

State of Wisconsin



2011 Senate Bill 421

Date of enactment: **March 28, 2012**

Date of publication*: **April 11, 2012**

2011 WISCONSIN ACT 161

AN ACT *to amend* 50.09 (1) (a) (intro.), 50.09 (1) (f) 1., 50.09 (1) (h), 50.09 (1) (k), 50.49 (1) (b) (intro.), 70.47 (8) (intro.), 118.15 (3) (a), 146.82 (3) (a), 252.07 (8) (a) 2., 252.07 (9) (c), 252.11 (2), 252.11 (4), 252.11 (5), 252.11 (7), 252.11 (10), 252.14 (1) (ar) 14., 252.16 (3) (c) (intro.), 252.17 (3) (c) (intro.), 252.18, 343.16 (5) (a), 448.03 (5) (b), 448.56 (1), 448.56 (1m) (b), 448.67 (2), 450.11 (7) (b) and 450.11 (8) (b); and *to create* 50.01 (4p), 252.01 (5), 450.01 (15r), 450.01 (16) (h) 3. and 450.13 (5) (c) of the statutes; **relating to**: authorizing medically related actions by physician assistants.

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

SECTION 1. 50.01 (4p) of the statutes is created to read:

50.01 (4p) "Physician assistant" has the meaning given in s. 448.01 (6).

SECTION 2. 50.09 (1) (a) (intro.) of the statutes is amended to read:

50.09 (1) (a) (intro.) Private and unrestricted communications with the resident's family, physician, physician assistant, advanced practice nurse prescriber, attorney, and any other person, unless medically contraindicated as documented by the resident's physician, physician assistant, or advanced practice nurse prescriber in the resident's medical record, except that communications with public officials or with the resident's attorney shall not be restricted in any event. The right to private and unrestricted communications shall include, but is not limited to, the right to:

SECTION 3. 50.09 (1) (f) 1. of the statutes is amended to read:

50.09 (1) (f) 1. Privacy for visits by spouse or domestic partner. If both spouses or both domestic partners

under ch.770 are residents of the same facility, the spouses or domestic partners shall be permitted to share a room unless medically contraindicated as documented by the resident's physician, physician assistant, or advanced practice nurse prescriber in the resident's medical record.

SECTION 4. 50.09 (1) (h) of the statutes is amended to read:

50.09 (1) (h) Meet with, and participate in activities of social, religious, and community groups at the resident's discretion, unless medically contraindicated as documented by the resident's physician, physician assistant, or advanced practice nurse prescriber in the resident's medical record.

SECTION 5. 50.09 (1) (k) of the statutes is amended to read:

50.09 (1) (k) Be free from mental and physical abuse, and be free from chemical and physical restraints except as authorized in writing by a physician, physician assistant, or advanced practice nurse prescriber for a specified and limited period of time and documented in the resident's medical record. Physical restraints may be used in an emergency when necessary to protect the resident from injury to himself or herself or others or to property.

* Section 991.11, WISCONSIN STATUTES 2009-10 : 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].

However, authorization for continuing use of the physical restraints shall be secured from a physician, physician assistant, or advanced practice nurse prescriber within 12 hours. Any use of physical restraints shall be noted in the resident's medical records. "Physical restraints" includes, but is not limited to, any article, device, or garment that interferes with the free movement of the resident and that the resident is unable to remove easily, and confinement in a locked room.

SECTION 6. 50.49 (1) (b) (intro.) of the statutes is amended to read:

50.49 (1) (b) (intro.) "Home health services" means the following items and services that are furnished to an individual, who is under the care of a physician, physician assistant, or advanced practice nurse prescriber, by a home health agency, or by others under arrangements made by the home health agency, that are under a plan for furnishing those items and services to the individual that is established and periodically reviewed by a physician, physician assistant, or advanced practice nurse prescriber and that are, except as provided in subd. 6., provided on a visiting basis in a place of residence used as the individual's home:

SECTION 7. 70.47 (8) (intro.) of the statutes is amended to read:

70.47 (8) HEARING. (intro.) The board shall hear upon oath all persons who appear before it in relation to the assessment. The board shall hear upon oath, by telephone, all ill or disabled persons who present to the board a letter from a physician, osteopath, physician assistant, as defined in s. 448.01 (6), or advanced practice nurse prescriber certified under s. 441.16 (2) that confirms their illness or disability. The board at such hearing shall proceed as follows:

SECTION 7m. 118.15 (3) (a) of the statutes is amended to read:

118.15 (3) (a) Any child who is excused by the school board because the child is temporarily not in proper physical or mental condition to attend a school program but who can be expected to return to a school program upon termination or abatement of the illness or condition. The school attendance officer may request the parent or guardian of the child to obtain a written statement from a licensed physician, dentist, chiropractor, optometrist or psychologist, physician assistant, or nurse practitioner, as defined in s. 255.06 (1) (d), or certified advanced practice nurse prescriber or Christian Science practitioner living and residing in this state, who is listed in the Christian Science Journal, as sufficient proof of the physical or mental condition of the child. An excuse under this paragraph shall be in writing and shall state the time period for which it is valid, not to exceed 30 days.

SECTION 8. 146.82 (3) (a) of the statutes is amended to read:

146.82 (3) (a) Notwithstanding sub. (1), a physician, physician assistant, as defined in s. 448.01 (6), or

advanced practice nurse prescriber certified under s. 441.16 (2) who treats a patient whose physical or mental condition in the physician's, physician assistant's, or advanced practice nurse prescriber's judgment affects the patient's ability to exercise reasonable and ordinary control over a motor vehicle may report the patient's name and other information relevant to the condition to the department of transportation without the informed consent of the patient.

SECTION 9. 252.01 (5) of the statutes is created to read:

252.01 (5) "Physician assistant" has the meaning given in s. 448.01 (6).

SECTION 10. 252.07 (8) (a) 2. of the statutes is amended to read:

252.07 (8) (a) 2. The department or local health officer provides to the court a written statement from a physician, physician assistant, or advanced practice nurse prescriber that the individual has infectious tuberculosis or suspect tuberculosis.

SECTION 11. 252.07 (9) (c) of the statutes is amended to read:

252.07 (9) (c) If the court orders confinement of an individual under this subsection, the individual shall remain confined until the department or local health officer, with the concurrence of a treating physician, physician assistant, or advanced practice nurse prescriber, determines that treatment is complete or that the individual is no longer a substantial threat to himself or herself or to the public health. If the individual is to be confined for more than 6 months, the court shall review the confinement every 6 months.

SECTION 12. 252.11 (2) of the statutes is amended to read:

252.11 (2) An officer of the department or a local health officer having knowledge of any reported or reasonably suspected case or contact of a sexually transmitted disease for which no appropriate treatment is being administered, or of an actual contact of a reported case or potential contact of a reasonably suspected case, shall investigate or cause the case or contact to be investigated as necessary. If, following a request of an officer of the department or a local health officer, a person reasonably suspected of being infected with a sexually transmitted disease refuses or neglects examination by a physician, physician assistant, or advanced practice nurse prescriber or treatment, an officer of the department or a local health officer may proceed to have the person committed under sub. (5) to an institution or system of care for examination, treatment, or observation.

SECTION 13. 252.11 (4) of the statutes is amended to read:

252.11 (4) If a person infected with a sexually transmitted disease ceases or refuses treatment before reaching what in a physician's, physician assistant's, or advanced practice nurse prescriber's opinion is the non-

communicable stage, the physician, physician assistant, or advanced practice nurse prescriber shall notify the department. The department shall without delay take the necessary steps to have the person committed for treatment or observation under sub. (5), or shall notify the local health officer to take these steps.

