

2001 Assembly Bill 615

Date of enactment: **April 11, 2004**
Date of publication*: **April 25, 2002**

2001 WISCONSIN ACT 70

AN ACT *to repeal* 446.02 (10), 448.51 (2) (c), 448.52 (3) and 448.525; *to renumber* 448.52 (1) and (2) and 448.52 (5); *to renumber and amend* 448.50 (4), 448.52 (intro.), 448.52 (4) and 448.54 (2); *to amend* 48.981 (2), 146.81 (1) (dg), 146.997 (1) (d) 4., 155.01 (7), 252.14 (1) (ar) 4e., 448.51 (1), 448.51 (2) (a), 448.51 (2) (b), 448.54 (1), 448.54 (3), 448.55 (2), 448.57 (2) (b), 448.57 (2) (e), 448.57 (2) (f), 448.57 (2) (g) and 450.10 (3) (a) 5.; and *to create* 15.406 (1) (am), 440.08 (2) (a) 57m., 448.50 (1m), 448.50 (1r), 448.50 (3m), 448.50 (4) (a) 1. to 4., 448.50 (4) (b), 448.50 (5), 448.50 (6), 448.51 (1e), 448.51 (1s), 448.52 (2m), 448.522, 448.527, 448.53 (1) (f), 448.535, 448.54 (2) (b), 448.55 (3), 448.56 (1m), 448.56 (4), 448.56 (5), 448.565, 448.567, 448.57 (2) (am), 448.57 (2) (bm), 448.57 (2) (fm), 448.57 (3), 448.57 (4) and 448.57 (5) of the statutes; **relating to:** licensing of physical therapists and physical therapist assistants and granting rule-making authority.

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

SECTION 1. 15.406 (1) (am) of the statutes is created to read:

15.406 (1) (am) One physical therapist assistant licensed under subch. III of ch. 448.

SECTION 2. 48.981 (2) of the statutes is amended to read:

48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or mental health professional, social worker, marriage and family therapist, professional counselor, public assistance worker, including a financial and employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or counselor, mediator under s. 767.11, child care worker in a day care center or child caring institution, day care provider, alcohol or other drug abuse counselor, member of the treatment staff employed by or working under contract with a county department under

s. 46.23, 51.42, or 51.437, physical therapist, physical therapist assistant, occupational therapist, dietitian, speech-language pathologist, audiologist, emergency medical technician, first responder or police or law enforcement officer having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or having reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under sub. (2m), report as provided in sub. (3). A court-appointed special advocate having reasonable cause to suspect that a child seen in the course of the court-appointed special advocate's activities under s. 48.236 (3) has been abused or neglected or having reason to believe that a child seen in the course of those activities has been threatened with abuse and neglect and that abuse or neglect of the child will occur shall, except as provided in sub. (2m), report as provided in sub. (3). Any other person, including an attorney, having reason to suspect that a child has

* Section 991.11, WISCONSIN STATUTES 1999-00: 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 as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

been abused or neglected or reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may make such a report. Any person, including an attorney, having reason to suspect that an unborn child has been abused or reason to believe that an unborn child is at substantial risk of abuse may report as provided in sub. (3). No person making a report under this subsection may be discharged from employment for so doing.

SECTION 3. 146.81 (1) (dg) of the statutes is amended to read:

146.81 (1) (dg) A physical therapist or physical therapist assistant licensed under subch. III of ch. 448.

SECTION 4. 146.997 (1) (d) 4. of the statutes is amended to read:

146.997 (1) (d) 4. A physician, podiatrist ~~or~~ physical therapist, or physical therapist assistant licensed under ch. 448.

SECTION 5. 155.01 (7) of the statutes is amended to read:

155.01 (7) "Health care provider" means a nurse licensed or permitted under ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a physician, physician assistant, podiatrist, physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant licensed under ch. 448, a person practicing Christian Science treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a partnership thereof, a corporation or limited liability company thereof that provides health care services, an operational cooperative sickness care plan organized under ss. 185.981 to 185.985 that directly provides services through salaried employees in its own facility, or a home health agency, as defined in s. 50.49 (1) (a).

SECTION 6. 252.14 (1) (ar) 4e. of the statutes is amended to read:

252.14 (1) (ar) 4e. A physical therapist or physical therapist assistant licensed under subch. III of ch. 448.

SECTION 7. 440.08 (2) (a) 57m. of the statutes is created to read:

440.08 (2) (a) 57m. Physical therapist assistant: November 1 of each odd-numbered year; \$44.

SECTION 7m. 446.02 (10) of the statutes is repealed.

