



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2370/1
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2021 ASSEMBLY BILL 169

March 16, 2021 - Introduced by Representatives PLUMER, ARMSTRONG, BALDEH, BROOKS, CALLAHAN, DITTRICH, DUCHOW, GUNDRUM, KRUG, MAGNAFICI, MOSES, MURSAU, L. MYERS, NEYLON, RAMTHUN, J. RODRIGUEZ, ROZAR, SCHRAA, SKOWRONSKI, SNYDER, SPIROS, TAUCHEN and ZIMMERMAN, cosponsored by Senators FELZKOWSKI, BERNIER, DARLING, KOOYENGA, PFAFF, RINGHAND, STAFSHOLT, STROEBEL and L. TAYLOR. Referred to Committee on Assembly Organization.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 15.405 (6) (b), 36.61 (1) (b), 36.61 (3) (a), 36.61 (5) (b) 1., 36.61
2 (8) (c) 3., 146.81 (1) (c), 146.89 (1) (r) 1., 146.89 (1) (r) 5., 146.89 (3) (b) 8., 146.89
3 (3m) (intro.), 146.997 (1) (d) 3., 155.01 (7), 252.14 (1) (ar) 3., 257.01 (5) (a), 257.01
4 (5) (b), 447.02 (1) (a), 447.02 (1) (b), 447.02 (2) (a), 447.02 (3) (a) (intro.), 447.02
5 (3) (a) 2., 447.02 (3) (b), 447.02 (5), 447.03 (3) (c), 447.05, 447.06 (1), 447.06 (2)
6 (a) 3., 447.06 (2) (b), 447.06 (2) (c) (intro.), 447.06 (2) (c) 2. (intro.), 447.063,
7 447.065, 447.07 (1), 447.07 (3) (intro.), 447.07 (3) (e) to (h), 447.40 (intro.),
8 447.40 (6), 448.03 (2) (a), 448.21 (1) (a), 450.03 (1) (e), 450.10 (3) (a) 4., 462.02
9 (2) (d), 462.04, 463.10 (5), 463.12 (5), 632.87 (4), 895.48 (1m) (a) (intro.), 895.48
10 (1m) (a) 2. and 941.315 (5); and **to create** 36.61 (1) (ak), 440.03 (13) (b) 20m.,
11 440.08 (2) (a) 25m., 447.01 (6g), 447.01 (6r), 447.02 (1) (g), 447.02 (3) (a) 3.,
12 447.02 (6), 447.03 (1m), 447.03 (3) (am), 447.04 (1m), 447.057, 447.06 (1m) and
13 447.06 (3) of the statutes; **relating to:** licensure of dental therapists; extending
14 the time limit for emergency rule procedures; providing an exemption from

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1 emergency rule procedures; providing an exemption from rule-making
2 procedures; and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill provides for the licensure of dental therapists, who are health care practitioners who may engage in the limited practice of dentistry.

Under current law, dentists and dental hygienists are licensed by the Dentistry Examining Board to practice dentistry and dental hygiene, respectively. This bill provides for the licensure of a third type of dental practitioner, dental therapists. Under the bill, the board must grant a dental therapist license to an individual who satisfies certain criteria, including completion of an approved dental therapy program and passage of required examinations.

Dental therapists may provide dental therapy services only under the supervision of a dentist with whom the dental therapist has a collaborative management agreement that addresses various aspects of the dental therapist's practice. Dental therapists are, subject to the terms of a collaborative management agreement and what was covered in their dental therapy education program, limited to providing services, treatments, and procedures that are specified in the bill, as well as additional services, treatments, or procedures specified by the board by rule. Dental therapists may initially provide dental therapy services only under the direct or indirect supervision of a qualifying dentist. Once a dental therapist licensed has provided dental therapy services for at least 2,000 hours, the dental therapist may provide services under the general supervision of a qualifying dentist. However, the level of supervision for a dental therapist may be further limited under the terms of a collaborative management agreement. Dental therapists must also, under the bill, either 1) limit their practice to federally defined dental shortage areas or 2) practice in settings where at least 50 percent of their patient base consists of certain specified populations. Dental therapists must complete 12 hours of continuing education each biennium.

The bill subjects dental therapists to, or covers dental therapists under, various other laws, including the health care records law, the volunteer health care provider program, the health care worker protection law, and the emergency volunteer health care practitioner law. The bill also provides for loan forgiveness for dental therapists under the health care provider loan assistance program.

Finally, the bill requires, effective when 50 individuals become licensed as a dental therapist in this state or five years after the bill is enacted, that, to the extent possible, one of the dental hygienist members on the board also be licensed as a dental therapist.

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For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.405 (6) (b) of the statutes is amended to read:

2 15.405 (6) (b) Three dental hygienists who are licensed under ch. 447. The
3 governor shall, to the extent possible, appoint members under this paragraph so that
4 at least one of the members under this paragraph is an individual who is also a dental
5 therapist licensed under ch. 447. Notwithstanding s. 15.08 (1m) (a), the dental
6 hygienist members under this paragraph may participate in the preparation and
7 grading of licensing examinations for dental hygienists.

8 **SECTION 2.** 36.61 (1) (ak) of the statutes is created to read:

9 36.61 (1) (ak) “Dental therapist” means an individual licensed under s. 447.04
10 (1m).

11 **SECTION 3.** 36.61 (1) (b) of the statutes is amended to read:

12 36.61 (1) (b) “Health care provider” means a dental therapist, dental hygienist,
13 physician assistant, nurse-midwife, or nurse practitioner.

14 **SECTION 4.** 36.61 (3) (a) of the statutes is amended to read:

15 36.61 (3) (a) The board shall enter into a written agreement with the health
16 care provider. In the agreement, the health care provider shall agree to practice at
17 least 32 clinic hours per week for 3 years in one or more eligible practice areas in this
18 state or in a rural area, except that a health care provider in the expanded loan
19 assistance program under sub. (8) who is not a dental therapist or dental hygienist
20 may only agree to practice at a public or private nonprofit entity in a health
21 professional shortage area.

