

WISCONSIN PSYCHOLOGICAL ASSOCIATION

121 South Hancock Street • Madison, Wisconsin 53703 • Phone 608-251-1450 • Fax 608-251-5480 • Email wispsych@execpc.com

Testimony Assembly Bill 206 - Assembly Committee on Health April 10, 2001

Representative Underheim and members of the Committee:

My name is Sarah Bowen, and I am testifying today as the Executive Director of the Wisconsin Psychological Association.

The Wisconsin Psychological Association supports the licensure of psychotherapists in our state and appreciates the efforts of the groups that have worked to develop AB 206. They have maintained an attitude of collaboration and openness to our concerns and have, I believe, drafted legislation that is a significant improvement over previous versions of the bill as well as over current law and regulations.

What they have not been able to do is draft a simple bill. AB 206 is a highly complex legislative proposal. In an attempt to regulate psychotherapy practices, the bill calls for the creation of a new license, alters the functioning of three professional boards, requires the Department of Regulation & Licensing itself to perform functions normally carried out by its professional examining boards, grants new credentials to Music, Art & Dance therapists and proposes significant changes in the Insurance Code dealing with mandation. I will comment on only a few main points of interest to WPA.

Section 87, page 32 - Duty to Consult or Refer - Individual Scope of Practice

The most important fact about AB 206 is that it creates a practice act for psychotherapists currently certified as clinical social workers, marriage & family therapists or professional counselors. In doing so, it clearly defines the practice of psychotherapy and requires individual psychotherapists to practice within the scope of this definition. A practice act has an additional feature that provides what may be the strongest consumer protection available – it requires psychotherapists to limit their individual practices to their own areas of training and expertise. In other words, before engaging in a specific practice listed in the scope of practice definition, an individual psychotherapist must be able to document appropriate education and supervised experience related to that practice. Details of this requirement are normally spelled out in administrative rules. AB 206 states that professionals licensed as psychotherapists have a duty to “consult or refer” when faced with patients whose diagnosis or treatment is outside their scope of practice. While I believe this section was intended to reinforce the requirement for psychotherapists to practice within their areas of expertise, it could actually result in quite the opposite by granting permission to exceed their areas of expertise through consultation with other professionals. The code of conduct portion of the administrative rules is better able to address this important aspect of a practice act in an unambiguous, detailed manner. Therefore, we urge you to delete Section 87 from the bill.

Section 46, page 19 - Choice of Supervisors

AB 206 permits individuals seeking a license to be supervised by similarly licensed professionals with 5 years of experience, psychiatrists, psychologists or other individuals approved by the board. We appreciate this recognition that many professionals include psychotherapy within their scope of practice and are capable of providing appropriate supervision for individuals seeking licensure. It is not clear, however, why Section 46 does not include this same range of choices for supervision. We encourage the committee to amend this section, making it consistent with Section 55 and other similar references to supervision.

Section 45, page 18 - Psychometric Testing

As you might expect, the portion of AB 206 relating to the use of psychometric tests is of great interest to psychologists. This section defines psychometric testing as potentially being within the scope of practice for licensed social workers, marriage & family therapists, and professional counselors who meet certain qualifications. It further calls for rules to be drafted to specify the training and supervised experience required for various types and levels of testing. We agree with the bill drafters that this language is a significant improvement over previous versions of the bill, and we expect that the process of joint promulgation of rules will result in reasonable criteria. Psychometric testing provides fundamental information used in differential diagnosis, treatment planning and assessment of outcomes. AB 206 would ensure that persons administering and interpreting psychometric tests have had appropriate training to use these diagnostic tools.

Sections 19-25, pages 10-12 (& possibly other references) — Music, Art & Dance Therapists

Since this bill did not originate in the Department of Regulation & Licensing, we are concerned about the extent to which the bill imposes new requirements on the Department. In particular, we are concerned about how the Department will credential and regulate Music, Art & Dance therapists. There is currently no professional examining board charged with credentialing and regulating these professions. They are merely required to register with the Department. AB 206 calls for the Department to promulgate rules, define scopes of practice, and review and act on disciplinary matters – at least for those Music, Art & Dance therapists who provide psychotherapy services. How this will work and what criteria will be established is not at all clear. We agree that any Music, Art or Dance therapists engaging in psychotherapy must be credentialed and regulated, but we are not convinced that this can be accomplished through administrative rule. In addition, we are not convinced that any individuals providing healthcare services to a vulnerable population should be under the auspices of the Department of Regulation & Licensing working without a professional board. We believe that the best way to address and resolve these questions is through separate legislation. At the very least, we urge the committee to request detailed input and engage the Department in dialogue about these important matters.

