s. 450.01 (13v).

(e) "Opioid−related drug overdose" has the meaning given in s. 256.40 (1) (d).

(f) "Standing order" has the meaning given in s. 450.01 (21p).

(2) (a) A physician or physician assistant may do any of the following:

1. Prescribe an opioid antagonist to a person in a position to assist an individual at risk of undergoing an opioid−related drug overdose and may deliver the opioid antagonist to that person. A prescription order under this subdivision need not specify the name and address of the individual to whom the opioid antagonist will be administered, but shall instead specify the name of the person to whom the opioid antagonist is prescribed.

2. Issue a standing order to one or more persons authorizing the dispensing of an opioid antagonist.

(b) A physician or physician assistant who prescribes or delivers an opioid antagonist under par. (a) 1. shall ensure that the person to whom the opioid antagonist is prescribed has or has the capacity to provide the knowledge and training necessary to safely administer the opioid antagonist to an individual undergoing an opioid−related overdose and that the person demonstrates the capacity to ensure that any individual to whom the person further delivers the opioid antagonist has or receives that knowledge and training.

(3) A physician or physician assistant who, acting in good faith, prescribes or delivers an opioid antagonist in accordance with sub. (2), or who, acting in good faith, otherwise lawfully prescribes or dispenses an opioid antagonist, shall be immune from criminal or civil liability and may not be subject to professional discipline under s. 448.02 for any outcomes resulting from prescribing, delivering, or dispensing the opioid antagonist.

History: 2013 a. 200; 2015 a. 115.

448.04 Classes of license; certificate of licensure. (1) CLASSES OF LICENSE. (a) *License to practice medicine and surgery.* A person holding a license to practice medicine and surgery may practice as defined in s. 448.01 (9) and as provided in s. 448.035.

(ab) *Compact license.* The board may grant a compact license pursuant to the interstate medical licensure compact under s. 448.980.

NOTE: Par. (ab) is repealed eff. 12−16−19 by 2015 Wis. Act 116.

(ac) *Administrative physician license.* The board may grant an administrative physician license to an applicant who satisfies the requirements under s. 448.05 (2c). The board shall issue a license under this paragraph subject to the same terms as a license issued under par. (a), except that, notwithstanding any other provision of law that permits a physician to engage in any act that constitutes the practice of medicine and surgery, the holder of a license issued under this paragraph may not engage in the practice of medicine and surgery except as otherwise authorized under s. 448.03 (2) and may not practice as provided in s. 448.035.

Cross−reference: See also ch. Med 23, Wis. adm. code.

(b) *Temporary license to practice medicine and surgery.* 1. An applicant for license to practice medicine and surgery who has passed an examination satisfactory to the board, or who is a graduate of a medical school in this state, and who more than 30 days prior to the date set by the board for the holding of its next examination has complied with all the requirements of s. 448.05 (2) and (7) may, at the discretion of the board, be granted a temporary license to practice medicine and surgery. Such temporary license shall expire 60 days after the next examination for license is given or on the date following the examination on which the board grants or denies such applicant a license, whichever occurs first; but the temporary license shall automatically expire on the first day the board begins its examination of applicants after granting such license, unless its holder submits to examination on such date. The board may require an applicant for temporary licensure under this subdivision to appear before a member of the board for an interview and oral examination. A temporary license shall be granted under this subsection only once to the same person.

Cross−reference: See also ch. Med 2, Wis. adm. code.

3. The board may grant a temporary license to practice medicine and surgery for a period not to exceed 90 days to a nonresident physician who is serving on a full−time or temporary basis in a camp or other recreational facility, or to a physician temporarily maintaining the practice of another physician. In either case, the applicant for such temporary license must satisfy the board that the applicant is needed in the area in which the applicant wishes to serve and that the applicant holds a license granted upon written examination in another licensing jurisdiction of the United States or Canada. The board may renew such temporary license for additional periods of 90 days each but may not renew such license more than 3 consecutive times. The board may require an applicant for such temporary license to appear before a member of the board for interview.

Cross−reference: See also ch. Med 4, Wis. adm. code.

(bg) *Restricted license to practice medicine and surgery as a visiting physician.* 1. The board may grant a restricted license to practice medicine and surgery as a visiting physician to an applicant who satisfies the requirements under s. 448.05 (2) (e).

2. The holder of a license issued under this paragraph may engage in the practice of medicine and surgery only at the medical education facility, medical research facility, or medical college where the license holder is teaching, researching, or practicing, and only in accordance with the terms and restrictions established by the board.

3. Subject to subd. 4., a license issued under this paragraph is valid for one year and may be renewed at the discretion of the board.

4. A license issued under this paragraph remains valid only while the license holder is actively engaged in teaching, researching, or practicing medicine and surgery and is lawfully entitled to work in the United States.

(bm) *Resident educational license to practice medicine and surgery.* 1. The board may grant a resident educational license to practice medicine and surgery to an applicant who satisfies the requirements under s. 448.05 (2) (d).

2. Subject to subd. 3., a license issued under this paragraph is valid for one year and may be renewed for additional one−year terms while the license holder is enrolled in the postgraduate training program under s. 448.05 (2) (d) 1.

3. A license issued under this paragraph remains valid only while the license holder is actively engaged in the practice of medicine and surgery in the postgraduate training program under s. 448.05 (2) (d) 1. and is lawfully entitled to work in the United States.

4. The holder of a license issued under this paragraph may engage in the practice of medicine and surgery only in connection with his or her duties under the postgraduate training program under s. 448.05 (2) (d) 1.

(d) *License to practice perfusion.* A person holding a license to practice perfusion may practice perfusion under the orders and supervision of a physician.

Cross−reference: See also ch. Med 22, Wis. adm. code.

(e) *Temporary license to practice perfusion.* The board may, by rule, provide for a temporary license to practice perfusion for a person who satisfies the requirements of s. 448.05 (3) but who has not passed an examination under s. 448.05 (6). The board may issue a temporary license for a period not to exceed one year and may renew a temporary license annually for not more than 5 years. A person who holds a temporary license may not practice perfusion unless the person is under the supervision and direction of a licensed perfusionist at all times while the person is performing perfusion. The board may promulgate rules governing supervision by licensed perfusionists, except that those rules may not

require the immediate physical presence of the supervising, licensed perfusionist.

Cross−reference: See also ch. Med 22, Wis. adm. code.

(f) *Physician assistant license.* The board shall license as a physician assistant an individual who meets the requirements for licensure under s. 448.05 (5). The board may, by rule, provide for various classes of temporary licenses to practice as physician assistants.

Cross−reference: See also ch. Med 8, Wis. adm. code.

(g) *Anesthesiologist assistant license.* The board shall license as an anesthesiologist assistant an individual who meets the requirements for licensure under s. 448.05 (5w). The board may, by rule, provide for a temporary license to practice as an anesthesiologist assistant. The board may issue a temporary license to a person who meets the requirements under s. 448.05 (5w) and who is eligible to take, but has not passed, the examination under s. 448.05 (6). A temporary license expires on the date on which the board grants or denies an applicant permanent licensure or on the date of the next regularly scheduled examination required under s. 448.05 (6) if the applicant is required to take, but has failed to apply for, the examination. An applicant who continues to meet the requirements for a temporary license may request that the board renew the temporary license, but an anesthesiologist assistant may not practice under a temporary license for a period of more than 18 months.

(i) *Certificate as respiratory care practitioner.* 1. The board may certify as a respiratory care practitioner any individual who completes an application, meets the qualifications for certification under s. 448.05 (5r), and passes the examination required under s. 448.05 (6).

2. The board may, by rule, provide for a temporary certificate to practice respiratory care to be granted to any individual who completes an application and meets the requirements of s. 448.05 (5r) but has not passed the examination required by s. 448.05 (6). Temporary certificates under this subdivision may be issued for a period not to exceed one year and may not be renewed.

3. The board may issue a temporary certificate to practice respiratory care to an individual who submits to the board an application, the fee specified in s. 440.05 (1) (a), written verification that the applicant has passed the national board for respiratory care's certified respiratory therapy technician examination, evidence satisfactory to the board that the applicant meets the requirements of s. 448.05 (5r), and evidence satisfactory to the board that the applicant is certified to practice respiratory care in another state. The board may not issue a temporary certificate under this subdivision to an individual who has previously been issued a temporary certificate under this subdivision. If an applicant for a temporary certificate under this subdivision has been subjected to professional discipline as a result of the applicant's practice of respiratory care, the applicant shall submit to the board a description of the circumstances of the discipline. A temporary certificate under this subdivision may be issued for a period not to exceed 3 months and may not be renewed.

Cross−reference: See also ch. Med 20, Wis. adm. code.

(2) CERTIFICATE OF LICENSURE. Each license granted by the board shall be attested by a certificate of licensure.

(3) DUPLICATE. Any person holding a license or certificate granted under this subchapter, which is lost, stolen or destroyed, may apply to the board for a duplicate thereof. Such application shall be made in such manner as the board may designate and shall be accompanied by an affidavit setting out the circumstances of loss. The board shall then issue a duplicate bearing on its face the word "duplicate".

History: 1975 c. 383, 421; 1979 c. 162 s. 38 (10); 1979 c. 337; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 290; 1987 a. 399; 1989 a. 31, 229; 1991 a. 39, 180; 1993 a. 105, 107; 1997 a. 67, 175; 1999 a. 180; 2001 a. 89; 2007 a. 54; 2009 a. 280, 382; 2011 a. 160; 2013 a. 240; 2015 a. 116; s. 35.17 correction in (1) (i) (title).

448.05 Qualification for licensure or certification; examinations; application. (1) GENERAL REQUIREMENTS. To be qualified for the grant of any license or certificate by the board, an applicant must:

(a) Subject to ss. 111.321, 111.322 and 111.335, not have an arrest or conviction record.

(b) Meet the specific requirements as set out in this section for that class of license or certificate for which applying.

(c) Achieve a passing grade in any examinations required in this section.

(d) Be found qualified by three−fourths of the members of the board, except that an applicant for a temporary license or certificate under s. 448.04 (1) (b) 1. and 3., (e), (g), or (i) or a resident educational license under s. 448.04 (1) (bm) must be found qualified by 2 members of the board.

(2) LICENSE TO PRACTICE MEDICINE AND SURGERY. (a) Except as provided in pars. (b) to (f), an applicant for any class of license to practice medicine and surgery must supply evidence satisfactory to the board of all of the following:

NOTE: Par. (a) (intro.) is amended eff. 12−16−19 by 2015 Wis. Act 116 to read:

(a) Except as provided in pars. (b) to (e), an applicant for any class of license to practice medicine and surgery must supply evidence satisfactory to the board of all of the following:

1. That the applicant is a graduate of and possesses a diploma from a medical or osteopathic college that is accredited by the Liaison Committee on Medical Education, the American Osteopathic Association, or a successor organization and that is approved by the board.

2. That the applicant satisfies one of the following:

a. The applicant has successfully completed and received credit for 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization.

b. The applicant is currently enrolled in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization; the applicant has successfully completed and received credit for 12 consecutive months of postgraduate training in that program; and the applicant has received an unrestricted endorsement from the postgraduate training program director that includes confirmation that the applicant is expected to continue in the program and complete at least 24 months of postgraduate training.

3. That the applicant satisfies any other requirement established by the board by rule for issuing the license.

(b) Except as provided in pars. (c) to (f), an applicant for a license to practice medicine and surgery who is a graduate of a foreign medical college must supply evidence satisfactory to the board of all of the following:

NOTE: Par. (b) (intro.) is amended eff. 12−16−19 by 2015 Wis. Act 116 to read:

(b) Except as provided in pars. (c) to (e), an applicant for a license to practice medicine and surgery who is a graduate of a foreign medical college must supply evidence satisfactory to the board of all of the following:

1. That the applicant is a graduate of and possesses a diploma from a foreign medical college credentialed by an agency approved by the board.

2. That the applicant has obtained certification by the Educational Council for Foreign Medical Graduates or a successor organization.

3. That the applicant has passed all steps of the United States Medical Licensing Examination administered by the National Board of Medical Examiners and the Federation of State Medical Boards, or their successor organizations.

4. That the applicant satisfies one of the following:

a. The applicant has successfully completed and received credit for 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization.

b. The applicant is currently enrolled in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization; the applicant has successfully completed and received credit for 12 consecutive months of postgraduate training in that program; and the applicant has received an unrestricted endorsement from the postgraduate training program director that includes confirmation that the applicant is expected to continue in the program and complete at least 24 months of postgraduate training.

5. That the applicant satisfies any other requirement established by the board by rule for issuing the license.

(c) The board may promulgate rules specifying circumstances in which the board, in cases of hardship or in cases in which the applicant possesses a medical license issued by another jurisdiction, may grant a waiver from any requirement under par. (a) or (b). The board may grant such a waiver only in accordance with those rules.

(d) An applicant for a resident educational license under s. 448.04 (1) (bm) shall provide the board with all of the following:

1. Proof that the applicant has been accepted into a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization.

2. Written confirmation from the institution sponsoring the postgraduate training program into which the applicant has been accepted confirming that the applicant has been or will be appointed to a position in the program.

3. Proof that the applicant is a graduate of and possesses a diploma from a medical or osteopathic college that is approved by the board.

(e) An applicant for a restricted license to practice medicine and surgery as a visiting physician under s. 448.04 (1) (bg) shall provide the board with all of the following:

1. Proof that the applicant is a graduate of and possesses a diploma from a medical or osteopathic college that is approved by the board.

2. Proof that the applicant is licensed to practice medicine and surgery outside this state.

3. Proof that the applicant teaches medicine, engages in medical research, or practices medicine and surgery outside this state.

4. Documentation that the applicant intends to teach, research, or practice medicine and surgery at a medical education facility, medical research facility, or medical college in this state, which must include a signed letter from the dean or president of the facility or college.

5. Proof that the applicant satisfies any other requirement established by the board by rule for issuing the license.

(f) The board shall grant a compact license as provided under s. 448.980.

NOTE: Par. (f) is repealed eff. 12−16−19 by 2015 Wis. Act 116.

(2c) ADMINISTRATIVE PHYSICIAN LICENSE. An applicant for an administrative physician license must supply evidence satisfactory to the board that he or she satisfies the requirements for a license to practice medicine and surgery under sub. (2) (a) or (b), subject to any waiver granted under sub. (2) (c), other than any requirement established by the board by rule relating to the active practice of medicine and surgery.

(3) LICENSE TO PRACTICE PERFUSION. An applicant for a license to practice perfusion must supply evidence satisfactory to the board that he or she has successfully completed an educational program in perfusion recognized by the board and accredited by the Accreditation Committee for Perfusion Education of the Commission on Accreditation of Allied Health Education Programs or its successor.

(5) PHYSICIAN ASSISTANT LICENSE. (a) The board shall promulgate rules establishing licensing standards and practice standards for physician assistants and shall license persons under those rules. The board may not grant a license as a physician assistant to an applicant unless the applicant submits evidence satisfactory to the board of all of the following:

1. That the applicant has passed the certifying examination administered by the National Commission on Certification of Physician Assistants.

2. That the applicant has satisfactorily completed a physician assistant training program that is accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or its successor.

(c) In promulgating rules under par. (a), the board shall recognize the objective under s. 448.20 (4).

Cross−reference: See also ch. Med 8, Wis. adm. code.

(5r) CERTIFICATE AS RESPIRATORY CARE PRACTITIONER. An applicant for a certificate or a temporary certificate to practice respiratory care shall submit evidence satisfactory to the board that the applicant is a graduate of a school with a course of instruction in respiratory care approved by the commission on accreditation of allied health education programs of the American Medical Association.

Cross−reference: See also ch. Med 20, Wis. adm. code.

(5w) ANESTHESIOLOGIST ASSISTANT LICENSE. An applicant for a license to practice as an anesthesiologist assistant shall submit evidence satisfactory to board that the applicant has done all of the following:

(a) Obtained a bachelor's degree.

