

SECTION 1. 146.86 of the statutes is created to read:

146.86 Provision of certain services related to health. (1) In this section:

- (a) “Controlled substance” has the meaning given in s. 961.01 (4).
 - (b) “Deliver” has the meaning given in s. 450.01 (5).
 - (c) “Device” has the meaning given in s. 450.01 (6).
 - (d) “Dispense” has the meaning given in s. 450.01 (7).
 - (e) “Health care professional” means any of the following:
 - 1. An individual who acts within the scope of his or her applicable license, registration, permit, or certification and to whom any of the following applies:
 - a. Is licensed as a tattooist under s. 252.23.
 - b. Is licensed as a body piercer under s. 252.24.
 - c. Is licensed or permitted as an emergency medical technician under s. 256.15 (5).
 - d. Is certified for performance of defibrillation under s. 256.15 (6g).
 - e. Is certified as a first responder under s. 256.15 (8).
 - f. Has a license, permit, or certificate of certification or registration that is issued under subch. VII, XI, or XII of ch. 440 or under ch. 441, 446, 447, 448, 449, 450, 451, 454, 455, 457, 459, or 460.
 - 2. An individual who acts within the scope of a state–approved training and testing program and meets requirements for a feeding assistant under s. 146.40 (1) (aw).
 - 3. An individual who acts within the scope of an approved instruction program and an approved competency evaluation program and meets requirements for a nurse aide under s. 146.40 (2).
 - (h) “Health care practitioner” means an individual who provides health care services, but who is not a health care professional.
 - (i) “Prescription drug” has the meaning given in s. 450.01 (20).
- (2)** Notwithstanding ss. 252.23 (3), 252.24 (3), 256.15 (2) and (5) (d), 440.88 (5) and (6), 440.98 (8) and (9), 440.982 (1), 441.06 (4), 441.15 (2), 446.02 (1), 447.03 (1) and (2), 448.03 (1) (a), (b), and (c) and (1m), 448.51 (1), 448.61, 448.961 (1) and (2), 449.02 (1), 450.03 (1), 451.04 (1), 454.04, 455.02, 457.04, 459.02 (1), 459.24 (1), and 460.02, a health care practitioner who provides to an individual services related to health does not violate s. 252.23 (3), 252.24 (3), 256.15 (2) or (5) (d), 440.982 (1), 441.06 (4), 441.15 (2), 446.02 (1), 447.03 (1) or (2), 448.03 (1) (a), (b), or (c) or (1m), 448.51 (1), 448.61, 448.961 (1) and (2), 449.02 (1), 450.03 (1), 451.04 (1), 454.04, 455.02, 457.04, 459.02 (1), 459.24 (1), or 460.02, and is not subject to action under s. 440.98 (8) or (9),

unless he or she does any of the following:

- (a) Punctures the skin, except by pricking a finger for purposes of blood screening.
- (b) Prescribes or administers X-ray services.
- (c) Prescribes, directly applies, delivers, or dispenses a device that may be prescribed, directly applied, delivered, or dispensed only by a health care professional, a prescription drug, or a controlled substance.
- (d) Performs a chiropractic adjustment or manipulation of joints or a spine.
- (e) Recommends to the individual that he or she discontinue treatment that is prescribed by a health care professional.
- (f) Diagnoses and treats a health condition of the individual so as to cause an imminent and significant risk of discernable and significant physical or mental injury under circumstances that the health practitioner reasonably would know would result in such an injury. None of the following is a diagnosis prohibited under this paragraph:

1. Use by a health practitioner of medical terminology or common words to describe a health condition.
2. Advice by a health practitioner that the individual consult a health care professional in order to rule out a potentially diagnosable condition.
3. A statement by a health practitioner that the individual's symptoms may be indicative of or consistent with a specific medical condition.

(g) Holds himself or herself out as or implies that he or she is a health care professional.

(3) A health practitioner who charges a fee for health services shall, before providing the services, do all of the following:

(a) Provide to the individual to be served, in a written statement, all of the following information:

1. The health practitioner's name, business address, and telephone number.
2. The fact that the health practitioner is not a health care professional.
3. The nature of the health services the health practitioner proposes to provide to the individual.
4. The education, training, experience, credentials, or other qualifications, if any, of the health practitioner with respect to the health care services the health practitioner proposes to provide to the individual.

(b) Post in a prominent location in the office or treatment location of the health practitioner a copy of a statement, printed in not less than 12-point boldface type, that contains all of the following information:

1. The health practitioner's name, business address, and telephone number.

2. The fact that the health practitioner is not a health care professional.
3. The nature of the health services the health practitioner generally provides.
4. The education, training, experience, credentials, or other qualifications, if any, of the health practitioner with respect to the health care services specified under subd. 3.

(c) The health practitioner shall attempt to ensure that individuals who cannot read, who have communication impairments, or who do not read or speak English or the language of the health practitioner are able to understand the statements under pars. (a) and (b).

(d) Before initially providing health services to an individual, obtain a written acknowledgment from the individual stating that he or she has been provided the statement described under par.

(a) and provide the individual with a copy of the acknowledgment. The health practitioner shall maintain the acknowledgment for 2 years as a confidential health document.

(e) If the information under par. (a) 1. or 2. changes, the health practitioner shall change the statement under par. (a) accordingly, shall post the changed statement as required under par. (b), and, for each individual served after the statement is changed, shall comply with pars. (a) and (d).

(f) Disclosing information to a client under the requirement of this section regarding a degree lawfully gained does not constitute a violation of Wisconsin statute.

(4) (a) Except as provided in par. (g), the department, after holding a public hearing under par. (b), may issue a special order against any person requiring him or her to cease and desist from an act, practice, or omission that the department determines violates this section. The order is subject to judicial review under ch. 227. Any violation of a special order issued under this paragraph is punishable as contempt under ch. 785 in the manner provided for disobedience of a lawful order of a court, upon the filing of an affidavit by the department of the violation in the circuit court of the county in which the violation occurred.

(b) The department, in any matter relating to issuing, revoking, or amending a special order relating to a named person, shall serve upon the person complained against a complaint in the name of the department and a notice of public hearing on the complaint to be held not sooner than 10 days after the service. After the notice is served, the person may not act, practice, or omit to act as described in the complaint. The person complained against may be heard in person or by agent or attorney and is entitled to process to compel the attendance of witnesses.

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(c) Complaint, notice, order, or other process of the department may be served as may be a summons, a subpoena may be served as provided by s. 885.03, and either may be served by registered mail to the person's address. Service may be proved by affidavit or by the post-office return receipt, in which case the time of service is the date borne by the receipt.

(d) Testimony presented and proceedings at a hearing under par. (b) shall be recorded and when necessary shall be transcribed. The secretary shall make his or her findings and determination on the testimony. The department shall make rules of procedure and practice not inconsistent with any law governing the procedure or practice.

(e) In addition to or in lieu of any other remedies under this subsection, the department may apply to a circuit court for a temporary or permanent injunction to prevent, restrain, or enjoin any person from violating this section or any special order of the department issued under par (a), without being compelled to allege or prove that an adequate remedy at law does not exist.

(f) Any person suffering pecuniary loss because of a violation of this section may sue for damages in any circuit court and may recover treble the amount of the pecuniary loss, together with costs, including reasonable attorney fees.

(g) For a violation of sub. (3), the department shall employ an educational or mediative approach to bring the violator into compliance. If the department determines that this approach has failed, the department may issue a special order under par. (a).

(5) This section does not apply to the act of a person practicing Christian Science treatment or who, under s. 895.48, is exempt.

(END)