

1999 DRAFTING REQUEST**Assembly Substitute Amendment (ASA-AB420)**Received: **01/14/2000**Received By: **kunkemd**Wanted: **Soon**

Identical to LRB:

For: **Frank Urban (608) 266-9175**By/Representing: **Dismas Becker**This file may be shown to any legislator: **NO**Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

License to practice psychotherapy

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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02/04/2000

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Jan 1

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1?	kunkemd	1 NJ 1/18	Jb 1/18	Jb/hk 1/18			

FE Sent For:

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Florida Fed ana
on psychologist

TO: Mark Kunkel
FROM: Dismas Becker for Rep. Frank Urban
RE: Substitute amendment for AB 420

next meetg
January Floor period
11th or 18th
not the 4th

Meeting w/ Dismas & Dick Sweet
(general issue)

In this substitute we would like you to create a new board for the licensing of psychotherapy. Use the structure of the licensure section of the Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board as described in AB 420.

Drop all changes to the S W, MFT & PC Examining Board described in AB 420, keeping as it now stands in the Statutes.

This new board will license professionals to practice psychotherapy as their particular profession, that is licensed to practice psychotherapy as a Clinical Social Worker, as a Clinical Marriage and Family Therapist, as a Clinical Professional Counselor.

Other professions should be able to be licensed, as psychotherapy if they meet a national standard of education required for practicing psychotherapy at the master's level or greater as determined by rule.

3,000
hours
w/1
2 year
period

The members of this new board would be the same as in the licensure section in AB 420 but the membership should be able to be expanded to include other professions as they meet the standards of education to practice psychotherapy.

Psychometric testing can be administered by a licensed psychotherapist who meets the criteria of the American Psychologist Association for administering as determined by rule.

Those seeking to be licensed must have two years/3,000 hours of supervised clinical practice under the supervision of an individual who is a licensed psychotherapist in the field they are specializing and has a doctorate degree in that field or a masters degree with five years of clinical experience or where this is not possible any licensed psychotherapist (psychologist/ psychiatrist.) who is at the doctorate level + exam + fee

Those licensed under this shall be able to practice psychotherapy without supervision and shall be licensed as a **clinical** social worker, marriage and family therapist, professional counselor or what other profession that is approved under the rules of the Examining Board.

The definitions of clinical social worker, marriage and family therapist and professional counselor shall be referred to those definition stated in present statute (ch 457).

The definition of psychotherapy shall be taken from that which is used by the federal government or if that is not available or does not fit, refer to the definition used in present statutes.

452

455

11 This act shall have the same exemptions as stated in chapter 457. It shall also allow independent and advanced social worker to practice psychotherapy only under supervision.

12 All those presently certified to practice psychotherapy in chapter 457 are grandfathered into this act. (don't have to take exam or anything else) → add window

13 Once a certified clinical social worker, marriage and family therapist or professional counselor is licensed under this act they may also choose to be certified under chapter 457. (Those certified under chapter 457 must be licensed to practice psychotherapy.) → applies to everyone including people that are certified

must meet
- criteria, but
don't need the
piece of paper

so incorporate reports
by reference

fee

Use defn of Ψ in 455.01(6)

Except-5: use 455.02(2m)

(a), (b), (c) through (m)

(L) - eliminate specific rule
reference

~~Do NOT touch ch. 457~~

~~Psychotherapy Bd~~

1 SW

1 MFT

1 PC

2 Public members

Supervision - consistent w/ current law

License - practice w/o supervision

+ append ^{MAG} "clinical" to title

Superseded

TO; Mark Kunkel
FROM: Dismas Becker for Rep. Frank Urban
RE: Substitute amendment for AB 420

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Drop all changes to the S W, MFT & PC Examining Board described in AB 420, keeping as it now stands in the Statutes.

This new board will license professionals to practice psychotherapy as their particular profession, that is licensed to practice psychotherapy as a Clinical Social Worker, as a Clinical Marriage and Family Therapist, as a Clinical Professional Counselor.

Other professions should be able to be licensed as psychotherapy if they meet a national standard of education require to practice psychotherapy at the maters level or greater.

The members of this new board would be the same as in the licensure section in AB 420 but the membership should be able to expand to include other professions represented as they meet the standards of education to practice psychotherapy.

Psychometric testing can be practice if the individual seeking to administer a test meets the standards set by the American Psychologist Association.

Those seeking to be licensed must have two years/3,000 hours of supervised clinical practice under the supervision of an individual who is a licensed psychotherapist in the field they are specializing and has a doctorate degree in that field or a masters degree with five years experience or where this is not possible any licensed psychotherapist (psychologist/psychiatrist.).