(b) Satisfactorily completed an anesthesiologist assistant program that is accredited by the Commission on Accreditation of Allied Health Education Programs, or by a predecessor or successor entity.

(c) Passed the certifying examination administered by, and obtained active certification from, the National Commission on Certification of Anesthesiologist Assistants or a successor entity.

(6) EXAMINATIONS. (a) Except as provided in pars. (am) and (ar), the board shall examine each applicant it finds eligible under this section in such subject matters as the board deems applicable to the class of license or certificate which the applicant seeks to have granted. Examinations may be both written and oral. In lieu of its own examinations, in whole or in part, the board may make such use as it deems appropriate of examinations prepared, administered, and scored by national examining agencies, or by other licensing jurisdictions of the United States or Canada. The board shall specify passing grades for any and all examinations required.

(am) When examining an applicant for a license to practice perfusion under par. (a), the board shall use an examination at least as stringent and comprehensive as the certification examination used by the American Board of Cardiovascular Perfusion or its successor.

Cross−reference: See also ch. Med 22, Wis. adm. code.

(ar) When examining an applicant for a license to practice as an anesthesiologist assistant under par. (a), the board shall use the certification examination administered by the National Commission on Certification of Anesthesiologist Assistants or a successor entity. The board may license without additional examination any qualified applicant who is licensed in any state or territory of the United States or the District of Columbia and whose license authorizes the applicant to practice in the same manner and to the same extent as an anesthesiologist assistant is authorized to practice under s. 448.22 (2).

(b) The board may require an applicant who fails to appear for or to complete the required examinations to reapply for licensure or certification before being admitted to subsequent examinations.

(c) An applicant who fails to achieve a passing grade in the required examinations may request reexamination, and may be reexamined not more than twice at not less than 4−month intervals, and shall pay a reexamination fee for each such reexamination. An applicant who fails to achieve a passing grade on the 2nd

such reexamination may not be admitted to further examination until the applicant reapplies for licensure or certification and also presents to the board evidence of further professional training or education as the board may deem appropriate.

(7) APPLICATION. Application for any class of license or certificate shall be made as a verified statement in a form provided by the department and at such time and place as the board may designate, and shall be accompanied by satisfactory evidence setting out the qualifications imposed by this section. Application for any class of license to practice medicine and surgery also shall be accompanied by a verified statement that the applicant is familiar with the state health laws and the rules of the department of health services as related to communicable diseases.

History: 1975 c. 383, 421; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1987 a. 399; 1989 a. 229; 1991 a. 180; 1993 a. 105, 107; 1995 a. 27 s. 9126 (19); 1995 a. 171, 172, 245; 1997 a. 27, 67, 175; 1999 a. 180; 2001 a. 89; 2007 a. 20 s. 9121 (6) (a); 2011 a. 160; 2013 a. 240; 2015 a. 116, 269.

Cross−reference: See also ch. Med 1, 2, 3, and 4, Wis. adm. code.

An unlicensed 1st−year resident should be held to the standard of care applicable to an unlicensed 1st−year resident based on the unique restrictions applicable, in this case that he had no authority or privileges to provide primary obstetrical care and was not supposed to act as the primary attending physician, but was to assess and report findings and differential diagnoses to an upper level senior resident or to the attending obstetrician. Phelps v. Physicians Insurance Company of Wisconsin, Inc. 2005 WI 85, 282 Wis. 2d 69, 698 N.W.2d 643, 03−0580

448.06 License, certificate or limited permit granted, denied. (1) GRANT OF LICENSE, CERTIFICATE, OR LIMITED PERMIT. Subject to s. 448.05 (1) (d), if three−fourths of the members of the board find that an applicant who has passed the required examinations is qualified, the board shall so notify the applicant and shall grant the license, certificate, or limited permit.

NOTE: Section 448.06 (title) and (1) are amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

448.06 License or certificate granted, denied. (1) GRANT OF LICENSE OR CERTIFICATE. Subject to s. 448.05 (1) (d), if three−fourths of the members of the board find that an applicant who has passed the required examinations is qualified, the board shall so notify the applicant and shall grant the license or certificate.

(1m) GRANT OF LIMITED LICENSE OR CERTIFICATE. If the board finds, based upon considerations of public health and safety, that the applicant has not demonstrated adequate education, training or performance on examinations or in past practice, if any, to qualify for full licensure or certification under sub. (1), the board may grant the applicant a limited license or certificate and shall so notify the applicant.

(2) DENIAL OF LICENSE OR CERTIFICATE. The board may deny an application for any class of license or certificate and refuse to grant such license or certificate on the basis of unprofessional conduct on the part of the applicant, failure to possess the education and training required for that class of license or certificate for which application is made, or failure to achieve a passing grade in the required examinations.

History: 1975 c. 383, 421; 1985 a. 340; 1987 a. 399; 1999 a. 180; 2013 a. 240.

Cross−reference: See also chs. Med 9 and SPS 1, Wis. adm. code.

448.063 Notification requirements for certain licenses. (1) If the holder of a license granted under the authority of s. 448.05 (2) (a) 2. b. or (b) 4. b. subsequently discontinues his or her postgraduate training program at any time prior to the completion of the program, the program director shall notify the board, providing full details of the cause of the discontinuance and the holder's plans, if any, for completion of the postgraduate training program. The board shall review the matter and may take any appropriate action.

(2) If the holder of a license granted under s. 448.04 (1) (bg) ceases to teach, research, or practice medicine and surgery at the medical education facility, medical research facility, or medical college where he or she is visiting, the medical education facility, medical research facility, or medical college shall notify the board. The board shall review the matter and may take any appropriate action.

History: 2013 a. 240.

448.07 Registration. (1) REGISTRATION. (a) Every person licensed or certified under this subchapter shall register on or before November 1 of each odd−numbered year following issuance of the license or certificate with the board. Registration shall be completed in such manner as the board shall designate and upon forms the board shall provide, except that registration with respect to a compact license shall be governed by the renewal provisions in s. 448.980 (7). The secretary of the board, on or before October 1 of each odd−numbered year, shall mail or cause to be mailed to every person required to register a registration form. The board shall furnish to each person registered under this section a certificate of registration, and the person shall display the registration certificate conspicuously in the office at all times. No person may exercise the rights or privileges conferred by any license or certificate granted by the board unless currently registered as required under this subsection.

NOTE: Par. (a) is amended eff. 12−16−19 by 2015 Wis. Act 116 to read:

(a) Every person licensed or certified under this subchapter shall register on or before November 1 of each odd−numbered year following issuance of the license or certificate with the board. Registration shall be completed in such manner as the board shall designate and upon forms the board shall provide. The secretary of the board, on or before October 1 of each odd−numbered year, shall mail or cause to be mailed to every person required to register a registration form. The board shall furnish to each person registered under this section a certificate of registration, and the person shall display the registration certificate conspicuously in the office at all times. No person may exercise the rights or privileges conferred by any license or certificate granted by the board unless currently registered as required under this subsection.

(b) The board shall maintain the register required by s. 440.035 (1m) (d), which shall be divided according to the activity for which the registrant is licensed or certified. The board shall make copies available for purchase at cost.

(c) Every registration made as provided in this section shall be presumptive evidence in all courts and other places that the person named therein is legally registered for the period covered by such registration, and shall be deemed to fulfill any statutory requirement for renewal of license or certificate.

(d) No registration may be permitted by the secretary of the board in the case of any physician or perfusionist who has failed to meet the requirements of s. 448.13 or any person whose license, certificate, or limited permit has been suspended or revoked and the registration of any such person shall be deemed automatically annulled upon receipt by the secretary of the board of a verified report of such suspension or revocation, subject to the licensee's or permittee's right of appeal. A person whose license, certificate, or limited permit has been suspended or revoked and subsequently restored shall be registered by the board upon tendering a verified report of such restoration of the license, certificate, or limited permit, together with an application for registration and the registration fee.

NOTE: Par. (d) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(d) No registration may be permitted by the secretary of the board in the case of any physician or perfusionist who has failed to meet the requirements of s. 448.13 or any person whose license or certificate has been suspended or revoked and the registration of any such person shall be deemed automatically annulled upon receipt by the secretary of the board of a verified report of such suspension or revocation, subject to the person's right of appeal. A person whose license or certificate has been suspended or revoked and subsequently restored shall be registered by the board upon tendering a verified report of such restoration of the license or certificate, together with an application for registration and the registration fee.

(2) FEES. Except as otherwise provided in s. 448.980, the fees for examination and licenses granted under this subchapter are specified in s. 440.05, and the renewal fee for such licenses is determined by the department under s. 440.03 (9) (a). Compact licenses shall be subject to additional fees and assessments, as established by the department, the board, or the interstate medical licensure compact commission, to cover any costs incurred by the department or the board for this state's participation in the interstate medical licensure compact under s. 448.980 and costs incurred by the interstate medical licensure compact commission

for its administration of the renewal process for the interstate medical licensure compact under s. 448.980.

NOTE: Sub. (2) is amended eff. 12−16−19 by 2015 Wis. Act 116 to read:

(2) FEES. The fees for examination and licenses granted under this subchapter are specified in s. 440.05, and the renewal fee for such licenses is determined by the department under s. 440.03 (9) (a).

History: 1975 c. 383, 421; 1977 c. 29, 131, 418; 1979 c. 162; 1987 a. 27, 264, 399; 1991 a. 39; 1995 a. 245; 1997 a. 175; 1999 a. 180; 2001 a. 89; 2007 a. 20; 2013 a. 240; 2015 a. 116, 269.

Cross−reference: See also ch. Med 14, Wis. adm. code.

448.08 Fee splitting; separate billing required, partnerships and corporations; contract exceptions. **(1)** DEFINITIONS. As used in this section:

(a) "Hospital" means an institution providing 24−hour continuous service to patients confined therein which is primarily engaged in providing facilities for diagnostic and therapeutic services for the surgical and medical diagnosis, treatment and care, of injured or sick persons, by or under the supervision of a professional staff of physicians and surgeons, and which is not primarily a place of rest for the aged, drug addicts or alcoholics, or a nursing home. Such hospitals may charge patients directly for the services of their employee nurses, nonphysician anesthetists, physical therapists and medical assistants other than physicians or dentists, and may engage on a salary basis interns and residents who are participating in an accredited training program under the supervision of the medical staff, and persons with a resident educational license issued under s. 448.04 (1) (bm) or a temporary educational certificate issued under s. 448.04 (1) (c), 2011 stats.

NOTE: Par. (a) is amended eff. 4−1−17 by 2013 Wis. Act 240 to read:

(a) "Hospital" means an institution providing 24−hour continuous service to patients confined therein which is primarily engaged in providing facilities for diagnostic and therapeutic services for the surgical and medical diagnosis, treatment and care, of injured or sick persons, by or under the supervision of a professional staff of physicians and surgeons, and which is not primarily a place of rest for the aged, drug addicts or alcoholics, or a nursing home. Such hospitals may charge patients directly for the services of their employee nurses, nonphysician anesthetists, physical therapists and medical assistants other than physicians or dentists, and may engage on a salary basis interns and residents who are participating in an accredited training program under the supervision of the medical staff, and persons with a resident educational license issued under s. 448.04 (1) (bm).

(b) "Medical education and research organization" means a medical education and medical research organization operating on a nonprofit basis.

(1m) FEE SPLITTING. Except as otherwise provided in this section, no person licensed or certified under this subchapter may give or receive, directly or indirectly, to or from any person, firm or corporation any fee, commission, rebate or other form of compensation or anything of value for sending, referring or otherwise inducing a person to communicate with a licensee in a professional capacity, or for any professional services not actually rendered personally or at his or her direction.

(2) SEPARATE BILLING REQUIRED. Any person licensed under this subchapter who renders any medical or surgical service or assistance whatever, or gives any medical, surgical or any similar advice or assistance whatever to any patient, physician or corporation, or to any other institution or organization of any kind, including a hospital, for which a charge is made to such patient receiving such service, advice or assistance, shall, except as authorized by Title 18 or Title 19 of the federal social security act, render an individual statement or account of the charges therefor directly to such patient, distinct and separate from any statement or account by any physician or other person, who has rendered or who may render any medical, surgical or any similar service whatever, or who has given or may give any medical, surgical or similar advice or assistance to such patient, physician, corporation, or to any other institution or organization of any kind, including a hospital.

(3) BILLING FOR TESTS PERFORMED BY THE STATE LABORATORY OF HYGIENE. A person other than a state or local government agency who charges a patient, other person or 3rd−party payer for services performed by the state laboratory of hygiene shall identify the actual amount charged by the state laboratory of hygiene and shall restrict charges for those services to that amount.

(4) PROFESSIONAL PARTNERSHIPS AND CORPORATIONS PERMITTED. Notwithstanding any other provision in this section, it is lawful for 2 or more physicians, who have entered into a bona fide partnership for the practice of medicine, to render a single bill for such services in the name of such partnership, and it also is lawful for a service corporation to render a single bill for services in the name of the corporation, provided that each individual licensed, registered or certified under this chapter or ch. 446, 449, 450, 455, 457 or 459 that renders billed services is individually identified as having rendered such services.

(5) CONTRACT EXCEPTIONS; TERMS. Notwithstanding any other provision in this section, when a hospital and its medical staff or a medical education and research organization and its medical staff consider that it is in the public interest, a physician may contract with the hospital or organization as an employee or to provide consultation services for attending physicians as provided in this subsection.

(a) Contracts under this subsection shall:

1. Require the physician to be a member of or acceptable to and subject to the approval of the medical staff of the hospital or medical education and research organization.

2. Permit the physician to exercise professional judgment without supervision or interference by the hospital or medical education and research organization.

3. Establish the remuneration of the physician.

(b) If agreeable to the contracting parties, the hospital or medical education and research organization may charge the patient for services rendered by the physician, but the statement to the patient shall indicate that the services of the physician, who shall be designated by name, are included in the departmental charges.

(c) No hospital or medical education and research organization may limit staff membership to physicians employed under this subsection.

(d) The responsibility of physician to patient, particularly with respect to professional liability, shall not be altered by any employment contract under this subsection.

History: 1975 c. 383, 421; 1977 c. 29; 1993 a. 107, 473; 1995 a. 167, 225; 1997 a. 175; 2007 a. 97; 2013 a. 240.

A medical professional service corporation may bill patients for services by both a physician and a physical therapist if billing states an accurate figure for the respective services. 71 Atty. Gen. 108.

448.09 Penalties; appeal. **(1)** PENALTIES. A person who violates s. 448.08 (3) may be fined not more than $250. Except as provided in sub. (1m), a person who violates any other provision of this subchapter may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

(1m) PHYSICIANS. A physician who violates any provision of this subchapter, except s. 448.08 (3), or any rule promulgated under this subchapter may be fined not more than $25,000 or imprisoned not more than 9 months or both.

(2) APPEAL. Any person aggrieved by any action taken under this subchapter by the board, its officers or its agents may apply for judicial review as provided in ch. 227, and shall file notice of such appeal with the secretary of the board within 30 days. No court of this state may enter an ex parte stay of any action taken by the board under this subchapter.

History: 1975 c. 383; 1977 c. 29; 1997 a. 175, 311; 1999 a. 32.

448.10 Previous practice. **(1m)** Notwithstanding s. 448.05 (2), a person who, on April 1, 2015, possessed a valid license to practice medicine and surgery under s. 448.05 (2) or 448.065, 2011 stats., may retain, practice under, and continue to renew that license, subject to any other provisions in this subchapter or any rules promulgated by the board governing a license to practice medicine and surgery.

(2m) A person who, on April 1, 2015, possessed a valid temporary license to practice medicine and surgery under s. 448.04 (1) (b) 2., 2011 stats., may retain, practice under, and continue to renew that license in accordance with s. 448.04 (1) (b) 2., 2011

stats., subject to any other provisions in this subchapter or any rules promulgated by the board governing that license.