SECTION 8. 448.50 (1m) of the statutes is created to read:

448.50 (1m) "Business entity" has the meaning given in s. 452.01 (3j).

SECTION 9. 448.50 (1r) of the statutes is created to read:

448.50 (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 interven-

tion, but does not include a chiropractic or medical diagnosis.

SECTION 10. 448.50 (3m) of the statutes is created to read:

448.50 (3m) "Physical therapist assistant" means an individual who holds a license as a physical therapist assistant granted by the affiliated credentialing board.

SECTION 11. 448.50 (4) of the statutes is renumbered 448.50 (4) (a) (intro.) and amended to read:

448.50 (4) (a) (intro.) "Physical therapy" means ~~that branch or system of treating the sick which is limited to therapeutic exercises with or without assistive devices, and physical measures including heat and cold, air, water, light, sound, electricity and massage; and physical testing and evaluation. The use of roentgen rays and radium for any purpose, and the use of electricity for surgical purposes including cauterization, are not part of physical therapy. except as provided in par. (b), any of the following:~~

SECTION 12. 448.50 (4) (a) 1. to 4. of the statutes are created to read:

448.50 (4) (a) 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 subs. 1. to 3.

SECTION 12m. 448.50 (4) (b) of the statutes is created to read:

448.50 (4) (b) "Physical therapy" does not include using roentgen rays or radium for any purpose, using electricity for surgical purposes, including cauterization, or prescribing drugs or devices.

SECTION 13. 448.50 (5) of the statutes is created to read:

448.50 (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.

SECTION 14. 448.50 (6) of the statutes is created to read:

448.50 (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.

SECTION 15. 448.51 (1) of the statutes is amended to read:

448.51 (1) Except as provided in s. 448.52, no person may practice physical therapy or designate himself or herself as a physical therapist or use or assume the title "physical therapist" or "physiotherapist" or "physical therapy technician" or append to the person's name the letters "P.T.," "P.T.T." or "R.P.T." or any other title, letters or designation which represents or may tend to represent the person as a physical therapist unless the person is licensed as a physical therapist under this subchapter.

SECTION 16. 448.51 (1e) of the statutes is created to read:

448.51 (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 which represents or may tend to represent the person as a physical therapist, unless the person is licensed as a physical therapist under this subchapter.

SECTION 17. 448.51 (1s) of the statutes is created to read:

448.51 (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.

SECTION 18. 448.51 (2) (a) of the statutes is amended to read:

448.51 (2) (a) In this subsection, "advertisement" includes advertisements that appear on outdoor signs, in print or electronic media, and in material mailed to a person other than a patient, client, or prospective patient or client who has requested the material.

SECTION 19. 448.51 (2) (b) of the statutes is amended to read:

448.51 (2) (b) Except as provided in ~~par. (e)~~ 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.

SECTION 19e. 448.51 (2) (c) of the statutes is repealed.

SECTION 19m. 448.52 (intro.) of the statutes is renumbered 448.52 (1m) (intro.) and amended to read:

448.52 (1m) (intro.) 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 ~~as prohibited under s. 448.51 (2) (b):~~

SECTION 19s. 448.52 (1) and (2) of the statutes are renumbered 448.52 (1m) (a) and (b).

SECTION 19v. 448.52 (2m) of the statutes is created to read:

448.52 (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.

SECTION 20. 448.52 (3) of the statutes is repealed.

SECTION 21c. 448.52 (4) of the statutes is renumbered 448.52 (1m) (c) and amended to read:

448.52 (1m) (c) A physical therapy student ~~practicing 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.

SECTION 21h. 448.52 (5) of the statutes is renumbered 448.52 (1m) (d).

SECTION 21p. 448.522 of the statutes is created to read:

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.

SECTION 21t. 448.525 of the statutes is repealed.

SECTION 22. 448.527 of the statutes is created to read:

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

SECTION 23. 448.53 (1) (f) of the statutes is created to read:

448.53 (1) (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 affiliated credentialing board may establish by rule.

SECTION 24. 448.535 of the statutes is created to read:

448.535 Licensure of physical therapist assistants.

(1) The affiliated credentialing 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 affiliated credentialing board that the applicant does not have an arrest or conviction record.

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

(e) Passes an examination under s. 448.54.

(2) The affiliated credentialing board may waive a requirement under sub. (1) (d) or (e), or both, for an applicant who establishes to the satisfaction of the affiliated credentialing board that he or she is licensed as a physical therapist assistant by another licensing jurisdiction in the United States. The affiliated credentialing 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.

SECTION 25. 448.54 (1) of the statutes is amended to read:

448.54 (1) The affiliated credentialing 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 affiliated credentialing board.

