



2009 ASSEMBLY BILL 141

March 13, 2009 - Introduced by Representatives NEWCOMER, PETERSEN, BIES, NYGREN, KLEEFISCH, VUKMIR, SPANBAUER, VAN ROY, SUDER, A. OTT, ROTH, LOTHIAN, HONADEL, VOS, TAUCHEN, KNODL, MURTHA, LEMAHIEU, GUNDERSON, MEYER and BROOKS, cosponsored by Senators LEIBHAM and SCHULTZ. Referred to Joint Committee on Finance.

1 **AN ACT** *to amend* 20.435 (4) (b); and *to create* 15.405 (6r), 20.435 (4) (c), 49.45
2 (38m), 51.03 (7), 146.85, 440.08 (2) (a) 15m. and chapter 462 of the statutes;
3 **relating to:** requiring distribution of autism-related information, requiring a
4 referral when certain diagnoses are made, providing funding for the Medical
5 Assistance autism benefit, licensure of autism paraprofessionals, creating an
6 autism paraprofessional board, granting rule-making authority, and making
7 an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health Services (DHS) provides in-home services, under a Medical Assistance (MA) waiver of federal law, to children who have been diagnosed with an autism spectrum disorder and who would not otherwise be eligible for MA benefits. This bill requires DHS to provide autism services under the MA autism benefit to all individuals who are eligible for the services and prohibits DHS from using a waiting list to limit or delay the provision of those services to eligible individuals. The bill also creates a sum sufficient general purpose revenue appropriation to DHS for the autism benefit. In addition, DHS is required to seek a waiver or an amendment to the existing waiver if DHS determines that that is necessary for the provision of the services to all individuals who are eligible and to authorize federal financial participation for MA reimbursement for providing the services to all eligible individuals.

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The bill requires a health care provider who diagnoses a patient with a condition, injury, or illness other than alcoholism, drug dependency, or mental illness, that requires further treatment, to provide the patient (or, if a minor, the patient's parent, guardian, or legal custodian) with any necessary and appropriate referral for further treatment or services.

In addition, the bill directs DHS to annually distribute to parents of children with autism information regarding therapies such parents may provide at home to complement the child's treatment or individualized education program. DHS must distribute the information to local educational agencies and physicians.

The bill requires licensure of persons who engage in autism paraprofessional practice, defined as the provision of services for compensation to an individual with autism for which current law does not require a licensure as a physician, physician assistant, nurse, chiropractor, pharmacist, psychologist, or other professional specified in the bill.

The bill creates an Autism Paraprofessional Board (board) composed of two psychiatrists, one pediatrician, one psychologist, one social worker, and two public members. The public members must each be the parent of a child who has been diagnosed with autism. The bill requires the board to promulgate rules that establish educational criteria and practice standards for autism paraprofessionals and permits the board to promulgate rules that create ethical standards and continuing education requirements for autism paraprofessionals.

Under the bill, the board may discipline an autism paraprofessional who does any of the following: 1) intentionally makes a material misstatement in an application for a license or for renewal; 2) engages in autism paraprofessional practice while impaired by alcohol or other drugs; 3) makes a substantial misrepresentation that is relied upon by a client; or 4) violates any law that substantially relates to autism paraprofessional practice.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 15.405 (6r) of the statutes is created to read:
- 2 15.405 **(6r)** AUTISM PARAPROFESSIONAL BOARD. There is created an autism
- 3 paraprofessional board in the department of regulation and licensing consisting of
- 4 the following members appointed for staggered 4-year terms:
- 5 (a) Two board-certified psychiatrists who have expertise in providing services
- 6 for individuals with autism.

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1 (b) One board-certified pediatrician who has expertise in services providing for
2 individuals with autism.

3 (c) One psychologist licensed under s. 455.04 who has expertise in providing
4 services for individuals with autism.

5 (d) One social worker certified or licensed under s. 457.08 who has expertise
6 in providing services for individuals with autism.

7 (e) Two public members, each of whom is a parent of a child who has been
8 diagnosed with autism.

9 **SECTION 2.** 20.435 (4) (b) of the statutes is amended to read:

10 20.435 (4) (b) *Medical Assistance program benefits.* Biennially, the amounts
11 in the schedule to provide a portion of the state share of Medical Assistance program
12 benefits administered under subch. IV of ch. 49, excluding amounts provided under
13 par. (c), for a portion of the Badger Care health care program under s. 49.665, to
14 provide a portion of the Medical Assistance program benefits administered under
15 subch. IV of ch. 49 that are not also provided under par. (o), to fund the pilot project
16 under s. 46.27 (9) and (10), to provide a portion of the facility payments under 1999
17 Wisconsin Act 9, section 9123 (9m), to fund services provided by resource centers
18 under s. 46.283, for services under the family care benefit under s. 46.284 (5), for
19 assisting victims of diseases, as provided in ss. 49.68, 49.683, and 49.685, and for
20 reduction of any operating deficits as specified in 2005 Wisconsin Act 15, section 3.
21 Notwithstanding s. 20.002 (1), the department may transfer from this appropriation
22 account to the appropriation account under sub. (7) (kb) funds in the amount of and
23 for the purposes specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002
24 (1), the department may credit or deposit into this appropriation account and may
25 transfer between fiscal years funds that it transfers from the appropriation account

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1 under sub. (7) (kb) for the purposes specified in s. 46.485 (3r). Notwithstanding s.
2 20.002 (1), the department may transfer from this appropriation account to the
3 appropriation account under sub. (7) (bd) funds in the amount and for the purposes
4 specified in s. 49.45 (6v).