(3m) A person who, on April 1, 2015, possessed a valid temporary educational permit to practice medicine and surgery under s. 448.04 (1) (c), 2011 stats., may retain, practice under, and continue to renew that permit in accordance with s. 448.04 (1) (c), 2011 stats., subject to any other provisions in this subchapter or any rules promulgated by the board governing that permit, or may apply for a resident educational license under s. 448.04 (1) (bm).

NOTE: This section is affected by 2013 Wis. Act 240 eff. 4−1−17 to read:

448.10 Previous practice. Notwithstanding s. 448.05 (2), a person who, on April 1, 2015, possessed a valid license to practice medicine and surgery under s. 448.05 (2) or 448.065, 2011 stats., may retain, practice under, and continue to renew that license, subject to any other provisions in this subchapter or any rules promulgated by the board governing a license to practice medicine and surgery.

History: 1975 c. 383, 421; 1981 c. 390; 1985 a. 135; 1993 a. 107; 1997 a. 175; 2013 a. 240.

448.11 Injunction. If it appears upon complaint to the board by any person or if it is known to the board that any person is violating this subchapter, or rules adopted by the board under this subchapter, the board or the attorney general may investigate and may, in addition to any other remedies, bring action in the name and on behalf of the state against any such person to enjoin such person from such violation. The attorney general shall represent the board in all proceedings.

History: 1975 c. 383; 1997 a. 175.

448.115 Duty to report. (1) A physician who has reason to believe any of the following about another physician shall promptly submit a written report to the board that shall include facts relating to the conduct of the other physician:

(a) The other physician is engaging or has engaged in acts that constitute a pattern of unprofessional conduct.

(b) The other physician is engaging or has engaged in an act that creates an immediate or continuing danger to one or more patients or to the public.

(c) The other physician is or may be medically incompetent.

(d) The other physician is or may be mentally or physically unable safely to engage in the practice of medicine or surgery.

(2) No physician who reports to the board under sub. (1) may be held civilly or criminally liable or be found guilty of unprofessional conduct for reporting in good faith.

History: 2009 a. 382.

448.12 Malpractice. Anyone practicing medicine, surgery, osteopathy, or any other form or system of treating the sick without having a license or a certificate of registration shall be liable to the penalties and liabilities for malpractice; and ignorance shall not lessen such liability for failing to perform or for negligently or unskillfully performing or attempting to perform any duty assumed, and which is ordinarily performed by authorized practitioners.

History: 1975 c. 383, 421.

448.13 Biennial training requirement. (1) (a) Except as provided in par. (b), each physician shall, in each 2nd year at the time of application for a certificate of registration under s. 448.07, submit proof of attendance at and completion of all of the following:

1. Continuing education programs or courses of study approved for at least 30 hours of credit by the board within the 2 calendar years preceding the calendar year for which the registration is effective.

2. Professional development and maintenance of certification or performance improvement or continuing medical education programs or courses of study required by the board by rule under s. 448.40 (1) and completed within the 2 calendar years preceding the calendar year for which the registration is effective.

(b) The board may waive any of the requirements under par. (a) if it finds that exceptional circumstances such as prolonged illness, disability or other similar circumstances have prevented a physician from meeting the requirements.

(1m) The board shall, on a random basis, verify the accuracy of proof submitted by physicians under sub. (1) (a) and may, at any time during the 2 calendar years specified in sub. (1) (a), require a physician to submit proof of any continuing education, professional development, and maintenance of certification or performance improvement or continuing medical education programs or courses of study that he or she has attended and completed at that time during the 2 calendar years.

(2) Each person licensed as a perfusionist shall, in each 2nd year at the time of application for a certificate of registration under s. 448.07, submit proof of completion of continuing education requirements promulgated by rule by the board.

(3) Each person licensed as an anesthesiologist assistant shall, in each 2nd year at the time of application for a certificate of registration under s. 448.07, submit proof of meeting the criteria for recertification by the National Commission on Certification of Anesthesiologist Assistants or by a successor entity, including any continuing education requirements.

History: 1977 c. 131, 418; 1987 a. 399; 1995 a. 245; 1997 a. 175, 311; 1999 a. 180; 2001 a. 89; 2009 a. 382; 2011 a. 160.

Cross−reference: See also Med, Wis. adm. code.

448.14 Annual report. Annually, no later than March 1, the board shall submit to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3) a report that identifies the average length of time to process a disciplinary case against a physician during the preceding year and the number of disciplinary cases involving physicians pending before the board on December 31 of the preceding year.

History: 1997 a. 311.

448.20 Council on physician assistants; duties. (1) RECOMMEND LICENSING AND PRACTICE STANDARDS. The council on physician assistants shall develop and recommend to the examining board licensing and practice standards for physician assistants. In developing the standards, the council shall consider the following factors: an individual's training, wherever given; experience, however acquired, including experience obtained in a hospital, a physician's office, the armed services or the federal health service of the United States, or their equivalent as found by the examining board; and education, including that offered by a medical school and the technical college system board.

(2) ADVISE BOARD OF REGENTS. The council shall advise and cooperate with the board of regents of the University of Wisconsin System in establishing an educational program for physician assistants on the undergraduate level. The council shall suggest criteria for admission requirements, program goals and objectives, curriculum requirements, and criteria for credit for past educational experience or training in health fields.

(3) ADVISE BOARD. The council shall advise the board on:

(a) Revising physician assistant licensing and practice standards and on matters pertaining to the education, training and licensing of physician assistants.

(b) Developing criteria for physician assistant training program approval, giving consideration to and encouraging utilization of equivalency and proficiency testing and other mechanisms whereby full credit is given to trainees for past education and experience in health fields.

(4) ADHERE TO PROGRAM OBJECTIVES. In formulating standards under this section, the council shall recognize that an objective of this program is to increase the existing pool of health personnel.

History: 1975 c. 383; 1993 a. 105, 399, 491; 1997 a. 67.

448.21 Physician assistants. (1) PROHIBITED PRACTICES. No physician assistant may provide medical care, except routine screening, in:

(a) The practice of dentistry or dental hygiene within the meaning of ch. 447.

(b) The practice of optometry within the meaning of ch. 449.

(c) The practice of chiropractic within the meaning of ch. 446.

(d) The practice of podiatry within the meaning of s. 448.60 (4).

(e) The practice of acupuncture within the meaning of ch. 451.

(2) EMPLOYEE STATUS. No physician assistant may be self–employed. The employer of a physician assistant shall assume legal responsibility for any medical care provided by the physician assistant during the employment. The employer of a physician assistant, if other than a licensed physician, shall provide for and not interfere with supervision of the physician assistant by a licensed physician.

(3) PRESCRIPTIVE AUTHORITY. A physician assistant may issue a prescription order for a drug or device in accordance with guidelines established by a supervising physician and the physician assistant and with rules promulgated by the board. If any conflict exists between the guidelines and the rules, the rules shall control.

History: 1975 c. 383, 421; 1983 a. 524; 1989 a. 31; 1993 a. 105; 1997 a. 67, 175.

448.22 Anesthesiologist assistants. (1) In this section, "supervision" means the use of the powers of direction and decision to coordinate, direct, and inspect the accomplishments of another, and to oversee the implementation of the anesthesiologist's intentions.

(2) An anesthesiologist assistant may assist an anesthesiologist in the delivery of medical care only under the supervision of an anesthesiologist and only as described in a supervision agreement between the anesthesiologist assistant and an anesthesiologist who represents the anesthesiologist assistant's employer. The supervising anesthesiologist shall be immediately available in the same physical location or facility in which the anesthesiologist assistant assists in the delivery of medical care such that the supervising anesthesiologist is able to intervene if needed.

(3) A supervision agreement under sub. (2) shall do all of the following:

(a) Describe the supervising anesthesiologist.

(b) Define the practice of the anesthesiologist assistant consistent with subs. (2), (4), and (5).

(4) An anesthesiologist assistant's practice may not exceed his or her education and training, the scope of practice of the supervising anesthesiologist, and the practice outlined in the anesthesiologist assistant supervision agreement. A medical care task assigned by the supervising anesthesiologist to the anesthesiologist assistant may not be delegated by the anesthesiologist assistant to another person.

(5) An anesthesiologist assistant may assist only the supervising anesthesiologist in the delivery of medical care and may perform only the following medical care tasks as assigned by the supervising anesthesiologist:

(a) Developing and implementing an anesthesia care plan for a patient.

(b) Obtaining a comprehensive patient history and performing relevant elements of a physical exam.

(c) Pretesting and calibrating anesthesia delivery systems and obtaining and interpreting information from the systems and from monitors.

(d) Implementing medically accepted monitoring techniques.

(e) Establishing basic and advanced airway interventions, including intubation of the trachea and performing ventilatory support.

(f) Administering intermittent vasoactive drugs and starting and adjusting vasoactive infusions.

(g) Administering anesthetic drugs, adjuvant drugs, and accessory drugs.

(h) Implementing spinal, epidural, and regional anesthetic procedures.

(i) Administering blood, blood products, and supportive fluids.

(j) Assisting a cardiopulmonary resuscitation team in response to a life threatening situation.

(k) Participating in administrative, research, and clinical teaching activities specified in the supervision agreement.

(L) Supervising student anesthesiologist assistants.

(6) An anesthesiologist who represents an anesthesiologist assistant's employer shall review a supervision agreement with the anesthesiologist assistant at least annually. The supervision agreement shall be available for inspection at the location where the anesthesiologist assistant practices. The supervision agreement may limit the practice of an anesthesiologist assistant to less than the full scope of practice authorized under sub. (5).

(7) An anesthesiologist assistant shall be employed by a health care provider, as defined in s. 655.001 (8), that is operated in this state for the primary purpose of providing the medical services of physicians or that is an entity described in s. 655.002 (1) (g), (h), or (i). If an anesthesiologist assistant's employer is not an anesthesiologist, the employer shall provide for, and not interfere with, an anesthesiologist's supervision of the anesthesiologist assistant.

(8) A student in an anesthesiologist assistant training program may assist only an anesthesiologist in the delivery of medical care and may perform only medical care tasks assigned by the anesthesiologist. An anesthesiologist may delegate the supervision of a student in an anesthesiologist assistant training program to only a qualified anesthesiologist, an anesthesiology fellow, an anesthesiology resident who has completed his or her first year of residency, or an anesthesiologist assistant, but in no case may an anesthesiologist concurrently supervise, either directly or as a delegated act, more than 2 students in training to be an anesthesiologist assistant. This section shall not be interpreted to limit the number of other qualified anesthesia providers an anesthesiologist may supervise. A student in an anesthesiologist assistant training program shall be identified as a student anesthesiologist assistant or an anesthesiologist assistant student and may not be identified as an "intern," "resident," or "fellow."

History: 2011 a. 160.

448.23 Council on anesthesiologist assistants. The council on anesthesiologist assistants shall guide, advise, and make recommendations to the board regarding the scope of anesthesiologist assistant practice and promote the safe and competent practice of anesthesiologist assistants in the delivery of health care services.

History: 2011 a. 160.

448.30 Informed consent. Any physician who treats a patient shall inform the patient about the availability of reasonable alternate medical modes of treatment and about the benefits and risks of these treatments. The reasonable physician standard is the standard for informing a patient under this section. The reasonable physician standard requires disclosure only of information that a reasonable physician in the same or a similar medical specialty would know and disclose under the circumstances. The physician's duty to inform the patient under this section does not require disclosure of:

(2) Detailed technical information that in all probability a patient would not understand.

(3) Risks apparent or known to the patient.

(4) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

(5) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

(6) Information in cases where the patient is incapable of consenting.

(7) Information about alternate medical modes of treatment for any condition the physician has not included in his or her diagnosis at the time the physician informs the patient.

History: 1981 c. 375; 2013 a. 111.

Cross−reference: See also ch. Med 18, Wis. adm. code.

A one to three in 100 chance of a condition's existence is not an "extremely remote possibility" under sub. (4) when very serious consequences could result if the condition is present. Martin v. Richards, 192 Wis. 2d 156, 531 N.W.2d 70 (1995).

A doctor has a duty under this section to advise of alternative modes of diagnosis as well as of alternative modes of treatment for diagnosed conditions. Martin v. Richards, 192 Wis. 2d 156, 531 N.W.2d 70 (1995).

What constitutes informed consent under this section (1993 stats.) emanates from what a reasonable person in the patient's position would want to know. What a physician must disclose is contingent on what a reasonable person would need to know to make an informed decision. When different physicians have substantially different success rates with a procedure and a reasonable person would consider that information material, a court may admit statistical evidence of the relative risk. Johnson v. Kokemoor, 199 Wis. 2d 615, 545 N.W.2d 495 (1996), 93−3099.

A hospital does not have the duty to ensure that a patient has given informed consent to a procedure performed by an independent physician. Mathias v. St. Catherine's Hospital, Inc. 212 Wis. 2d 540, 569 N.W.2d 330 (Ct. App. 1997), 96−1632.

The onset of a procedure does not categorically foreclose withdrawal of a patient's consent. Withdrawal of consent removes the doctor's authority to continue and obligates the doctor to conduct another informed consent discussion. In this type of informed consent case where the issue is not whether the patient was given the pertinent information so that the patient's choice was informed, but rather whether the patient was given an opportunity to make a choice after having all of the pertinent information, the cause question is, "What did the patient himself or herself want?" Schreiber v. Physicians Insurance Co. 223 Wis. 2d 417, 588 N.W.2d 26 (1999), 96−3676.

As a general rule, patients have a duty to exercise ordinary care for their own health. Under limited, enumerated circumstances, contributory negligence may be a defense in an informed consent case. A doctor is not restricted to only the defenses listed under this section, but a court should be cautious in giving instructions on nonstatutory defenses. Brown v. Dibbell, 227 Wis. 2d 28, 595 N.W.2d 358 (1999), 97−2181.

In the absence of a persistent vegetative state, the right of a parent to withhold life−sustaining treatment from a child does not exist and the need for informed consent is not triggered when life−sustaining treatment is performed. Montalvo v. Borkovec, 2002 WI App 147, 256 Wis. 2d 472, 647 N.W.2d 413, 01−1933.

A patient's consent to treatment is not categorically immutable once it has been given. A physician must initiate a new informed consent discussion when there is a substantial change in circumstances, be it medical or legal. Here, the decedent's postoperative complications did not at some point became a substantial change in medical circumstances necessitating a second informed consent discussion, because it was undisputed that the decedent was informed of the risks he later faced. Hageny v. Bodensteiner, 2009 WI App 10, 316 Wis. 2d 240, 762 N.W.2d 452, 08−0133.

This section (2007 stats.) requires any physician who treats a patient to inform the patient about the availability of all alternate, viable medical modes of treatment, including diagnosis, as well as the benefits and risks of such treatments. Although the jury determined a physician was not negligent in his standard of care for failing to employ an alternative when treating the defendant, that did not relieve the physician of the duty to inform the patient about the availability of all alternate, viable medical modes of treatment. Bubb v. Brusky, 2009 WI 91, 321 Wis. 2d 1, 768 N.W.2d 903, 07−0619.

Neither case law or this section (2011 stats.) limits the physician's duty to inform the patient of modes of treatment only for the final diagnosis. The distinction between conditions "related" to the final diagnosis and conditions "unrelated" to the final diagnosis finds no support in the statute or case law. A physician's duty is to inform the patient about diagnostic procedures about which a reasonable patient would want to know to make an informed, voluntary decision about his or her medical care, even if those diagnostic procedures are aimed at conditions that are unrelated to the condition that was the final diagnosis. Jandre v. Physicians Insurance Company of Wisconsin, 2012 WI 39, 340 Wis. 2d 31, 813 N.W.2d 627, 08−1972.

The doctrine of informed consent is limited to apprising the patient of risks that inhere to proposed treatments. It does not impose a duty to apprise a patient of any knowledge the doctor may have regarding the condition of the patient or of all possible methods of diagnosis. McGeshick v. Choucair 9 F.3d 1229 (1993).

448.40 Rules. (1) The board may promulgate rules to carry out the purposes of this subchapter, including rules requiring the completion of continuing education, professional development, and maintenance of certification or performance improvement or continuing medical education programs for renewal of a license to practice medicine and surgery.