SECTION 26. 448.54 (2) of the statutes is renumbered 448.54 (2) (a) and amended to read:

448.54 (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.

SECTION 27. 448.54 (2) (b) of the statutes is created to read:

448.54 (2) (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.

SECTION 28. 448.54 (3) of the statutes is amended to read:

448.54 (3) The Notwithstanding s. 448.53 (1) (f), the affiliated credentialing 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 satisfac-

tion of the affiliated credentialing board, that he or she satisfies the requirements under s. 448.53 (3).

SECTION 29. 448.55 (2) of the statutes is amended to read:

448.55 (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 specified in s. 440.08 (2) (a) and proof of compliance with the requirements established in any rules promulgated under sub. (3).

SECTION 30. 448.55 (3) of the statutes is created to read:

448.55 (3) The affiliated credentialing 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.

SECTION 31. 448.56 (1m) of the statutes is created to read:

448.56 (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 affiliated credentialing board shall promulgate rules establishing the requirements that a physical therapist must satisfy if a physician, chiropractor, dentist, or podiatrist 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.

SECTION 32. 448.56 (4) of the statutes is created to read:

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

SECTION 33. 448.56 (5) of the statutes is created to read:

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

SECTION 35. 448.565 of the statutes is created to read:

448.565 Complaints. The affiliated credentialing board shall promulgate rules establishing procedures and requirements for filing complaints against licensees and shall publicize the procedures and requirements.

SECTION 36. 448.567 of the statutes is created to read:

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

SECTION 37. 448.57 (2) (am) of the statutes is created to read:

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

SECTION 38. 448.57 (2) (b) of the statutes is amended to read:

448.57 (2) (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.

SECTION 39. 448.57 (2) (bm) of the statutes is created to read:

448.57 (2) (bm) Been adjudicated mentally incompetent by a court.

SECTION 40. 448.57 (2) (e) of the statutes is amended to read:

448.57 (2) (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.

SECTION 41. 448.57 (2) (f) of the statutes is amended to read:

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

SECTION 42. 448.57 (2) (fm) of the statutes is created to read:

448.57 (2) (fm) Engaged in sexual misconduct with a patient.

SECTION 43. 448.57 (2) (g) of the statutes is amended to read:

448.57 (2) (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.

SECTION 44. 448.57 (3) of the statutes is created to read:

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

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

SECTION 45. 448.57 (4) of the statutes is created to read:

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

SECTION 46. 448.57 (5) of the statutes is created to read:

448.57 (5) The affiliated credentialing 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.

SECTION 47. 450.10 (3) (a) 5. of the statutes is amended to read:

450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant licensed under ch. 448.

SECTION 48. Nonstatutory provisions.

(1) PHYSICAL THERAPIST ASSISTANT LICENSES. Notwithstanding section 448.535 (1) of the statutes, as created by this act, the physical therapists affiliated credentialing board shall grant a physical therapist assistant license under section 448.535 (1) of the statutes, as created by this act, to an individual who, not later than the first day of the 24th month beginning after the effective date of this subsection, does all of the following:

(a) Pays the fee specified in section 440.05 (1) of the statutes.

(b) Subject to sections 111.321, 111.322, and 111.335 of the statutes, submits evidence satisfactory to the physical therapists affiliated credentialing board that he or she does not have an arrest or conviction record.

(c) Provides evidence satisfactory to the physical therapists affiliated credentialing board that he or she has graduated from an accredited physical therapist assistant program.

(d) Provides evidence satisfactory to the physical therapists affiliated credentialing board that, during at least 2 years of the 5-year period immediately preceding the effective date of this paragraph, he or she was a physical therapist assistant, as defined in section 448.52 (3), 1999 stats., assisting a physical therapist in practice under the general supervision of a physical therapist as specified in the rules promulgated under section 448.52 (3), 1999 stats.

(e) Passes an examination conducted or arranged by the physical therapists affiliated credentialing board, on state laws and administrative rules relating to physical therapy.

(f) Submits letters of recommendation from 2 physical therapists licensed under subchapter III of chapter 448 of the statutes who have personal knowledge of the individual's activities in assisting a physical therapist in practice.

(2) INITIAL PHYSICAL THERAPIST ASSISTANT MEMBER. Notwithstanding the length of term specified in section 15.406 (1) (intro.) of the statutes, the initial term of the physical therapist assistant member of the physical therapists affiliated credentialing board appointed under sec-

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tion 15.406 (1) (am) of the statutes, as created by this act, shall expire on July 1, 2007.

SECTION 49. Effective dates. This act takes effect on the first day of the 24th month beginning after publica-

tion, except as follows:

(1) SECTION 48 (1) of this act takes effect on the day after publication.

