



2019 ASSEMBLY BILL 686

December 20, 2019 - Introduced by Representatives STEFFEN, BROSTOFF, ANDERSON, BORN, DUCHOW, KITCHENS, KRUG, KUGLITSCH, SPIROS, DITTRICH, DOYLE, NOVAK and JAMES, cosponsored by Senators DARLING, CARPENTER, JOHNSON, OLSEN, WIRCH, BERNIER and LARSON. Referred to Committee on Regulatory Licensing Reform.

1 **AN ACT** *to renumber* 252.14 (1) (ar) 4q., 448.970 and subchapter VIII (title) of
2 chapter 448 [precedes 448.980]; *to amend* 15.085 (1m) (b), 146.997 (1) (d) 4.,
3 155.01 (7) and 450.10 (3) (a) 5.; and *to create* 15.406 (7), 48.981 (2) (a) 20m.,
4 146.81 (1) (eu), 252.14 (1) (ar) 4s., 440.03 (13) (b) 30m., 440.08 (2) (a) 37m. and
5 subchapter VIII of chapter 448 [precedes 448.970] of the statutes; **relating to:**
6 the regulation and licensure of genetic counselors, creating a genetic counselors
7 affiliated credentialing board, providing an exemption from emergency rule
8 procedures, granting rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill provides for regulation and licensing for the practice of genetic counseling.

Under the bill, subject to certain exceptions, no one may practice genetic counseling, as defined in the bill, or use the title "genetic counselor" or make similar representations without a license to practice genetic counseling. A license is granted by the seven-member Genetic Counselors Affiliated Credentialing Board, created in the bill. Under the bill, the board is attached for limited purposes to the Medical Examining Board, which regulates physicians and certain other professions.

Under the bill, the board may grant an initial license to a person who has successfully completed academic requirements for genetic counseling specified in

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the bill, has passed an examination specified in the bill, is certified by the American Board of Genetic Counseling, does not have an arrest or conviction record, and pays a fee. The bill also allows the board, for three months after the requirement in the bill to obtain a license goes into effect, to grant an initial license to practice genetic counseling to certain individuals who cannot satisfy all of the requirements described above but who satisfy certain experience and other requirements. Biennial renewal of a license requires completion of at least 30 hours of continuing education and maintenance of certification or recertification through the American Board of Genetic Counseling. The bill also includes provisions for the unlicensed temporary practice of genetic counseling and temporary licenses to practice genetic counseling.

The bill requires the board to promulgate rules to adopt the National Society of Genetic Counselors code of ethics to govern the professional conduct of genetic counselors, establish licensure renewal requirements, and establish criteria for the approval of continuing education programs and courses.

The bill includes provisions for the professional discipline of licensees, which allow the board to take certain actions against a licensee who violates certain prohibitions in the bill.

Finally, the bill also applies certain other laws, such as the law providing for confidentiality of health care records and the health care workers whistleblowers protection law, to licensed genetic counselors.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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

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

1 **SECTION 1.** 15.085 (1m) (b) of the statutes is amended to read:

2 15.085 (1m) (b) The public members of the podiatry affiliated credentialing
3 board, ~~or~~ occupational therapists affiliated credentialing board, or genetic
4 counselors affiliated credentialing board shall not be engaged in any profession or
5 occupation concerned with the delivery of physical or mental health care.

6 **SECTION 2.** 15.406 (7) of the statutes is created to read:

7 15.406 (7) GENETIC COUNSELORS AFFILIATED CREDENTIALING BOARD. There is
8 created in the department of safety and professional services, attached to the medical

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1 examining board, a genetic counselors affiliated credentialing board consisting of the
2 following members appointed for 4-year terms:

3 (a) Four genetic counselors who are licensed under subch. VIII of ch. 448.

4 (b) Two members who are licensed to practice medicine and surgery under
5 subch. II of ch. 448, at least one of whom is a clinical geneticist.

6 (c) One public member.

7 **SECTION 3.** 48.981 (2) (a) 20m. of the statutes is created to read:

8 48.981 (2) (a) 20m. A genetic counselor.

9 **SECTION 4.** 146.81 (1) (eu) of the statutes is created to read:

10 146.81 (1) (eu) A genetic counselor licensed under subch. VIII of ch. 448.

11 **SECTION 5.** 146.997 (1) (d) 4. of the statutes is amended to read:

12 146.997 (1) (d) 4. A physician, podiatrist, perfusionist, physical therapist, or
13 physical therapist assistant, or genetic counselor licensed under ch. 448.