(2) The board shall promulgate all of the following rules:

(a) Implementing s. 448.30.

(b) Establishing the scope of the practice of perfusion. In promulgating rules under this paragraph, the board shall consult with the perfusionists examining council.

(c) Establishing continuing education requirements for renewal of a license to practice perfusion under s. 448.13 (2). In promulgating rules under this paragraph, the board shall consult with the perfusionists examining council.

(e) Establishing the criteria for the substitution of uncompensated hours of professional assistance volunteered to the department of health services for some or all of the hours of continuing education credits required under s. 448.13 (1) (a) 1. for physicians specializing in psychiatry. The eligible substitution hours shall involve professional evaluation of community programs for the certification and recertification of community mental health programs, as defined in s. 51.01 (3n), by the department of health services.

(f) Establishing requirements for prescription orders issued by physician assistants under s. 448.21 (3).

(g) Establishing procedures for issuing and using administrative warnings under s. 448.02 (8).

History: 1975 c. 383; 1981 c. 375; 1987 a. 399; 1993 a. 445; 1995 a. 27 s. 9126 (19); 1997 a. 67, 175, 311; 1999 a. 32, 180; 2001 a. 89; 2007 a. 20 s. 9121 (6) (a); 2009 a. 382.

Cross−reference: See also Med, Wis. adm. code.

SUBCHAPTER III

PHYSICAL THERAPY EXAMINING BOARD

Cross−reference: See also PT, Wis. adm. code.

448.50 Definitions. In this subchapter:

(1m) "Business entity" has the meaning given in s. 452.01 (3j).

(1r) "Diagnosis" means a judgment that is made after examining the neuromusculoskeletal system or evaluating or studying its symptoms and that utilizes the techniques and science of physical therapy for the purpose of establishing a plan of therapeutic intervention, but does not include a chiropractic or medical diagnosis.

(1v) "Examining board" means the physical therapy examining board.

(2) "Licensee" means a person who is licensed under this subchapter.

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

(3m) "Physical therapist assistant" means an individual who holds a license as a physical therapist assistant granted by the examining board.

(4) (a) "Physical therapy" means, except as provided in par. (b), any of the following:

1. Examining, evaluating, or testing individuals with mechanical, physiological, or developmental impairments, functional limitations related to physical movement and mobility, disabilities, or other movement−related health conditions, in order to determine a diagnosis, prognosis, or plan of therapeutic intervention or to assess the ongoing effects of intervention. In this subdivision, "testing" means using standardized methods or techniques for gathering data about a patient.

2. Alleviating impairments or functional limitations by instructing patients or designing, implementing, or modifying therapeutic interventions.

3. Reducing the risk of injury, impairment, functional limitation, or disability, including by promoting or maintaining fitness, health, or quality of life in all age populations.

4. Engaging in administration, consultation, or research that is related to any activity specified in subds. 1. to 3.

(b) "Physical therapy" does not include any of the following:

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

2. Using electricity for surgical purposes, including cauterization.

3. Prescribing drugs or devices.

(5) "Sexual misconduct with a patient" means any of the following:

(a) Engaging in or soliciting a consensual or nonconsensual sexual relationship with a patient.

(b) Making sexual advances toward, requesting sexual favors from, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

(c) Intentionally viewing a completely or partially disrobed patient during the course of treatment if the viewing is not related to diagnosis or treatment.

(6) "Therapeutic intervention" means the purposeful and skilled interaction between a physical therapist, patient, and, if appropriate, individuals involved in the patient's care, using physical therapy procedures or techniques that are intended to produce changes in the patient's condition and that are consistent with diagnosis and prognosis.

History: 1993 a. 107; 2001 a. 70; 2009 a. 149; 2015 a. 375.

Physical therapists and massage therapists are not prohibited from performing the activities that are within their respective scopes of practice, even if those activities extend in some degree into the field of chiropractic science. OAG 1−01.

448.51 License required. (1) Except as provided in s. 448.52, no person may practice physical therapy unless the person is licensed as a physical therapist under this subchapter.

(1e) No person may designate himself or herself as a physical therapist or use or assume the title "physical therapist," "physiotherapist," "physical therapy technician," "licensed physical therapist," "registered physical therapist," "master of physical therapy," "master of science in physical therapy," or "doctorate in physical therapy," or append to the person's name the letters "P.T.," "P.T.T.," "L.P.T.," "R.P.T.," "M.P.T.," "M.S.P.T.," or "D.P.T.," or any other title, letters, or designation that represents or may tend to represent the person as a physical therapist, unless the person is licensed as a physical therapist under this subchapter.

(1s) No person may designate himself or herself as a physical therapist assistant, use or assume the title "physical therapist assistant," or append to the person's name the letters "P.T.A." or any other title, letters, or designation that represents or may tend to represent the person as a physical therapist assistant unless the person is licensed as a physical therapist assistant under this subchapter.

(2) Except as provided in s. 448.52 (2m), no person may claim to render physical therapy or physiotherapy services unless the person is licensed as a physical therapist under this subchapter.

History: 1993 a. 107; 1995 a. 166; 2001 a. 70, 105; 2015 a. 197.

Cross−reference: See also chs. PT 1, 3, and 4, Wis. adm. code.

448.52 Applicability. (1m) A license is not required under this subchapter for any of the following, if the person does not claim to render physical therapy or physiotherapy services:

(a) Any person lawfully practicing within the scope of a license, permit, registration or certification granted by this state or the federal government.

(b) Any person assisting a physical therapist in practice under the direct, on−premises supervision of the physical therapist.

(c) A physical therapy student assisting a physical therapist in the practice of physical therapy or a physical therapist assistant student assisting a physical therapist in performing physical therapy procedures and related tasks, if the assistance is within the scope of the student's education or training.

(d) A physical therapist who is licensed to practice physical therapy in another state or country and is providing a consultation or demonstration with a physical therapist who is licensed under this subchapter.

(2m) A license is not required under this subchapter for any of the following:

(a) Except as provided in par. (b), a chiropractor licensed under ch. 446 claiming to render physical therapy, if the physical therapy is provided by a physical therapist employed by the chiropractor.

(b) A chiropractor licensed under ch. 446 claiming to render physical therapy modality services.

History: 1993 a. 107 ss. 51, 52, 59; 1995 a. 166; 2001 a. 70, 105.

Cross−reference: See also ch. PT 5, Wis. adm. code.

448.522 Manipulation services. A physical therapist may not claim that any manipulation service that he or she provides is in any manner a chiropractic adjustment that is employed to correct a spinal subluxation.

History: 2001 a. 70.

448.527 Code of ethics. The examining board shall promulgate rules establishing a code of ethics governing the professional conduct of physical therapists and physical therapist assistants.

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

448.53 Licensure of physical therapists. (1) The examining board shall grant a license as a physical therapist to a person who does all of the following:

(a) Submits an application for the license to the department on a form provided by the department.

(b) Pays the fee specified in s. 440.05 (1).

(c) Subject to ss. 111.321, 111.322 and 111.335, submits evidence satisfactory to the examining board that the applicant does not have an arrest or conviction record.

(d) Submits evidence satisfactory to the examining board that the applicant is a graduate of a school of physical therapy approved by the examining board, unless the examining board waives this requirement under sub. (3).

(e) Passes an examination under s. 448.54.

(f) If the person was educated at a physical therapy school that is not in the United States, the person satisfies any additional requirements for demonstrating competence to practice physical therapy that the examining board may establish by rule.

(2) The examining board may promulgate rules providing for various classes of temporary licenses to practice physical therapy.

(3) The examining board may waive the requirement under sub. (1) (d) for an applicant who establishes, to the satisfaction of the examining board, all of the following:

(a) That he or she is a graduate of a physical therapy school.

(b) That he or she is licensed as a physical therapist by another licensing jurisdiction in the United States.

(c) That the jurisdiction in which he or she is licensed required the licensee to be a graduate of a school approved by the licensing jurisdiction or of a school that the licensing jurisdiction evaluated for education equivalency.

(d) That he or she has actively practiced physical therapy, under the license issued by the other licensing jurisdiction in the United States, for at least 3 years immediately preceding the date of his or her application.

History: 1993 a. 107; 2001 a. 70; 2009 a. 149.

Cross−reference: See also chs. PT 1, 3, and 4, Wis. adm. code.

448.535 Licensure of physical therapist assistants. (1) The examining board shall grant a license as a physical therapist assistant to a person who does all of the following:

(a) Submits an application for the license to the department on a form provided by the department.

(b) Pays the fee specified in s. 440.05 (1).

(c) Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory to the examining board that the applicant does not have an arrest or conviction record.

(d) Submits evidence satisfactory to the examining board that the applicant is a graduate of a physical therapist assistant educational program accredited by an agency that is approved by the examining board.

(e) Passes an examination under s. 448.54.

(2) The examining board may waive a requirement under sub. (1) (d) or (e), or both, for an applicant who establishes to the satis-

faction of the examining board that he or she is licensed as a physical therapist assistant by another licensing jurisdiction in the United States. The examining board shall promulgate rules for granting a waiver under this subsection. The rules may require an applicant to satisfy additional requirements as a condition for granting a waiver.

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

448.54 Examination. (1) The examining board shall conduct or arrange for examinations for physical therapist and physical therapist assistant licensure at least semiannually and at times and places determined by the examining board.

(2) (a) Except as provided in sub. (3), examinations for physical therapist licensure shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in subjects substantially related to the practice of physical therapy.

(b) Examinations for physical therapist assistant licensure shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in the technical application of physical therapy services.

(3) Notwithstanding s. 448.53 (1) (f), the examining board may not require an applicant for physical therapist licensure to take an oral examination or an examination to test proficiency in the English language for the sole reason that the applicant was educated at a physical therapy school that is not in the United States if the applicant establishes, to the satisfaction of the examining board, that he or she satisfies the requirements under s. 448.53 (3).

History: 1993 a. 107; 2001 a. 70; 2009 a. 149.

Cross−reference: See also ch. PT 2, Wis. adm. code.

448.55 Issuance of license; expiration and renewal. (1) The department shall issue a certificate of licensure to each person who is licensed under this subchapter.

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

(3) The examining board shall promulgate rules that require an applicant for renewal of a license to demonstrate continued competence as a physical therapist or physical therapist assistant.

History: 1993 a. 107; 2001 a. 70; 2007 a. 20; 2009 a. 149.

Cross−reference: See also chs. PT 8 and 9, Wis. adm. code.

448.56 Practice requirements. (1) WRITTEN REFERRAL. Except as provided in this subsection and s. 448.52, a person may practice physical therapy only upon the written referral of a physician, physician assistant, chiropractor, dentist, podiatrist, or advanced practice nurse prescriber certified under s. 441.16 (2). Written referral is not required if a physical therapist provides services in schools to children with disabilities, as defined in s. 115.76 (5), pursuant to rules promulgated by the department of public instruction; provides services as part of a home health care agency; provides services to a patient in a nursing home pursuant to the patient's plan of care; provides services related to athletic activities, conditioning, or injury prevention; or provides services to an individual for a previously diagnosed medical condition after informing the individual's physician, physician assistant, chiropractor, dentist, podiatrist, or advanced practice nurse prescriber certified under s. 441.16 (2) who made the diagnosis. The examining board may promulgate rules establishing additional services that are excepted from the written referral requirements of this subsection.

(1m) DUTY TO REFER. (a) A physical therapist shall refer a patient to an appropriate health care practitioner if the physical therapist has reasonable cause to believe that symptoms or conditions are present that require services beyond the scope of the practice of physical therapy.

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

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

(3) BILLING BY PROFESSIONAL PARTNERSHIPS AND CORPORATIONS. If 2 or more physical therapists have entered into a bona fide partnership or have formed a service corporation for the practice of physical therapy, the partnership or corporation may not render a single bill for physical therapy services provided in the name of the partnership or corporation unless each physical therapist who provided services that are identified on the bill is identified on the bill as having rendered those services.

(4) RESPONSIBILITY. A physical therapist is responsible for managing all aspects of the physical therapy care of each patient under his or her care.

(5) PATIENT RECORDS. A physical therapist shall create and maintain a patient record for every patient the physical therapist examines or treats.

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

(7) ORDERING X−RAYS. (a) A physical therapist may order X−rays to be performed by qualified persons only if the physical therapist satisfies one of the following qualifications, as further specified by the examining board by rule:

1. The physical therapist holds a clinical doctorate degree in physical therapy.

2. The physical therapist has completed a nationally recognized specialty certification program.

3. The physical therapist has completed a nationally recognized residency or fellowship certified by an organization recognized by the examining board.

4. The physical therapist has completed a formal X−ray ordering training program with demonstrated physician involvement.

(b) When a physical therapist orders an X−ray, the physical therapist shall communicate with the patient's primary care physician or an appropriate health care practitioner to ensure coordination of care, unless all of the following apply:

1. A radiologist has read the X−ray and not identified a significant finding.

2. The patient does not have a primary care physician.

3. The patient was not referred to the physical therapist by another health care practitioner to receive care from the physical therapist.

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.

Cross−reference: See also ch. PT 6, Wis. adm. code.

448.565 Complaints. The examining board shall promulgate rules establishing procedures and requirements for filing com-

plaints against licensees and shall publicize the procedures and requirements.

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

448.567 Performance audits. The examining board shall promulgate rules that require the examining board on a periodic basis to conduct performance self−audits of its activities under this subchapter.

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

448.57 Disciplinary proceedings and actions. (1) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred.

(2) Subject to the rules promulgated under s. 440.03 (1), the examining board may reprimand a licensee or may deny, limit, suspend or revoke a license granted under this subchapter if it finds that the applicant or licensee has done any of the following:

(a) Made a material misstatement in an application for a license or for renewal of a license.

(am) Interfered with an investigation or disciplinary proceeding by using threats, harassment, or intentional misrepresentation of facts.

(b) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an offense the circumstances of which substantially relate to the practice of physical therapy or assisting in the practice of physical therapy.

(bm) Been adjudicated mentally incompetent by a court.

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

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

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

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

(fm) Engaged in sexual misconduct with a patient.

(g) Engaged in conduct while practicing or assisting in the practice of physical therapy which evidences a lack of knowledge or ability to apply professional principles or skills.

(h) Violated this subchapter or any rule promulgated under this subchapter.

(3) (a) A licensee may voluntarily surrender his or her license to the examining board, which may refuse to accept the surrender if the examining board has received allegations of unprofessional conduct against the licensee. The examining board may negotiate stipulations in consideration for accepting the surrender of licenses.

(b) The examining board may restore a license that has been voluntarily surrendered under par. (a) on such terms and conditions as it considers appropriate.

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

(5) The examining board may report final disciplinary action taken against a licensee to any national database that includes information about disciplinary action taken against health care professionals.

History: 1993 a. 107; 2001 a. 70; 2009 a. 149.

Cross−reference: See also ch. PT 7, Wis. adm. code.

448.58 Injunctive relief. If the examining board has reason to believe that any person is violating this subchapter or any rule promulgated under this subchapter, the examining board, the department, the attorney general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring an action in the name and on behalf of this state to enjoin the person from the violation.

History: 1993 a. 107; 2009 a. 149.

448.59 Penalties. Any person who violates this subchapter or any rule promulgated under this subchapter may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

History: 1993 a. 107.

SUBCHAPTER IV

PODIATRY AFFILIATED CREDENTIALING BOARD

Cross−reference: See also Pod, Wis. adm. code.

448.60 Definitions. In this subchapter:

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

(2) "Licensee" means a person who is licensed under this subchapter.

(3) "Podiatrist" means an individual possessing the degree of doctor of podiatric medicine or doctor of surgical chiropody or equivalent degree as determined by the affiliated credentialing board, and holding a license to practice podiatry or podiatric medicine and surgery granted by the affiliated credentialing board.

(4) "Podiatry" or "podiatric medicine and surgery" means that branch or system of the practice of medicine and surgery that involves treating the sick which is limited to conditions affecting the foot and ankle, but does not include the use of a general anesthetic unless administered by or under the direction of a person licensed to practice medicine and surgery under subch. II.