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBs0246/1

MDK:.....

Wlj

D-NOTE

By 4:00
Tues.
11/8
if possible

ASSEMBLY SUBSTITUTE AMENDMENT ,

TO 1999 ASSEMBLY BILL 420

Gen Cat

1 AN ACT ...; relating to: regulating the practice of psychotherapy, creating a
2 psychotherapy examining board, granting rule-making authority and
3 providing a penalty.

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

4 SECTION 1. 15.08 (1m) (b) of the statutes is amended to read:

5 15.08 (1m) (b) The public members of the chiropractic examining board, the
6 dentistry examining board, the hearing and speech examining board, the medical
7 examining board, occupational therapy examining council, respiratory care
8 practitioners examining council and council on physician assistants, the board of
9 nursing, the nursing home administrator examining board, the veterinary
10 examining board, the optometry examining board, the pharmacy examining board,
11 the examining board of social workers, marriage and family therapists and
12 professional counselors and, the psychology examining board and the psychotherapy

1 examining board shall not be engaged in any profession or occupation concerned with
2 the delivery of physical or mental health care.

History: 1971 c. 40; 1975 c. 86, 199; 1977 c. 418; 1979 c. 32; 1979 c. 34 ss 32e to 32s, 2102 (45) (a), 1979 c. 221; 1981 c. 94, 1983 a. 403, 524; 1985 a. 332, 340; 1987 a. 399; 1989 a. 229, 316, 359, 1991 a. 39, 160, 316, 1993 a. 105, 107, 184, 490; 1995 a. 245, 1997 a. 175

3 **SECTION 2.** 15.405 (18) of the statutes is created to read:

4 15.405 (18) PSYCHOTHERAPY EXAMINING BOARD. There is created in the
5 department of regulation and licensing a psychotherapy examining board consisting
6 of the following members appointed for 4–year terms:

7 (a) One member who is certified as an independent clinical social worker under
8 under ch. 457.[↓]

9 (b) One member who is certified as a marriage and family therapist under ch.
10 457.[↓]

11 (c) One member who is certified as a professional counselor under ch. 457.[↓]

12 (d) Two public members.

13 **SECTION 3.** 48.981 (2)[↓] of the statutes is amended to read:

14 48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical
15 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, psychotherapist,
16 other medical or mental health professional, social worker, marriage and family
17 therapist, professional counselor, public assistance worker, including a financial and
18 employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or
19 counselor, mediator under s. 767.11, child care worker in a day care center or child
20 caring institution, day care provider, alcohol or other drug abuse counselor, member
21 of the treatment staff employed by or working under contract with a county
22 department under s. 46.23, 51.42 or 51.437, physical therapist, occupational
23 therapist, dietitian, speech–language pathologist, audiologist, emergency medical
24 technician or police or law enforcement officer having reasonable cause to suspect

1 that a child seen in the course of professional duties has been abused or neglected
 2 or having reason to believe that a child seen in the course of professional duties has
 3 been threatened with abuse or neglect and that abuse or neglect of the child will occur
 4 shall, except as provided under sub. (2m), report as provided in sub. (3). Any other
 5 person, including an attorney, having reason to suspect that a child has been abused
 6 or neglected or reason to believe that a child has been threatened with abuse or
 7 neglect and that abuse or neglect of the child will occur may make such a report. Any
 8 person, including an attorney having reason to suspect that an unborn child has been
 9 abused or reason to believe that an unborn child is at substantial risk of abuse may
 10 report as provided in sub. (3). No person making a report under this subsection may
 11 be discharged from employment for so doing.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210, 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456, 1997 a. 27, 114, 292, 293 s. 13.93 (2) (c).

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

13 146.81 (1) (hs) A psychotherapist licensed under ch. 475.✓

14 **SECTION 5.** 180.1901 (1m) (h) of the statutes is created to read:

15 180.1901 (1m) (h) The psychotherapy examining board under ch. 475.✓

16 **SECTION 6.** 252.14 (1) (ar) 8m. of the statutes is created to read:

17 252.14 (1) (ar) 8m. A psychotherapist licensed under ch. 475.✓

18 **SECTION 7.** 440.08 (2) (a) 64m. of the statutes is created to read:

19 440.08 (2) (a) 64m. Psychotherapist: July 1 of each odd-numbered year, \$47.

20 **SECTION 8.** Chapter 475 of the statutes is created to read:

21 **CHAPTER 475**

22 **PSYCHOTHERAPY EXAMINING BOARD**

23 **475.01 Definitions.** In this chapter:

INSEAT 3-17

1 (1) "Advanced practice social worker" means a person certified as an advanced
2 practice social worker under ch. 457.✓

3 (2) "Examining board" means the psychotherapy examining board.