5 **SECTION 3.** 20.435 (4) (c) of the statutes is created to read:

6 20.435 (4) (c) *Medical Assistance autism benefit.* A sum sufficient for the state's
7 share of the Medical Assistance autism benefit to provide autism services under the
8 children's long-term care Medical Assistance waiver program, as described under s.
9 49.45 (38m) and 2003 Wisconsin Act 33, section 9124 (8c).

10 **SECTION 4.** 49.45 (38m) of the statutes is created to read:

11 49.45 (38m) **AUTISM BENEFIT.** (a) The department shall provide autism services
12 under the autism benefit program under the children's long-term care Medical
13 Assistance waiver program, as described under 2003 Wisconsin Act 33, section 9124
14 (8c), to all individuals who are eligible for the services and may not use a waiting list
15 to limit or delay the provision of services to eligible individuals.

16 (b) If the department determines that it needs a waiver or an amendment to
17 the waiver described under 2003 Wisconsin Act 33, section 9124 (8c), to provide the
18 services as required under par. (a) and to authorize federal financial participation
19 for Medical Assistance reimbursement for the services, the department shall request
20 from the secretary of the federal department of health and human services a waiver
21 or a waiver amendment to allow the department to provide the services as required
22 under par. (a) and to authorize federal financial participation for those services.

23 **SECTION 5.** 51.03 (7) of the statutes is created to read:

24 51.03 (7) The department shall annually distribute to parents of children with
25 autism information regarding therapies that a parent of a child with autism may

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1 provide at home with the child to complement the child's treatment or individualized
2 education program, as defined in s. 115.76 (9). In gathering information for
3 distribution under this subsection, the department shall consult with teachers of
4 special education, as defined in s. 115.76 (15); parents of autistic children;
5 physicians; and representatives of organizations that advocate for the interests of
6 children with disabilities. The department shall provide the information to local
7 educational agencies, as defined in s. 115.76 (10), and physicians using a method
8 determined by the department.

9 **SECTION 6.** 146.85 of the statutes is created to read:

10 **146.85 Referral required. (1)** A health care provider, as defined in s. 146.81
11 (1), who diagnoses a patient with a condition, injury, or illness, other than alcoholism,
12 drug dependency, or mental illness, shall provide the patient or, if the patient is a
13 minor, the patient's parent, guardian, or legal custodian, with any necessary and
14 appropriate referral for treatment or services if the condition, injury, or illness
15 requires further treatment or services.

16 **SECTION 7.** 440.08 (2) (a) 15m. of the statutes is created to read:

17 440.08 (2) (a) 15m. Autism paraprofessional: January 1 of each
18 even-numbered year.

19 **SECTION 8.** Chapter 462 of the statutes is created to read:

20 **CHAPTER 462**

21 **AUTISM PARAPROFESSIONALS**

22 **462.01 Definitions.** In this chapter:

23 (1) "Board" means the autism paraprofessional board.

24 (2) "Autism paraprofessional practice" means the provision of services for
25 compensation to an individual with autism that may be provided by an individual

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1 who is not licensed under chs. 440, 441, 446, 447, 448, 449, 450, 451, 455, 457, 459,
2 or 460.

3 **462.02 Licensure. (1)** No person may engage in autism paraprofessional
4 practice unless the person holds a license issued by the board.

5 **(2)** The board may grant a license to engage in autism paraprofessional
6 practice to an applicant who submits an application on a form provided by the
7 department and pays the initial credential fee determined by the department under
8 s. 440.03 (9) (a).

9 **(3)** The renewal date for a license granted under this chapter is specified in s.
10 440.08 (2) (a). A renewal application shall be submitted to the department on a form
11 provided by the department and shall include the renewal fee determined by the
12 department under s. 440.03 (9) (a).

13 **462.03 Rule making. (1)** The board shall promulgate rules that establish all
14 of the following:

15 (a) Educational criteria for licensure under this chapter.

16 (b) Practice standards for autism paraprofessional practice.

17 **(2)** The board may promulgate rules creating ethical standards and continuing
18 education requirements for autism paraprofessional practice.

19 **462.04 Discipline. (1)** Subject to the rules promulgated under s. 440.03 (1),
20 the department may conduct investigations and hearings to determine whether a
21 violation of this chapter or any rule promulgated under this chapter has occurred.

22 **(2)** Subject to the rules promulgated under s. 440.03 (1), the department may
23 reprimand an autism paraprofessional or deny, limit, suspend, or revoke a license
24 granted under this chapter to an autism paraprofessional if the department
25 determines the autism paraprofessional has done any of the following:

