



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1667/1
MED:kjf

2015 SENATE BILL 185

June 2, 2015 – Introduced by Senators SHILLING and L. TAYLOR, cosponsored by Representatives NERISON, BERCEAU, BOWEN and SINICKI. Referred to Committee on Health and Human Services.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to renumber** 448.970; **to amend** 15.085 (1m) (b), 146.997 (1) (d) 4.,
2 155.01 (7), 448.03 (2) (a) and 450.10 (3) (a) 5.; and **to create** 15.406 (7), 146.81
3 (1) (eu), 252.14 (1) (ar) 4s., 440.03 (13) (b) 19c., 440.08 (2) (a) 24am. and
4 subchapter VIII of chapter 448 [precedes 448.971] of the statutes; **relating to:**
5 creation of a clinical exercise physiology affiliated credentialing board,
6 licensure of clinical exercise physiologists, extending the time limit for
7 emergency rule procedures, providing an exemption from emergency rule
8 procedures, granting rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill regulates the practice of clinical exercise physiology, defined in the bill to include working with individuals who have chronic medical conditions for which exercise training has been shown to have a therapeutic benefit; administering clinical exercise assessments to individuals who have or are at risk for cardiovascular, pulmonary, or other chronic medical conditions; providing individuals with education and instruction based upon medical history, clinical assessment outcomes, and exercise training principles; and developing and implementing exercise training protocols and programs for individuals who have or are at risk for cardiovascular, pulmonary, and other chronic medical conditions for

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which exercise training has been shown to have a therapeutic benefit. Under the bill, no one may use the title “clinical exercise physiologist” or make similar representations without a license to practice clinical exercise physiology (license). A license is granted by the five-member Clinical Exercise Physiology Affiliated Credentialing Board (board), created in the bill. Under the bill, the board is attached for limited purposes to the Medical Examining Board, which regulates physicians and certain other professions.

Under the bill, the board may grant an initial license to a person who is at least 18 years of age, holds a master’s degree in exercise physiology or a related field, is certified by the American College of Sports Medicine, has at least 600 hours of qualifying clinical experience, and pays a fee. The bill also allows the board, for one year after the requirement in the bill to obtain a license goes into effect, to grant an initial license to practice clinical exercise physiology to certain individuals who cannot satisfy all of the requirements described above but who satisfy certain experience and other requirements.

The bill requires the board to promulgate rules that establish the qualifying degrees and qualifying clinical experience that are required for licensure, a scope of practice for clinical exercise physiologists, and standards for what constitutes unprofessional conduct for a clinical exercise physiologist.

The bill includes provisions for the professional discipline of licensees, which allow the board to take certain actions against a licensee who violates certain prohibitions in the bill.

Finally, the bill also applies certain other laws, such as the law providing for confidentiality of health care records and the health care workers whistleblowers protection law, to licensed clinical exercise physiologists.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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.** 15.085 (1m) (b) of the statutes is amended to read:
2 15.085 (**1m**) (b) The public members of the podiatry affiliated credentialing
3 board ~~or~~, occupational therapists affiliated credentialing board, or clinical exercise
4 physiology affiliated credentialing board shall not be engaged in any profession or
5 occupation concerned with the delivery of physical or mental health care.

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1 **SECTION 2.** 15.406 (7) of the statutes is created to read:

2 15.406 (7) CLINICAL EXERCISE PHYSIOLOGY AFFILIATED CREDENTIALING BOARD.

3 There is created in the department of safety and professional services, attached to
4 the medical examining board, a clinical exercise physiology affiliated credentialing
5 board. The affiliated credentialing board shall consist of the following 5 members
6 appointed for 4-year terms:

7 (a) Three clinical exercise physiologists licensed under subch. VIII of ch. 448.

8 (b) One physician.

9 (c) One public member.

10 **SECTION 3.** 146.81 (1) (eu) of the statutes is created to read:

11 146.81 (1) (eu) A clinical exercise physiologist licensed under subch. VIII of ch.
12 448.

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

14 146.997 (1) (d) 4. A physician, podiatrist, perfusionist, physical therapist, ~~or~~
15 physical therapist assistant, or clinical exercise physiologist licensed under ch. 448.

16 **SECTION 5.** 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 licensed under ch. 447, a
19 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
20 therapist assistant, occupational therapist, ~~or~~ occupational therapy assistant, or
21 clinical exercise physiologist licensed under ch. 448, a person practicing Christian
22 Science treatment, an optometrist licensed under ch. 449, a psychologist licensed
23 under ch. 455, a partnership thereof, a corporation or limited liability company
24 thereof that provides health care services, a cooperative health care association

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

3 **SECTION 6.** 252.14 (1) (ar) 4s. of the statutes is created to read:

4 252.14 (1) (ar) 4s. A clinical exercise physiologist licensed under subch. VIII of
5 ch. 448.

6 **SECTION 7.** 440.03 (13) (b) 19c. of the statutes is created to read:

7 440.03 (13) (b) 19c. Clinical exercise physiologist.

8 **SECTION 8.** 440.08 (2) (a) 24am. of the statutes is created to read:

9 440.08 (2) (a) 24am. Clinical exercise physiologist: February 1 of each
10 odd-numbered year.

11 **SECTION 9.** 448.03 (2) (a) of the statutes is amended to read:

12 448.03 (2) (a) Any person lawfully practicing within the scope of a license,
13 permit, registration, certificate or certification granted to practice clinical exercise
14 physiology under subch. VIII, to practice midwifery under subch. XIII of ch. 440, to
15 practice professional or practical nursing or nurse-midwifery under ch. 441, to
16 practice chiropractic under ch. 446, to practice dentistry or dental hygiene under ch.
17 447, to practice optometry under ch. 449, to practice acupuncture under ch. 451 or
18 under any other statutory provision, or as otherwise provided by statute.

19 **SECTION 10.** 448.970 of the statutes is renumbered 448.9695.

20 **SECTION 11.** Subchapter VIII of chapter 448 [precedes 448.971] of the statutes
21 is created to read:

22 **CHAPTER 448**

23 **SUBCHAPTER VIII**

24 **CLINICAL EXERCISE PHYSIOLOGY**

25 **AFFILIATED CREDENTIALING BOARD**

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1 **448.971 Definitions.** In this subchapter:

2 **(1)** “Board” means the clinical exercise physiology affiliated credentialing
3 board.

4 **(2)** “Clinical exercise physiologist” means an individual who holds a license to
5 practice clinical exercise physiology granted by the board.

6 **(3)** “Practice of clinical exercise physiology” means any of the following:

7 (a) Working with individuals who have chronic medical conditions for which
8 exercise training has been shown to have a therapeutic benefit.

9 (b) Administering clinical exercise assessments to individuals who have or are
10 at risk for cardiovascular, pulmonary, or other chronic medical conditions.

11 (c) Providing individuals with education and instruction based upon medical
12 histories, clinical assessment outcomes, and exercise training principles.

13 (d) Developing and implementing exercise training protocols and programs for
14 individuals who have or are at risk for cardiovascular, pulmonary, or other chronic
15 medical conditions for which exercise training has been shown to have a therapeutic
16 benefit.

17 (e) Any other practice as defined by the board by rule.

18 **448.972 Use of title.** No person may do any of the following unless he or she
19 is licensed by the board under s. 448.973:

20 **(1)** Hold oneself out as a clinical exercise physiologist.

21 **(2)** Use in connection with his or her name the title “clinical exercise
22 physiologist”; the words or letters “C.E.P.” or “L.C.E.P.”; or any other words, letters,
23 abbreviation, or insignia indicating that he or she is a clinical exercise physiologist
24 or a licensed clinical exercise physiologist.

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1 **448.973 License. (1) INITIAL LICENSE.** The board shall grant an initial license
2 to practice clinical exercise physiology to any person who satisfies all of the following
3 requirements:

4 (a) The person submits an application on a form provided by the department
5 and pays the initial credential fee determined by the department under s. 440.03 (9)

6 (a).

7 (b) The person is at least 18 years of age.

8 (c) The person possesses a master's degree in exercise physiology or a related
9 field, as determined by the board.

10 (d) The person provides evidence of having completed at least 600 hours of
11 qualifying clinical experience, as determined by the board.

12 (e) The person provides either of the following:

13 1. Evidence of certification as a clinical exercise specialist or as a registered
14 clinical exercise physiologist by the American College of Sports Medicine.

15 2. Evidence of having successfully completed an examination equivalent to an
16 examination required to obtain a certification under subd. 1., as determined by the
17 board.

18 (f) Subject to ss. 111.321, 111.322, and 111.335, the person does not have an
19 arrest or conviction record.

20 **(2) LICENSE RENEWAL.** (a) On or before the applicable renewal date specified
21 under s. 440.08 (2) (a), a person issued a license under sub. (1) or (3) shall submit all
22 of the following to the board on a form furnished by the department with the
23 applicable renewal fee determined by the department under s. 440.03 (9) (a):

24 1. A statement giving his or her name and residence.

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1 2. Evidence of having completed any examination or continuing education
2 requirements that the board requires by rule.

3 3. Any other information that the board requires by rule.

4 (b) The board shall grant to a person who satisfies the requirements under par.
5 (a) the renewal of his or her clinical exercise physiologist license.

6 **(3) PRIOR PRACTICE.** (a) Notwithstanding sub. (1), and subject to par. (c), the
7 board shall grant an initial license to practice clinical exercise physiology to any
8 person who satisfies all of the following requirements:

9 1. The person satisfies the requirements under sub. (1) (a), (b), and (f).

10 2. The person possesses a bachelor's or master's degree in exercise science,
11 exercise physiology, adult fitness or cardiac rehabilitation, human performance, or
12 kinesiology, or possesses another related qualifying exercise science degree, as
13 determined by the board.

14 3. The person provides evidence satisfactory to the board of having been
15 employed to engage in the practice of clinical exercise physiology full time in the
16 5-year period prior to the effective date of this subdivision [LRB inserts date], or
17 of having been employed to engage in the practice of clinical exercise physiology for
18 10,000 hours or more in the 10-year period prior to the effective date of this
19 subdivision [LRB inserts date].

20 (b) Notwithstanding sub. (1), and subject to par. (c), the board shall grant an
21 initial license to practice clinical exercise physiology to any person who satisfies all
22 of the following requirements:

23 1. The person satisfies the requirements under sub. (1) (a), (b), and (f).

24 2. The person possesses a bachelor's or master's degree in exercise science,
25 exercise physiology, adult fitness or cardiac rehabilitation, human performance, or

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1 kinesiology, or possesses another related qualifying exercise science degree, as
2 determined by the board.

3 3. The person provides evidence satisfactory to the board of having been
4 employed to engage in the practice of clinical exercise physiology full time in the
5 one-year period prior to the effective date of this subdivision [LRB inserts date],
6 or of having been employed to engage in the practice of clinical exercise physiology
7 for 2,000 hours or more in the 5-year period prior to the effective date of this
8 subdivision [LRB inserts date].

9 4. The person has passed the American College of Sports Medicine's Registered
10 Clinical Exercise Physiologist or Clinical Exercise Specialist examination in the
11 5-year period prior the effective date of this subdivision [LRB inserts date].

12 (c) This subsection does not apply after the first day of the 12th month
13 beginning after the effective date of this paragraph [LRB inserts date].

14 **448.974 Rules.** (1) The board shall promulgate rules to implement this
15 subchapter, including all of the following:

16 (a) Rules establishing licensure requirements under s. 448.973 (1) (c), (d), and
17 (e) 2. and (3) (a) 2. and (b) 2.

