



2015 ASSEMBLY BILL 769

January 22, 2016 - Introduced by Representative A. OTT. Referred to Committee on Agriculture.

1 **AN ACT to amend** 45.44 (1) (a) 5., 54.25 (2) (c) 1. d., 55.043 (4) (b) 5., 89.06 (1),
2 89.063, 89.078 (1), 89.078 (2), 89.078 (3) and 93.135 (5); and **to create** 89.071,
3 89.0715 and 89.073 of the statutes; **relating to:** powers and duties of the
4 Veterinary Examining Board and Department of Agriculture, Trade and
5 Consumer Protection.

Analysis by the Legislative Reference Bureau

In 2015 Wisconsin Act 55, the Veterinary Examining Board was transferred from the Department of Safety and Professional Services to the Department of Agriculture, Trade and Consumer Protection. However, the following powers and duties of the board and DSPS were not transferred with the board in Act 55:

1. The requirement, subject to certain conditions, for the board to issue a temporary veterinary license or other credential to the spouse of a service member if the service member and spouse temporarily reside in Wisconsin as a result of the service member's military service.

2. The authority of the board under certain circumstances to issue administrative warnings instead of other prescribed forms of discipline.

3. The authority of the board and DSPS to assess and collect the costs of disciplinary proceedings against credential holders.

This bill provides those powers and duties to the board and DATCP as appropriate.

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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.** 45.44 (1) (a) 5. of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 45.44 (1) (a) 5. A license, certification, registration, or permit issued under s.
4 89.06, 89.072, 89.073, 94.10 (2), (3), or (3g), 94.50 (2), 94.704, 95.60, 97.17 (2), 97.175
5 (2), 97.22 (2), 98.145, 98.146, 98.18 (1) (a), or 168.23 (3).

6 **SECTION 2.** 54.25 (2) (c) 1. d. of the statutes, as affected by 2015 Wisconsin Act
7 55, is amended to read:

8 54.25 (2) (c) 1. d. The right to apply for an operator's license, a license issued
9 under ch. 29, a license, certification, or permit issued under s. 89.06 ~~or~~, 89.072, or
10 89.073, or a credential, as defined in s. 440.01 (2) (a), if the court finds that the
11 individual is incapable of understanding the nature and risks of the licensed or
12 credentialed activity, to the extent that engaging in the activity would pose a
13 substantial risk of physical harm to the individual or others. A failure to find that
14 an individual is incapable of applying for a license or credential is not a finding that
15 the individual qualifies for the license or credential under applicable laws and rules.

16 **SECTION 3.** 55.043 (4) (b) 5. of the statutes, as affected by 2015 Wisconsin Act
17 55, is amended to read:

18 55.043 (4) (b) 5. Refer the case to the department of safety and professional
19 services or the department of agriculture, trade and consumer protection, as
20 appropriate, if the financial exploitation, neglect, self-neglect, or abuse involves an
21 individual who is required to hold a credential, as defined in s. 440.01 (2) (a), under

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1 chs. 440 to 460 or to hold a license, certification, or permit issued under s. 89.06 or,
2 89.072, or 89.073.

3 **SECTION 4.** 89.06 (1) of the statutes, as affected by 2015 Wisconsin Act 55, is
4 amended to read:

5 89.06 (1) Except as provided under s. 89.072 and 89.073, veterinary licenses
6 shall be issued only to persons who successfully pass an examination conducted by
7 the examining board and pay the fee established under s. 89.063. An applicant for
8 an initial license shall be a graduate of a veterinary college that has been approved
9 by the examining board or have successfully completed either the educational
10 commission for foreign veterinary graduates certification program of the American
11 Veterinary Medical Association or the program for the assessment of veterinary
12 education equivalence offered by the American Association of Veterinary State
13 Boards. Persons who qualify for examination may be granted temporary permits to
14 engage in the practice of veterinary medicine in the employment and under the
15 supervision of a veterinarian until the results of the next examination conducted by
16 the examining board are available. In case of failure at any examination, the
17 applicant shall have the privilege of taking subsequent examinations, upon the
18 payment of another fee for each examination.

19 **SECTION 5.** 89.063 of the statutes, as created by 2015 Wisconsin Act 55, is
20 amended to read:

21 **89.063 Fees.** The department shall determine by rule the fees for each initial
22 license, certification, and permit issued under ss. 89.06 ~~and~~, 89.072, and 89.073, and,
23 if applicable, for renewal of the license, certification, or permit, including late fees,
24 based on the department's administrative and enforcement costs under this chapter.
25 The department shall notify the holder of each such license, certification, or permit

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1 of any fee adjustment under this subsection that affects that license, certification,
2 or permit holder.

3 **SECTION 6.** 89.071 of the statutes is created to read:

4 **89.071 Administrative warnings.** (1) If the examining board determines
5 during an investigation of a complaint against a person holding a license,
6 certification, or permit issued under s. 89.06, 89.072, or 89.073 that there is evidence
7 that the credential holder committed misconduct, the examining board may close the
8 investigation by issuing an administrative warning to the credential holder if the
9 examining board determines that no further disciplinary action is warranted, the
10 complaint involves a first occurrence of a minor violation, and the issuance of an
11 administrative warning adequately protects the public.

12 (2) A credential holder may obtain review of an administrative warning
13 through a personal appearance before the examining board.