(5) "Unprofessional conduct" means an act or attempted act of commission or omission, as defined by the affiliated credentialing board by rule under s. 448.695 (1), or an act by a podiatrist in violation of ch. 450 or 961.

History: 1997 a. 175 ss. 21, 22, 69; 2005 a. 334; 2009 a. 113; 2013 a. 151 s. 28.

448.61 License required. Except as provided in ss. 257.03 and 448.62, no person may practice podiatry, designate himself or herself as a podiatrist, use or assume the title "doctor of surgical chiropody", "doctor of podiatry"or "doctor of podiatric medicine", or append to the person's name the words or letters "doctor", "Dr.", "D.S.C.", "D.P.M.", "foot doctor", "foot specialist" or any other title, letters or designation which represents or may tend to represent the person as a podiatrist unless the person is licensed under this subchapter.

History: 1997 a. 175; 2005 a. 96; 2009 a. 42.

Cross−reference: See also ch. Pod 1, Wis. adm. code.

448.62 Applicability. This subchapter does not require a license for any of the following:

(1) A person lawfully practicing within the scope of a license, permit, registration or certification granted by this state or the federal government.

(2) A person assisting a podiatrist in practice under the direct, on−premises supervision of the podiatrist.

(3) A podiatry student engaged in activities required for his or her education or training.

(4) A podiatrist who is licensed to practice podiatry in another state or country and is providing a consultation or demonstration with a podiatrist who is licensed under this subchapter.

(5) A person performing the gratuitous domestic administration of family remedies.

(6) A person furnishing medical assistance or first aid at the scene of an emergency.

History: 1997 a. 175.

448.63 Licensure of podiatrists. (1) Subject to sub. (4), the affiliated credentialing board shall grant a license as a podiatrist to a person who does all of the following:

(a) Submits an application for the license to the department on a form provided by the department.

(b) Pays the fee specified in s. 440.05 (1).

(c) Subject to ss. 111.321, 111.322 and 111.335, submits evidence satisfactory to the affiliated credentialing board that the applicant does not have an arrest or conviction record.

(d) Submits evidence satisfactory to the affiliated credentialing board of all of the following:

1. That the applicant is a graduate of a school of podiatric medicine and surgery approved by the affiliated credentialing board and possesses a diploma from such school conferring the degree of doctor of podiatric medicine, or equivalent degree as determined by the affiliated credentialing board, unless the affiliated credentialing board waives these requirements under sub. (2).

2. That the applicant has completed 2 years of postgraduate training in a program approved by the affiliated credentialing board or one year of postgraduate training in a program approved by the affiliated credentialing board if the one−year postgraduate training was completed by June 1, 2010.

(e) Passes an examination under s. 448.64.

(2) The affiliated credentialing board may waive the requirement under sub. (1) (d) 1. for an applicant who establishes, to the satisfaction of the affiliated credentialing board, all of the following:

(a) That he or she is a graduate of a podiatry school.

(b) That he or she is licensed as a podiatrist by another licensing jurisdiction in the United States.

(c) That the jurisdiction in which he or she is licensed required the licensee to be a graduate of a school approved by the licensing jurisdiction or of a school that the licensing jurisdiction evaluated for education equivalency.

(d) That he or she has actively practiced podiatry, under the license issued by the other licensing jurisdiction in the United States, for at least 3 years immediately preceding the date of his or her application.

(3) The affiliated credentialing board may promulgate rules providing for various classes of temporary licenses to practice podiatry.

(4) The affiliated credentialing board may grant a limited license to an applicant for a license under sub. (1) if the affiliated credentialing board finds that the applicant has not demonstrated adequate education, training or performance on any past examination or in any past practice, and that, based upon considerations of public health and safety, the applicant does not qualify for full licensure under sub. (1).

History: 1997 a. 175; 2005 a. 334; 2011 a. 146.
Cross−reference: See also ch. Pod 1, Wis. adm. code.

448.64 Examination. (1) The affiliated credentialing board shall conduct or arrange for examinations for podiatrist licensure at least semiannually and at times and places determined by the affiliated credentialing board.

(2) Except as provided in sub. (3), examinations shall consist of written or oral tests, or both, requiring an applicant to demonstrate minimum competency in subjects substantially related to the practice of podiatry.

(3) The affiliated credentialing board may not require an applicant to take an oral examination or an examination to test proficiency in the English language for the sole reason that the applicant was educated at a podiatry school that is not in the United States if the applicant establishes, to the satisfaction of the affiliated credentialing board, that he or she satisfies the requirements under s. 448.63 (2).

(4) The affiliated credentialing board may require an applicant who fails to appear for or to complete an examination under this section to reapply for licensure before being admitted to a subsequent examination.

(5) An applicant who fails to pass an examination under this section may request reexamination, and may be reexamined not more than twice at not less than 4−month intervals, and shall pay a reexamination fee for each reexamination. An applicant who fails to pass an examination on the 2nd such reexamination may not be admitted to further examination until the applicant reapplies for licensure and submits evidence that shows, to the satisfaction of the affiliated credentialing board, that he or she has completed additional education or received additional professional training.

History: 1997 a. 175.
Cross−reference: See also ss. Pod 1.06, 1.07, and 1.11, Wis. adm. code.

448.65 Issuance of license; expiration and renewal; duplicate license. (1) The department shall issue a certificate of licensure to each person who is licensed under this subchapter.

(2) The renewal date for a license granted under this subchapter, other than a temporary license granted under rules promulgated under s. 448.63 (3), is specified under s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall be accompanied by all of the following:

(a) The renewal fee determined by the department under s. 440.03 (9) (a).

(b) Proof of completion of continuing education requirements in s. 448.665.

(3) A licensee whose license is lost, stolen or destroyed may apply to the department for a duplicate license. Duplicate license applications shall be submitted to the department on a form provided by the department and shall be accompanied by the fee specified under s. 440.05 (7) and an affidavit setting out the circumstances of the loss, theft or destruction of the license. Upon receipt of an application under this subsection, the department shall issue a duplicate license bearing on its face the word "duplicate".

History: 1997 a. 175; 2007 a. 20; 2009 a. 276.
Cross−reference: See also ch. Pod 4, Wis. adm. code.

448.655 Malpractice liability insurance. (1) A licensed podiatrist shall annually submit to the affiliated credentialing board evidence satisfactory to the affiliated credentialing board that the podiatrist satisfies one of the following:

(a) The podiatrist has in effect malpractice liability insurance coverage in the amount of at least $1,000,000 per occurrence and $1,000,000 for all occurrences in one year.

(b) The podiatrist meets all of the following conditions:

1. The podiatrist's principal place of practice is not in this state.

2. The podiatrist will not be engaged in the practice of podiatry in this state for more than 240 hours during the following 12 months.

3. The podiatrist has in effect malpractice liability insurance coverage that covers services provided by the podiatrist to patients in this state and which is in one of the following amounts:

a. At least the minimum amount of malpractice liability insurance coverage that is required under the laws of the state in which the affiliated credentialing board determines that his or her principal place of practice is located.

b. If the podiatrist is not required under the laws of the state in which the affiliated credentialing board determines that his or her principal place of practice is located to have in effect a minimum amount of malpractice liability insurance coverage, at least the minimum amount of malpractice liability insurance coverage that the affiliated credentialing board determines is necessary to protect the public.

(2) For purposes of sub. (1), a podiatrist's principal place of practice is not in this state if the affiliated credentialing board determines that, during the following 12 months, any of the following applies:

(a) More than 50 percent of the podiatrist's practice will be performed outside this state.

(b) More than 50 percent of the income from the podiatrist's practice will be derived from outside this state.

(c) More than 50 percent of the podiatrist's patients will be treated by the podiatrist outside this state.

(3) The affiliated credentialing board may suspend, revoke or refuse to issue or renew the license of a podiatrist who fails to procure or to submit proof of the malpractice liability insurance coverage required under sub. (1).

History: 1985 a. 340; 1989 a. 152; 1997 a. 175 ss. 51 to 56; Stats. 1997 s. 448.655.

448.66 Malpractice. Except as provided in s. 257.03, a person who practices podiatry without having a license under this subchapter may be liable for malpractice, and his or her ignorance of a duty ordinarily performed by a licensed podiatrist shall not limit his or her liability for an injury arising from his or her practice of podiatry.

History: 1997 a. 175; 2005 a. 96; 2009 a. 42.

448.665 Continuing education. The affiliated credentialing board shall promulgate rules establishing requirements and procedures for licensees to complete continuing education programs or courses of study in order to qualify for renewal of a license granted under this subchapter. The rules shall require a licensee to complete at least 30 hours of continuing education programs or courses of study within each 2−year period immediately preceding the renewal date specified under s. 440.08 (2) (a). The affiliated credentialing board may waive all or part of these requirements for the completion of continuing education programs or courses of study if the affiliated credentialing board determines that prolonged illness, disability or other exceptional circumstances have prevented a licensee from completing the requirements.

History: 1997 a. 175.

Cross−reference: See also ch. Pod 3, Wis. adm. code.

448.67 Practice requirements. (1) FEE SPLITTING. No licensee may give or receive, directly or indirectly, to or from any other person any fee, commission, rebate or other form of compensation or anything of value for sending, referring or otherwise inducing a person to communicate with a licensee in a professional capacity, or for any professional services not actually rendered personally by the licensee or at the licensee's direction.

(2) SEPARATE BILLING REQUIRED. Except as provided in sub. (4), a licensee who renders any podiatric service or assistance, or gives any podiatric advice or any similar advice or assistance, to any patient, podiatrist, physician, physician assistant, advanced practice nurse prescriber certified under s. 441.16 (2), partnership, or corporation, or to any other institution or organization, including a hospital, for which a charge is made to a patient, shall, except as authorized by Title 18 or Title 19 of the federal Social Security Act, render an individual statement or account of the charge directly to the patient, distinct and separate from any statement or account by any other podiatrist, physician, physician assistant, advanced practice nurse prescriber, or other person.

(3) BILLING FOR TESTS PERFORMED BY THE STATE LABORATORY OF HYGIENE. A licensee who charges a patient, other person or 3rd−party payer for services performed by the state laboratory of hygiene shall identify the actual amount charged by the state laboratory of hygiene and shall restrict charges for those services to that amount.

(4) BILLING BY PROFESSIONAL PARTNERSHIPS AND CORPORATIONS. If 2 or more podiatrists have entered into a bona fide partnership or formed a service corporation for the practice of podiatry, the partnership or corporation may not render a single bill for podiatry services provided in the name of the partnership or corporation unless each individual licensed, registered or certified under this chapter or ch. 446, 449, 450, 455, 457 or 459, who provided services is individually identified on the bill as having rendered those services.

History: 1997 a. 175; 2005 a. 187; 2011 a. 161.

448.675 Disciplinary proceedings and actions. (1) INVESTIGATION; HEARING; ACTION. (a) The affiliated credentialing board shall investigate allegations of unprofessional conduct and negligence in treatment by a licensee. Information contained in reports filed with the affiliated credentialing board under s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17 or 632.715, or under 42 CFR 1001.2005, shall be investigated by the affiliated credentialing board. Information contained in a report filed with the affiliated credentialing board under s. 50.36 (3) (c) may, within the discretion of the affiliated credentialing board, be used as the basis of an investigation of a person named in the report. The affiliated credentialing board may require a licensee to undergo and may consider the results of a physical, mental or professional competency examination if the affiliated credentialing board believes that the results of the examination may be useful to the affiliated credentialing board in conducting its investigation.

(b) After an investigation, if the affiliated credentialing board finds that there is probable cause to believe that the person is guilty of unprofessional conduct or negligence in treatment, the affiliated credentialing board shall hold a hearing on such conduct. The affiliated credentialing board may require a licensee to undergo and may consider the results of a physical, mental or professional competency examination if the affiliated credentialing board believes that the results of the examination may be useful to the affiliated credentialing board in conducting its hearing. A finding by a court that a podiatrist has acted negligently in treating a patient is conclusive evidence that the podiatrist is guilty of negligence in treatment. A certified copy of the order of a court is presumptive evidence that the finding of negligence in treatment was made. The affiliated credentialing board shall render a decision within 90 days after the date on which the hearing is held or, if subsequent proceedings are conducted under s. 227.46 (2), within 90 days after the date on which those proceedings are completed.

(c) After a disciplinary hearing, the affiliated credentialing board may, when it determines that a court has found that a person has been negligent in treating a patient or when it finds a person guilty of unprofessional conduct or negligence in treatment, do one or more of the following: warn or reprimand that person, or limit, suspend or revoke a license granted by the affiliated credentialing board to that person. The affiliated credentialing board may condition the removal of limitations on a license, or the restoration of a suspended or revoked license, upon obtaining minimum results specified by the affiliated credentialing board on a physical, mental or professional competency examination if the affiliated credentialing board believes that obtaining the minimum results is related to correcting one or more of the bases upon which the limitation, suspension or revocation was imposed.

(d) A person whose license is limited shall be permitted to continue practice if the person agrees to do all of the following:

1. Refrain from engaging in unprofessional conduct.

2. Appear before the affiliated credentialing board or its officers or agents at such times and places designated by the affiliated credentialing board.

3. Fully disclose to the affiliated credentialing board or its officers or agents the nature of the person's practice and conduct.

4. Fully comply with the limits placed on his or her practice and conduct by the affiliated credentialing board.

5. Obtain additional training, education or supervision required by the affiliated credentialing board.

6. Cooperate with the affiliated credentialing board.

(e) Unless a suspended license is revoked during the period of suspension, upon expiration of the period of suspension the affiliated credentialing board shall reinstate the person's license, except that the affiliated credentialing board may, as a condition precedent to the reinstatement of the license, require the person to pass the examinations required for the original grant of the license.

(f) The affiliated credentialing board shall comply with rules of procedure for the investigation, hearing and action promulgated by the department under s. 440.03 (1).

(g) Nothing in this subsection prohibits the affiliated credentialing board, in its discretion, from investigating and conducting disciplinary proceedings on allegations of unprofessional conduct by a licensee when the allegations of unprofessional conduct may also constitute allegations of negligence in treatment.

(2) SUSPENSION PENDING HEARING. The affiliated credentialing board may summarily suspend a license granted by the affiliated credentialing board for a period not to exceed 30 days pending hearing if the affiliated credentialing board has in its possession evidence establishing probable cause to believe that the licensee has violated the provisions of this subchapter and that it is necessary to suspend the license immediately to protect the public health, safety or welfare. The licensee shall be granted an opportunity to be heard during the determination of whether or not probable cause exists. The affiliated credentialing board may designate any of its officers to exercise the authority granted by this subsection to suspend summarily a license, for a period not exceeding 72 hours. If a license has been summarily suspended by the affiliated credentialing board or any of its officers, the affiliated credentialing board may, while the hearing is in progress, extend the initial period of suspension for not more than an additional 30 days. If the licensee has caused a delay in the hearing process, the affiliated credentialing board may subsequently suspend the license from the time the hearing is commenced until a final decision is issued or may delegate such authority to the hearing examiner.

(3) VOLUNTARY SURRENDER. A licensee may voluntarily surrender his or her license to the secretary of the affiliated credentialing board, but the secretary may refuse to accept the surrender if the affiliated credentialing board has received an allegation of unprofessional conduct against the licensee. The affiliated credentialing board may negotiate stipulations in consideration for accepting the surrender of a license.

(4) RESTORATION OF LICENSE, CERTIFICATE OR LIMITED PERMIT. The affiliated credentialing board may restore a license which has been voluntarily surrendered or revoked under this subchapter on such terms and conditions as it considers appropriate.

History: 1997 a. 175.

Cross−reference: See also ch. Pod 2, Wis. adm. code.

448.68 Hospital reports. (1) Within 30 days after receipt of a report under s. 50.36 (3) (c), the affiliated credentialing board shall notify the licensee, in writing, of the substance of the report. The licensee and the licensee's authorized representative may examine the report and may place into the record a statement, of reasonable length, of the licensee's view of the correctness or relevance of any information in the report. The licensee may institute an action in circuit court to amend or expunge any part of the licensee's record related to the report.