4 (3) "Field of study" means social work, marriage and family therapy,
5 professional counseling or a field of study approved by the examining board in rules
6 promulgated under s. 457.08 (1).✓

7 (4) "Independent clinical social worker" means a person certified as an
8 independent clinical social worker under ✓

9 (5) "Independent social worker" means a person certified as an independent
10 social worker under ch. 457.✓

11 (6) "Marriage and family therapist" means a person certified as a marriage and
12 family therapist under ch. 457.✓

13 (7) "Marriage and family therapy" has the meaning given under s. 457.01 (5).✓

14 (8) "Professional counseling" has the meaning given in s. 457.01 (6).✓

15 (9) "Professional counselor" means a person certified as a professional
16 counselor under ch. 457.✓

17 (10) "Psychological intern" means a person enrolled in a doctoral program in
18 psychology at an accredited college or university or engaged in a formal psychology
19 internship program.

20 (11) "Psychologist" means a person licensed as psychologist under ch. 455.✓

21 (12) "Psychotherapist" means a person licensed to practice psychotherapy
22 under this chapter.✓

23 (13) "Psychotherapy" has the meaning given in s. 455.01 (6).✓

24 (14) "Social work" has the meaning given in s. 457.01 (9).✓

25 (15) "Social worker" means a person certified as a social worker under ch. 457.✓

1 **475.02 License required.** (1) Except as provided in s. 475.03[✓], no person may
 2 practice psychotherapy for compensation or in the expectation of compensation,
 3 designate himself or herself as a psychotherapist, use the title “psychotherapist” or
 ④ use any other title or designation ^{that} ~~which~~ represents or may tend to represent the
 5 person as a psychotherapist unless the person is licensed under this chapter.

6 (2) (a) Except for an independent clinical social worker, no person may use the
 7 title “clinical social worker” unless the person is a social worker and is licensed under
 8 this chapter[✓].

9 (b) No person may use the title “clinical marriage and family therapist” unless
 10 the person is a marriage and family therapist and is licensed under this chapter[✓].

11 (c) No person may use the title “clinical professional counselor” unless the
 12 person is a professional counselor and is licensed under this chapter.

13 (d) No person may use the word “clinical” in a title used by a practitioner of a
 ⑭ field of study approved under rules promulgated under s. ^{475.03(1)} ~~475.09(1)~~ unless the
 15 person has a master’s or doctorate degree in that field of study and is licensed under
 16 this chapter[✓].

17 **475.03 Applicability.** A license under this chapter is not required for any of
 18 the following:

⑮ (1) ^B (a) A person lawfully practicing psychotherapy within the scope of a license,
 20 permit, registration, certificate or certification granted by this state.

⑯ (2) ^B (b) An advanced practice social worker or independent social worker practicing
 22 psychotherapy under supervision as specified in rules promulgated by the
 23 examining board of social workers, marriage and family therapists and professional
 24 counselors.

- 1 ⁸(3) ~~(d)~~ A person practicing psychotherapy as directed, supervised and inspected by
2 a psychologist who has the power to direct, decide and oversee the practice.
- 3 ⁸(4) ~~(d)~~ The performance of official duties by personnel of any of the armed services
4 or federal health services of the United States.
- 5 ⁸(5) ~~(e)~~ A person employed in a position as a psychologist or psychological assistant
6 by an accredited college, junior college or university or other academic or research
7 institution, if the person practices psychotherapy as part of the duties for which he
8 or she is employed, is practicing psychotherapy solely within the confines of or under
9 the jurisdictions of the institution in which he or she is employed and does not
10 practice psychotherapy for the public for a fee over and above the salary that he or
11 she receives for the performance of the official duties with the institution with which
12 he or she is employed.
- 13 ⁸(6) ~~(f)~~ A person pursuing a course of study leading to a graduate degree in
14 medicine, social work, marriage and family therapy, ⁸professional counseling or a
15 field of study approved under rules promulgated under s. 475.08 (1) at an accredited
16 college or university while working in a training program, if the person's practice of
17 psychotherapy constitutes a part of his or her supervised course of study and the
18 person is designated by a title that clearly indicates the training status appropriate
19 to the person's level of training.
- 20 ⁸(7) ~~(g)~~ A graduate student or psychological intern in psychology pursuing a course
21 of study leading to a graduate degree in psychology at an accredited college or
22 university while working in a training program, if his or her practice of
23 psychotherapy constitutes a part of the supervised course of study and he or she is
24 designated by a title such as "psychological intern", "psychological trainee" or other
25 title clearly indicating the training status appropriate to his or her level of training.