14 **SECTION 6.** 155.01 (7) of the statutes is amended to read:

15 155.01 (7) "Health care provider" means a nurse licensed or permitted under
16 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
17 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
18 therapist assistant, occupational therapist, or occupational therapy assistant, or
19 genetic counselor licensed under ch. 448, a person practicing Christian Science
20 treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch.
21 455, a partnership thereof, a corporation or limited liability company thereof that
22 provides health care services, a cooperative health care association organized under
23 s. 185.981 that directly provides services through salaried employees in its own
24 facility, or a home health agency, as defined in s. 50.49 (1) (a).

25 **SECTION 7.** 252.14 (1) (ar) 4q. of the statutes is renumbered 252.14 (1) (ar) 4n.

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1 (b) Discuss the features, natural history, means of diagnosis, genetic and
2 environmental factors, and management of risk for genetic or medical conditions and
3 diseases.

4 (c) Identify, coordinate, and order genetic laboratory tests and other diagnostic
5 studies as appropriate for a genetic assessment.

6 (d) Integrate genetic laboratory test results and other diagnostic studies with
7 personal and family medical history to assess and communicate risk factors for
8 genetic or medical conditions and diseases.

9 (e) Explain the clinical implications of genetic laboratory tests and other
10 diagnostic studies and their results.

11 (f) Evaluate a patient's or family's responses to the condition or risk of
12 recurrence and provide patient-centered counseling and anticipatory guidance.

13 (g) Provide written documentation of medical, genetic, and counseling
14 information for families and health care professionals.

15 (4) "Genetic counselor" means an individual who is licensed by the board to
16 practice genetic counseling.

17 **448.971 License required; exceptions.** (1) (a) Except as provided in sub.
18 (2), no person may practice genetic counseling unless the person is licensed under
19 this subchapter.

20 (b) No person may designate himself or herself as a genetic counselor or use or
21 assume the title "genetic associate," "genetic counselor," "licensed genetic counselor,"
22 or "registered genetic counselor," or append to the person's name the letters "G.A.,"
23 "G.C.," "L.G.C.," or "R.G.C.," or use any insignia or designation that would imply that
24 the individual is licensed or certified or registered as a genetic counselor, or claim to

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1 render genetic counseling services unless the person is licensed under this
2 subchapter.

3 (2) A license is not required under this subchapter for any of the following if
4 the person does not claim to be a genetic counselor:

5 (a) Any person, such as a physician, who is lawfully practicing within the scope
6 of a license, permit, registration, or certification granted by this state or the federal
7 government.

8 (b) Any person assisting a genetic counselor in practice under the direct,
9 on-premises supervision of the genetic counselor.

10 (c) A student of genetic counseling assisting a genetic counselor in the practice
11 of genetic counseling if the assistance is within the scope of the student's education
12 or training.

13 (d) A person who is licensed to practice genetic counseling in another state or
14 country and who is providing consulting services in this state on a temporary basis,
15 as determined by the board by rule, if the person notifies the board that he or she will
16 be providing consulting services and of the nature and date of those services and
17 receives authorization from the board to provide consulting services on a temporary
18 basis under this paragraph.

19 (e) A person who is not licensed to practice genetic counseling in another state
20 or country and who is providing consulting services in this state on a temporary
21 basis, as determined by the board by rule, if the person satisfies all of the following:

22 1. The person is certified by the American Board of Genetic Counseling or the
23 American Board of Medical Genetics and Genomics.

24 2. The person notifies the board that he or she will be providing consulting
25 services and of the nature and date of those services.

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1 3. The person receives authorization from the board to provide consulting
2 services on a temporary basis under this paragraph.

3 **448.973 Duties and powers of board.** The board shall promulgate rules to
4 do all of the following:

5 (1) Adopt the National Society of Genetic Counselors code of ethics as a code
6 of ethics governing the professional conduct of genetic counselors.

7 (2) Establish criteria for the approval of continuing education programs and
8 courses required for renewal of a genetic counselor license.

9 (3) Establish requirements for an applicant seeking renewal of a genetic
10 counselor license, including that an applicant has satisfied all of the following:

11 (a) Successfully completed at least 30 hours of continuing education in the prior
12 2-year period.

13 (b) Maintained certification from and, if applicable, achieved recertification
14 through the American Board of Genetic Counseling.

15 (4) Adopt a definition of “temporary basis” for purposes of s. 448.971 (2) (d) and
16 (e).

17 **448.974 Licensure of genetic counselors.** (1) Except as provided in sub.
18 (2), the board shall grant a license as a genetic counselor to an applicant who does
19 all of the following:

20 (a) Submits an application for the license to the department on a form provided
21 by the department.

22 (b) Pays the fee specified in s. 440.05 (1).