(2) If the affiliated credentialing board determines that a report submitted under s. 50.36 (3) (c) is without merit or that the licensee has sufficiently improved his or her conduct, the affiliated credentialing board shall remove the report from the licensee's record. If no report about a licensee is filed under s. 50.36 (3) (c) for 2 consecutive years, the licensee may petition the affiliated credentialing board to remove any prior reports, which did not result in disciplinary action, from his or her record.

(3) Upon the request of a hospital, the affiliated credentialing board shall provide the hospital with all information relating to a licensee's loss, reduction or suspension of staff privileges from other hospitals and all information relating to the licensee's being found guilty of unprofessional conduct. In this subsection, "hospital" has the meaning specified under s. 50.33 (2).

History: 1997 a. 175.

448.685 Injunctive relief. If the affiliated credentialing board has reason to believe that a person is violating this subchapter or a rule promulgated under this subchapter, the affiliated credentialing board, the department, the attorney general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring an action in the name and on behalf of this state to enjoin the person from the violation.

History: 1997 a. 175.

448.69 Penalties; appeal. (1) PENALTIES. (a) Except as provided in par. (b), a person who violates any provision of this subchapter or a rule promulgated under this subchapter may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

(b) A person who violates s. 448.67 (3) may be fined not more than $250.

(2) APPEAL. A person aggrieved by an action taken under this subchapter by the affiliated credentialing board, its officers or its agents may apply for judicial review as provided in ch. 227, and shall file notice of such appeal with the secretary of the affiliated credentialing board within 30 days. No court of this state may enter an ex parte stay of an action taken by the affiliated credentialing board under this subchapter.

History: 1997 a. 175.

448.695 Rules. (1) The affiliated credentialing board shall promulgate all of the following rules:

(a) Rules defining the acts or attempted acts of commission or omission that constitute unprofessional conduct under s. 448.60 (5).

(b) Rules implementing s. 448.697.

Cross−reference: See also ch. Pod 8, Wis. adm. code.

(2) The affiliated credentialing board may promulgate rules to carry out the purposes of this subchapter.

(3) The affiliated credentialing board shall promulgate rules specifying the requirements for a course of instruction related to X−ray examinations by persons under the direct supervision of a podiatrist under s. 462.02 (2) (f). In promulgating the rules, the affiliated credentialing board shall consult with the radiography examining board and shall examine laws and rules in other states. The affiliated credentialing board shall approve courses that meet the requirements set forth in the rules.

Cross−reference: See also ch. Pod 7, Wis. adm. code.

History: 1997 a. 175; 2009 a. 106; 2013 a. 345.

Cross−reference: See also Pod, Wis. adm. code.

448.697 Informed consent. Any podiatrist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable podiatrist standard is the standard for informing a patient under this section. The reasonable podiatrist standard requires disclosure only of information that a reasonable podiatrist would know and disclose under the circumstances. The podiatrist's duty to inform the patient under this section does not require disclosure of any of the following:

(1) Detailed technical information that in all probability a patient would not understand.

(2) Risks apparent or known to the patient.

(3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

(4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

(5) Information in cases where the patient is incapable of consenting.

(6) Information about alternate modes of treatment for any condition the podiatrist has not included in his or her diagnosis at the time the podiatrist informs the patient.

History: 2013 a. 345.

SUBCHAPTER V

DIETITIANS AFFILIATED CREDENTIALING BOARD

448.70 Definitions. In this subchapter:

(1) "Affiliated credentialing board" means the dietitians affiliated credentialing board.

(1m) "Certified dietitian" means an individual who is certified as a dietitian under this subchapter.

(2) "Dietetics" means the integration and application of principles of nutritional science, biochemistry, food science, physiology, food systems management, behavioral science and social science in order to achieve or maintain the health of an individual or group of individuals. "Dietetics" includes assessing the nutritional needs of an individual or group of individuals and determining available resources and constraints in meeting those nutritional needs; establishing priorities, goals and objectives that meet those nutritional needs and are consistent with available resources and constraints; providing nutrition counseling; or developing, implementing and managing nutritional care systems.

(3) "Dietitian" means an individual who practices dietetics.

History: 1993 a. 443.

448.72 Applicability. This subchapter does not do any of the following:

(1) Require a certificate under this subchapter for any of the following:

(a) A person who is lawfully practicing within the scope of a license, permit or certificate of certification or registration granted under chs. 441, 446 to 451 or 456, or who is lawfully practicing in any other health care profession that is regulated by state law.

(b) A person to whom a practice or procedure is delegated by a person under par. (a).

(c) A person pursuing a supervised course of study, including internships, leading to a degree or certificate in dietetics from an accredited educational program or an educational program approved by the affiliated credentialing board.

(d) A dietetic technician or assistant who is working under the supervision of a certified dietitian.

(e) A dietitian who is serving in the U.S. armed forces, as defined in s. 40.02 (57m), or in the commissioned corps of the federal public health service or is employed by the U.S. veterans administration, and who is engaged in the practice of dietetics as part of that service or employment.

(f) A person who markets or distributes food, food materials or dietary or food supplements, who explains the use, benefits or preparation of food, food materials or dietary or food supplements, who furnishes nutritional information on food, food materials or dietary or food supplements, or who disseminates nutritional information or literature, if the person does not use the title "dietitian" or "certified dietitian" and the person complies with applicable federal, state and local laws.

(2) Prohibit a dietetic student described in sub. (1) (c) from using the title "dietitian student" or any other title, letters or designation that clearly indicates his or her status as a student or trainee.

(3) Prohibit an individual described in sub. (1) (e) from using the title "dietitian" or any letters or designation that represents or may tend to represent the individual as a dietitian, if the title, letters or designation is used only in the course of the individual's service or employment.

(4) Prohibit an individual who is registered as a dietitian with the commission on dietetic registration of the American Dietetic Association from using the title "dietitian" or "registered dietitian".

(5) Prohibit an individual who is registered as a dietetic technician with the commission on dietetic registration of the American Dietetic Association from using the title "dietetic technician" or "dietetic technician registered".

(6) Prohibit an individual from using the title "dietitian", "licensed dietitian" or "certified dietitian" if the person is licensed or certified as a dietitian under the laws of another state which has licensure or certification requirements that the affiliated credentialing board determines to be substantially equivalent to the requirements under s. 448.78.

History: 1993 a. 443; 1997 a. 75.

448.74 Duties of affiliated credentialing board. The affiliated credentialing board shall promulgate rules that do all of the following:

(1) Establish criteria for the approval of educational programs and training under s. 448.78 (3) and (4).

(2) Establish a code of ethics to govern the professional conduct of certified dietitians.

History: 1993 a. 443.

Cross−reference: See also DI, Wis. adm. code.

448.76 Use of titles. Except as provided in s. 448.72 (1) (e) and (2) to (6), a person who is not a certified dietitian may not designate himself or herself as a dietitian, claim to provide dietetic services or use any title or initials that represent or may tend to represent the person as certified or licensed as a dietitian or as certified or licensed in a nutrition−related field.

History: 1993 a. 443; 1997 a. 75.

448.78 Certification of dietitians. The affiliated credentialing board shall grant a certificate as a dietitian to an individual who does all of the following:

(1) Submits an application for the certificate to the department on a form provided by the department.

(2) Pays the fee specified in s. 440.05 (1).

(3) Submits evidence satisfactory to the affiliated credentialing board that he or she has done any of the following:

(a) Received a bachelor's, master's or doctoral degree in human nutrition, nutrition education, food and nutrition, dietetics or food systems management from a program at a college or university that is regionally accredited, as determined by the affiliated credentialing board, and that is located in a state or territory of the United States.

(b) Received a bachelor's, master's or doctoral degree in human nutrition, nutrition education, food and nutrition, dietetics or food systems management from a program at a college or university that is not located in a state or territory of the United States if the affiliated credentialing board determines that the program is substantially equivalent to a program under par. (a).

(c) Received a degree from or otherwise successfully completed a program in human nutrition, nutrition education, food and nutrition, dietetics or food systems management that is approved by the affiliated credentialing board.

(4) Submits evidence satisfactory to the affiliated credentialing board that he or she has completed at least 900 hours of dietetics practice in any state or territory of the United States under the supervision of any of the following:

(a) A certified dietitian.

(b) An individual who is registered as a dietitian with the commission on dietetic registration of the American Dietetic Association.

(c) An individual who received a doctoral degree in human nutrition, nutrition education, food and nutrition, dietetics or food systems management from any of the following:

1. A program at a college or university that is regionally accredited, as determined by the affiliated credentialing board, and that is located in a state or territory of the United States.

2. A program at a college or university that is not located in a state or territory of the United States if the affiliated credentialing board determines that the program is substantially equivalent to a program under subd. 1.

(d) The internship program under s. 253.065.

(5) Passes the registration examination for dietitians established by the commission on dietetic registration of the American dietetic association, or passes an equivalent examination approved by the affiliated credentialing board, and held under s. 448.84, to determine fitness to practice dietetics.

History: 1993 a. 443; 2015 a. 276.

448.80 Temporary certificate. Upon application and payment of the fee specified in s. 440.05 (6), the affiliated credentialing board may grant a temporary dietitian certificate to an individual who satisfies the requirements under s. 448.78 (1) to (4) and has submitted an application to take the next available examination under s. 448.84. A temporary certificate granted under this section is valid for a period designated by the affiliated credentialing board, not to exceed 9 months, and may be renewed once by the affiliated credentialing board.

History: 1993 a. 443.

448.82 Reciprocal certificate. Upon application and payment of the fee specified in s. 440.05 (2), the affiliated credentialing board shall grant a dietitian certificate to an individual who holds a similar certificate or license in another state or territory of the United States if the affiliated credentialing board determines that the requirements for receiving the certificate in the other state or territory are substantially equivalent to the requirements under s. 448.78.

History: 1993 a. 443.

448.84 Examinations. (1) The affiliated credentialing board shall conduct or arrange for examinations for dietitian certification at least semiannually and at times and places determined by the affiliated credentialing board, and shall provide public notice of each examination at least 90 days before the date of the examination.

(2) Examinations held under sub. (1) shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in subjects substantially related to the practice of dietetics.

History: 1993 a. 443.

448.86 Issuance of certificate; expiration and renewal. (1) The department shall issue a certificate to each individual who is certified under this subchapter.

(2) The renewal dates for certificates granted under this subchapter, other than temporary certificates granted under s. 448.80, are specified under s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include the renewal fee determined by the department under s. 440.03 (9) (a).

History: 1993 a. 443; 1997 a. 175; 2007 a. 20.

448.87 Disciplinary proceedings and actions. (1) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may make investigations and conduct hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred.

(2) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may reprimand a certified dietitian or deny, limit, suspend or revoke a certificate granted under this subchapter if it finds that the applicant or certified dietitian has done any of the following:

(a) Made a material misstatement in an application for a certificate or for renewal of a certificate.

(b) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the circumstances of which substantially relate to the practice of dietetics.

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

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

(e) Subject to ss. 111.321, 111.322 and 111.34, practiced dietetics while his or her ability to practice was impaired by alcohol or other drugs.

(f) Engaged in unprofessional or unethical conduct in violation of the code of ethics established in the rules promulgated under s. 448.74 (2).

(g) Engaged in conduct while practicing dietetics which evidences a lack of knowledge or ability to apply professional principles or skills.

(h) Violated this subchapter or any rule promulgated under this subchapter.

History: 1993 a. 443; 1999 a 180 s. 55.

448.94 Penalties. Any person who violates this subchapter or any rule promulgated under this subchapter may be fined not more than $1,000 or imprisoned for not more than 6 months or both.

History: 1993 a. 443.

SUBCHAPTER VI

ATHLETIC TRAINERS AFFILIATED CREDENTIALING BOARD

448.95 Definitions. In this subchapter:

(1) "Affiliated credentialing board" means the athletic trainers affiliated credentialing board.

(4) "Athletic trainer" means an individual who engages in athletic training.

(5) "Athletic training" means doing any of the following:

(a) Preventing, recognizing and evaluating injuries or illnesses sustained while participating in physical activity.

(b) Managing and administering the initial treatment of injuries or illnesses sustained while participating in physical activity.

(c) Giving emergency care or first aid for an injury or illness sustained while participating in physical activity.

(d) Rehabilitating and physically reconditioning injuries or illnesses sustained while participating in physical activity.

(e) Rehabilitating and physically reconditioning injuries or illnesses that impede or prevent an individual from returning to participation in physical activity, if the individual recently participated in, and intends to return to participation in, physical activity.

(f) Establishing or administering risk management, conditioning, and injury prevention programs.

(5m) "Consulting physician" means a person licensed as a physician under subch. II who consults with an athletic trainer while the athletic trainer is engaging in athletic training.

(6) "Licensee" means a person who is licensed as an athletic trainer under this subchapter.

(7) "Physical activity" means vigorous participation in exercise, sports, games, recreation, wellness, fitness, or employment activities.

History: 1999 a. 9; 2009 a. 162.

448.951 Use of title. Except as provided in s. 448.952, no person may designate himself or herself as an athletic trainer or use or assume the title "athletic trainer", "licensed athletic trainer", "certified athletic trainer" or "registered athletic trainer" or append to the person's name any other title, letters or designation that represents or may tend to represent the person as an athletic trainer unless the person is licensed under this subchapter.

History: 1999 a. 9, 185.

448.952 Applicability. This subchapter does not require a license under this subchapter for any of the following:

(1) Any person lawfully practicing within the scope of a license, permit, registration or certification granted by this state or the federal government, if the person does not represent himself or herself as an athletic trainer.

(2) An athletic training student practicing athletic training within the scope of the student's education or training, if he or she clearly indicates that he or she is an athletic training student.

(3) An athletic trainer who is in this state temporarily with an individual or group that is participating in a specific athletic event or series of athletic events and who is licensed, certified, or registered by another state or country or certified as an athletic trainer by the National Athletic Trainers' Association Board of Certification, Inc., or its successor agency.

History: 1999 a. 9; 2009 a. 162.

448.9525 Duties of affiliated credentialing board. (1) The affiliated credentialing board shall do all of the following:

(a) Maintain a complete list of athletic trainers licensed under this subchapter that includes the address of each person on the list.

(b) Provide a copy of the list maintained under par. (a) to any person who requests a copy.

(c) Prescribe a form for the recording of a protocol required under s. 448.956 (1).

(d) Promulgate rules establishing the minimum amount of liability insurance or surety bonding that a licensee must have to be eligible for renewal of his or her license.

(e) Promulgate rules requiring each applicant for a license under this subchapter to submit evidence satisfactory to the affiliated credentialing board that the applicant has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

(2) Subject to s. 448.956 (1), (4) and (5), the affiliated credentialing board and the medical examining board shall jointly promulgate rules relating to the minimum requirements of a protocol required under s. 448.956 (1).

History: 1999 a. 9; 2007 a. 104.

Cross−reference: See also chs. AT 1, 2, 3, 4, and 5, Wis. adm. code.

448.953 Licensure of athletic trainers. (1) The affiliated credentialing board shall grant an athletic trainer license to a person who does all of the following:

(a) Submits an application for the license to the department on a form provided by the department.

(b) Pays the fee specified in s. 440.05 (1).

(c) Subject to ss. 111.321, 111.322 and 111.335, submits evidence satisfactory to the affiliated credentialing board that he or she does not have an arrest or conviction record.

(d) Subject to ss. 111.321, 111.322 and 111.335, submits evidence satisfactory to the affiliated credentialing board that he or she does not have a history of alcohol or other drug abuse.

(e) Submits evidence satisfactory to the affiliated credentialing board that he or she has received at least a bachelor's degree from an accredited college or university.

(f) Submits evidence satisfactory to the affiliated credentialing board that he or she has met the requirements for certification established by the National Athletic Trainers' Association Board of Certification, Inc., or its successor agency and has passed the certification examination administered by the National Athletic Trainers' Association Board of Certification, Inc., or its successor agency.