Sections 7-12, pages 8-9; Sections 15-16, pages 9-10; Sections 93-97, pages 36-37 - Mandates

AB 206 includes several sections that would alter the current insurance code and establish a new mandate for psychotherapists licensed under this bill. We believe that such far-reaching changes cannot receive adequate scrutiny in the context of a licensing bill. While the intent may be to prohibit discrimination against a class of providers whose scope of practice overlaps with that of some physicians, these sections merely reiterate current law in that regard. Therefore, we recommend that insurance and

health plan references be deleted from the bill. In the unlikely event that the committee supports these proposals, we suggest that the relevant sections should be redrafted to include all licensed and regulated professions whose scope of practice legally includes psychotherapy services. This would define the mandate in terms of the healthcare services, rather than the providers of those services.

Section 59, page 23; Section 64, page 25; Section 66, page 26; Section 67, page 26 - "Clinical"

There is one language change that should be made in AB 206. In an attempt to make it clear that psychotherapy services by social workers, marriage & family therapists and professional counselors are healthcare practices, an earlier draft of the bill liberally inserted the word "clinical" throughout the bill. The drafters have removed most instances of the term, but have left a few. We hope you will delete the term "clinical" from page 23 (line 13), page 25 (line 8) and page 26 (lines 1 and 7). We believe the word "clinical" in these sentences does not achieve the goal of better defining the practices of these professions but merely inserts an unnecessary word.

Again, on behalf of the Wisconsin Psychological Association, I want to thank the Committee and the coalition for the hard work and open discussion that has resulted in AB 206. With the refinements suggested above, we would have no further reservations about passage of this bill.

Thank you for the opportunity to speak with you today.



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

TO: REPRESENTATIVE FRANK URBAN

FROM: Richard Sweet, Senior Staff Attorney

RE: LRBs0088/3, a Proposed Substitute Amendment to 2001 Assembly Bill 206 (Social Workers, Marriage and Family Therapists, and Professional Counselors)

DATE: May 30, 2001

This memorandum is written pursuant to your request for a description of LRBs0088/3, a proposed Assembly Substitute Amendment to 2001 Assembly Bill 206. The bill and substitute amendment relate to regulation of social workers, marriage and family therapists, and professional counselors.

Under *current law*, ch. 457, Stats., governs marriage and family therapists, professional counselors, and four levels of social workers. Current law provides for certification of social workers, advanced practice social workers, independent social workers, independent clinical social workers, marriage and family therapists, and professional counselors. Current law prohibits persons from using certain titles unless they are certified under ch. 457, Stats.

Regulation of these professions is undertaken by the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors, which is divided into three sections--the Social Worker Section, the Marriage and Family Therapist Section, and the Professional Counselor Section. In addition, current law allows disciplinary actions to be taken by the examining board, provides for injunctive relief, and provides forfeitures, fines, and imprisonment for violators of ch. 457, Stats., or a rule promulgated under that statute.

Assembly Bill 206 includes the following major provisions:

1. The bill changes the name of the examining board to the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board. In addition, the bill changes the title of "independent clinical social worker" to "clinical social worker." The bill also creates a definition of "clinical social work."

2. The bill provides for licensure, rather than certification, of clinical social workers, marriage and family therapists, and professional counselors. In addition to the current restrictions on use of titles by persons not credentialed under ch. 457, Stats., the bill provides that persons who are not licensed may not practice clinical social work, marriage and family therapy, or professional counseling. The exceptions provided in current law for use of titles also apply to new practice restrictions in the bill and additional exceptions are created in the bill, as described in item 4. below.

3. The bill retains certification for social workers, advanced practice social workers, and independent social workers but expands the prohibition on use of titles to include "any other title or designation that represents or may tend to represent the person" as one of those three types of certified professionals or one of the three types of licensed professionals described in item 2.

4. The bill expands the exceptions in current law for persons who do not need to be certified in order to use a title to include employee assistance counselors and to specify that the exceptions apply not only to title use, but also to engaging in the types of counseling covered by the exceptions.

In addition, the bill specifies that a credential is not needed under ch. 457, Stats., in order for a person to do any of the following: (a) lawfully practice within the scope of a credential granted by Wisconsin or the federal government, including practicing psychotherapy under such a credential; (b) practice psychotherapy if the person is registered as a music, art, or dance therapist and meets rules promulgated by the Department of Regulation and Licensing (DRL) for the practice of psychotherapy by such a person; (c) practice psychotherapy if the person is a mental health professional who meets all of the qualifications under rules of the Department of Health and Family Services (DHFS) for employment as a mental health professional in an outpatient psychotherapy clinic certified by DHFS and if other conditions are met; or (d) provide a consultation or demonstration with an individual licensed under ch. 457, Stats., if the person providing the consultation or demonstration is licensed to practice marriage and family therapy, professional counseling, or clinical social work in another state or territory of the United States. The DRL rules for music, art, or dance therapists must be comparable to the requirements for obtaining a clinical social worker, marriage and family therapist, or professional counselor license.