14 (3) (a) An administrative warning does not constitute an adjudication of guilt
15 or the imposition of discipline and, except as provided in par. (b), may not be used as
16 evidence that the credential holder is guilty of the alleged misconduct.

17 (b) If the examining board receives a subsequent complaint of misconduct by
18 a credential holder against whom the examining board issued an administrative
19 warning, the examining board may reopen the matter that gave rise to the
20 administrative warning and commence disciplinary proceedings against the
21 credential holder, and the administrative warning may be used as evidence in a
22 subsequent disciplinary proceeding that the credential holder had actual notice that
23 the misconduct that was the basis for the administrative warning was contrary to
24 law.

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1 (4) The record that an administrative warning was issued shall be a public
2 record. The contents of the administrative warning shall be private and confidential.

3 **SECTION 7.** 89.0715 of the statutes is created to read:

4 **89.0715 Assessment of costs.** (1) In this section, "costs of the proceeding"
5 means all of the following:

6 (a) Compensation and reasonable expenses of hearing examiners and
7 prosecuting attorneys for the department and examining board.

8 (b) A reasonable disbursement for the service of process or other papers.

9 (c) Amounts actually paid out for certified copies of records in any public office
10 and for postage, telephoning, adverse examinations and depositions, copies, expert
11 witness fees, and witness fees and expenses.

12 (d) Compensation and reasonable expenses of experts and investigators.

13 (e) Compensation and reasonable expenses of a reporter for recording and
14 transcribing testimony.

15 (2) In any disciplinary proceeding against a holder of a license, certification,
16 or permit issued under s. 89.06, 89.072, or 89.073 in which the examining board
17 orders suspension, limitation, or revocation of the credential or reprimands the
18 credential holder, the examining board may, in addition to imposing discipline,
19 assess all or part of the costs of the proceeding against the credential holder. Costs
20 assessed under this subsection are payable to the department. Interest shall accrue
21 on costs assessed under this subsection at a rate of 12 percent per year beginning on
22 the date that payment of the costs are due as ordered by the examining board. Upon
23 the request of the department, the department of justice may commence an action
24 to recover costs assessed under this subsection and any accrued interest.

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1 **(3)** In addition to any other discipline imposed, if the examining board assesses
2 costs of the proceeding to a credential holder under sub. (2), the examining board may
3 not restore, renew, or otherwise issue any credential to the holder until the holder
4 has made payment to the department under sub. (2) in the full amount assessed,
5 together with all accrued interest.

6 **SECTION 8.** 89.073 of the statutes is created to read:

7 **89.073 Temporary reciprocal credentials for the spouses of service**
8 **members. (1)** In this section, “service member” means a member of the U.S. armed
9 forces, a reserve unit of the U.S. armed forces, or the national guard of any state.

10 **(2)** The examining board shall grant a temporary license, certification, or
11 permit specified under s. 89.06 to an individual who the examining board determines
12 meets all of the following requirements:

13 (a) The individual applies for a temporary credential under this section on a
14 form prescribed by the examining board.

15 (b) The individual is the spouse of a service member and the spouse and service
16 member temporarily reside in this state as a result of the service member’s service
17 in the U.S. armed forces, a reserve unit of the U.S. armed forces, or the national guard
18 of any state.

19 (c) The individual holds a credential that was granted by a governmental
20 authority in a jurisdiction outside this state that qualifies the individual to perform
21 the acts authorized under the appropriate credential specified under s. 89.06.

22 (d) The individual pays the fee established under s. 89.063.

23 (e) The individual meets all other requirements established by the examining
24 board by rule.

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1 **(3)** A temporary credential granted under this section expires 180 days after
2 the date the examining board issues it unless, upon application by the holder of the
3 credential, the examining board extends the credential.

4 **SECTION 9.** 89.078 (1) of the statutes, as created by 2015 Wisconsin Act 55, is
5 amended to read:

6 89.078 **(1)** The examining board may conduct an investigation to determine
7 whether an applicant for a license, certification, or permit issued under s. 89.06 ~~or~~,
8 89.072, or 89.073 satisfies any of the eligibility requirements specified for the license,
9 certification, or permit, including, subject to ss. 111.321, 111.322, and 111.335,
10 whether the applicant does not have an arrest or conviction record. In conducting
11 an investigation under this subsection, the examining board may require an
12 applicant to provide any information that is necessary for the investigation.

13 **SECTION 10.** 89.078 (2) of the statutes, as created by 2015 Wisconsin Act 55, is
14 amended to read:

15 89.078 **(2)** A person holding a license, certification, or permit issued under s.
16 89.06 ~~or~~, 89.072, or 89.073 who is convicted of a felony or misdemeanor anywhere
17 shall send a notice of the conviction by 1st class mail to the examining board within
18 48 hours after the entry of the judgment of conviction. The examining board shall
19 by rule determine what information and documentation the person holding the
20 credential shall include with the written notice.

21 **SECTION 11.** 89.078 (3) of the statutes, as created by 2015 Wisconsin Act 55, is
22 amended to read:

23 89.078 **(3)** The examining board may investigate whether an applicant for or
24 holder of a license, certification, or permit issued under s. 89.06 ~~or~~, 89.072, or 89.073
25 has been charged with or convicted of a crime.