(g) Provides all of the following information:

1. A statement as to whether the person has been granted an athletic trainer credential from any licensing jurisdiction in the United States or in any foreign country.

2. If the person has been granted an athletic trainer credential from any licensing jurisdiction in the United States or in any foreign country, a description of any disciplinary actions initiated against the person by the licensing jurisdiction that issued the credential.

3. A statement as to whether the person has ever applied for an athletic trainer credential from any licensing jurisdiction in the United States or in any foreign country and had the application denied, along with a description of why the credential application was denied.

(h) Passes an examination under s. 448.954.

(i) Submits evidence satisfactory to the affiliated credentialing board that he or she has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

(2) The affiliated credentialing board may waive the requirements under sub. (1) (c) to (i) for an applicant for a license under sub. (1) who establishes to the satisfaction of the affiliated credentialing board all of the following:

(a) That he or she has been issued a credential as an athletic trainer by another licensing jurisdiction in the United States.

(b) That the jurisdiction that issued the credential under par. (a) has requirements for credentialing that are substantially equivalent to the requirements under sub. (1) (c) to (i).

(5) An application form for a license under this section shall include all of the following:

(a) An affirmation by the applicant that the information that he or she is supplying on the application is true and complete.

(b) A statement that the applicant authorizes the affiliated credentialing board to have access to any of the following:

1. The applicant's records at the college or university at which he or she received the bachelor's degree required under sub. (1) (e).

2. The records of any credentialing authority in any licensing jurisdiction in the United States or in any foreign country that has granted the applicant a credential in athletic training.

History: 1999 a. 9, 185; 2007 a. 104; 2009 a. 162.

Cross−reference: See also ch. AT 2, Wis. adm. code.

448.954 Examination. (1) The affiliated credentialing board shall conduct or arrange for examinations for athletic trainer licensure at least semiannually and at times and places determined by the affiliated credentialing board. Examinations shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in subjects substantially related to athletic training.

(2) In lieu of an examination under sub. (1), the affiliated credentialing board may accept the results of an examination administered by the National Athletic Trainers' Association Board of Certification, Inc., or its successor agency.

History: 1999 a. 9; 2009 a. 162.

Cross−reference: See also ch. AT 2, Wis. adm. code.

448.9545 Continuing education. (1) (a) To be eligible for renewal of a license issued under s. 448.953 (1) or (2), a licensee shall, during the 2−year period immediately preceding the renewal date specified under s. 440.08 (2) (a), complete not less than 30 credit hours of continuing education in courses of study approved by the affiliated credentialing board.

(b) No more than 10 credit hours of the continuing education required under par. (a) may be on any of the following subject areas or combination of subject areas:

1. Management.

2. Risk management.

3. Personal growth.

4. Educational techniques.

(2) The affiliated credentialing board may approve any of the following courses for continuing education credit:

(a) A course that has been approved for continuing education credit by the National Athletic Trainers' Association Board of Certification, Inc., or its successor agency.

(b) Any course that satisfies all of the following:

1. The course is directly related to the practice of athletic training or sports medicine and lasts at least one hour.

2. Each member of the course faculty has expertise in the subject area of the course because he or she has received a degree from an accredited college or university relating to the subject area, has experience or special training in the subject area covered by the course or has previously taught the subject area covered by the course.

3. The course has specific written objectives describing the goals of the course for the participants.

4. The sponsor of the course keeps attendance records for the course and retains copies of those records for at least 4 years after the date of the course.

History: 1999 a. 9; 2009 a. 162.
Cross−reference: See also ch. AT 3, Wis. adm. code.

448.955 Issuance of license; expiration and renewal. **(1)** The renewal dates for licenses granted under this subchapter are specified under s. 440.08 (2) (a).

(2) Renewal applications shall be submitted to the department on a form provided, subject to sub. (3), by the department and shall include the renewal fee determined by the department under s. 440.03 (9) (a) and evidence satisfactory to the affiliated credentialing board that the licensee has all of the following:

(a) Completed, during the 2−year period immediately preceding the renewal date specified in s. 440.08 (2) (a), the continuing education requirements specified in s. 448.9545.

(b) Current certification in cardiopulmonary resuscitation.

(c) Liability insurance or a surety bond in at least the minimum amount required by the rules promulgated under s. 448.9525 (1) (d).

(d) Current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

(3) A renewal application form for renewal of a license issued under this subchapter shall include all of the following:

(a) A place for the licensee to describe his or her work history, including the average number of hours worked each week, for the 2−year period immediately preceding the renewal date specified in s. 440.08 (2) (a).

(c) A statement, signed by the licensee and the licensee's consulting physician, that a current copy of the protocol required under s. 448.956 (1) is on file at the place of employment of the athletic trainer and of the consulting physician.

History: 1999 a. 9; 2007 a. 20, 104; 2009 a. 162.
Cross−reference: See also ch. AT 2, Wis. adm. code.

448.956 Practice requirements. (1) (a) A licensee may engage in athletic training only in accordance with an evaluation and treatment protocol that is established by the athletic trainer and approved by the consulting physician in accordance with the rules promulgated under s. 448.9525 (2) and recorded on a protocol form prescribed by the affiliated credentialing board under s. 448.9525 (1) (c).

(b) A licensee shall have a copy of the protocol established under par. (a) at his or her place of employment at all times.

(c) A protocol established under par. (a) shall be updated no later than 30 days before the date specified in s. 440.08 (2) (a) 14f.

(1m) Subject to sub. (1) (a), a licensee may provide athletic training to an individual without a referral, except that a licensee may not provide athletic training as described under s. 448.95 (5) (d) or (e) in an outpatient rehabilitation setting unless the licensee has obtained a written referral for the individual from a practitioner licensed or certified under subch. II, III, IV, V, or VII of this chapter; under ch. 446; or under s. 441.16 (2).

(2) In addition to engaging in athletic training under a protocol established under sub. (1), a licensee may do any of the following:

(a) Monitor the general behavior and general physical response of a person to treatment and rehabilitation, including monitoring whether the person's behavior or response show abnormal characteristics and monitoring whether the person exhibits abnormal signs or symptoms.

(b) Suggest modifications in treatment or rehabilitation of an injured person to the health care practitioner who referred the person to the athletic trainer or to any other health care provider who is providing treatment to the person.

(c) Develop and administer an athletic training program for a person. An athletic training program under this paragraph may include providing education and counseling to a person.

(3) When working on behalf of his or her employer, a licensee may, in accordance with a protocol established under sub. (1) (a), do all of the following:

(a) Treat and rehabilitate an injury or illness using cold, heat, light, sound, electricity, exercise, chemicals, or mechanical devices.

(b) Evaluate and treat a person for an injury or illness that has not previously been diagnosed.

(c) Treat or rehabilitate an employee with an injury or illness that has resulted from an employment activity as directed, supervised, and inspected by a physician, as defined in s. 448.01 (5), or by a person licensed under s. 446.02, who has the power to direct, decide, and oversee the implementation of the treatment or rehabilitation.

(4) If a licensee or the consulting physician of the licensee determines that a patient's medical condition is beyond the scope of practice of the licensee, the licensee shall, in accordance with the protocol established under sub. (1) (a), refer the patient to a health care practitioner who is licensed under ch. 446 or 447 or subch. II, III or IV of ch. 448 and who can provide appropriate treatment to the patient.

(5) A licensee shall modify or terminate treatment of a patient that is not beneficial to a patient or that the patient cannot tolerate.

History: 1999 a. 9; 2009 a. 162.
Cross−reference: See also ch. AT 4, Wis. adm. code.

448.957 Disciplinary proceedings and actions. **(1)** Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may make investigations and conduct hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred.

(2) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may reprimand a licensee or may deny, limit, suspend or revoke a license granted under this subchapter if it finds that the applicant or licensee has done any of the following:

(a) Made a material misstatement in an application for a license or for renewal of a license.

(b) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the circumstances of which substantially relate to the practice of athletic training.

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

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

(e) Subject to ss. 111.321, 111.322 and 111.34, practiced athletic training while the applicant's or licensee's ability to practice was impaired by alcohol or other drugs.

(f) Engaged in unprofessional or unethical conduct.

(g) Engaged in conduct while practicing athletic training that evidences a lack of knowledge or ability to apply professional principles or skills.

(h) Failed to cooperate with the affiliated credentialing board in an investigation under this section.

(i) Aided another person in violating this subchapter or any rule promulgated under this subchapter.

(j) Violated this subchapter or any rule promulgated under this subchapter.

(3) In addition to or in lieu of the penalties provided under sub. (2), the affiliated credentialing board may assess against an applicant or licensee a forfeiture of not more than $10,000 for each violation specified under sub. (2).

History: 1999 a. 9.

Cross−reference: See also ch. AT 5, Wis. adm. code.

448.958 Injunctive relief. If the affiliated credentialing board has reason to believe that any person is violating this subchapter or any rule promulgated under this subchapter, the affiliated credentialing board, the department, the attorney general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring an action in the name and on behalf of this state to enjoin the person from the violation.

History: 1999 a. 9.

448.959 Penalties. Any person who violates this subchapter or any rule promulgated under this subchapter may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

History: 1999 a. 9.

SUBCHAPTER VII

OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD

Cross−reference: See also OT, Wis. adm. code.

448.96 Definitions. In this subchapter:

(1) "Affiliated credentialing board" means the occupational therapists affiliated credentialing board.

(2) "Licensee" means an individual granted a license under this subchapter.

(3) "Occupation" means intentional, action−oriented behavior that is personally meaningful to an individual and that is determined by the individual's characteristics, culture and environment.

(4) "Occupational therapist" means an individual who is licensed by the affiliated credentialing board to practice occupational therapy.

(5) "Occupational therapy" means the therapeutic use of purposeful and meaningful occupations to evaluate and treat individuals of all ages who have a disease, disorder, impairment, activity limitation or participation restriction that interferes with their ability to function independently in daily life roles and environments and to promote health and wellness.

(6) "Occupational therapy assistant" means an individual who is licensed by the affiliated credentialing board to assist in the practice of occupational therapy under the supervision of an occupational therapist.

History: 1999 a. 180 ss. 20, 22, 56.

448.961 License required. (1) Except as provided in s. 448.962 (1), a person who is not licensed as an occupational therapist may not practice occupational therapy, designate himself or herself as an occupational therapist, claim to render occupational therapy services or use the abbreviation "O.T." or "O.T.R." after the person's name.

(2) Except as provided in s. 448.962 (2) a person who is not licensed as an occupational therapy assistant may not assist in the practice of occupational therapy, describe himself or herself as an occupational therapy assistant or claim to render occupational therapy services as an occupational therapy assistant or use the abbreviation "O.T.A." or "C.O.T.A." after the person's name.

History: 1999 a. 180 ss. 24, 28, 56.

Cross−reference: See also ch. OT 4, Wis. adm. code.

448.962 Applicability. This subchapter does not do any of the following:

(1) Require any of the following to be licensed as an occupational therapist:

(a) Any person employed as an occupational therapist by a federal agency, as defined under s. 59.57 (2) (c) 1., if the person provides occupational therapy solely under the direction or control of the federal agency by which he or she is employed.

(b) Any person pursuing a supervised course of study, including internship, leading to a degree or certificate in occupational therapy under an accredited or approved educational program, if the person is designated by a title which clearly indicates his or her status as a student or trainee.

(c) Any person performing occupational therapy services in this state under a limited permit, as provided under s. 448.963 (4), if at least one of the following applies:

1. The person is licensed or certified as an occupational therapist under the law of another state which has licensure or certification requirements that are determined by the board to be at least as stringent as the requirements of this subchapter.

2. The person meets the requirements for initial certification as an occupational therapist, registered, established by the National Board for Certification in Occupational Therapy.

(d) Any person lawfully practicing within the scope of a license, permit, registration or certification granted by this state or the federal government.

(e) Any person assisting an occupational therapist or occupational therapy assistant in practice under the direct, immediate and on−premises supervision of the occupational therapist or occupational therapy assistant.

(2) Require any of the following to be licensed as an occupational therapy assistant:

(a) Any person employed as an occupational therapy assistant by a federal agency, as defined under s. 59.57 (2) (c) 1., if the person provides occupational therapy solely under the direction or control of the federal agency by which he or she is employed.

(b) Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy assistantship under an approved educational program, if the person is designated by a title which clearly indicates his or her status as a student or trainee.

(c) Any person performing occupational therapy services in this state under a limited permit, as provided under s. 448.963 (4), if at least one of the following applies:

1. The person is licensed or certified as an occupational therapy assistant under the law of another state which has licensure or certification requirements that are determined by the board to be at least as stringent as the requirements of this subchapter.

2. The person meets the requirements for initial certification as a certified occupational therapy assistant, established by the National Board for Certification in Occupational Therapy.

(d) Any person lawfully practicing within the scope of a license, permit, registration or certification granted by this state or the federal government.

History: 1999 a. 180 ss. 25 to 31, 56.

Cross−reference: See also ch. OT 4, Wis. adm. code.

448.963 Licensure requirements; limited permits. (1) An applicant for a license granted under this subchapter shall do each of the following:

(a) Submit an application for the license to the department on a form provided by the department.

(b) Pay the fee specified in s. 440.05 (1).

(2) The affiliated credentialing board shall grant a license as an occupational therapist to a person who does all of the following:

(a) Satisfies the requirements under sub. (1).

(b) Submits evidence satisfactory to the affiliated credentialing board that he or she has done any of the following:

1. Successfully completed the academic requirements and supervised internship of an educational program in occupational therapy recognized by the affiliated credentialing board and accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association.

2. Received initial certification as an occupational therapist by the National Board for Certification in Occupational Therapy.

3. Been initially certified as an occupational therapist by the National Board for Certification in Occupational Therapy, if the affiliated credentialing board determines that the requirements for the certification are equivalent to the requirements under subds. 1. and 2.

(c) Passes an examination under s. 448.964.

(3) The affiliated credentialing board shall grant a license as an occupational therapy assistant to a person who does all of the following:

(a) Satisfies the requirements under sub. (1).

(b) Submits evidence satisfactory to the affiliated credentialing board that he or she has done any of the following:

1. Successfully completed the academic requirements and supervised internship of an educational program in occupational therapy recognized by the affiliated credentialing board and accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association.

2. Received initial certification as an occupational therapy assistant by the National Board for Certification in Occupational Therapy.

3. Been initially certified as an occupational therapy assistant by the National Board for Certification in Occupational Therapy, if the affiliated credentialing board determines that the requirements for the certification are equivalent to the requirements under subds. 1. and 2.

(c) Passes an examination under s. 448.964.

(4) The affiliated credentialing board may, upon application, issue a permit for a limited period of time designated by the affiliated credentialing board to any of the following:

(a) A person who presents evidence satisfactory to the affiliated credentialing board of having met the requirements under sub. (2) (b) 1. or 2., to practice occupational therapy in association with an occupational therapist.

(b) A person who presents evidence satisfactory to the affiliated credentialing board of having met the requirements under sub. (3) (b) 1. or 2., to assist in the practice of occupational therapy under the supervision of an occupational therapist.

History: 1999 a. 180 ss. 36, 38, 41, 42, 45, 56.
Cross−reference: See also ch. OT 2, Wis. adm. code.

448.964 Examination. (1) The affiliated credentialing board shall conduct or arrange for examinations required for occupational therapist and occupational therapy assistant licensure under s. 448.963 (2) (c) and (3) (c) at times and places determined by the affiliated credentialing board.

(2) Examinations under sub. (1) may consist of written or oral tests, or both, and shall require applicants to demonstrate each of the following:

(a) Minimum competency in subjects substantially related to the practice of occupational therapy and assisting in the practice of occupational therapy.

(b) Ability to practice occupational therapy or assist in the practice of occupational therapy with reasonable skill and safety.

History: 1999 a. 180.
Cross−reference: See also ch. OT 2, Wis. adm. code.

