

1991 Assembly Bill 125

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1991 WISCONSIN ACT 160

AN ACT *to renumber and amend* 905.04 (4) (e); *to amend* 15.08 (1m) (b), 48.56 (2), 48.981 (2), 895.70 (1) (e), 905.04 (title), (1) (b) and (c), (2) and (3), 905.04 (4) (a), 905.04 (4) (e) (title) and 940.22 (1) (i); *to repeal and recreate* 146.024 (1) (a), 146.024 (1) (a), 146.81 (1) (hg), 149.06 (7), 149.06 (7), 450.10 (3) (a) and 450.10 (3) (a); and *to create* 15.405 (7c), 146.81 (1) (hg), 440.08 (2) (a) 46m, 63m and 68d to 68t, chapter 457, 905.04 (1) (bm), (dm) and (g), 905.04 (4) (e) 1 and 905.04 (4) (i) of the statutes, **relating to:** the regulation of social workers, marriage and family therapists and professional counselors, creating an examining board of social workers, marriage and family therapists and professional counselors, a patient's privilege in a court proceeding to refuse to disclose communications made during or information obtained from a diagnosis or treatment of the patient's condition by certain health or mental health professionals, the applicability to social workers, marriage and family therapists and professional counselors of laws relating to the confidentiality of and access to patient health care records, granting rule-making authority and providing penalties.

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

SECTION 1. 15.08 (1m) (b) of the statutes, as affected by 1989 Wisconsin Act 229, is amended to read:

15.08 (1m) (b) The public members of the chiropractic examining board, the dentistry examining board, the hearing and speech examining board, the medical examining board and its physical therapists examining council, podiatry examining council, occupational therapy examining council, respiratory care practitioners examining council and council on physician's assistants, the board of nursing, the nursing home administrator examining board, the veterinary examining board, the optometry examining board, the pharmacy examining board, the examining board of social workers, marriage and family therapists and professional counselors and the psychology examining board shall not be engaged in any profession or occupation concerned with the delivery of physical or mental health care.

SECTION 2. 15.405 (7c) of the statutes is created to read:

15.405 (7c) EXAMINING BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS. (a) There is created an examining board of social workers, marriage and family therapists and professional counselors in the department of regulation and licensing. The members of the examining board shall be appointed for 4-year terms. Four members shall be certified under ch. 457 as social workers. Three members shall be certified under ch. 457 as marriage and family therapists. Three members shall be certified under ch. 457 as professional counselors. Three members shall be public members. Of the 4 certified social worker members, one shall be certified under ch. 457 as an advanced practice social worker, one shall be certified under ch. 457 as an independent social worker, one shall be certified under ch. 457 as an independent clinical social worker and at least one shall be employed as a social worker by a federal, state or local governmental agency.

(b) In operation, the examining board shall be divided into a social worker section, a marriage and family therapist section and a professional counselor section. The social worker section shall consist of the 4 social

worker members of the examining board and one of the public members of the examining board. The marriage and family therapist section shall consist of the 3 marriage and family therapist members of the examining board and one of the public members of the examining board. The professional counselor section shall consist of the 3 professional counselor members of the examining board and one of the public members of the examining board.

(c) All matters pertaining to granting, denying, limiting, suspending or revoking a certificate under ch. 457, and all other matters of interest to either the social worker, marriage and family therapist or professional counselor section shall be acted upon solely by the interested section of the examining board.

(d) All matters that the examining board determines are of joint interest shall be considered by joint meetings of all sections of the examining board or of those sections to which the problem is of interest.

(e) Notwithstanding s. 15.08 (4) (a), at a joint meeting of all sections of the examining board, a majority of the examining board constitutes a quorum to do business only if at least 8 members are present at the meeting. At a meeting of a section of the examining board or a joint meeting of 2 or more of the sections of the examining board, each member who is present has one vote, except as provided in par. (f).

(f) At a joint meeting of the social worker section and one or both of the other sections of the examining board, each member who is present has one vote, except that the social worker members each have three-fourths of a vote if all 4 of those members are present.

SECTION 3. 48.56 (2) of the statutes is amended to read:

48.56 (2) Each county department shall employ personnel who devote all or part of their time to child welfare services. Whenever possible, these personnel shall ~~have the qualifications required for state~~ be social workers certified under civil service law who perform similar types of duties ch. 457.

SECTION 4. 48.981 (2) of the statutes, is amended to read:

48.981 (2) **PERSONS REQUIRED TO REPORT.** A physician, coroner, medical examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or mental health professional, ~~social worker, marriage and family therapist, professional counselor,~~ public assistance worker, school teacher, administrator or counselor, mediator under s. 767.11, child care worker in a day care center or child caring institution, day care provider, alcohol or other drug abuse counselor, member of the treatment staff employed by or working under contract with a county department under s. 46.23, 51.42 or 51.437, physical therapist, occupational therapist, speech-language pathologist, audiologist, emergency medical technician

or police or law enforcement officer having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or having reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under sub. (2m), report as provided in sub. (3). Any other person, including an attorney, having reason to suspect that a child has been abused or neglected or reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may make such a report. No person making a report under this subsection may be discharged from employment for so doing.

SECTION 5g. 146.024 (1) (a) of the statutes, as affected by 1991 Wisconsin Act 32 and 1991 Wisconsin Act 39, section 2626r, is repealed and recreated to read:

146.024 (1) (a) “Health care provider” means any of the following:

1. A nurse licensed under ch. 441.
2. A chiropractor licensed under ch. 446.
3. A dentist licensed under ch. 447.
4. A physician, podiatrist or physical therapist licensed or an occupational therapist or occupational therapy assistant certified under ch. 448.
5. An optometrist licensed under ch. 449.
6. A psychologist licensed under ch. 455.
7. A social worker, marriage and family therapist or professional counselor certified under ch. 457.
8. A speech-language pathologist or audiologist registered under subch. III of ch. 459 or a speech and language pathologist licensed by the department of public instruction.
9. An employe or agent of any provider specified under subds. 1 to 8.
10. A partnership of any provider specified under subds. 1 to 8.
11. A corporation of any provider specified under subds. 1 to 8 that provides health care services.
12. An operational cooperative sickness care plan organized under ss. 185.981 to 185.985 that directly provides services through salaried employes in its own facility.
13. An emergency medical technician — paramedic or an emergency medical technician — basic licensed under s. 146.50 (5).

SECTION 5r. 146.024 (1) (a) of the statutes, as affected by 1991 Wisconsin Act 39, section 2626s, and 1991 Wisconsin Act (this act), is repealed and recreated to read:

146.024 (1) (a) “Health care provider” means any of the following:

1. A nurse licensed under ch. 441.
2. A chiropractor licensed under ch. 446.
3. A dentist licensed under ch. 447.

1991 Assembly Bill 125

4. A physician, podiatrist or physical therapist licensed or an occupational therapist or occupational therapy assistant certified under ch. 448.

5. An optometrist licensed under ch. 449.

6. A psychologist licensed under ch. 455.

7. A social worker, marriage and family therapist or professional counselor certified under ch. 457.

8. A speech–language pathologist or audiologist licensed under subch. II of ch. 459 or a speech and language pathologist licensed by the department of public instruction.

9. An employe or agent of any provider specified under subds. 1 to 8.

10. A partnership of any provider specified under subds. 1 to 8.

11. A corporation of any provider specified under subds. 1 to 8 that provides health care services.

12. An operational cooperative sickness care plan organized under ss. 185.981 to 185.985 that directly provides services through salaried employes in its own facility.

13. An emergency medical technician — paramedic or an emergency medical technician — basic licensed under s. 146.50 (5).

SECTION 6m. 146.81 (1) (hg) of the statutes is created to read:

146.81 (1) (hg) A social worker, marriage and family therapist or professional counselor certified under ch. 457.

SECTION 7m. 146.81 (1) (hg) of the statutes, as affected by 1991 Wisconsin Act 39, section 2666r, and 1991 Wisconsin Act ... (this act), is repealed and recreated to read:

146.81 (1) (hg) A social worker, marriage and family therapist or professional counselor certified under ch. 457.

SECTION 8g. 149.06 (7) of the statutes, as affected by 1991 Wisconsin Act 39, section 2695kg, is repealed and recreated to read:

149.06 (7) Drugs necessary for the treatment of tuberculosis may be purchased by the department utilizing the appropriation under s. 20.435 (1) (e) and dispensed to patients through the public health dispensaries or through health care providers, as defined in s. 146.81 (1), other than social workers, marriage and family therapists or professional counselors certified under ch. 457, speech–language pathologists or audiologists registered under subch. III of ch. 459 or speech and language pathologists licensed by the department of public instruction.

SECTION 8r. 149.06 (7) of the statutes, as affected by 1991 Wisconsin Act 39, section 2695kh, and 1991 Wisconsin Act ... (this act), is repealed and recreated to read:

149.06 (7) Drugs necessary for the treatment of tuberculosis may be purchased by the department utilizing the appropriation under s. 20.435 (1) (e) and dispensed to patients through the public health dispensaries

or through health care providers, as defined in s. 146.81 (1), other than social workers, marriage and family therapists or professional counselors certified under ch. 457, speech–language pathologists or audiologists licensed under subch. II of ch. 459 or speech and language pathologists licensed by the department of public instruction.

SECTION 9m. 440.08 (2) (a) 46m, 63m and 68d to 68t of the statutes are created to read:

440.08 (2) (a) 46m. Marriage and family therapist: July 1 of each odd–numbered year; \$39.

63m. Professional counselor: July 1 of each odd–numbered year; \$39.

68d. Social worker: July 1 of each odd–numbered year; \$39.

68h. Social worker, advanced practice: July 1 of each odd–numbered year; \$39.

68p. Social worker, independent: July 1 of each odd–numbered year; \$39.

68t. Social worker, independent clinical: July 1 of each odd–numbered year; \$39.

SECTION 10m. 450.10 (3) (a) of the statutes, as affected by 1991 Wisconsin Act 39, section 3384m, is repealed and recreated to read:

450.10 (3) (a) In this subsection, “health care professional” means any of the following:

1. A pharmacist licensed under this chapter.

2. A nurse licensed under ch. 441.

3. A chiropractor licensed under ch. 446.

4. A dentist licensed under ch. 447.

5. A physician, podiatrist or physical therapist licensed or occupational therapist or occupational therapy assistant certified under ch. 448.

6. An optometrist licensed under ch. 449.

7. An acupuncturist certified under ch. 451.

8. A veterinarian licensed under ch. 453.

9. A psychologist licensed under ch. 455.

10. A social worker, marriage and family therapist or professional counselor certified under ch. 457.

11. A speech–language pathologist or audiologist registered under subch. III of ch. 459 or a speech and language pathologist licensed by the department of public instruction.

SECTION 11m. 450.10 (3) (a) of the statutes, as affected by 1989 Wisconsin Act 316, 1991 Wisconsin Act 39, section 3384n, and 1991 Wisconsin Act ... (this act), is repealed and recreated to read:

450.10 (3) (a) In this subsection, “health care professional” means any of the following:

1. A pharmacist licensed under this chapter.

2. A nurse licensed under ch. 441.

3. A chiropractor licensed under ch. 446.

4. A dentist licensed under ch. 447.

5. A physician, podiatrist or physical therapist licensed or occupational therapist or occupational therapy assistant certified under ch. 448.

6. An optometrist licensed under ch. 449.

– 4 –

7. An acupuncturist certified under ch. 451.
8. A veterinarian licensed under ch. 453.
9. A psychologist licensed under ch. 455.
10. A social worker, marriage and family therapist or professional counselor certified under ch. 457.
11. A speech–language pathologist or audiologist licensed under subch. II of ch. 459 or a speech and language pathologist licensed by the department of public instruction.

SECTION 12. Chapter 457 of the statutes is created to read:

CHAPTER 457

EXAMINING BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

457.01 Definitions. In this chapter:

- (1) “Certificate holder” means an individual who is certified under this chapter.
- (2) “Examining board” means the examining board of social workers, marriage and family therapists and professional counselors.
- (3) “Marriage and family therapist” means an individual who practices marriage and family therapy.
- (4) “Marriage and family therapist section” means the marriage and family therapist section of the examining board.
- (5) “Marriage and family therapy” means applying psychotherapeutic and marital or family systems theories and techniques in the assessment, marital or family diagnosis, prevention, treatment or resolution of a cognitive, affective, behavioral, nervous or mental disorder of an individual, couple or family.
- (6) “Professional counseling” means applying a combination of human development, rehabilitation and either psychosocial or psychotherapeutic principles, procedures or services that integrate a wellness, pathology and multicultural model of human behavior in order to assist an individual, couple, family, group of individuals, organization, institution or community to achieve mental, emotional, physical, social, moral, educational, spiritual, vocational or career development and adjustment through the life span of the individual, couple, family, group of individuals, organization, institution or community.
- (7) “Professional counselor” means an individual who practices professional counseling.
- (8) “Professional counselor section” means the professional counselor section of the examining board.
- (8m) “Psychotherapy” has the meaning given in s. 455.01 (6).

(9) “Social work” means applying psychosocial, psychotherapeutic or counseling principles, methods or procedures in the assessment, evaluation, psychosocial or psychotherapeutic diagnosis, prevention, treatment or resolution of a social, psychological, personal, emotional or mental disorder of an individual, couple, family, group

1991 Assembly Bill 125

of individuals or community, including the enhancement or restoration of, or the creation of societal conditions favorable to the enhancement or restoration of, the capacity of an individual, couple, family, group of individuals or community for social functioning or the delivery of services to a group of individuals or a community to assist the group or community in providing or improving the provision of social or health services to others.

(10) “Social worker” means an individual who practices social work.

(11) “Social worker section” means the social worker section of the examining board.

457.02 Applicability. This chapter does not do any of the following:

(1) Require any individual to be certified under this chapter in order to use the title “pastoral counselor”, “investment counselor”, “vocational counselor”, “career counselor”, “alcohol and drug counselor” or “chemical dependency counselor”.

(2) Require any individual who is licensed as a school social worker or school counselor by the department of public instruction to be certified as a social worker or professional counselor under this chapter in order to use the title “school social worker” or “school counselor”.

(3) Require a person who is licensed as a psychologist under ch. 455 or who is a psychiatrist, as defined in s. 146.34 (1) (h), to be certified as a marriage and family therapist or professional counselor under this chapter in order to use the title “marriage and family therapist”, “marriage and family counselor” or “professional counselor” if the psychologist or psychiatrist does not use the term “licensed”, “certified” or “registered” or any similar term in connection with the title “marriage and family therapist”, “marriage and family counselor” or “professional counselor”.

(4) Authorize any individual who is certified as a social worker or professional counselor under this chapter to use the title “school social worker” or “school counselor” unless the individual is licensed as a school social worker or school counselor by the department of public instruction.

(5) Authorize any individual who is certified under this chapter to use the title “alcohol and drug counselor” or “chemical dependency counselor” unless the individual is certified as an alcohol and drug counselor or as a chemical dependency counselor through a process recognized by the department of health and social services.

457.03 Duties and powers of examining board and sections. The examining board shall do all of the following:

(1) Upon the advice of the social worker section, marriage and family therapist section and professional counselor section, promulgate rules establishing minimum standards for educational programs that must be completed for certification under this chapter and for supervised clinical training that must be completed for

1991 Assembly Bill 125

certification as an independent clinical social worker, marriage and family therapist or professional counselor under this chapter and approve educational programs and supervised clinical training programs in accordance with those standards.

(2) Upon the advice of the social worker section, marriage and family therapist section and professional counselor section, promulgate rules establishing a code of ethics to govern the professional conduct of certificate holders. The rules shall specify the services included within the practice of social work that an individual who is certified under this chapter as a social worker, advanced practice social worker, independent social worker or independent clinical social worker is qualified to perform and the degree of supervision, if any, required to perform those services. The rules may not permit a certificate holder to engage in psychotherapy unless the individual is certified under this chapter as an advanced practice social worker, independent social worker, independent clinical social worker, marriage and family therapist or professional counselor and has engaged in the equivalent of at least 2 years of full-time supervised social work, marriage and family therapy or professional counseling clinical practice after receiving the master's or doctorate degree required under s. 457.08 (3) (b) or (4) (b), 457.10 (2) or 457.12 (2).

(3) Upon the advice of the social worker section, promulgate rules establishing levels of advanced social work practice, in addition to the levels of practice for which certificates are granted under s. 457.08 (2) to (4), and establishing appropriate educational, training, experience, examination and continuing education requirements for certification and renewal of a certificate at each level of practice established in rules promulgated under this subsection.

457.04 Prohibited practices. Except as provided in s. 457.02, no person may do any of the following:

(1) Use the title "social worker" unless the person is certified as a social worker under this chapter.

(2) Use the title "advanced practice social worker" unless the person is certified as an advanced practice social worker, independent social worker or independent clinical social worker under this chapter.

(3) Use the title "independent social worker" unless the person is certified as an independent social worker or independent clinical social worker under this chapter.

(4) Use the title "independent clinical social worker" or "clinical social worker" unless the person is certified as an independent clinical social worker under this chapter.

(5) Use the title "marriage and family therapist", "marriage and family counselor" or any similar title unless any of the following applies:

(a) The person is certified as a marriage and family therapist under this chapter.

(b) The person is certified as an independent clinical social worker under this chapter and initially became certified as an independent clinical social worker under this chapter on or before the last day of the 24th month beginning after the effective date of this paragraph [revisor inserts date].

(6) Use the title "professional counselor", "professional rehabilitation counselor", "vocational rehabilitation counselor" or "rehabilitation counselor" or any similar title unless the person is certified as a professional counselor under this chapter.

457.06 General requirements for certification.

The social worker section, marriage and family therapist section or professional counselor section may not grant any certificate under this chapter unless the applicant does all of the following:

(1) Submits an application for the certificate to the department on a form provided by the department.

(2) Pays the fee specified in s. 440.05 (1).

457.08 Social worker certificate and advanced practice certificates. (1) SOCIAL WORKER CERTIFICATE. The social worker section shall grant a social worker certificate to any individual who does all of the following:

(a) Satisfies the requirements in s. 457.06.

(b) Submits evidence satisfactory to the social worker section that he or she has received a bachelor's or master's degree in social work from a program accredited by, or a preaccreditation program of, the council on social work education or a doctorate degree in social work.

(c) Passes an examination approved by the social worker section to determine minimum competence to practice as a social worker as specified in the rules promulgated under s. 457.03 (2).

(2) ADVANCED PRACTICE SOCIAL WORKER CERTIFICATE. The social worker section shall grant an advanced practice social worker certificate to any individual who is certified under sub. (1) and does all of the following:

(a) Satisfies the requirements in s. 457.06.

(b) Submits evidence satisfactory to the social worker section that he or she has received a master's degree in social work from a program accredited by, or a preaccreditation program of, the council on social work education or a doctorate degree in social work.

(c) Passes an examination approved by the social worker section to determine minimum competence to practice as an advanced practice social worker as specified in the rules promulgated under s. 457.03 (2).

(3) INDEPENDENT SOCIAL WORKER CERTIFICATE. The social worker section shall grant an independent social worker certificate to any individual who is certified under sub. (1) and does all of the following:

(a) Satisfies the requirements in s. 457.06.

(b) Submits evidence satisfactory to the social worker section that he or she has received a master's degree in social work from a program accredited by, or a

preaccreditation program of, the council on social work education or a doctorate degree in social work.

(c) Submits evidence satisfactory to the social worker section that after receiving a master's or doctorate degree in social work he or she has engaged in the equivalent of at least 2 years of full-time supervised social work practice approved by the social worker section.

(d) Passes an examination approved by the social worker section to determine minimum competence to practice as an independent social worker as specified in the rules promulgated under s. 457.03 (2) or passes the academy of certified social workers examination administered by the national association of social workers.

(4) INDEPENDENT CLINICAL SOCIAL WORKER CERTIFICATE. The social worker section shall grant an independent clinical social worker certificate to any individual who is certified under sub. (1) and does all of the following:

(a) Satisfies the requirements in s. 457.06.

(b) Submits evidence satisfactory to the social worker section that he or she has received a master's degree in social work from a program accredited by, or a preaccreditation program of, the council on social work education or a doctorate degree in social work and, as part of the master's or doctorate degree program, had a clinical social work concentration and completed supervised clinical field training.

(c) Submits evidence satisfactory to the social worker section that after receiving a master's or doctorate degree in social work he or she has engaged in the equivalent of at least 2 years of full-time supervised clinical social work practice approved by the social worker section.

(d) Passes an examination approved by the social worker section to determine minimum competence to practice as an independent clinical social worker as specified in the rules promulgated under s. 457.03 (2) or passes an advanced clinical social work examination approved by the social worker section.

457.10 Marriage and family therapist certificate

The marriage and family therapist section shall grant a marriage and family therapist certificate to any individual who does all of the following:

(1) Satisfies the requirements in s. 457.06.

(2) Submits evidence satisfactory to the marriage and family therapist section that he or she has done any of the following:

(a) Received a master's or doctorate degree in marriage and family therapy from a program accredited by the commission on accreditation for marriage and family therapy education.

(b) Received a master's or doctorate degree in marriage and family therapy, psychology, sociology, social work, professional counseling or other mental health

field that included course work that the marriage and family therapist section determines is substantially equivalent to the course work required for a master's or doctorate degree in marriage and family therapy described under par. (a).

(3) Submits evidence satisfactory to the marriage and family therapist section that after receiving a master's or doctorate degree required under sub. (2) he or she has engaged in the equivalent of at least 2 years of full-time supervised clinical marriage and family therapy practice approved by the marriage and family therapist section.

(4) Passes an examination approved by the marriage and family therapist section to determine minimum competence to practice marriage and family therapy.

457.12 Professional counselor certificate. The professional counselor section shall grant a professional counselor certificate to any individual who does all of the following:

(1) Satisfies the requirements in s. 457.06.

(2) Submits evidence satisfactory to the professional counselor section that he or she has received a master's or doctorate degree in professional counseling or its equivalent from a program approved by the professional counselor section.

(3) Submits evidence satisfactory to the professional counselor section that he or she has done any of the following during the 5 years immediately preceding the date on which the application for the certificate is submitted:

(a) After receiving a master's degree in professional counseling or its equivalent, engaged in the equivalent of at least 2 years of full-time supervised clinical professional counseling practice approved by the professional counselor section.

(b) After receiving a doctorate degree in professional counseling or its equivalent, engaged in the equivalent of at least one year of full-time supervised clinical professional counseling practice approved by the professional counselor section.

(4) Passes an examination approved by the professional counselor section to determine minimum competence to practice professional counseling.

457.14 Temporary certificates. Upon application and payment of the fee specified in s. 440.05 (6), the appropriate section of the examining board may grant a temporary social worker, marriage and family therapist or professional counselor certificate to any individual who satisfies the requirements under s. 457.08 (1) (a) and (b), 457.10 (1) to (3) or 457.12 (1) to (3) and has submitted an application to take the next available examination for certification under s. 457.08 (1) (c), 457.10 (4) or 457.12 (4). A temporary certificate granted under this section is valid for a period designated by the appropriate section of the examining board, not to exceed 9 months, and may be renewed once by that section of the examining board.

1991 Assembly Bill 125

457.15 Reciprocal certificates. (1) Upon application and payment of the fee specified in s. 440.05 (2), the social worker section shall do all of the following:

(a) Grant a social worker certificate to any individual who holds a similar certificate in another state or territory of the United States if the social worker section determines that the requirements for obtaining the certificate in the other state or territory are substantially equivalent to the requirements under s. 457.08 (1).

(b) Grant an advanced practice social worker certificate to any individual who is certified under par. (a) or under s. 457.08 (1) and who holds a similar certificate in another state or territory of the United States if the social worker section determines that the requirements for obtaining the certificate in the other state or territory are substantially equivalent to the requirements under s. 457.08 (2).

(c) Grant an independent social worker certificate to any individual who is certified under par. (a) or under s. 457.08 (1) and who holds a similar certificate in another state or territory of the United States if the social worker section determines that the requirements for obtaining the certificate in the other state or territory are substantially equivalent to the requirements under s. 457.08 (3).

(d) Grant an independent clinical social worker certificate to any individual who is certified under par. (a) or under s. 457.08 (1) and who holds a similar certificate in another state or territory of the United States if the social worker section determines that the requirements for obtaining the certificate in the other state or territory are substantially equivalent to the requirements under s. 457.08 (4).

(2) Upon application and payment of the fee specified in s. 440.05 (2), the marriage and family therapist section shall grant a marriage and family therapist certificate to any individual who holds a similar certificate in another state or territory of the United States if the marriage and family therapist section determines that the requirements for obtaining the certificate in the other state or territory are substantially equivalent to the requirements under s. 457.10.

(3) Upon application and payment of the fee specified in s. 440.05 (2), the professional counselor section shall grant a professional counselor certificate to any individual who holds a similar certificate in another state or territory of the United States if the professional counselor section determines that the requirements for obtaining the certificate in the other state or territory are substantially equivalent to the requirements under s. 457.12.

457.16 Examinations. (1) The appropriate section of the examining board shall arrange for examinations for social worker, advanced practice social worker, independent social worker, independent clinical social worker, marriage and family therapist and professional counselor certification to be conducted at least semiannually and at times and places determined by that section of the

examining board, and shall provide public notice of each examination at least 90 days before the date of the examination.

(2) Examinations shall consist of written or oral tests, or both, requiring applicants to demonstrate minimum competency in subjects substantially related to the practice of social work, marriage and family therapy or professional counseling, as appropriate.

(3) An individual is not eligible for examination unless he or she satisfies the requirements for certification under s. 457.08 (1) (a) and (b), (2) (intro.), (a) and (b), (3) (intro.) and (a) to (c) or (4) (intro.) and (a) to (c), 457.10 (1) to (3) or 457.12 (1) to (3) and, at least 30 days before the date of the examination, submits an application for examination to the department on a form provided by the department and pays the fee specified in s. 440.05 (1).

457.20 Issuance of certificate; expiration and renewal. (1) The department shall issue a certificate of certification to each individual who is certified under this chapter.

(2) The renewal dates for certificates granted under this chapter, other than temporary certificates granted under s. 457.14, are specified under s. 440.08 (2) (a).

(3) Renewal applications shall be submitted to the department on a form provided by the department and shall be accompanied by all of the following:

(a) The renewal fee specified in s. 440.08 (2) (a).

(b) Proof of completion of continuing education requirements in s. 457.22.

(c) If the application is for renewal of a professional counselor certificate that was granted under 1991 Wisconsin Act (this act), section 21 (2) (g), evidence satisfactory to the professional counselor section that the applicant continues to be employed by a federal, state or local governmental agency as a professional counselor, professional rehabilitation counselor, vocational rehabilitation counselor or rehabilitation counselor.

(4) Renewal of an advanced practice social worker, independent social worker or independent clinical social worker certificate automatically renews the individual's social worker certificate without payment of the renewal fee for the social worker certificate or completion of the continuing education requirements that would otherwise be required for renewal of a social worker certificate.

457.22 Continuing education. The examining board may promulgate rules establishing requirements and procedures for certificate holders to complete continuing education programs or courses of study in order to qualify for renewal. The rules may not require an individual to complete more than 30 hours of continuing education programs or courses of study in order to qualify for renewal. The appropriate section of the examining board may waive all or part of the requirements established in rules promulgated under this section if it determines that prolonged illness, disability or other excep-

tional circumstances have prevented the individual from completing the requirements.

457.25 Reporting requirements. (1) Any public or private mental health or health care agency, institution or facility, or any other person or entity that employs or contracts for services with a certificate holder, that terminates, suspends or restricts the employment or contract of the certificate holder as a result of adverse or disciplinary action against the certificate holder relating to his or her practice of social work, marriage and family therapy or professional counseling shall submit a written report of the action to the appropriate section of the examining board within 30 days after the date on which the action is taken or, if grounds for such an action exist and the certificate holder terminates his or her employment before the action is taken, within 30 days after the date on which the certificate holder terminates his or her employment.

(2) Any state or local professional society or organization of social workers, marriage and family therapists or professional counselors that terminates, revokes or suspends the membership of a certificate holder, or takes any other adverse or disciplinary action against a certificate holder relating to his or her practice of social work, marriage and family therapy or professional counseling, shall submit a written report of the action to the appropriate section of the examining board within 30 days after the date on which the action is taken or, if grounds for such an action exist and the certificate holder terminates his or her membership before the action is taken, within 30 days after the date on which the certificate holder terminates his or her membership.

(3) Any insurer, as defined in s. 600.03 (27), who provides professional liability insurance coverage for a certificate holder and who pays a claim for damages arising out of the rendering of services by the certificate holder or obtains any information that tends to substantiate a charge that the certificate holder has engaged in conduct that constitutes grounds for discipline under s. 457.26 shall submit a written report of the payment or information to the appropriate section of the examining board within 30 days after the date on which the payment is made or information is obtained.

(4) Any circuit court that appoints a guardian of the person or estate of a certificate holder or makes a judgment or other determination that a certificate holder is mentally ill or mentally incompetent or that a certificate holder has done any of the acts enumerated in s. 457.26 (2) shall submit a written report of the appointment, judgment or determination to the appropriate section of the examining board within 30 days after the date on which the appointment, judgment or determination is made.

(5) (a) Within 30 days after receipt of a report under sub. (1), (2), (3) or (4), the appropriate section of the examining board shall notify the certificate holder, in writing, of the substance of the report. The certificate holder and the certificate holder's authorized representa-

tive may examine the report and may place into the record a statement, of reasonable length, of the certificate holder's view of the correctness or relevance of any information in the report. The certificate holder may institute an action in circuit court to amend or expunge any part of the certificate holder's record related to the report.

(b) If the appropriate section of the examining board determines that a report submitted under sub. (1), (2), (3) or (4) is without merit or that the certificate holder has sufficiently improved his or her conduct, that section of the examining board shall remove the report from the certificate holder's record. If no report about a certificate holder is filed under sub. (1), (2), (3) or (4) for 2 consecutive years, the certificate holder may petition the appropriate section of the examining board to remove any prior reports, which did not result in disciplinary action, from his or her record.

457.26 Disciplinary proceedings and actions. (1) Subject to the rules promulgated under s. 440.03 (1), the appropriate section of the examining board may make investigations and conduct hearings to determine whether a violation of this chapter or any rule promulgated under this chapter has occurred.

(2) Subject to the rules promulgated under s. 440.03 (1), the appropriate section of the examining board may reprimand a certificate holder or deny, limit, suspend or revoke a certificate under this chapter if it finds that the applicant or certificate holder has done any of the following:

(a) Made a material misstatement in an application for a certificate or for renewal of a certificate.

(b) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the circumstances of which substantially relate to the practice of social work, marriage and family therapy or professional counseling.

(c) Advertised in a manner that is false, deceptive or misleading.

(d) Advertised, practiced or attempted to practice under another's name.

(e) Subject to ss. 111.321, 111.322 and 111.34, practiced social work, marriage and family therapy or professional counseling while his or her ability to practice was impaired by alcohol or other drugs.

(f) Engaged in unprofessional or unethical conduct in violation of the code of ethics established in the rules promulgated under s. 457.03 (2).

(g) Performed social work services in violation of the rules promulgated under s. 457.03 (2) or otherwise engaged in conduct while practicing social work, marriage and family therapy or professional counseling which evidences a lack of knowledge or ability to apply professional principles or skills.

(h) Violated this chapter or any rule promulgated under this chapter.

457.28 Injunctive relief. If the appropriate section of the examining board has reason to believe that any per-

1991 Assembly Bill 125

son is violating s. 457.04, the appropriate section of the examining board, the examining board, the department, the attorney general or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring an action in the name and on behalf of this state to enjoin the person from the violation.

457.30 Penalties. (1) Any person who violates this chapter or any rule promulgated under this chapter may be required to forfeit not more than \$5,000 for the first offense and may be required to forfeit not more than \$10,000 for the 2nd or any later offense within a year. Each day of continued violation constitutes a separate offense. The period shall be measured by using the dates of the offenses that resulted in convictions.

(2) Any person who wilfully violates this chapter or any rule promulgated under this chapter may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

SECTION 13. 895.70 (1) (e) of the statutes is amended to read:

895.70 (1) (e) “Therapist” means a physician, psychologist, social worker, marriage and family therapist, professional counselor, nurse, chemical dependency counselor, member of the clergy or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy.

SECTION 14. 905.04 (title), (1) (b) and (c), (2) and (3) of the statutes are amended to read:

905.04 (title) Physician–patient, registered nurse–patient, chiropractor–patient, psychologist–patient, social worker–patient, marriage and family therapist–patient and professional counselor–patient privilege.

(1) (b) A communication or information is “confidential” if not intended to be disclosed to 3rd persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication or information or persons who are participating in the diagnosis and treatment under the direction of the physician, registered nurse, chiropractor ~~or~~ psychologist, social worker, marriage and family therapist or professional counselor, including the members of the patient’s family.

(c) “Patient” means ~~a person~~ an individual, couple, family or group of individuals who consults with or is examined or interviewed by a physician, registered nurse, chiropractor ~~or~~ psychologist, social worker, marriage and family therapist or professional counselor.

(2) GENERAL RULE OF PRIVILEGE. A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made or information obtained or disseminated for purposes of diagnosis or treatment of the patient’s physical, mental or emotional condition, among the patient, the patient’s physician, the patient’s registered nurse, the patient’s chi-

ropractor, the patient’s psychologist, the patient’s social worker, the patient’s marriage and family therapist, the patient’s professional counselor or persons, including members of the patient’s family, who are participating in the diagnosis or treatment under the direction of the physician, registered nurse, chiropractor ~~or~~ psychologist, social worker, marriage and family therapist or professional counselor.

(3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the patient, by the patient’s guardian or conservator, or by the personal representative of a deceased patient. The person who was the physician, registered nurse, chiropractor ~~or~~ psychologist, social worker, marriage and family therapist or professional counselor may claim the privilege but only on behalf of the patient. The authority so to do is presumed in the absence of evidence to the contrary.

SECTION 15. 905.04 (1) (bm), (dm) and (g) of the statutes are created to read:

905.04 (1) (bm) “Marriage and family therapist” means an individual who is certified as a marriage and family therapist under ch. 457 or an individual reasonably believed by the patient to be a marriage and family therapist.

(dm) “Professional counselor” means an individual who is certified as a professional counselor under ch. 457 or an individual reasonably believed by the patient to be a professional counselor.

(g) “Social worker” means an individual who is certified as a social worker under ch. 457 or an individual reasonably believed by the patient to be a social worker.

SECTION 16. 905.04 (4) (a) of the statutes is amended to read:

905.04 (4) (a) *Proceedings for hospitalization, guardianship, protective services or protective placement.* There is no privilege under this rule as to communications and information relevant to an issue in proceedings to hospitalize the patient for mental illness, to appoint a guardian under s. 880.33, for court–ordered protective services or protective placement or for review of guardianship, protective services or protective placement orders, if the physician, registered nurse, chiropractor ~~or~~ psychologist, social worker, marriage and family therapist or professional counselor in the course of diagnosis or treatment has determined that the patient is in need of hospitalization, guardianship, protective services or protective placement.

SECTION 17. 905.04 (4) (e) (title) of the statutes is amended to read:

905.04 (4) (e) (title) *Abused or neglected child.*

SECTION 18. 905.04 (4) (e) of the statutes is renumbered 905.04 (4) (e) 2. and amended to read:

905.04 (4) (e) 2. There is no privilege in situations where the examination of an abused or ~~injured~~ neglected child creates a reasonable ground for an opinion of the physician, registered nurse ~~or~~ chiropractor, psycholo-

gist, social worker, marriage and family therapist or professional counselor that the ~~condition~~ abuse or neglect was other than accidentally caused or inflicted by another.

SECTION 19. 905.04 (4) (e) 1. of the statutes is created to read:

905.04 (4) (e) 1. In this paragraph:

- a. “Abuse” has the meaning given in s. 48.981 (1) (a).
- b. “Neglect” has the meaning given in s. 48.981 (1) (d).

SECTION 19m. 905.04 (4) (i) of the statutes is created to read:

905.04 (4) (i) *Providing services to court in juvenile matters.* There is no privilege regarding information obtained by an intake worker or dispositional staff in the provision of services under s. 48.067 or 48.069.

SECTION 20. 940.22 (1) (i) of the statutes is amended to read:

940.22 (1) (i) “Therapist” means a physician, psychologist, social worker, marriage and family therapist, professional counselor, nurse, chemical dependency counselor, member of the clergy or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy.

SECTION 21. Nonstatutory provisions. (1) INITIAL APPOINTMENTS. (a) Notwithstanding section 15.405 (7c) of the statutes, as created by this act, the initial social worker, advanced practice social worker, independent social worker, independent clinical social worker, marriage and family therapist and professional counselor members of the examining board of social workers, marriage and family therapists and professional counselors need not be certified under chapter 457 of the statutes, as created by this act, to be appointed to and serve as members of the examining board until the first day of the 13th month beginning after the effective date of this paragraph.

(b) Notwithstanding section 15.405 (7c) of the statutes, as created by this act, the initial members of the examining board of social workers, marriage and family therapists and professional counselors shall be appointed by the first day of the 4th month beginning after the effective date of this paragraph for the following terms:

1. The social worker member, one marriage and family therapist member and one professional counselor member, for terms expiring on July 1, 1994.
2. The advanced practice social worker member, one marriage and family therapist member, one professional counselor member and one public member, for terms expiring on July 1, 1995.
3. The independent social worker member, one marriage and family therapist member and one public member, for terms expiring on July 1, 1996.
4. The independent clinical social worker member, one professional counselor member and one public member, for terms expiring on July 1, 1997.

(2) WAIVER OF CERTAIN CERTIFICATION REQUIREMENTS.

(a) Notwithstanding section 457.08 (1) (b) and (c) of the statutes, as created by this act, the social worker section of the examining board of social workers, marriage and family therapists and professional counselors shall grant a social worker certificate under section 457.08 (1) of the statutes, as created by this act, to any individual who, not later than the last day of the 24th month beginning after the effective date of this paragraph, satisfies the requirements under section 457.08 (1) (a) of the statutes, as created by this act, and submits evidence satisfactory to the social worker section of any of the following:

1. That he or she has received a bachelor’s degree from a college or university and, before the effective date of this subdivision, has engaged in social work practice approved by the social worker section.

2. That he or she was employed as a social worker at any time during the one-year period immediately preceding the effective date of this subdivision.

(am) Notwithstanding section 457.08 (1) (b) and (c) of the statutes, as created by this act, the social worker section of the examining board of social workers, marriage and family therapists and professional counselors shall grant a social worker certificate under section 457.08 (1) of the statutes, as created by this act, to any individual who, not later than the first day of the 13th month beginning after the effective date of this paragraph, satisfies the requirements under s. 457.08 (1) (a) of the statutes, as created by this act, and submits evidence satisfactory to the social worker section that he or she has been offered employment as a social worker by a federal, state or local governmental agency and has accepted that offer at any time during the period beginning on the effective date of this paragraph and ending on the last day of the 12th month beginning after the effective date of this paragraph.

(b) Notwithstanding section 457.08 (2) (intro.), (b) and (c) of the statutes, as created by this act, the social worker section of the examining board of social workers, marriage and family therapists and professional counselors shall grant an advanced practice social worker certificate under section 457.08 (2) of the statutes, as created by this act, to any individual who, not later than the last day of the 24th month beginning after the effective date of this paragraph, satisfies the requirements under section 457.08 (2) (a) of the statutes, as created by this act, and submits evidence satisfactory to the social worker section that he or she has a master’s or doctorate degree in social work, marriage and family therapy, psychology, sociology, professional counseling or other human service program approved by the social worker section.

(c) Notwithstanding section 457.08 (3) (intro.) and (b) to (d) of the statutes, as created by this act, the social worker section of the examining board of social workers, marriage and family therapists and professional counselors shall grant an independent social worker certificate

1991 Assembly Bill 125

under section 457.08 (3) of the statutes, as created by this act, to any individual who, not later than the last day of the 24th month beginning after the effective date of this paragraph, satisfies the requirements under section 457.08 (3) (a) of the statutes, as created by this act, and submits evidence satisfactory to the social worker section that he or she has a master's or doctorate degree in social work, marriage and family therapy, psychology, sociology, professional counseling or other human service program approved by the social worker section and, after receiving the master's or doctorate degree, has engaged in the equivalent of at least 2 years of full-time supervised social work practice approved by the social worker section.

(d) Notwithstanding section 457.08 (4) (intro.) and (b) to (d) of the statutes, as created by this act, the social worker section of the examining board of social workers, marriage and family therapists and professional counselors shall grant an independent clinical social worker certificate under section 457.08 (4) of the statutes, as created by this act, to any individual who, not later than the last day of the 24th month beginning after the effective date of this paragraph, satisfies the requirements under section 457.08 (4) (a) of the statutes, as created by this act, and submits evidence satisfactory to the social worker section that he or she has a master's or doctorate degree in social work, marriage and family therapy, psychology, sociology, professional counseling or other human service program approved by the social worker section and, after receiving the master's or doctorate degree, has engaged in the equivalent of at least 2 years of full-time supervised clinical social work practice approved by the social worker section.

(e) Notwithstanding section 457.10 (4) of the statutes, as created by this act, the marriage and family therapist section of the examining board of social workers, marriage and family therapists and professional counselors shall grant a marriage and family therapist certificate under section 457.10 of the statutes, as created by this act, to any individual who, not later than the last day of the 24th month beginning after the effective date of this paragraph, satisfies the requirements under section 457.10 (1) to (3) of the statutes, as created by this act.

(f) Notwithstanding section 457.12 (4) of the statutes, as created by this act, the professional counselor section of the examining board of social workers, marriage and family therapists and professional counselors shall grant a professional counselor certificate under section 457.12 of the statutes, as created by this act, to any individual who, not later than the last day of the 24th

month beginning after the effective date of this paragraph, satisfies the requirements under section 457.12 (1) to (3) of the statutes, as created by this act.

(g) Notwithstanding section 457.12 (2) to (4) of the statutes, as created by this act, the professional counselor section of the examining board of social workers, marriage and family therapists and professional counselors shall grant a professional counselor certificate under s. 457.12 of the statutes, as created by this act, to any individual who, not later than the effective date of this paragraph, satisfies the requirements in section 457.12 (1) of the statutes, as created by this act, and submits evidence satisfactory to the professional counselor section of any of the following:

1. That he or she is employed by a federal, state or local governmental agency as a professional counselor, professional rehabilitation counselor, vocational rehabilitation counselor or rehabilitation counselor.

2. That he or she has been offered a position as a professional counselor, professional rehabilitation counselor, vocational rehabilitation counselor or rehabilitation counselor by a federal, state or local governmental agency and has accepted that offer before the effective date of this subdivision, and that he or she is expected to begin employment in that position not later than the first day of the 4th month beginning after the effective date of this subdivision.

(3) **RULES.** The examining board of social workers, marriage and family therapists and professional counselors shall submit proposed rules under section 457.03 of the statutes, as created by this act, to establish minimum standards for educational programs and supervised clinical training and to establish a code of ethics for individuals who are certified under chapter 457 of the statutes, as created by this act, to the legislative council under section 227.15 (1) of the statutes no later than the first day of the 13th month beginning after the effective date of this subsection.

SECTION 22. Effective dates. This act takes effect on the first day of the 13th month beginning after publication, except as follows:

- (1) The treatment of section 15.405 (7c) of the statutes and SECTION 21 (1) and (3) of this act take effect on the day after publication.

- (2) The repeal and recreation of sections 146.024 (1) (a) (by SECTION 5r), 146.81 (1) (hg), 149.06 (7) (by SECTION 8r) and 450.10 (3) (a) (by SECTION 11m) of the statutes takes effect on the first day of the 13th month beginning after publication or July 1, 1993, whichever is later.