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1 **SECTION 5.** 36.61 (5) (b) 1. of the statutes is amended to read:

2 36.61 (5) (b) 1. The degree to which there is an extremely high need for medical
3 care in the eligible practice area, health professional shortage area, or rural area in
4 which an eligible applicant who is not a dental therapist or dental hygienist desires
5 to practice and the degree to which there is an extremely high need for dental care
6 in the dental health shortage area or rural area in which an eligible applicant who
7 is a dental therapist or dental hygienist desires to practice.

8 **SECTION 6.** 36.61 (8) (c) 3. of the statutes is amended to read:

9 36.61 (8) (c) 3. Practice at a public or private nonprofit entity in a health
10 professional shortage area, if the health care provider is not a dental therapist or
11 dental hygienist, or in a dental health shortage area, if the health care provider is
12 a dental therapist or dental hygienist.

13 **SECTION 7.** 146.81 (1) (c) of the statutes is amended to read:

14 146.81 (1) (c) A dentist or dental therapist licensed under ch. 447.

15 **SECTION 8.** 146.89 (1) (r) 1. of the statutes is amended to read:

16 146.89 (1) (r) 1. Licensed as a physician under ch. 448, a dentist, dental
17 therapist, or dental hygienist under ch. 447, a registered nurse, practical nurse, or
18 nurse-midwife under ch. 441, an optometrist under ch. 449, a physician assistant
19 under ch. 448, a pharmacist under ch. 450, a chiropractor under ch. 446, a podiatrist
20 under subch. IV of ch. 448, or a physical therapist under subch. III of ch. 448.

21 **SECTION 9.** 146.89 (1) (r) 5. of the statutes is amended to read:

22 146.89 (1) (r) 5. An individual who holds a valid, unexpired license,
23 certification, or registration issued by another state or territory that authorizes or
24 qualifies the individual to perform acts that are substantially the same as those acts
25 that an individual who is described in subds. 1. to 4., except a dentist, dental

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1 therapist, or dental hygienist, is licensed or certified to perform and who performs
2 acts that are within the scope of that license, certification, or registration.

3 **SECTION 10.** 146.89 (3) (b) 8. of the statutes is amended to read:

4 146.89 (3) (b) 8. Dental services, including tooth extractions and other
5 procedures done under local anesthesia only and any necessary suturing related to
6 the extractions, performed by a dentist or dental therapist who is a volunteer health
7 provider; and dental hygiene services, performed by a dental hygienist who is a
8 volunteer health provider.

9 **SECTION 11.** 146.89 (3m) (intro.) of the statutes is amended to read:

10 146.89 (3m) (intro.) A volunteer health care provider who is a dentist or dental
11 therapist may provide dental services or a volunteer health care provider who is a
12 dental hygienist may provide dental hygiene services, to persons who are recipients
13 of Medical Assistance, if all of the following apply:

14 **SECTION 12.** 146.997 (1) (d) 3. of the statutes is amended to read:

15 146.997 (1) (d) 3. A dentist or dental therapist licensed under ch. 447.

16 **SECTION 13.** 155.01 (7) of the statutes is amended to read:

17 155.01 (7) "Health care provider" means a nurse licensed or permitted under
18 ch. 441, a chiropractor licensed under ch. 446, a dentist or dental therapist licensed
19 under ch. 447, a physician, physician assistant, perfusionist, podiatrist, physical
20 therapist, physical therapist assistant, occupational therapist, or occupational
21 therapy assistant licensed under ch. 448, a person practicing Christian Science
22 treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch.
23 455, a physical therapist or physical therapist assistant who holds a compact
24 privilege under subch. IX of ch. 448, a partnership thereof, a corporation or limited
25 liability company thereof that provides health care services, a cooperative health

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1 care association organized under s. 185.981 that directly provides services through
2 salaried employees in its own facility, or a home health agency, as defined in s. 50.49
3 (1) (a).

4 **SECTION 14.** 252.14 (1) (ar) 3. of the statutes is amended to read:

5 252.14 (1) (ar) 3. A dentist or dental therapist licensed under ch. 447.

6 **SECTION 15.** 257.01 (5) (a) of the statutes is amended to read:

7 257.01 (5) (a) An individual who is licensed as a physician, a physician
8 assistant, or a podiatrist under ch. 448, licensed as a registered nurse, licensed
9 practical nurse, or nurse-midwife under ch. 441, licensed as a dentist or dental
10 therapist under ch. 447, licensed as a pharmacist under ch. 450, licensed as a
11 veterinarian or certified as a veterinary technician under ch. 89, or certified as a
12 respiratory care practitioner under ch. 448.

13 **SECTION 16.** 257.01 (5) (b) of the statutes is amended to read:

14 257.01 (5) (b) An individual who was at any time within the previous 10 years,
15 but is not currently, licensed as a physician, a physician assistant, or a podiatrist
16 under ch. 448, licensed as a registered nurse, licensed practical nurse or
17 nurse-midwife, under ch. 441, licensed as a dentist or dental therapist under ch. 447,
18 licensed as a pharmacist under ch. 450, licensed as a veterinarian or certified as a
19 veterinary technician under ch. 89, or certified as a respiratory care practitioner
20 under ch. 448, if the individual's license or certification was never revoked, limited,
21 suspended, or denied renewal.

22 **SECTION 17.** 440.03 (13) (b) 20m. of the statutes is created to read:

23 440.03 (13) (b) 20m. Dental therapist.

24 **SECTION 18.** 440.08 (2) (a) 25m. of the statutes is created to read:

25 440.08 (2) (a) 25m. Dental therapist: October 1 of each odd-numbered year.

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1 **SECTION 19.** 447.01 (6g) of the statutes is created to read:

2 447.01 **(6g)** “Dental therapist” means an individual who practices dental
3 therapy.

4 **SECTION 20.** 447.01 (6r) of the statutes is created to read:

5 447.01 **(6r)** “Dental therapy” means the limited practice of dentistry, consisting
6 of the services, treatments, and procedures specified in s. 447.06 (3) (b).