5. The bill modifies the provisions in current law related to supervised practice by a person prior to obtaining a credential as a clinical social worker, marriage and family therapist, or professional counselor. Under current law, after receiving a master's or doctorate degree in social work, a master's or doctorate degree in marriage or family therapy, or a master's degree in professional counseling, the person must complete the equivalent of at least two years of full-time supervised clinical practice. The bill modifies this to require 3,000 hours of clinical practice, including at least 1,000 hours of face-to-face client contact, with specified supervision. For a person with a doctorate in professional counseling, current law requires one year of supervised practice; the bill changes this to 1,000 hours.

Under the bill, the supervisor must be an individual with a doctorate degree in the field for which the person is seeking a credential; an individual who has the same credential and who has engaged in the equivalent of five years of full-time practice; a psychiatrist or a psychologist; or an individual who is approved by the appropriate section of the examining board or who satisfies requirements for supervision that are specified in rules promulgated by the examining board upon the advice of the appropriate section.

6. The bill prohibits the examining board from promulgating rules that permit an individual to engage in psychotherapy unless the individual is licensed under ch. 457, Stats., as a clinical social worker, marriage and family therapist, or a professional counselor, or the individual is certified as an advanced practice or independent social worker and engages in psychotherapy only under the supervision of a clinical social worker. In addition, as noted under item 4. above, certain music, art, or dance therapists may practice psychotherapy and mental health professionals who meet DHFS requirements may practice psychotherapy under certain conditions.

In addition, current ch. 457, Stats., adopts, by cross-reference, the definition of "psychotherapy" that applies to psychologists. The bill creates a new definition of "psychotherapy" that is applicable to social workers, marriage and family therapists, and professional counselors.

7. The bill requires the examining board and the Psychology Examining Board to jointly promulgate rules that specify the different levels of psychometric testing that an individual who is certified or licensed under ch. 457, Stats., is qualified to perform. The rules must be consistent with specified national guidelines.

8. The bill creates a marriage and family therapist training certificate, which is valid for 24 months or until the certificate holder ceases to be employed in a supervised setting specified in the bill.

9. The bill allows a person holding a social worker training certificate to take the national social work examination before or after satisfying education and practice requirements specified in current law. Under current law, the person must take the examination after satisfying the education and training requirements.

10. The bill allows an applicant for one of the following credentials to take an examination before completing the practice requirements--social worker, advanced practice social worker, clinical social worker, marriage and family therapist, or professional counselor.

11. The bill allows the appropriate section of the examining board to grant a temporary certificate or license to an advanced practice social worker, independent social worker, or clinical social worker, who meets the requirements for a regular license except the examination requirement. Current law allows the appropriate section of the examining board to do so only for a social worker, marriage and family therapist, or professional counselor.

12. The bill modifies the requirement in current law that the appropriate section of the examining board grant a credential to a person holding a similar credential in another state or territory if the appropriate section determines that the requirements for obtaining these credentials in the other state or territory are substantially equivalent to the requirements under Wisconsin law. The bill modifies this by requiring that the person also pass an examination approved by the appropriate section of the examining board that tests the knowledge of Wisconsin law relating to the profession. In addition, the bill makes the granting of such a credential discretionary, rather than mandatory, with the appropriate section.

13. The bill modifies the provisions in current law allowing the examining board to promulgate rules relating to continuing education programs for credential renewal. The bill modifies this

by requiring the examining board to do so upon the advice of the appropriate section of the examining board.

14. The bill requires a clinical social worker, marriage and family therapist, or professional counselor who treats a person and determines that the person requires additional treatment that is outside his or her scope of practice, to continue to treat the person only if he or she consults with, or refers the person to, a health care practitioner who is authorized to provide the additional treatment.

15. The bill requires a person licensed as a clinical social worker, marriage and family therapist, or professional counselor to have professional liability insurance. The examining board is required to promulgate rules establishing the minimum amount of such insurance.

16. The bill provides that no insurance policy, plan, or contract that covers psychotherapy services may exclude or refuse to provide coverage for psychotherapy services performed by a licensed clinical social worker, marriage and family therapist, or professional counselor, within the scope of his or her professional license, if the policy, plan, or contract includes coverage for psychotherapy services performed by another health care provider.

17. The bill modifies the definition of "outpatient services" in the current statute that requires insurance coverage of treatment of nervous or mental disorders or alcoholism or other drug abuse. Under current law, the definition of "outpatient services" includes services provided by a program in an outpatient treatment facility, a physician who has completed a residency in psychiatry, and a psychologist who is listed in the National Register of Health Services Providers in Psychology or who is certified by the American Board of Professional Psychology. The bill amends the definition to include clinical social workers, marriage and family therapists, and professional counselors, licensed under ch. 457, Stats.