23 (c) Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory
24 to the board that the applicant does not have an arrest or a conviction record.

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1 (d) Submits evidence satisfactory to the board that he or she has done all of the
2 following:

3 1. Satisfied one of the following:

4 a. Successfully completed the academic and clinical requirements of and
5 developed the practice-based competencies required by a degree-granting program
6 in genetic counseling that is accredited by the Accreditation Council for Genetic
7 Counseling or the American Board of Medical Genetics and Genomics.

8 b. Successfully completed a degree-granting program outside of the United
9 States that the board determines is substantially equivalent to a program described
10 in subd. 1. a.

11 2. Passed an examination administered by the American Board of Genetic
12 Counseling or the genetic counseling examination administered by the American
13 Board of Medical Genetics and Genomics.

14 3. Obtained certification, maintained valid certification, and, if applicable,
15 achieved recertification with the American Board of Genetic Counseling.

16 **(2)** (a) The board may waive the requirements of sub. (1) (d) if the applicant
17 holds an unexpired genetic counselor license issued by another state or territory or
18 foreign country or province and the requirements for licensure and for renewal of a
19 genetic counselor license of such other state or territory or foreign country or
20 province are deemed by the board to be substantially equivalent to the requirements
21 for licensure and for renewal of a genetic counselor license of this state.

22 (b) The board may waive the requirements of sub. (1) (d) if the applicant does
23 all of the following:

24 1. Applies for licensure under sub. (1) by the first day of the 4th month
25 beginning after the effective date of this subdivision [LRB inserts date].

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- 1 2. Submits evidence satisfactory to the board of all of the following:
- 2 a. Having at least 10 years of documented work experience practicing genetic
- 3 counseling.
- 4 b. Having completed, within the previous 5 years, 25 hours of continuing
- 5 education approved by the National Society of Genetic Counselors.
- 6 3. Submits to the board 2 letters of recommendation, one from a genetic
- 7 counselor and another from a physician.

8 **448.975 Temporary license.** (1) The board may, by rule, provide for a

9 temporary license to practice genetic counseling for an applicant who satisfies the

10 requirements of s. 448.974 (1) other than the examination requirement under s.

11 448.974 (1) (d) 2.

12 (2) Except as provided in sub. (3), a temporary license issued under this section

13 expires upon granting of a license under s 448.974 (1) or on whichever of the following

14 dates occurs first:

15 (a) The date that is one year after the date on which the temporary license was

16 granted.

17 (b) If, after the applicant obtains a temporary license under this section, the

18 American Board of Genetic Counseling administers the examination required under

19 s. 448.974 (1) (d) 2. and the applicant takes the examination, 30 days after the results

20 of the examination are issued by the American Board of Genetic Counseling.

21 (3) The board may, in its discretion and only once, renew a temporary license

22 issued to a person under this section, for a period specified by the board, if the person

23 maintains active candidate status with the American Board of Genetic Counseling.

24 The board may require an applicant for the renewal of a temporary license to appear

25 before a member of the board for an interview.

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1 (4) A person who holds a temporary license issued under this section may not
2 practice genetic counseling unless the person is under the supervision and direction
3 of a genetic counselor or physician at all times while the person is practicing genetic
4 counseling. The board may promulgate rules governing general supervision of a
5 person holding a temporary license under this section by a genetic counselor or
6 physician.

7 **448.976 Issuance of license; expiration and renewal.** (1) The department
8 shall issue a certificate of licensure to each person who is licensed under this
9 subchapter.

10 (2) Except as provided in s. 448.975, the renewal dates for licenses granted
11 under this subchapter are specified under s. 440.08 (2) (a). Renewal applications
12 shall be submitted to the department on a form provided by the department, and
13 shall include the renewal fee specified in s. 440.08 (2) (a) and proof of compliance with
14 the requirements established by rules promulgated by the board under s. 448.973 (3).

15 **448.977 Disciplinary proceedings and actions.** (1) Subject to the rules
16 promulgated under s. 440.03 (1), the board may make investigations and conduct
17 hearings to determine whether a violation of this subchapter or any rule
18 promulgated under this subchapter has occurred.

19 (2) Subject to the rules promulgated under s. 440.03 (1), the board may
20 reprimand a genetic counselor or may deny, limit, suspend, or revoke a license
21 granted under this subchapter if it finds that the applicant or genetic counselor has
22 done any of the following:

23 (a) Made a material misstatement in an application for a license or for renewal
24 of a license.

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1 (b) Interfered with an investigation or disciplinary proceeding by using threats,
2 harassment, or intentional misrepresentation of facts.