448.965 Duties and powers of affiliated credentialing board. (1) The affiliated credentialing board shall promulgate rules that establish each of the following:

(a) Standards for acceptable examination performance by an applicant for licensure as an occupational therapist or occupational therapy assistant.

(b) Continuing education requirements for license renewal for an occupational therapist or occupational therapy assistant under s. 448.967 (2).

(c) Standards of practice for occupational therapy, including a code of ethics and criteria for referral.

(2) The affiliated credentialing board may promulgate rules that define the scope of practice of occupational therapy or the scope of assisting in the practice of occupational therapy.

History: 1999 a. 180 s. 51 to 53, 56.
Cross−reference: See also OT, Wis. adm. code.

448.966 Reciprocal licensure. (1) Upon application and payment of the fee specified in s. 440.05 (2), the affiliated credentialing board shall grant a license as an occupational therapist to a person who holds a similar certificate or license in another state or territory of the United States if the affiliated credentialing board determines that the requirements for receiving the certificate or license in the other state or territory are substantially equivalent to the requirements under s. 448.963 (2).

(2) Upon application and payment of the fee specified in s. 440.05 (2), the affiliated credentialing board shall grant a license as an occupational therapy assistant to a person who holds a similar certificate or license in another state or territory of the United States if the affiliated credentialing board determines that the requirements for receiving the certificate or license in the other state or territory are substantially equivalent to the requirements under s. 448.963 (3).

History: 1999 a. 180.

448.967 Issuance of license; expiration and renewal. (1) The department shall issue a certificate of licensure to each person who is licensed under this subchapter.

(2) The renewal dates for licenses granted under this subchapter are specified under s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include the renewal fee determined by the department under s. 440.03 (9) (a) and a statement attesting compliance with the continuing education requirements established in rules promulgated under s. 448.965 (1) (b).

History: 1999 a. 180; 2007 a. 20.
Cross−reference: See also ch. OT 3, Wis. adm. code.

448.968 Disciplinary proceedings and actions. (1) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may make investigations and conduct hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred.

(2) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may reprimand a licensee or deny, limit, suspend or revoke a license granted under this subchapter if it finds that the applicant or licensee has done any of the following:

(a) Made a material misstatement in an application for a license or for renewal of a license.

(b) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the circumstances of which substantially relate to the practice of occupational therapy or assisting in the practice of occupational therapy.

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

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

(e) Subject to ss. 111.321, 111.322 and 111.34, practiced occupational therapy or assisted in the practice of occupational therapy while his or her ability to practice was impaired by alcohol or other drugs.

(f) Engaged in unprofessional or unethical conduct in violation of the code of ethics established in the rules promulgated under s. 448.965 (1) (c).

(g) Engaged in conduct while practicing occupational therapy or assisting in the practice of occupational therapy that evidences a lack of knowledge or ability to apply professional principles or skills.

(h) Violated this subchapter or any rule promulgated under this subchapter.

History: 1999 a. 180.

Cross−reference: See also ch. OT 5, Wis. adm. code.

448.969 Injunctive relief. If the affiliated credentialing board has reason to believe that any person is violating this subchapter or any rule promulgated under this subchapter, the affiliated credentialing board, the department, the attorney general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring an action in the name and on behalf of this state to enjoin the person from the violation.

History: 1999 a. 180.

448.970 Penalties; appeal. (1) A person who violates any provision of this subchapter may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

(2) Any person aggrieved by any action taken under this subchapter by the affiliated credentialing board, its officers or its agents may apply for judicial review as provided in ch. 227, and shall file notice of such appeal with the secretary of the affiliated credentialling board within 30 days. No court of this state may enter an ex parte stay of any action taken by the affiliated credentialing board under this subchapter.

History: 1999 a. 180.

SUBCHAPTER VIII

INTERSTATE MEDICAL LICENSURE COMPACT

NOTE: Subch. VIII (title) is repealed eff. 12−16−19 by 2015 Wis. Act 116.

448.980 Interstate medical licensure compact. The following compact is hereby ratified and entered into:

(1) SECTION 1 — PURPOSE. In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the interstate medical licensure compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician−patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

(2) SECTION 2 — DEFINITIONS. In this compact:

(a) "Bylaws" means those bylaws established by the interstate commission pursuant to sub. (11) for its governance, or for directing and controlling its actions and conduct.

(b) "Commissioner" means the voting representative appointed by each member board pursuant to sub. (11).

(c) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(d) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact.

(e) "Interstate commission" means the interstate commission created pursuant to sub. (11).

(f) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(g) "Medical practice act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(h) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.

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

(j) "Practice of medicine" means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

(k) "Physician" means any person who:

1. Is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent;

2. Passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX−USA) within 3 attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

3. Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

4. Holds specialty certification or a time−unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

5. Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

6. Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

7. Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non−payment of fees related to a license;

8. Has never had a controlled substance license or permit suspended or revoked by a state or the united states drug enforcement administration; and

9. Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

(L) "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

(m) "Rule" means a written statement by the interstate commission promulgated pursuant to sub. (12) that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(n) "State" means any state, commonwealth, district, or territory of the United States.

(o) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

(3) SECTION 3 — ELIGIBILITY. (a) A physician must meet the eligibility requirements as defined in sub. (2) (k) to receive an expedited license under the terms and provisions of the compact.

(b) A physician who does not meet the requirements of sub. (2) (k) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

(4) SECTION 4 — DESIGNATION OF STATE OF PRINCIPAL LICENSE. (a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

1. The state of primary residence for the physician; or

2. The state where at least 25 percent of the practice of medicine occurs, or

3. The location of the physician's employer; or

4. If no state qualifies under subd. 1., 2., or 3., the state designated as state of residence for purpose of federal income tax.

(b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in par. (a).

(c) The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

(5) SECTION 5 — APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE. (a) A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) 1. Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission.

2. Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

3. The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 CFR 731.202.

4. Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification in par. (b), physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to par. (a), including the payment of any applicable fees.

(d) After receiving verification of eligibility under par. (b) and any fees under par. (c), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained though the compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non−disciplinary reason, without redesignation of a new state of principal licensure.

(g) The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

(6) SECTION 6 — FEES FOR EXPEDITED LICENSURE. (a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

(b) The interstate commission is authorized to develop rules regarding fees for expedited licenses.

(7) SECTION 7 — RENEWAL AND CONTINUED PARTICIPATION. (a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:

1. Maintains a full and unrestricted license in a state of principal license;

2. Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

3. Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non−payment of fees related to a license; and

4. Has not had a controlled substance license or permit suspended or revoked by a state or the united states drug enforcement administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected in par. (c), a member board shall renew the physician's license.

(e) Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

(f) The interstate commission is authorized to develop rules to address renewal of licenses obtained through the compact.

(8) SECTION 8 — COORDINATED INFORMATION SYSTEM. (a) The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under sub. (5).

(b) Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

(d) Member boards may report any non−public complaint, disciplinary, or investigatory information not required by par. (c) to the interstate commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(g) The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

(9) SECTION 9 — JOINT INVESTIGATIONS. (a) Licensure and disciplinary records of physicians are deemed investigative.

(b) In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

(10) SECTION 10 — DISCIPLINARY ACTIONS. (a) Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.

(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

1. Impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the medical practice act of that state; or

2. Pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license issued to the physician by any other member board shall be suspended, automatically and immediately without further action necessary by the other member board, for 90 days upon entry of the order by the disciplining board, to permit the member board to investigate the basis for the action under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the 90 day suspension period in a manner consistent with the medical practice act of that state.

(11) SECTION 11 — INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION. (a) The member states hereby create the "Interstate Medical Licensure Compact Commission."

(b) The purpose of the interstate commission is the administration of the interstate medical licensure compact, which is a discretionary state function.

(c) The interstate commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in the compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

(d) The interstate commission shall consist of 2 voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A Commissioner shall be:

1. An allopathic or osteopathic physician appointed to a member board;

2. An executive director, executive secretary, or similar executive of a member board; or

3. A member of the public appointed to a member board.

(e) The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

(g) Each commissioner participating at a meeting of the interstate commission is entitled to one vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of par. (d).

(h) The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two−thirds vote of the commissioners present that an open meeting would be likely to:

1. Relate solely to the internal personnel practices and procedures of the interstate commission;

2. Discuss matters specifically exempted from disclosure by federal statute;

3. Discuss trade secrets, commercial, or financial information that is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Discuss investigative records compiled for law enforcement purposes; or

7. Specifically relate to the participation in a civil action or other legal proceeding.

(i) The interstate commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(j) The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.

(k) The interstate commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the

exception of rule making, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as necessary.

(L) The interstate commission may establish other committees for governance and administration of the compact.

(12) SECTION 12 — POWERS AND DUTIES OF THE INTERSTATE COMMISSION. The interstate commission shall have the duty and power to:

(a) Oversee and maintain the administration of the compact;

(b) Promulgate rules which shall be binding to the extent and in the manner provided for in the compact;

(c) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules, and actions;

(d) Enforce compliance with compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

(e) Establish and appoint committees including, but not limited to, an executive committee as required by sub. (11), which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties;

(f) Pay, or provide for the payment of the expenses related to the establishment, organization, and ongoing activities of the interstate commission;

(g) Establish and maintain one or more offices;

(h) Borrow, accept, hire, or contract for services of personnel;

(i) Purchase and maintain insurance and bonds;

(j) Employ an executive director who shall have such powers to employ, select or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation;

(k) Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

(L) Accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;

(m) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed;

(n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(o) Establish a budget and make expenditures;

(p) Adopt a seal and bylaws governing the management and operation of the interstate commission;

(q) Report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission;

(r) Coordinate education, training, and public awareness regarding the compact, its implementation, and its operation;

(s) Maintain records in accordance with the bylaws;

(t) Seek and obtain trademarks, copyrights, and patents; and

(u) Perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

(13) SECTION 13 — FINANCE POWERS. (a) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(b) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(c) The interstate commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

(14) SECTION 14 — ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION. (a) The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within 12 months of the first interstate commission meeting.

(b) The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice−chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice−chairperson, shall preside at all meetings of the interstate commission.

(c) Officers selected in par. (b) shall serve without remuneration from the interstate commission.

(d) 1. The officers and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this paragraph shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

3. The interstate commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred

within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

(15) SECTION 15 — RULE–MAKING FUNCTIONS OF THE INTERSTATE COMMISSION. (a) The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rule−making authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rule−making process that substantially conforms to the "Model State Administrative Procedure Act" of 2010, and subsequent amendments thereto.

(c) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

(16) SECTION 16 — OVERSIGHT OF INTERSTATE COMPACT. (a) The executive, legislative, and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact which may affect the powers, responsibilities or actions of the interstate commission.

(c) The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the compact, or promulgated rules.

(17) SECTION 17 — ENFORCEMENT OF INTERSTATE COMPACT. (a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(b) The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States District Court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

(18) SECTION 18 — DEFAULT PROCEDURES. (a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the compact, or the rules and bylaws of the interstate commission promulgated under the compact.

(b) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact, or the bylaws or promulgated rules, the interstate commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and

2. Provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges, and benefits conferred by the compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(e) The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

(f) The member state which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(g) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(h) The defaulting state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

(19) SECTION 19 — DISPUTE RESOLUTION. (a) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states or member boards.

(b) The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

(20) SECTION 20 — MEMBER STATES, EFFECTIVE DATE AND AMENDMENT. (a) Any state is eligible to become a member state of the compact.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 7 states. Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.

(c) The governors of non−member states, or their designees, shall be invited to participate in the activities of the interstate commission on a non−voting basis prior to adoption of the compact by all states.

(d) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

(21) SECTION 21 — WITHDRAWAL. (a) Once effective, the compact shall continue in force and remain binding upon each and

every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(b) Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(c) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

(d) The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice provided under par. (c).

(e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(g) The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

(22) SECTION 22 — DISSOLUTION. (a) The compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

(b) Upon the dissolution of the compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

(23) SECTION 23 — SEVERABILITY AND CONSTRUCTION. (a) The provisions of the compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of the compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

(24) SECTION 24 — BINDING EFFECT OF COMPACT AND OTHER LAWS. (a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(d) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

NOTE: This section is repealed eff. 12−16−19 by 2015 Wis. Act 116.

History: 2015 a. 116; s. 35.17 correction in (11) (L).

448.981 Implementation of the interstate medical licensure compact. (1) In this section:

(a) "Board" means the medical examining board.

(b) "Compact" means the interstate medical licensure compact entered into under s. 448.980.

(c) "Expedited license" has the meaning given in s. 448.980 (2) (d).

(d) "Interstate commission" has the meaning given in s. 448.980 (2) (e).

(e) "Member board" has the meaning given in s. 448.980 (2) (h).

(f) "Member state" has the meaning given in s. 448.980 (2) (i).

(g) "State of principal license" has the meaning given in s. 448.980 (2) (o).

(2) Notwithstanding s. 448.980 and any rules promulgated by the interstate commission under s. 448.980, the board may only disclose information about an individual pursuant to the compact if the information meets all of the following criteria:

(a) Any of the following applies:

1. The individual has a current expedited license granted by the board pursuant to the compact.

2. The individual has a current expedited license granted by another member state or is applying to receive an expedited license in another member state, and Wisconsin is currently designated as his or her state of principal license.

3. The individual is requesting to designate Wisconsin as his or her state of principal license pursuant to the compact.

4. The individual is applying to receive an expedited license to practice in Wisconsin pursuant to the compact.

(b) The information is provided only to a member board with responsibility for authorizing the practice of medicine in the member state or to the interstate commission.

(c) If the information pertains to an investigation or discipline, all identifying information of individuals or entities other than the individual being investigated or disciplined is removed.

(d) The information is not confidential under the laws of this state.

(3) A subpoena issued pursuant to s. 448.980 (9) (c) shall only be enforceable in this state or against a citizen of this state if all of the following apply:

(a) The subpoena is issued by a member board with responsibility for authorizing the practice of medicine in the member state.

(b) The individual being subpoenaed is one of the following:

1. A physician with a current expedited license granted by the board pursuant to the compact.

2. A physician with a current expedited license granted by another member state, and Wisconsin is currently designated as the physician's state of principal license.

(4) In applying s. 448.980 (9) (e), the board may only undertake such investigation of violations of another state's statute authorizing the practice of medicine if one of the following applies:

(a) The physician being investigated has a current expedited license that was granted by the board and a current expedited license that was granted by the other state pursuant to the compact.

NOTE: Par. (a) was created as subd. 1. by 2015 Wis. Act 116 and renumbered to par. (a) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

(b) The physician being investigated has a current expedited license that was granted by the board pursuant to the compact and the other state is the physician's currently designated state of principal license.

NOTE: Par. (b) was created as subd. 2. by 2015 Wis. Act 116 and renumbered to par. (b) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

(c) The physician being investigated has a current expedited license that was granted by the other state pursuant to the compact and Wisconsin is the physician's currently designated state of principal license.

NOTE: Par. (c) was created as subd. 3. by 2015 Wis. Act 116 and renumbered to par. (c) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

(5) The board shall, by January 1 of each year, report to the members of the joint committee on finance the number of individuals investigated by the board solely pursuant to s. 448.980 (9) (e) and the expenses incurred by the board undertaking investigations pursued solely pursuant to s. 448.980 (9) (e) and shall also include in the report a copy of all rules promulgated by the interstate commission since the last report under this subsection and all changes

made to any rules previously promulgated by the interstate commission since the last report.

(6) The payment of assessments for the interstate medical licensure compact under s. 448.980 (13) (a) shall be made from the appropriation account under s. 20.165 (1) (hg) using the licensure fees paid by physicians licensed under the compact. No fees from physicians that have not applied for licensure through the compact shall be used to pay Wisconsin's annual assessment pursuant to s. 448.980 (13) (a) without the approval of the joint committee on finance.

NOTE: This section is repealed eff. 12−16−19 by 2015 Wis. Act 116.

History: 2015 a. 116; s. 13.92 (1) (bm) 2.