7 **SECTION 21.** 447.02 (1) (a) of the statutes is amended to read:

8 447.02 **(1)** (a) Governing the reexamination of an applicant who fails an
9 examination specified in s. 447.04 (1) (a) 5., (1m) (e), or (2) (a) 5. The rules may specify
10 additional educational requirements for those applicants and may specify the
11 number of times an applicant may be examined.

12 **SECTION 22.** 447.02 (1) (b) of the statutes is amended to read:

13 447.02 **(1)** (b) Governing the standards and conditions for the use of radiation
14 and ionizing equipment in the practice of dentistry or dental therapy.

15 **SECTION 23.** 447.02 (1) (g) of the statutes is created to read:

16 447.02 **(1)** (g) Specifying services, treatments, or procedures, in addition to
17 those specified under s. 447.06 (3) (b) 1. to 27., that are included within the practice
18 of dental therapy.

19 **SECTION 24.** 447.02 (2) (a) of the statutes is amended to read:

20 447.02 **(2)** (a) The conditions for supervision and the degree of supervision
21 required under ss. 447.03 (3) (a), (am), (b) and (d) 2. and 447.065.

22 **SECTION 25.** 447.02 (3) (a) (intro.) of the statutes is amended to read:

23 447.02 **(3)** (a) (intro.) The examining board may issue a permit authorizing the
24 practice in this state, without compensation, of dentistry, dental therapy, or dental

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1 hygiene to an applicant who is licensed to practice dentistry, dental therapy, or dental
2 hygiene in another state, if all of the following apply:

3 **SECTION 26.** 447.02 (3) (a) 2. of the statutes is amended to read:

4 447.02 (3) (a) 2. The examining board determines that the applicant is qualified
5 and satisfies the criteria specified under s. 447.04 (1) (b) 1. to 3., except that the
6 examining board may not require the applicant to pass an examination of state
7 statutes and rules relating to dentistry, dental therapy, or dental hygiene.

8 **SECTION 27.** 447.02 (3) (a) 3. of the statutes is created to read:

9 447.02 (3) (a) 3. If the applicant is applying for a permit to practice dental
10 therapy, the applicant graduated from a dental therapy education program approved
11 under s. 447.04 (1m) (c) 1. to 3.

12 **SECTION 28.** 447.02 (3) (b) of the statutes is amended to read:

13 447.02 (3) (b) A permit under this subsection shall authorize the practice of
14 dentistry, dental therapy, or dental hygiene in a specified area of the state for a period
15 of time not more than 10 days in a year and may be renewed by the examining board.
16 The examining board may not require an applicant to pay a fee for the issuance or
17 renewal of a permit under this subsection.

18 **SECTION 29.** 447.02 (5) of the statutes is amended to read:

19 447.02 (5) Except as provided in ss. 447.058 and 447.063, nothing in this
20 chapter may be construed as authorizing the examining board to regulate business
21 or administrative support functions or services, that do not constitute the practice
22 of dentistry, dental therapy, or dental hygiene, provided to a business that provides
23 dental or dental hygiene services.

24 **SECTION 30.** 447.02 (6) of the statutes is created to read:

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1 447.02 (6) The examining board shall send a notice to the legislative reference
2 bureau for publication in the Wisconsin Administrative Register when the board
3 determines that 50 or more individuals are currently licensed as dental therapists
4 in this state under s. 447.04 (1m). This subsection does not apply on or after the first
5 day of the 6th year beginning after publication of this act [LRB inserts date].

6 **SECTION 31.** 447.03 (1m) of the statutes is created to read:

7 447.03 (1m) DENTAL THERAPISTS. Except as provided under sub. (3) and s.
8 447.02 (3), no person may do any of the following unless he or she is licensed to
9 practice dental therapy under this chapter:

10 (a) Practice or offer to practice dental therapy.

11 (b) Represent himself or herself to the public as a dental therapist or use, in
12 connection with his or her name, any title or description that may convey the
13 impression that he or she is a dental therapist.

14 **SECTION 32.** 447.03 (3) (am) of the statutes is created to read:

15 447.03 (3) (am) A dental therapy student who practices dental therapy under
16 the supervision of a dentist in an infirmary, clinic, hospital, or other institution
17 connected or associated for training purposes with a dental therapy school accredited
18 by the American Dental Association commission on dental accreditation or its
19 successor agency.

20 **SECTION 33.** 447.03 (3) (c) of the statutes is amended to read:

21 447.03 (3) (c) An individual licensed to practice dentistry, dental therapy, or
22 dental hygiene in another state or country who practices dentistry, dental therapy,
23 or dental hygiene in a program of dental education or research at the invitation of
24 a group of dentists or practices dentistry, dental therapy, or dental hygiene under the

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1 jurisdiction of the army, navy, air force, U.S. public health service, or veterans
2 bureau.

3 **SECTION 34.** 447.04 (1m) of the statutes is created to read:

4 447.04 **(1m)** DENTAL THERAPISTS. The examining board shall grant a license to
5 practice dental therapy to an individual who does all of the following:

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

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

9 (c) Submits evidence satisfactory to the examining board that he or she has
10 done one of the following:

11 1. Graduated from a dental therapy education program accredited by the
12 American Dental Association commission on dental accreditation or its successor
13 agency.

14 2. Graduated from a dental therapy education program that was not accredited
15 by the American Dental Association commission on dental accreditation or its
16 successor agency at the time of graduation, but was, on or before the effective date
17 of this subdivision [LRB inserts date], accredited or approved by the Minnesota
18 Board of Dentistry.

19 3. Graduated from a dental therapy education program located outside this
20 state that was not accredited by the American Dental Association commission on
21 dental accreditation or its successor agency, but that is approved by the examining
22 board. The examining board shall approve a program under this subdivision if the
23 examining board determines that the dental therapy education program is
24 substantially similar to a program accredited by the American Dental Association
25 commission on dental accreditation or its successor agency.

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1 (d) Submits evidence satisfactory to the examining board that he or she has
2 passed a national board dental therapy examination and a dental therapy clinical
3 examination administered by a regional testing service that has been approved by
4 the examining board to administer clinical examinations for dental professionals.
5 If a national board examination or a regional testing service examination for dental
6 therapy does not exist, the examining board shall accept evidence of passing an
7 alternative examination administered by another entity or testing service that is
8 approved by the examining board.

9 (e) Passes an examination administered by the examining board on the
10 statutes and rules relating to dental therapy.

11 (f) Submits evidence satisfactory to the examining board that he or she has
12 current proficiency in cardiopulmonary resuscitation, including the use of an
13 automated external defibrillator achieved through instruction provided by an
14 individual, organization, or institution of higher education approved under s. 46.03
15 (38) to provide such instruction.

16 (g) If the individual was licensed or is currently licensed in another state or
17 territory of the United States or in another country, the individual submits
18 information related to his or her licensure in other jurisdictions as required by the
19 examining board.

20 (h) Completes any other requirements established by the examining board by
21 rule that are comparable to and no more restrictive than the requirements
22 established by the board for dentists under sub. (1) (a) 6. and dental hygienists under
23 sub. (2) (a) 6.

24 **SECTION 35.** 447.05 of the statutes is amended to read:

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1 **447.05 Expiration and renewal.** Renewal applications shall be submitted
2 to the department on a form provided by the department on or before the applicable
3 renewal date specified under s. 440.08 (2) (a) and shall include the applicable
4 renewal fee determined by the department under s. 440.03 (9) (a). The examining
5 board may not renew a license to practice dentistry unless the applicant for renewal
6 attests that he or she has complied with s. 447.056, that he or she has current
7 proficiency in cardiopulmonary resuscitation, including and that he or she has
8 current proficiency in the use of an automated external defibrillator achieved
9 through instruction provided by an individual, organization, or institution of higher
10 education approved under s. 46.03 (38) to provide such instruction. The examining
11 board may not renew a license to practice dental therapy unless the applicant for
12 renewal attests that he or she has complied with s. 447.057 and any rules
13 promulgated under s. 447.057, that he or she has current proficiency in
14 cardiopulmonary resuscitation, and that he or she has current proficiency in the use
15 of an automated external defibrillator achieved through instruction provided by an
16 individual, organization, or institution of higher education approved under s. 46.03
17 (38) to provide such instruction. The examining board may not renew a license to
18 practice dental hygiene unless the applicant for renewal attests that he or she has
19 complied with s. 447.055 and any rules promulgated by the examining board under
20 s. 447.055, that he or she has a current certification in cardiopulmonary
21 resuscitation, and that he or she has current proficiency in the use of an automated
22 external defibrillator achieved through instruction provided by an individual,
23 organization, or institution of higher education approved under s. 46.03 (38) to
24 provide such instruction.

25 **SECTION 36.** 447.057 of the statutes is created to read:

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1 **447.057 Continuing education; dental therapists.** (1) (a) Except as
2 provided in subs. (3) and (4), a person is not eligible for renewal of a license to practice
3 dental therapy, other than a permit issued under s. 447.02 (3), unless the person has
4 taught, prepared, attended, or otherwise completed, during the 2-year period
5 immediately preceding the renewal date specified under s. 440.08 (2) (a), 12 credit
6 hours of continuing education relating to the clinical practice of dental therapy that
7 is sponsored or recognized by a local, state, regional, national, or international
8 dental, dental therapy, dental hygiene, dental assisting, or medical-related
9 professional organization.

10 (b) Continuing education required under par. (a) may include training in all of
11 the following:

12 1. Basic life support or cardiopulmonary resuscitation. Not more than 2 of the
13 credit hours required under par. (a) may be satisfied by such training.

14 2. Infection control. Not less than 2 of the credit hours required under par. (a)
15 must be satisfied by such training.

16 (c) After consultation with the department of health services, the examining
17 board may promulgate rules requiring that continuing education credit hours under
18 par. (a) include courses in specific clinical subjects.

19 **(2)** The credit hours required under sub. (1) (a) may be satisfied by independent
20 study, correspondence, or Internet programs or courses.

21 **(3)** Subsection (1) (a) does not apply to an applicant for renewal of a license that
22 expires on the first renewal date after the date on which the examining board
23 initially granted the license.

24 **(4)** A person may substitute credit hours of college level courses related to the
25 practice of dental therapy for the credit hours required under sub. (1) (a). For

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1 purposes of this subsection, one credit hour of a college level course is equivalent to
2 6 credit hours of continuing education.

3 (5) For purposes of sub. (1) (a), one hour of teaching or preparing a continuing
4 education program is equivalent to one credit hour of continuing education, but a
5 person who teaches or prepares a continuing education program may obtain credit
6 for the program only once.

7 (6) The examining board may require applicants for renewal of a license to
8 practice dental therapy to submit proof of compliance with the requirements of this
9 section.

10 **SECTION 37.** 447.06 (1) of the statutes is amended to read:

11 447.06 (1) No contract of employment entered into between a dentist or dental
12 therapist and any other party under which the dentist or dental therapist renders
13 dental services may require the dentist or dental therapist to act in a manner ~~which~~
14 that violates the professional standards for dentistry or dental therapy set forth in
15 this chapter. Nothing in this subsection limits the ability of the other party to control
16 the operation of the dental practice in a manner in accordance with the professional
17 standards for dentistry or dental therapy set forth in this chapter.

18 **SECTION 38.** 447.06 (1m) of the statutes is created to read:

19 447.06 (1m) No contract of employment entered into between a dental
20 therapist and any other party under which the dental therapist is employed to
21 practice dental therapy may require a dental therapist to meet a minimum quota for
22 the number of patients seen or the number of procedures performed.

23 **SECTION 39.** 447.06 (2) (a) 3. of the statutes is amended to read:

24 447.06 (2) (a) 3. For a school for the education of dentists, dental therapists,
25 or dental hygienists.

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1 **SECTION 40.** 447.06 (2) (b) of the statutes is amended to read:

2 447.06 **(2)** (b) A dental hygienist may practice dental hygiene or perform
3 remediable procedures under par. (a) 1. only as authorized by a dentist or dental
4 therapist who is licensed to practice dentistry or dental therapy under this chapter
5 and who is present in the facility in which those practices or procedures are
6 performed, except as provided in par. (c).