18 (b) Rules defining a scope of practice for clinical exercise physiologists.

19 (c) Rules defining what constitutes unprofessional conduct for clinical exercise
20 physiologists, for purposes of s. 448.975 (2) (d).

21 (2) The board may promulgate rules defining the practice under s. 448.971 (3)
22 (e) and rules establishing requirements for license renewal under s. 448.973 (2) (a)
23 2. and 3.

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1 **448.975 Discipline. (1)** Subject to the rules promulgated under s. 440.03 (1),
2 the board may conduct investigations and hearings to determine whether a person
3 has violated this subchapter or a rule promulgated under this subchapter.

4 **(2)** Subject to the rules promulgated under s. 440.03 (1), if a person who applies
5 for or holds a license issued under s. 448.973 does any of the following, the board may
6 reprimand the person or deny, limit, suspend, or revoke the person's license:

7 (a) Makes a material misstatement in an application for a license or an
8 application for renewal of a license under s. 448.973.

9 (b) Violates any law of this state or federal law that substantially relates to the
10 practice of clinical exercise physiology, violates this subchapter, or violates a rule
11 promulgated under this chapter.

12 (c) Advertises, practices, or attempts to practice under another person's name.

13 (d) Engages in unprofessional conduct.

14 (e) Subject to ss. 111.321, 111.322, and 111.335, is arrested for or convicted of
15 an offense, the circumstances of which substantially relate to the practice of clinical
16 exercise physiology.

17 **448.976 Penalties.** Any person who violates this subchapter is subject to a
18 fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both.

19 **SECTION 12.** 450.10 (3) (a) 5. of the statutes is amended to read:

20 450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical
21 therapist, physical therapist assistant, occupational therapist, ~~or~~ occupational
22 therapy assistant, or clinical exercise physiologist licensed under ch. 448.

23 **SECTION 13. Nonstatutory provisions.**

24 (1) BOARD; INITIAL TERMS. Notwithstanding the length of terms specified for the
25 members of the clinical exercise physiology affiliated credentialing board under

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1 section 15.406 (7) of the statutes, as created by this act, 2 of the initial members shall
2 be appointed for terms expiring on July 1, 2017; 2 of the initial members shall be
3 appointed for terms expiring on July 1, 2018; and the remaining initial member shall
4 be appointed for a term expiring on July 1, 2019.

5 (2) BOARD; INITIAL CLINICAL EXERCISE PHYSIOLOGIST MEMBERS. Notwithstanding
6 section 15.406 (7) (a) of the statutes, as created by this act, the initial members
7 appointed to the clinical exercise physiology affiliated credentialing board under
8 section 15.406 (7) (a) of the statutes, as created by this act, need not be licensed under
9 subchapter VIII of chapter 448 of the statutes, as created by this act, but shall be
10 persons who are certified as a registered clinical exercise physiologist by the
11 American College of Sports Medicine.

12 (3) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
13 the clinical exercise physiology affiliated credentialing board may promulgate rules
14 under section 448.974 of the statutes, as created by this act. Notwithstanding section
15 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this
16 subsection remain in effect for 2 years or until the date on which permanent rules
17 take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the
18 statutes, the board is not required to provide evidence that promulgating a rule
19 under this subsection as an emergency rule is necessary for the preservation of the
20 public peace, health, safety, or welfare and is not required to provide a finding of
21 emergency for a rule promulgated under this subsection.

22 **SECTION 14. Effective dates.** This act takes effect on the day after publication,
23 except as follows:

24 (1) The treatment of sections 146.81 (1) (eu), 146.997 (1) (d) 4., 155.01 (7),
25 252.14 (1) (ar) 4s., 440.03 (13) (b) 19c., 440.08 (2) (a) 24am., 448.03 (2) (a), 448.972,

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1 448.973, 448.975, 448.976, and 450.10 (3) (a) 5. of the statutes takes effect on the first
2 day of the 12th month beginning after publication.

3 (END)