3 (c) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an offense the
4 circumstances of which substantially relate to the practice of genetic counseling.

5 (d) Been adjudicated mentally incompetent by a court.

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

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

8 (g) Subject to ss. 111.321, 111.322, and 111.34, practiced or assisted in the
9 practice of genetic counseling while the applicant's or licensee's ability to practice or
10 assist was impaired by alcohol or other drugs.

11 (h) Engaged in unprofessional or unethical conduct in violation of the code of
12 ethics adopted in the rules promulgated under s. 448.973 (1).

13 (i) Engaged in conduct while practicing genetic counseling that evidences a lack
14 of knowledge or ability to apply professional principles or skills.

15 (j) Violated this subchapter or any rule promulgated under this subchapter.

16 **(3)** The board shall revoke the license of a genetic counselor who has failed to
17 maintain certification with the American Board of Genetic Counseling or whose
18 certification with the American Board of Genetic Counseling has been revoked.

19 **(4)** (a) A genetic counselor may voluntarily surrender his or her license to the
20 board, which may refuse to accept the surrender if the board has received allegations
21 of unprofessional conduct against the genetic counselor. The board may negotiate
22 stipulations in consideration for accepting the surrender of licenses.

23 (b) The board may restore a license that has been voluntarily surrendered
24 under par. (a) on such terms and conditions as it considers appropriate.

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1 (5) The board shall prepare and disseminate to the public an annual report that
2 describes final disciplinary action taken against genetic counselors during the
3 preceding year.

4 (6) The board may report final disciplinary action taken against a genetic
5 counselor to any national database that includes information about disciplinary
6 action taken against health care professionals.

7 **448.978 Injunctive relief.** If the board has reason to believe that any person
8 is violating this subchapter or any rule promulgated under this subchapter, the
9 board, the department, the attorney general, or the district attorney of the proper
10 county may investigate and may, in addition to any other remedies, bring an action
11 in the name and on behalf of this state to enjoin the person from the violation.

12 **448.979 Penalties.** Any person who violates this subchapter or any rule
13 promulgated under this subchapter may be fined not more than \$10,000 or
14 imprisoned for not more than 9 months or both.

15 **SECTION 12.** 448.970 of the statutes is renumbered 448.9695.

16 **SECTION 13.** Subchapter VIII (title) of chapter 448 [precedes 448.980] of the
17 statutes is renumbered subchapter IX (title) of chapter 448 [precedes 448.980].

18 **SECTION 14.** 450.10 (3) (a) 5. of the statutes is amended to read:

19 450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical
20 therapist, physical therapist assistant, occupational therapist, ~~or~~ occupational
21 therapy assistant, or genetic counselor licensed under ch. 448.

22 **SECTION 15. Nonstatutory provisions.**

23 (1) INITIAL APPOINTMENTS. Notwithstanding the lengths of the terms specified
24 in s. 15.406 (7) (intro.), the initial members of the genetic counselors affiliated
25 credentialing board shall be initially appointed for the following terms:

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1 (a) One genetic counselor and one person licensed to practice medicine and
2 surgery under subch. II of ch. 448 who is a clinical geneticist, for terms expiring on
3 July 1, 2022.

4 (b) One genetic counselor and one person licensed to practice medicine and
5 surgery under subch. II of ch. 448, for terms expiring on July 1, 2023.

6 (c) Two genetic counselors and one public member, for terms expiring on July
7 1, 2024.

8 (2) **QUALIFICATIONS OF INITIAL MEMBERS OF THE GENETIC COUNSELORS AFFILIATED**
9 **CREDENTIALING BOARD.** Notwithstanding s. 15.406 (7), an initial member of the genetic
10 counselors affiliated credentialing board appointed under s. 15.406 (7) is not
11 required to be a licensed genetic counselor under s. 448.974, if the appointment
12 occurs before the date specified in SECTION 16 (intro.) of this act and at the time of
13 the appointment the individual holds a valid certification issued by the American
14 Board of Genetic Counseling, as defined in s. 448.970 (1).

15 (3) **RULE MAKING.** Using the procedure under s. 227.24, the genetic counselors
16 affiliated credentialing board may promulgate rules required under s. 448.973, for
17 the period before permanent rules take effect, but not to exceed the period authorized
18 under s. 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the
19 genetic counselors affiliated credentialing board is not required to provide evidence
20 that promulgating a rule under this subsection as an emergency rule is necessary for
21 the preservation of the public peace, health, safety, or welfare and is not required to
22 provide a finding of emergency for a rule promulgated under this subsection.

23 **SECTION 16. Effective dates.** This act takes effect on the first day of the 13th
24 month beginning after publication except as follows:

