



2021 SENATE BILL 137

February 24, 2021 - Introduced by Senators BEWLEY, AGARD, CARPENTER, ERPENBACH, JOHNSON, LARSON, PFAFF, RINGHAND, ROYS, SMITH and WIRCH, cosponsored by Representatives HINTZ, ANDERSON, ANDRACA, BALDEH, BILLINGS, BOWEN, BROSTOFF, CABRERA, CONLEY, CONSIDINE, DOYLE, DRAKE, EMERSON, GOYKE, HAYWOOD, HEBL, HESSELBEIN, HONG, MCGUIRE, B. MEYERS, MILROY, MOORE OMOKUNDE, L. MYERS, NEUBAUER, OHNSTAD, ORTIZ-VELEZ, POPE, RIEMER, S. RODRIGUEZ, SHANKLAND, SHELTON, SINICKI, SNODGRASS, SPREITZER, STUBBS, SUBECK, VINING and VRUWINK. Referred to Committee on Government Operations, Legal Review and Consumer Protection.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT to create** 440.094 of the statutes; **relating to:** practice by health care
2 providers from other states.

Analysis by the Legislative Reference Bureau

The bill authorizes, in certain situations, health care providers licensed in another state or territory to provide services for which they are licensed or certified. Under the bill, a person who satisfies certain requirements and holds a valid, unexpired credential in another state or territory as any of the following may provide services in this state: 1) a physician, physician assistant, or perfusionist; 2) a nurse; 3) a dentist; 4) a pharmacist; 5) a psychologist; 6) a social worker, marriage and family therapist, professional counselor, or clinical substance abuse counselor; 7) a chiropractor; 8) a physical therapist; 9) a podiatrist; 10) a dietitian; 11) an athletic trainer; 12) an occupational therapist; 13) an optometrist; 14) an acupuncturist; 15) a speech-language pathologist or audiologist; or 16) a massage or bodywork therapist. Generally, these practitioners may practice in this state and the Department of Safety and Professional Services must grant them a temporary credential if they apply for a temporary credential within 30 days of beginning to practice for a health care employer.

The bill also specifies that a health care provider granted a temporary credential under the bill may provide services through telehealth to a patient located in this state.

Current law generally prohibits a person from engaging in certain health care-related practices without holding a required credential.

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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.** 440.094 of the statutes is created to read:

2 **440.094 Practice by health care providers from other states; necessity.**

3 **(1) DEFINITIONS.** In this section:

4 (a) “Credential” means a license, permit, certificate, or registration.

5 (b) “Health care employer” means a system, care clinic, care provider,
6 long-term care facility, or any entity whose employed, contracted, or affiliated staff
7 provide health care service to individuals in this state.

8 (c) “Health care provider” means an individual who holds a valid, unexpired
9 credential granted by another state or territory that authorizes or qualifies the
10 individual to perform acts that are substantially the same as the acts that any of the
11 following are licensed or certified to perform:

12 1. A nurse licensed under ch. 441.

13 2. A chiropractor licensed under ch. 446.

14 3. A dentist licensed under ch. 447.

15 4. A physician, physician assistant, perfusionist, or respiratory care
16 practitioner licensed or certified under subch. II of ch. 448.

17 5. A physical therapist or physical therapist assistant licensed under subch. III
18 of ch. 448 or who holds a compact privilege under subch. IX of ch. 448.

19 6. A podiatrist licensed under subch. IV of ch. 448.

20 7. A dietitian certified under subch. V of ch. 448.

21 8. An athletic trainer licensed under subch. VI of ch. 448.

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1 9. An occupational therapist or occupational therapy assistant licensed under
2 subch. VII of ch. 448.

3 10. An optometrist licensed under ch. 449.

4 11. A pharmacist licensed under ch. 450.

5 12. An acupuncturist certified under ch. 451.

6 13. A psychologist licensed under ch. 455.

7 14. A social worker, marriage and family therapist, or professional counselor
8 certified or licensed under ch. 457 or a clinical substance abuse counselor certified
9 under s. 440.88.

10 15. A speech-language pathologist or audiologist licensed under subch. II of ch.
11 459.

12 16. A massage therapist or bodywork therapist licensed under ch. 460.

13 **(2) PRACTICE BY HEALTH CARE PROVIDERS FROM OTHER STATES. (a)**

14 Notwithstanding ss. 441.06 (4), 441.15 (2), 441.16, 446.02 (1), 447.03 (1) and (2),
15 448.03 (1) (a), (b), and (c) and (1m), 448.51 (1), 448.61, 448.76, 448.961 (1) and (2),
16 449.02 (1), 450.03 (1), 451.04 (1), 455.02 (1m), 457.04 (4), (5), (6), and (7), 459.02 (1),
17 459.24 (1), and 460.02, a health care provider may provide services within the scope
18 of the credential that the health care provider holds and the department shall grant
19 the health care provider a temporary credential to practice under this section if all
20 of the following apply:

21 1. The health care provider applies to the department for a temporary
22 credential under this section within 30 days of beginning to provide health care
23 services for a health care employer. The health care provider shall include in the
24 application an attestation of all of the following:

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1 a. The date on which the health care provider first provided health care services
2 in this state under this section.

3 b. That the health care provider holds a valid, unexpired, credential granted
4 in another state.

5 c. The health care provider is not currently under investigation and no
6 restrictions or limitations are currently placed on the health care provider's
7 credential by the credentialing state or any other jurisdiction.

8 d. The health care provider has applied for a permanent credential granted by
9 the department or an examining board, as applicable, under chs. 440 to 480. This
10 subd. 1. d. does not apply to a health care provider who provides health care services
11 only during the period covered by a national emergency declared by the U.S.
12 president under 50 USC 1621 in response to the 2019 novel coronavirus or during
13 the 30 days immediately after the national emergency ends.

14 2. If the health care provider provides services other than services provided
15 through telehealth as described in sub. (3), the health care employer of the health
16 care provider attests all of the following to the department within 10 days of the date
17 on which the health care provider begins providing health care services in this state
18 under this section:

19 a. The health care employer has confirmed that the health care provider holds
20 a valid, unexpired credential granted by another state.

21 b. To the best of the health care employer's knowledge and with a reasonable
22 degree of certainty, the health care provider is not currently under investigation and
23 no restrictions or limitations are currently placed on the health care provider's
24 credential by the credentialing state or any other jurisdiction.

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1 (b) A health care provider who practices within the scope of a temporary
2 credential granted under this section has all rights and is subject to all
3 responsibilities, malpractice insurance requirements, limitations on scope of
4 practice, and other provisions that apply under chs. 440 to 480 to the practice of the
5 health care provider.

6 (c) 1. A temporary credential granted under this section becomes effective on
7 the date identified in the attestation under par. (a) 1. a. that the health care provider
8 first provided health care services in this state under this section.

9 2. a. Except as provided in subd. 2. b., a temporary credential granted under
10 this section expires on the date that the department, or an examining board in the
11 department, as applicable, grants or denies the application under par. (a) 1. d. for a
12 permanent credential submitted by the health care provider.

13 b. If a health care provider provides health care services only during the period
14 covered by a national emergency declared by the U.S. president under 50 USC 1621
15 in response to the 2019 novel coronavirus or during the 30 days immediately after
16 the national emergency ends, a temporary credential granted under this section to
17 the health care provider expires 30 days after the national emergency ends.

18 **(3) TELEHEALTH.** A health care provider who practices within the scope of a
19 temporary credential granted under this section may provide services through
20 telehealth to a patient located in this state.

21 (END)