SECTION 14. 252.11 (5) of the statutes is amended to read:

252.11 (5) Any court of record may commit a person infected with a sexually transmitted disease to any institution or may require the person to undergo a system of care for examination, treatment, or observation if the person ceases or refuses examination, treatment, or observation under the supervision of a physician, physician assistant, or advanced practice nurse prescriber. The court shall summon the person to appear on a date at least 48 hours, but not more than 96 hours, after service if an officer of the department or a local health officer petitions the court and states the facts authorizing commitment. If the person fails to appear or fails to accept commitment without reasonable cause, the court may cite the person for contempt. The court may issue a warrant and may direct the sheriff, any constable, or any police officer of the county immediately to arrest the person and bring the person to court if the court finds that a summons will be ineffectual. The court shall hear the matter of commitment summarily. Commitment under this subsection continues until the disease is no longer communicable or until other provisions are made for treatment that satisfy the department. The certificate of the petitioning officer is prima facie evidence that the disease is no longer communicable or that satisfactory provisions for treatment have been made.

SECTION 15. 252.11 (7) of the statutes is amended to read:

252.11 (7) Reports, examinations and inspections and all records concerning sexually transmitted diseases are confidential and not open to public inspection, and may not be divulged except as may be necessary for the preservation of the public health, in the course of commitment proceedings under sub. (5), or as provided under s. 938.296 (4) or 968.38 (4). If a physician, physician assistant, or advanced practice nurse prescriber has reported a case of sexually transmitted disease to the department under sub. (4), information regarding the presence of the disease and treatment is not privileged when the patient, physician, physician assistant, or advanced practice nurse prescriber is called upon to testify to the facts before any court of record.

SECTION 16. 252.11 (10) of the statutes is amended to read:

252.11 (10) The state laboratory of hygiene shall examine specimens for the diagnosis of sexually transmitted diseases for any physician, physician assistant, advanced practice nurse prescriber, or local health officer in the state, and shall report the positive results of the

examinations to the local health officer and to the department. All laboratories performing tests for sexually transmitted diseases shall report all positive results to the local health officer and to the department, with the name of the physician, physician assistant, or advanced practice nurse prescriber to whom reported.

SECTION 17. 252.14 (1) (ar) 14. of the statutes is amended to read:

252.14 (1) (ar) 14. A physician assistant licensed under ch. 448.

SECTION 18. 252.16 (3) (c) (intro.) of the statutes is amended to read:

252.16 (3) (c) (intro.) Has submitted to the department a certification from a physician, as defined in s. 448.01 (5), physician assistant, or advanced practice nurse prescriber of all of the following:

SECTION 19. 252.17 (3) (c) (intro.) of the statutes is amended to read:

252.17 (3) (c) (intro.) Has submitted to the department a certification from a physician, as defined in s. 448.01 (5), physician assistant, or advanced practice nurse prescriber of all of the following:

SECTION 20. 252.18 of the statutes is amended to read:

252.18 Handling foods. No person in charge of any public eating place or other establishment where food products to be consumed by others are handled may knowingly employ any person handling food products who has a disease in a form that is communicable by food handling. If required by the local health officer or any officer of the department for the purposes of an investigation, any person who is employed in the handling of foods or is suspected of having a disease in a form that is communicable by food handling shall submit to an examination by the officer or by a physician, physician assistant, or advanced practice nurse prescriber designated by the officer. The expense of the examination, if any, shall be paid by the person examined. Any person knowingly infected with a disease in a form that is communicable by food handling who handles food products to be consumed by others and any persons knowingly employing or permitting such a person to handle food products to be consumed by others shall be punished as provided by s. 252.25.

SECTION 21. 343.16 (5) (a) of the statutes is amended to read:

343.16 (5) (a) The secretary may require any applicant for a license or any licensed operator to submit to a special examination by such persons or agencies as the secretary may direct to determine incompetency, physical or mental disability, disease, or any other condition that might prevent such applicant or licensed person from exercising reasonable and ordinary control over a motor vehicle. If the department requires the applicant to submit to an examination, the applicant shall pay for the examination. If the department receives an application

for a renewal or duplicate license after voluntary surrender under s. 343.265 or receives a report from a physician, physician assistant, as defined in s. 448.01 (6), advanced practice nurse prescriber certified under s. 441.16 (2), or optometrist under s. 146.82 (3), or if the department has a report of 2 or more arrests within a one-year period for any combination of violations of s. 346.63 (1) or (5) or a local ordinance in conformity with s. 346.63 (1) or (5) or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) or (5), or s. 346.63 (1m), 1985 stats., or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, the department shall determine, by interview or otherwise, whether the operator should submit to an examination under this section. The examination may consist of an assessment. If the examination indicates that education or treatment for a disability, disease or condition concerning the use of alcohol, a controlled substance or a controlled substance analog is appropriate, the department may order a driver safety plan in accordance with s. 343.30 (1q). If there is noncompliance with assessment or the driver safety plan, the department shall revoke the person's operating privilege in the manner specified in s. 343.30 (1q) (d).