- 1) ⁸(8) ~~(h)~~ A person certified by the department of public instruction to provide psychological or counseling services, if the person practices psychotherapy as part of the duties for which he or she is employed, is practicing psychotherapy solely within the confines of or under the jurisdiction of the school district by which he or she is employed and does not practice psychotherapy for the public for a fee over and above the salary that he or she receives for the performance of the official duties with the school district by which he or she is employed.
- 8) ⁹(9) ~~(i)~~ A person who has a doctoral degree in psychology and who has met the requirements for predoctoral supervised experience specified in rules promulgated by the psychology examining board while employed as a psychology resident by a clinic certified by the department of health and family services.
- 12) ¹⁰(10) ~~(j)~~ An ordained member of the clergy of any religious denomination or sect who is associated with a church, synagogue or other religious organization, contributions to which are tax deductible for federal and state income tax purposes, if the member of the clergy practices psychotherapy within the scope of his or her regular duties as a member of the clergy and the member of the clergy does not practice psychotherapy for the public for a fee over and above the salary or other compensation that the member of the clergy receives for the performance of his or her official duties as a member of the clergy with the church, synagogue or religious organization with which he or she is associated.
- 21) ¹¹(11) ~~(k)~~ A person engaged in employment counseling or testing for other than therapeutic purposes.
- 23) ¹²(12) ~~(l)~~ A mental health professional who has met all of the qualifications for employment as a mental health professional in an outpatient psychotherapy clinic certified by the department of health and family services under rules promulgated

1 by the department, if the person practices psychotherapy as part of the duties for
2 which he or she is employed by such a certified outpatient psychotherapy clinic and
3 the practice is solely within the confines of or under the jurisdiction of the clinic by
4 which he or she is employed.

5 ^(B) ~~(13)~~ ~~(m)~~ A person practicing psychotherapy as an employe of a federal, state or local
6 governmental agency, if the person is practicing psychotherapy as a part of the duties
7 for which he or she is employed, is practicing psychotherapy solely within the
8 confines of or under the jurisdiction of the agency by which he or she is employed and
9 does not practice psychotherapy for the public for a fee over and above the salary that
10 he or she receives for the performance of the official duties with the agency by which
11 he or she is employed.

12 ^(B) ~~(14)~~ ~~(n)~~ A person coordinating or participating in the activities of a nonprofit peer
13 support group, if the person practices psychotherapy solely within the confines of the
14 peer support group and does practice psychotherapy for the public for a fee.

15 **475.04 Licensure.** (1) The examining board shall grant a license to practice
16 psychotherapy to a person who does all of the following:

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

19 (b) Pays the fee specified in s. 440.05 (1).[✓]

20 (c) Has a master's or doctorate degree in social work, marriage and family
21 therapy, professional counseling or a field of study approved by the examining board
22 under rules promulgated under s. 475.08 (1).[✓]

23 (d) ~~(o)~~ Submits evidence satisfactory to the examining board that he or she has
24 completed 3,000 hours^{of} psychotherapy practice within a 2-year period under the
25 supervision of^a person who satisfies any of the following:

1 1. The person is licensed under this chapter and satisfies one of the following:

2 a. The person has a master's degree in the same field of study as the applicant
3 and the person has at least 5 years of clinical experience in that field of study.

4 b. The person has a doctorate degree in the same field of study as the applicant.

5 2. The person lawfully practices psychotherapy within the scope of a license,
6 permit, registration, certificate or certification granted by this state and the person
7 has a doctorate degree in the same field of study as the applicant.

8 (e) (d) Passes an examination ² an examination under s. ~~475.06~~ ^{475.05}.

9 **475.05 Examination.** (1) The examining board shall conduct or arrange for
10 examinations for licensure under this chapter at least semiannually and at times
11 and places determined by the examining board.

12 (2) Examinations shall consist of written or oral tests, or both, requiring
13 applicants to demonstrate minimum competency ² to ⁱⁿ psychotherapy.

14 **475.06 Issuance of license; expiration and renewal.** (1) The department
15 shall issue a certificate of licensure to each person who is licensed under this chapter.