7 **SECTION 41.** 447.06 (2) (c) (intro.) of the statutes is amended to read:

8 447.06 **(2)** (c) (intro.) A dental hygienist may practice dental hygiene or perform
9 remediable procedures under par. (a) 1. if a dentist or dental therapist who is licensed
10 to practice dentistry or dental therapy under this chapter is not present in the facility
11 in which those practices or procedures are performed only if all of the following
12 conditions are met:

13 **SECTION 42.** 447.06 (2) (c) 2. (intro.) of the statutes is amended to read:

14 447.06 **(2)** (c) 2. (intro.) The dentist or dental therapist who made the written
15 or oral prescription has examined the patient at least once during the 12-month
16 period immediately preceding:

17 **SECTION 43.** 447.06 (3) of the statutes is created to read:

18 447.06 **(3)** (a) In this subsection:

- 19 1. “Collaborative management agreement” means an agreement under par. (d).
20 2. “Dental health shortage area” has the meaning given in s. 36.60 (1) (ad).
21 3. “Direct supervision” means that the dentist is present in the dental office or
22 other practice setting, personally diagnoses the condition to be treated, personally
23 authorizes each procedure, and before dismissal of the patient, evaluates the
24 performance of the allied dental personnel.

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1 4. “General supervision” means that the dentist is not present in the dental
2 office or other practice setting or on the premises at the time tasks or procedures are
3 being performed by the dental therapist, but that the tasks or procedures performed
4 by the dental therapist are being performed with the prior knowledge and consent
5 of the dentist.

6 5. “Indirect supervision” means that the dentist is present in the dental office
7 or other practice setting, authorizes each procedure, and remains in the office while
8 the procedures are being performed by the allied dental personnel.

9 6. “Medical Assistance patient” means a patient who is a recipient of services
10 under the Medical Assistance program under subch. IV of ch. 49.

11 7. “Qualifying dentist” means a dentist who is licensed in this state and who
12 is actively practicing in this state.

13 8. “Uninsured patient” means a patient who lacks dental health coverage,
14 either through a public health care program or private insurance, and has an annual
15 gross family income equal to or less than 200 percent of the federal poverty
16 guidelines.

17 (b) The scope of practice of a dental therapist shall, subject to the terms of a
18 collaborative management agreement, be limited to providing the following services,
19 treatments, and procedures:

20 1. Oral evaluation and assessment of dental disease and formulation of an
21 individualized treatment plan.

22 2. Identification of oral and systemic conditions requiring evaluation or
23 treatment by dentists, physicians, or other health care providers and managing
24 referrals.

25 3. Comprehensive charting of the oral cavity.

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1 4. Oral health instruction and disease prevention education, including
2 nutritional counseling and dietary analysis.

3 5. Exposure and evaluation of radiographic images.

4 6. Dental prophylaxis, including subgingival scaling and polishing procedures.

5 7. Dispensing and administration via the oral or topical route of nonnarcotic
6 analgesic, anti-inflammatory, and antibiotic medications as prescribed by a licensed
7 health care provider.

8 8. Application of topical preventive or prophylactic agents, including fluoride
9 varnish, antimicrobial agents, caries arresting medicaments, and pit and fissure
10 sealants.

11 9. Pulp vitality testing.

12 10. Application of desensitizing medications or resins.

13 11. Fabrication of athletic mouth guards and soft occlusal guards.

14 12. Changing of periodontal dressings.

15 13. Administration of local anesthetic and nitrous oxide.

16 14. Simple extraction of erupted primary teeth.

17 15. Nonsurgical extraction of periodontally diseased permanent teeth with
18 tooth mobility of +3 to +4 to the extent authorized in the dental therapist's
19 collaborative management agreement, except for the extraction of a tooth that is
20 unerupted, impacted, or fractured or that needs to be sectioned for removal.

21 16. Emergency palliative treatment of dental pain limited to the procedures in
22 this paragraph.

23 17. Preparation and placement of direct restoration in primary and permanent
24 teeth.

25 18. Fabrication and placement of single-tooth temporary crowns.

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1 19. Preparation and placement of preformed crowns on primary teeth.

2 20. Indirect and direct pulp capping on permanent teeth.

3 21. Indirect pulp capping on primary teeth.

4 22. Intraoral suture placement and removal.

5 23. Minor adjustment and repair of removable prostheses.

6 24. Placement and removal of space maintainers.

7 25. Pulpotomy on primary teeth.

8 26. Tooth reimplantation and stabilization.

9 27. Recementing of a permanent crown.

10 28. Any additional services, treatments, or procedures specified in the rules
11 promulgated under s. 447.02 (1) (g).

12 (bm) 1. Notwithstanding par. (b) 1. to 28., a dental therapist shall, except as
13 provided in subd. 2., limit his or her practice of dental therapy to providing the
14 services, treatments, and procedures covered by his or her dental therapy education
15 program.

16 2. If any service, treatment, or procedure under par. (b) 1. to 28. was not covered
17 by a dental therapist's dental therapy education program, the dental therapist may
18 provide that service, treatment, or procedure if the dental therapist has
19 subsequently received additional dental therapy educational training to provide
20 that service, treatment, or procedure.

21 (c) 1. Except as provided in subd. 2., a dental therapist licensed under this
22 chapter may provide dental therapy services in this state only under the direct
23 supervision or indirect supervision of a qualifying dentist with whom the dental
24 therapist has entered into a collaborative management agreement.

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1 2. a. Once a dental therapist licensed under this chapter has provided dental
2 therapy services for at least 2,000 hours under direct supervision or indirect
3 supervision, the dental therapist may provide dental therapy services in this state
4 under the general supervision of a qualifying dentist with whom the dental therapist
5 has entered into a collaborative management agreement.

6 b. For purposes of the 2,000 hours requirement under subd. 2. a., hours may
7 include hours of providing dental therapy services in this state under direct
8 supervision or indirect supervision of a qualifying dentist as described in subd. 1. or
9 hours of providing dental therapy services under direct supervision or indirect
10 supervision while licensed as a dental therapist outside this state, but may not
11 include any hours completed prior to graduating from the dental therapy education
12 program.

13 3. Notwithstanding subds. 1. and 2., the level of supervision for a dental
14 therapist may be further limited under the terms of a collaborative management
15 agreement under par. (d) 1. b.

16 4. A supervising dentist shall accept responsibility for all services performed
17 by a dental therapist pursuant to a collaborative management agreement. If services
18 needed by a patient are beyond the dental therapist's scope of practice or
19 authorization under the collaborative management agreement, the dental therapist
20 shall, to the extent required under the collaborative management agreement,
21 consult with the supervising dentist as needed to arrange for those services to be
22 provided by a dentist or another qualified health care provider.

23 (d) 1. Prior to providing any dental therapy services, a dental therapist shall
24 enter into a written collaborative management agreement with a qualifying dentist

ASSEMBLY BILL 169**SECTION 43**

1 who will serve as a supervising dentist under par. (c). The agreement must be signed
2 by the dental therapist and the qualifying dentist and address all of the following:

3 a. The practice settings where services may be provided and the patient
4 populations that may be served.

5 b. Consistent with and subject to pars. (bm) and (c), any conditions or
6 limitations on the services that may be provided by the dental therapist, the level of
7 supervision required, and any circumstances requiring consultation prior to
8 performing services.

9 c. Age-specific and procedure-specific practice protocols.

10 d. Dental record-keeping procedures.

11 e. Plans for managing dental or medical emergencies.

12 f. A quality assurance plan for monitoring care provided by the dental
13 therapist.

14 g. Protocols for administering and dispensing medications.

15 h. Criteria or protocols relating to the provision of care to patients with specific
16 medical conditions, treatments, or medications.

17 i. Policies relating to supervision of dental hygienists and other staff.

18 j. A plan for the referral of patients to other dental or health care providers or
19 clinics when services needed are beyond the scope of practice or authorization of the
20 dental therapist.

21 k. Whether and to what extent the dental therapist may perform services
22 described in par. (b) 15.

23 2. a. A collaborative management agreement shall be limited to covering one
24 qualifying dentist and one dental therapist.

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1 b. A dental therapist may enter into multiple collaborative management
2 agreements.

3 c. No dentist may have collaborative management agreements with more than
4 4 dental therapists at any time.

5 (e) A dental therapist shall at all times comply with at least one of the following:

6 1. Limit his or her practice to practicing in one or more dental health shortage
7 areas. If a dental therapist begins practicing in a dental health shortage area, and
8 that area loses its designation as a dental health shortage area while the dental
9 therapist continues to practice in that area, the dental therapist is considered to
10 satisfy this subdivision as long as the dental therapist continues to practice in that
11 area.

12 2. Practice in one or more settings in which at least 50 percent of the total
13 patient base of the dental therapist consists of patients who are any of the following:

14 a. Medical Assistance patients.

15 b. Uninsured patients.

16 c. Patients receiving dental care at free and charitable clinics.

17 d. Patients receiving dental care at federally qualified health centers.

18 e. Patients who reside in long-term care facilities.

19 f. Veterans.

20 g. Patients who are members of a federally recognized Indian tribe or band.

21 h. Patients receiving dental care at clinics or facilities located on tribal lands.

22 i. Patients with medical disabilities or chronic conditions that create barriers
23 of access to dental care.

24 **SECTION 44.** 447.063 of the statutes is amended to read:

ASSEMBLY BILL 169**SECTION 44****1 447.063 Preservation and transfer of patient health care records. (1)**

2 A person who manages or controls a business that offers dental, dental therapy, or
3 dental hygiene services, including management or control of a business through
4 which the person allows another person to offer dental, dental therapy, or dental
5 hygiene services, shall preserve patient health care records, as defined in s. 146.81
6 (4), for an amount of time determined by the examining board by rule.

7 **(2)** A person who manages or controls a business that offers dental, dental
8 therapy, or dental hygiene services, including management or control of a business
9 through which the person allows another person to offer dental, dental therapy, or
10 dental hygiene services, shall, upon request of a patient or person authorized by the
11 patient, as defined in s. 146.81 (5), transfer the patient health care records, as
12 defined in s. 146.81 (4), of the patient to another person that the patient or person
13 authorized by the patient specifies to receive the patient health care records.

14 **SECTION 45.** 447.065 of the statutes is amended to read:

15 447.065 Delegation of remediable procedures and dental practices. (1)

16 A dentist or dental therapist who is licensed to ~~practice dentistry~~ under this chapter
17 may delegate to an individual who is not licensed under this chapter only the
18 performance of remediable procedures, and only if all of the following conditions are
19 met:

20 (a) The unlicensed individual performs the remediable procedures in
21 accordance with a treatment plan approved by the dentist or dental therapist.

22 (b) The dentist or dental therapist is on the premises when the unlicensed
23 individual performs the remediable procedures.

24 (c) The unlicensed individual's performance of the remediable procedures is
25 subject to inspection by the dentist or dental therapist.

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1 **(2)** Subject to the requirements under s. 447.06 (2), a dentist or dental therapist
2 who is licensed ~~to practice dentistry~~ under this chapter may delegate to a dental
3 hygienist who is licensed to practice dental hygiene under this chapter the
4 performance of remediable procedures and the administration of oral systemic
5 premedications, local anesthesia, nitrous oxide inhalation analgesia, and
6 subgingival sustained release chemotherapeutic agents, to the extent the dentist or
7 dental therapist has the authority to perform the activity personally.

8 **(3)** A dentist or dental therapist who delegates to another individual the
9 performance of any practice or remediable procedure is responsible for that
10 individual's performance of that delegated practice or procedure.

11 **SECTION 46.** 447.07 (1) of the statutes is amended to read:

12 447.07 **(1)** The examining board may, without further notice or process, limit,
13 suspend, or revoke the license or certificate of any dentist, dental therapist, or dental
14 hygienist, or the registration of a mobile dentistry program registrant, who fails,
15 within 60 days after the mailing of written notice to the dentist's, dental therapist's,
16 dental hygienist's, or registrant's last-known address, to renew the license,
17 certificate, or registration.

18 **SECTION 47.** 447.07 (3) (intro.) of the statutes is amended to read:

19 447.07 **(3)** (intro.) Subject to the rules promulgated under s. 440.03 (1), the
20 examining board may make investigations and conduct hearings in regard to any
21 alleged action of any dentist, dental therapist, or dental hygienist, of a mobile
22 dentistry program registrant, or of any other person it has reason to believe is
23 engaged in or has engaged in the practice of dentistry, dental therapy, or dental
24 hygiene, or the operation of a mobile dentistry program, in this state, and may, on
25 its own motion, or upon complaint in writing, reprimand any dentist, dental

ASSEMBLY BILL 169**SECTION 47**

1 therapist, or dental hygienist who is licensed or certified under this chapter, or any
2 mobile dentistry program registrant, or deny, limit, suspend, or revoke his or her
3 license or certificate, or the registration of the mobile dentistry program registrant,
4 if it finds that the dentist, dental therapist, dental hygienist, or mobile dentistry
5 program registrant has done any of the following:

6 **SECTION 48.** 447.07 (3) (e) to (h) of the statutes are amended to read:

7 447.07 (3) (e) Subject to ss. 111.321, 111.322, and 111.335, been convicted of a
8 crime, the circumstances of which substantially relate to the practice of dentistry,
9 dental therapy, or dental hygiene or the operation of a mobile dentistry program.

10 (f) Violated this chapter or any federal or state statute or rule that relates to
11 the practice of dentistry, dental therapy, or dental hygiene, or the operation of a
12 mobile dentistry program.

13 (g) Subject to ss. 111.321, 111.322 and 111.34, practiced dentistry, dental
14 therapy, or dental hygiene while his or her ability was impaired by alcohol or other
15 drugs.

16 (h) Engaged in conduct that indicates a lack of knowledge of, an inability to
17 apply or the negligent application of, principles or skills of dentistry, dental therapy,
18 or dental hygiene.

19 **SECTION 49.** 447.40 (intro.) of the statutes is amended to read:

20 **447.40 Informed consent.** (intro.) Any dentist or dental therapist who treats
21 a patient shall inform the patient about the availability of reasonable alternate
22 modes of treatment and about the benefits and risks of these treatments. The
23 reasonable dentist standard is the standard for informing a patient under this
24 section. The reasonable dentist standard requires disclosure only of information
25 that a reasonable dentist would know and disclose under the circumstances. The

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1 dentist's or dental therapist's duty to inform the patient under this section does not
2 require disclosure of any of the following:

3 **SECTION 50.** 447.40 (6) of the statutes is amended to read:

4 447.40 (6) Information about alternate modes of treatment for any condition
5 the dentist or dental therapist has not included in his or her diagnosis, assessment,
6 or treatment plan at the time the dentist or dental therapist informs the patient.

7 **SECTION 51.** 448.03 (2) (a) of the statutes is amended to read:

8 448.03 (2) (a) Any person lawfully practicing within the scope of a license,
9 permit, registration, certificate or certification granted to practice midwifery under
10 subch. XIII of ch. 440, to practice professional or practical nursing or
11 nurse-midwifery under ch. 441, to practice chiropractic under ch. 446, to practice
12 dentistry, dental therapy, or dental hygiene under ch. 447, to practice optometry
13 under ch. 449, to practice acupuncture under ch. 451 or under any other statutory
14 provision, or as otherwise provided by statute.

15 **SECTION 52.** 448.21 (1) (a) of the statutes is amended to read:

16 448.21 (1) (a) The practice of dentistry, dental therapy, or dental hygiene within
17 the meaning of ch. 447.

18 **SECTION 53.** 450.03 (1) (e) of the statutes is amended to read:

19 450.03 (1) (e) Any person lawfully practicing within the scope of a license,
20 permit, registration, certificate, or certification granted to provide home medical
21 oxygen under s. 450.076, to practice professional or practical nursing or
22 nurse-midwifery under ch. 441, to practice dentistry, dental therapy, or dental
23 hygiene under ch. 447, to practice medicine and surgery under ch. 448, to practice
24 optometry under ch. 449 or to practice veterinary medicine under ch. 89, or as
25 otherwise provided by statute.

ASSEMBLY BILL 169**SECTION 54**

1 **SECTION 54.** 450.10 (3) (a) 4. of the statutes is amended to read:

2 450.10 (3) (a) 4. A dentist or dental therapist licensed under ch. 447.

3 **SECTION 55.** 462.02 (2) (d) of the statutes is amended to read:

4 462.02 (2) (d) A dentist licensed under s. 447.04 (1), a dental therapist licensed
5 under s. 447.04 (1m), a dental hygienist licensed under s. 447.04 (2), or a person
6 under the direct supervision of a dentist.

7 **SECTION 56.** 462.04 of the statutes is amended to read:

8 **462.04 Prescription or order required.** A person who holds a license or
9 limited X-ray machine operator permit under this chapter may not use diagnostic
10 X-ray equipment on humans for diagnostic purposes unless authorized to do so by
11 prescription or order of a physician licensed under s. 448.04 (1) (a), a dentist licensed
12 under s. 447.04 (1), a dental therapist licensed under s. 447.04 (1m), a podiatrist
13 licensed under s. 448.63, a chiropractor licensed under s. 446.02, an advanced
14 practice nurse certified under s. 441.16 (2), a physician assistant licensed under s.
15 448.04 (1) (f), or, subject to s. 448.56 (7) (a), a physical therapist who is licensed under
16 s. 448.53 or who holds a compact privilege under subch. IX of ch. 448.

17 **SECTION 57.** 463.10 (5) of the statutes is amended to read:

18 463.10 (5) EXCEPTION. Subsections (2) to (4m) do not apply to a dentist ~~who is~~
19 ~~licensed under s. 447.03 (1) or to a~~, dental therapist, or physician who tattoos or
20 offers to tattoo a person in the course of the dentist's, dental therapist's, or physician's
21 professional practice.

22 **SECTION 58.** 463.12 (5) of the statutes is amended to read:

23 463.12 (5) EXCEPTION. Subsections (2) to (4m) do not apply to a dentist ~~who is~~
24 ~~licensed under s. 447.03 (1) or to a~~, dental therapist, or physician who pierces the

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1 body of or offers to pierce the body of a person in the course of the dentist's, dental
2 therapist's, or physician's professional practice.

3 **SECTION 59.** 632.87 (4) of the statutes is amended to read:

4 632.87 (4) No policy, plan or contract may exclude coverage for diagnosis and
5 treatment of a condition or complaint by a licensed dentist or dental therapist within
6 the scope of the dentist's or dental therapist's license, if the policy, plan or contract
7 covers diagnosis and treatment of the condition or complaint by another health care
8 provider, as defined in s. 146.81 (1) (a) to (p).

9 **SECTION 60.** 895.48 (1m) (a) (intro.) of the statutes is amended to read:

10 895.48 (1m) (a) (intro.) Except as provided in par. (b), any physician, physician
11 assistant, podiatrist, or athletic trainer licensed under ch. 448, chiropractor licensed
12 under ch. 446, dentist or dental therapist licensed under ch. 447, emergency medical
13 services practitioner licensed under s. 256.15, emergency medical responder
14 certified under s. 256.15 (8), registered nurse licensed under ch. 441, or a massage
15 therapist or bodywork therapist licensed under ch. 460 who renders voluntary health
16 care to a participant in an athletic event or contest sponsored by a nonprofit
17 corporation, as defined in s. 66.0129 (6) (b), a private school, as defined in s. 115.001
18 (3r), a tribal school, as defined in s. 115.001 (15m), a public agency, as defined in s.
19 46.856 (1) (b), or a school, as defined in s. 609.655 (1) (c), is immune from civil liability
20 for his or her acts or omissions in rendering that care if all of the following conditions
21 exist:

22 **SECTION 61.** 895.48 (1m) (a) 2. of the statutes is amended to read:

23 895.48 (1m) (a) 2. The physician, podiatrist, athletic trainer, chiropractor,
24 dentist, dental therapist, emergency medical services practitioner, as defined in s.
25 256.01 (5), emergency medical responder, as defined in s. 256.01 (4p), physician

ASSEMBLY BILL 169**SECTION 61**

1 assistant, registered nurse, massage therapist or bodywork therapist does not
2 receive compensation for the health care, other than reimbursement for expenses.

3 **SECTION 62.** 941.315 (5) of the statutes is amended to read:

4 941.315 (5) (a) Subsection (2) does not apply to a person to whom nitrous oxide
5 is administered for the purpose of providing medical or dental care, if the nitrous
6 oxide is administered by a physician ~~or~~, dentist, or dental therapist or at the direction
7 or under the supervision of a physician ~~or~~, dentist, or dental therapist.

8 (b) Subsection (3) does not apply to the administration of nitrous oxide by a
9 physician ~~or~~, dentist, or dental therapist, or by another person at the direction or
10 under the supervision of a physician ~~or~~, dentist, or dental therapist, for the purpose
11 of providing medical or dental care.

12 (c) Subsection (3) (c) does not apply to the sale to a hospital, health care clinic
13 or other health care organization or to a physician ~~or~~, dentist, or dental therapist of
14 any object used, designed for use or primarily intended for use in administering
15 nitrous oxide for the purpose of providing medical or dental care.

16 **SECTION 63. Nonstatutory provisions.**

17 (1) The dentistry examining board shall send a notice to the legislative
18 reference bureau for publication in the Wisconsin Administrative Register when the
19 board determines that 50 or more individuals are currently licensed as dental
20 therapists in this state under s. 447.04 (1m).

21 (2) (a) The dentistry examining board shall promulgate emergency rules under
22 s. 227.24 that are necessary to implement this act. Notwithstanding s. 227.24 (1) (c)
23 and (2), emergency rules promulgated under this paragraph remain in effect for 2
24 years, or until the date on which permanent rules take effect, whichever is sooner.
25 Notwithstanding s. 227.24 (1) (a) and (3), the board is not required to provide

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1 evidence that promulgating a rule under this paragraph as an emergency rule is
2 necessary for the preservation of the public peace, health, safety, or welfare and is
3 not required to provide a finding of emergency for a rule promulgated under this
4 paragraph.

5 (b) The dentistry examining board shall present a statement of scope for
6 permanent and emergency rules required to implement this act to the department
7 of administration under s. 227.135 (2) no later than the 30th day after the effective
8 date of this paragraph. Notwithstanding s. 227.135 (2), if the governor does not
9 disapprove the statement of scope by the 30th day after the statement is presented
10 to the department of administration, the statement is considered to be approved by
11 the governor.

12 (c) The dentistry examining board shall submit a proposed emergency rule
13 required to implement this act to the governor for approval under s. 227.24 (1) (e) 1g.
14 no later than the 150th day after the effective date of this paragraph.
15 Notwithstanding s. 227.24 (1) (e) 1g., if the governor does not reject the proposed
16 emergency rule by the 14th day after the rule is submitted to the governor in final
17 draft form, the rule is considered to be approved by the governor.

18 (d) The dentistry examining board shall submit a proposed permanent rule
19 required to implement this act to the governor for approval under s. 227.185 no later
20 than the 365th day after the effective date of this paragraph. Notwithstanding s.
21 227.185, if the governor does not reject that proposed permanent rule by the 30th day
22 after the rule is submitted to the governor in final draft form, the rule is considered
23 to be approved by the governor.

24 **SECTION 64. Effective dates.** This act takes effect on the day after publication,
25 except as follows:

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SECTION 64

1 (1) The treatment of s. 15.405 (6) (b) takes effect on the date the notice under
2 s. 447.02 (6) is published in the Wisconsin Administrative Register or on the first day
3 of the 6th year beginning after publication, whichever occurs first.

4 (END)