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# Wisconsin Legislative Council

## ACT MEMO

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### 2021 Wisconsin Act 10 [2021 Assembly Bill 148]

### Temporary Credential for Health Care Providers; Hospital Services

2021 Wisconsin Act 10 creates a temporary credential for a health care provider from out-of-state to begin practicing in Wisconsin, pending an application for a permanent credential or during the declared national emergency related to the COVID-19 pandemic. In relation to the COVID-19 pandemic, the act also addresses Medical Assistance (MA) reimbursement to a hospital for nursing-facility-level care, and authorizes a hospital to provide hospital-associated services in a home setting without a home health agency license.

## OUT-OF-STATE HEALTH CARE PROVIDERS

The act requires the Department of Safety and Professional Services (DSPS) to grant a temporary state credential to a health care provider who is credentialed in good standing in another state or territory.<sup>1</sup> The act provides the temporary credential as an alternative to other temporary credentialing options that may be available in a field of practice, such as a visiting physician or *locum tenens* credential. The temporary credential under the act provides preliminary credentialing pending an application for a permanent credential, and temporary credentialing for practice that is limited to the declared national emergency related to COVID-19.

A provider must apply for the temporary credential within 30 days of first providing services in Wisconsin. The health care provider must also apply for a permanent credential, unless the services are only provided during the COVID-19 national emergency declared by the U.S. President, and attest in the application for the temporary credential that the person has applied for a permanent credential.

In addition, the health care provider's employer must notify DSPS within 10 days of the date on which the health care provider begins providing health care services in this state, unless services are provided only through telehealth. The employer must attest that the provider's credential and standing have been confirmed to a reasonable degree of certainty.<sup>2</sup>

While practicing under the temporary credential, a health care provider is subject to all responsibilities and limitations in the applicable practice, including any malpractice insurance requirements.

A temporary credential is effective from the date that services are first provided in the state, as identified in the provider's application for the temporary credential, and expires on the date that DSPS or a credentialing board grants or denies the application for a permanent credential. A temporary

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<sup>1</sup> For the temporary credential, a health care provider includes any of the following: acupuncturist, athletic trainer, audiologist, chiropractor, clinical substance abuse counselor, dentist, dietitian, marriage and family therapist, massage therapist or bodywork therapist, nurse, occupational therapist, occupational therapy assistant, optometrist, perfusionist, pharmacist, physical therapist, physical therapy assistant, physician, physician assistant, podiatrist, professional counselor, psychologist, respiratory care practitioner, social worker, or speech-language pathologist.

<sup>2</sup> To be in good standing, the provider must hold a valid, unexpired credential, and must not be under investigation or have any active restrictions or limitations on the person's credential.

credential for a health care provider who is providing services only during the declared national emergency expires 30 days after the end of the declared national emergency.

## **“SWING BED” HOSPITAL PROGRAM**

The act requires the Department of Health Services (DHS) to provide MA reimbursements or supplemental payments to a hospital for providing nursing-facility-level care when a nursing facility is not available to provide that care. A hospital must notify DHS that it is participating as a “swing bed” hospital under the MA program to receive these reimbursements or supplemental payments.

To be eligible for payment, the hospital must make a reasonable attempt to locate a nursing facility for a patient who is ready for discharge to nursing-facility-level care. The hospital must include in the notification to DHS a statement that it has been unable to locate a suitable nursing home placement in its community for each individual.

DHS must use the same standards and criteria for hospital participation as are applied in the Medicare swing bed program, or in certain cases, as applied under a federal waiver. The reimbursement is paid at the statewide average per-diem rate paid to nursing facilities.

The MA swing bed hospital program is available during the COVID-19 public health emergency declared by the Secretary of the U.S. Department of Health and Human Services or until January 1, 2022, whichever is earlier.

## **HOME-HEALTH SERVICES PROVIDED BY A HOSPITAL**

If federal standards are met, the act exempts a hospital from licensing as a home health agency for providing hospital-associated services in a home setting. In particular, if the federal Centers for Medicare and Medicaid Services, commonly referred to as “CMS,” has approved a hospital to provide a hospital-associated service, DHS may apply the same standards for the service as CMS. This allows a hospital to provide a service in a home setting that is otherwise provided in an inpatient or outpatient facility, without a home health agency license.

The hospital-associated services may be provided by a hospital in a home setting, under the CMS standards, until January 1, 2022.

**Effective date:** March 28, 2021

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