

# State of Wisconsin



2021 Assembly Bill 218

Date of enactment: **December 7, 2021**

Date of publication\*: **December 8, 2021**

## 2021 WISCONSIN ACT 118

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

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

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

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

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

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

a. Forward the application to the credentialing board or the credentialing board's designee with the results of the department's investigation and a recommendation on whether to approve the application, approve the application with limitations, deny the application, or conduct further review. If the department forwards an application under this subd. 2. a., does not recommend further review of the application, and recommends that the application be approved or approved with limitations, the department shall notify the credentialing board or credentialing board's designee of the date on which the application is forwarded and the date on which the application would be considered approved under s. 440.035 (1r) unless anything specified in s. 440.035 (1r) (a) to (d) occurs prior to that date.

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

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

440.03 (13) (e) After the department submits under par. (a) 2. a. a completed application for a credential to a credentialing board or the designee of the credentialing

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

board, for which the department recommends approval or approval with limitations and does not recommend any further review by the credentialing board or the credentialing board's designee, the department may notify the applicant that, unless anything specified in s. 440.035 (1r) (a) to (d) occurs prior to that date, the application will be considered to have been approved by the credentialing board in accordance with the department's recommendation on the 10th business day following the date of submission and the credential will be issued no later than the 10th business day following that date.

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

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

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

440.035 (1m) (b) Be the supervising authority of all personnel, other than shared personnel, engaged in the review, investigation, or handling of information regarding qualifications of applicants for credentials, examination questions and answers, accreditation, related investigations, and disciplinary matters affecting persons who are credentialed by the examining board or affiliated credentialing board, or in the establishing of regulatory policy or the exercise of administrative discretion with regard to the qualifications or discipline of applicants or persons who are credentialed by the examining board, affiliated credentialing board or accreditation.

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

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

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

440.035 (1r) Notwithstanding chs. 440 and 480, after the department submits a completed application for a credential to a credentialing board or the designee of the credentialing board under s. 440.03 (13) (a) 2. a. for which the department recommends approval or approval with limitations and does not recommend further review by

the credentialing board or the credentialing board's designee, the application shall be considered to have been approved by the credentialing board in accordance with the department's recommendation on the 10th business day following the date of submission, unless one of the following occurs prior to that date:

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

(b) The credentialing board or the credentialing board's designee makes a determination that additional time is required to make a determination on the application, not to exceed any deadline established by the department under s. 440.03 (1m).

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

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

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

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

**SECTION 9. Nonstatutory provisions.**

(1) Using the procedure under s. 227.24, the department of safety and professional services and any credentialing board, as defined in s. 440.01 (2) (bm), may promulgate rules that are necessary to implement the changes in this act. Notwithstanding s. 227.24 (1) (a) and (3), the department or credentialing board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until May 1, 2023, or the date on which permanent rules take effect, whichever is sooner, and the effective period may not be further extended under s. 227.24 (2).