LRBs0088/3 makes the following changes to the bill:

1. The proposed substitute amendment deletes the provisions of the bill that relate to insurance coverage of psychotherapy provided by a clinical social worker, marriage and family therapist, or professional counselor. In addition, the proposed substitute amendment deletes the change to the definition of "outpatient services" in the current law requiring insurance coverage of treatment of nervous mental disorders or alcoholism or other drug abuse.

2. The proposed substitute amendment adds a new provision that states that ch. 457, Stats., does not authorize any person who is certified or licensed under the chapter to treat alcohol or substance dependency or abuse as a specialty unless the person is a substance abuse counselor as defined in DHFS rules, or unless the person satisfies educational and supervised training requirements established in rules promulgated by the examining board. In promulgating those rules, the examining board must consider the requirements for qualifying as a substance abuse counselor under DHFS rules.

3. The proposed substitute amendment modifies the new provision in the bill that states that a credential is not required for a person lawfully practicing within the scope of a credential granted by the state or the federal government. The proposed substitute amendment adds the phrase "or granted through a process recognized by the department of health and family services."

4. The proposed substitute amendment modifies the provision of the bill relating to practice of psychotherapy by an advanced practice or independent social worker. Under the bill, such a person may engage in psychotherapy only under the supervision of a clinical social worker. Under the proposed substitute amendment, the individual may engage in the practice of psychotherapy only under the supervision of a clinical social worker with a doctorate in social work; a clinical social worker who has engaged in the equivalent of five years of full-time clinical social work; a psychiatrist or psychologist; or a person approved by the Social Worker Section or who satisfies requirements for supervision that are specified in rules promulgated by the examining board upon the advice of the Social Worker Section.

5. The proposed substitute amendment deletes a change made by the bill that would have allowed an applicant for a clinical social worker license to take an examination before completing the practice requirements.

6. The proposed substitute amendment deletes from the bill the new provision creating a duty of a clinical social worker, marriage and family therapist, or professional counselor to consult or refer.

7. The proposed substitute amendment deletes the language added by the bill "or any other title or designation that represents or may tend to represent the person as a [social worker, advanced practice worker, or independent social worker]."

8. The proposed substitute amendment repeals the provisions in current law that allow imposition of a forfeiture, fine, or imprisonment for persons who violate ch. 457, Stats., or rules promulgated under that chapter.

Feel free to contact me if I can be of further assistance.

RNS:wu;tlu

August 29,2001

Senator Judy Robson, Chair
Senate Committee on Human Services and Aging
P.O. Box 7882
Madison, Wi. 53707-7882

Dear Senator Robson:

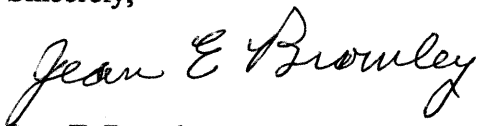
I am sending this letter in support of the Social Work licensure bill AB 206/SB 96 as amended by Senators Grobschmidt and Representative Urban.

In my position as the Professional Social Work leader for Social Work services at the Clement J. Zablocki VA Medical Center, this is an important bill to reinforce and assure a qualified social work practitioner.

Social Workers play a key role in assisting veterans and families, not only at the medical center itself, but at the VA's affiliated Community Based Outpatient Clinics throughout the state. Qualified, independent social workers are integral to the provision of psychotherapy and to the coordination of the array of services needed to maintain our clients in the least restrictive setting.

I appreciate your advocacy of this important bill. Thank you.

Sincerely,



Jean E. Bromley MSW, CICSW
Social Work Consultant/ Div. Mgr. Rehabilitation Extended and Community Care
Zablocki VAMC, 5000 W. National Ave.
Milwaukee, Wi. 53295



WISCONSIN STATE SENATOR
RICHARD GROBSCHMIDT

7TH SENATE DISTRICT

September 4, 2001

To: Members, Senate Committee on Human Services and Aging

From: Senator Richard Grobschmidt

RE: Substitute Amendment to SB 96

I have enclosed a Legislative Council memo on the proposed substitute amendment to 2001 Senate Bill 96/Assembly Bill 206.

One additional change has been made since the Legislative Council memo was drafted. The U.S. Veterans Administration (VA) asked that their employees be exempt from purchasing liability insurance. While exempt from licensure, the VA still requires their employees to be licensed. The VA is liable for its employee's performance, so employees would be required to purchase liability insurance through the VA.

The exemption language has been added to the substitute amendment and appears in the substitute amendment on page 27 line 14,

“(2) Subsection (1) does not apply to a person practicing clinical social work, marriage and family therapy, or professional counseling as an employee of a federal, state, or local government agency, if the practice is part of the duties for which he or she is employed and is solely within the confines of or under the jurisdiction of the agency by which he or she is employed.”

This does not exempt those employees if they are in private practice outside of their government employment.

If you have further questions, please feel free to contact my office.