SECTION 22. 448.03 (5) (b) of the statutes is amended to read:

448.03 (5) (b) No physician or physician assistant shall be liable for any civil damages for either of the following:

1. Reporting in good faith to the department of transportation under s. 146.82 (3) a patient's name and other information relevant to a physical or mental condition of the patient which in the physician's or physician assistant's judgment impairs the patient's ability to exercise reasonable and ordinary control over a motor vehicle.

2. In good faith, not reporting to the department of transportation under s. 146.82 (3) a patient's name and other information relevant to a physical or mental condition of the patient which in the physician's or physician assistant's judgment does not impair the patient's ability to exercise reasonable and ordinary control over a motor vehicle.

SECTION 23. 448.56 (1) of the statutes is amended to read:

448.56 (1) WRITTEN REFERRAL. Except as provided in this subsection and s. 448.52, a person may practice physical therapy only upon the written referral of a physician, physician assistant, chiropractor, dentist, podiatrist, or advanced practice nurse prescriber certified under s. 441.16 (2). Written referral is not required if a physical therapist provides services in schools to children with disabilities, as defined in s. 115.76 (5), pursuant to rules promulgated by the department of public instruction; provides services as part of a home health care agency; provides services to a patient in a nursing home pursuant

to the patient's plan of care; provides services related to athletic activities, conditioning, or injury prevention; or provides services to an individual for a previously diagnosed medical condition after informing the individual's physician, physician assistant, chiropractor, dentist, podiatrist, or advanced practice nurse prescriber certified under s. 441.16 (2) who made the diagnosis. The examining board may promulgate rules establishing additional services that are excepted from the written referral requirements of this subsection.

SECTION 24. 448.56 (1m) (b) of the statutes is amended to read:

448.56 (1m) (b) The examining board shall promulgate rules establishing the requirements that a physical therapist must satisfy if a physician, physician assistant, chiropractor, dentist, podiatrist, or advanced practice nurse prescriber 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 25. 448.67 (2) of the statutes is amended to read:

448.67 (2) SEPARATE BILLING REQUIRED. Except as provided in sub. (4), a licensee who renders any podiatric service or assistance, or gives any podiatric advice or any similar advice or assistance, to any patient, podiatrist, physician, physician assistant, advanced practice nurse prescriber certified under s. 441.16 (2), partnership, or corporation, or to any other institution or organization, including a hospital, for which a charge is made to a patient, shall, except as authorized by Title 18 or Title 19 of the federal Social Security Act, render an individual statement or account of the charge directly to the patient, distinct and separate from any statement or account by any other podiatrist, physician, physician assistant, advanced practice nurse prescriber, or other person.

SECTION 26. 450.01 (15r) of the statutes is created to read:

450.01 (15r) "Physician assistant" has the meaning given in s. 448.01 (6).

SECTION 27. 450.01 (16) (h) 3. of the statutes is created to read:

450.01 (16) (h) 3. The patient's physician assistant.

SECTION 28. 450.11 (7) (b) of the statutes is amended to read:

450.11 (7) (b) Information communicated to a physician, physician assistant, or advanced practice nurse prescriber in an effort to procure unlawfully a prescription drug or the administration of a prescription drug is not a privileged communication.

SECTION 29. 450.11 (8) (b) of the statutes is amended to read:

450.11 (8) (b) The medical examining board, insofar as this section applies to physicians and physician assistants.

SECTION 30. 450.13 (5) (c) of the statutes is created
to read:

450.13 (5) (c) The patient's physician assistant.