16 (2) The renewal dates for licenses granted under this chapter are specified
17 under s. 440.08 (2) (a). Renewal applications shall be submitted to the department
18 on a form provided by the department and shall include the renewal fee specified in
19 s. 440.08 (2) (a).[✓]

20 **475.07 Reciprocal license.** Upon application and payment of the fee
21 specified in s. 440.05 (2),[✓] the examining board shall grant a license under this chapter[✓]
22 to a person who holds a similar license or certificate in another state or territory of
23 the United States if the examining board determines that the requirements for
24 receiving the license or certificate in the other state or territory are substantially
25 equivalent to the requirements under s. 475.04.[✓]

1 **475.08 Rules.** The examining board shall promulgate rules for each of the
2 following:

3 (1) Approving a field of study for purposes of s. 475.04 (1) (c).[✓] The rules shall
4 require the examining board to consider whether a field of study satisfies nationally
5 recognized standards for preparing students for the practice of psychotherapy.

6 (2) Establishing a code of ethics that governs the practice of psychotherapy by
7 persons licensed under this chapter.⁴

8 **475.09 Psychometric testing.** A psychotherapist may not conduct
9 psychometric testing unless he or she satisfies the requirements of the American
10 Psychology Association for conducting the testing. The examining board shall
11 promulgate rules for determining whether a psychotherapist satisfies the
12 requirements.

13 **475.10 Disciplinary proceedings.** (1) Subject to the rules promulgated
14 under s. 440.03 (1),[✓] the examining board may make investigations and conduct
15 hearings to determine whether a violation of this chapter or any rule promulgated
16 under this chapter has occurred.

17 (2) Subject to the rules promulgated under s. 440.03 (1),[✓] the examining board
18 may reprimand a psychotherapist or deny, limit, suspend or revoke a license under
19 this chapter if it finds that the applicant or psychotherapist has done any of the
20 following:

21 (a) Made a material misstatement in an application for a license or for renewal
22 of a license.

23 (b) Subject to ss. 111.321,[✓] 111.322[✓] and 111.335,[✓] been convicted of an offense the
24 circumstances of which substantially relate to the practice of psychotherapy.

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

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

2 (e) Subject to ss. 111.321[✓], 111.322[✓] and 111.34[✓], practiced psychotherapy while
3 his or her ability to practice was impaired by alcohol or other drugs.

4 (f) Engaged in unprofessional or unethical conduct in violation of the code of
5 ethics established in rules promulgated under s. ~~475.09(2)~~ ^{475.08(2)}

6 (g) Engaged in conduct while practicing psychotherapy ^{that} which jeopardizes the
7 health, safety or welfare of a client or ^{that} which evidences a lack of knowledge of,
8 inability to apply or the negligent application of, principles or skills of psychotherapy.

9 (h) ^{Engaged} Engages in the wilful, unauthorized communication of information that is
10 received in professional confidence.

11 (i) ^{Accepted} ~~Accepts~~ a commission, rebate or other form of fee for referring persons to
12 other professionals.

13 (j) Violated this chapter or any rule promulgated under this chapter.

14 (3) The examining board may restore a license that has been suspended or
15 revoked on such terms and conditions as the examining board may deem
16 appropriate.

17 **475.11 Penalties.** Any person who violates this chapter or any rule
18 promulgated under this chapter may be fined not more than \$1,000 for each
19 violation, imprisoned not more than 6 months or both.

20 **SECTION 9.** 895.70 (1) (bm)[✓] of the statutes is created to read:

21 895.70 (1) (bm) "Psychotherapist" means a person licensed to practice
22 psychotherapy under ch. 475[✓].

23 **SECTION 10.** 895.70 (1) (e)[✓] of the statutes is amended to read:

24 895.70 (1) (e) "Therapist" means a physician, psychologist, psychotherapist,
25 social worker, marriage and family therapist, professional counselor, nurse,

1 chemical dependency counselor, member of the clergy or other person, whether or not
2 licensed or certified by the state, who performs or purports to perform psychotherapy.

History: 1985 a. 275, 1987 a. 352; 1991 a. 160, 217; 1995 a. 27 s. 9126 (19).

3 **SECTION 11.** 905.04 (title) of the statutes is amended to read:

4 **905.04 (title) Physician-patient, registered nurse-patient,**
5 **chiropractor-patient, psychologist-patient, psychotherapist-patient,**
6 **social worker-patient, marriage and family therapist-patient and**
7 **professional counselor-patient privilege.**

History: Sup. Ct. Order, 59 Wis. 2d R121, 1975 c. 393, 1977 c. 61, 418, 1979 c. 32 s. 92 (1), 1979 c. 221, 352, 1983 a. 400, 535; 1987 a. 233, 264; Sup. Ct. Order, 151 Wis. 2d xxi (1989); 1991 a. 32, 39, 160; 1993 a. 98; 1995 a. 77, 275, 436; 1997 a. 292

8 **SECTION 12.** 905.04 (1) (b) of the statutes is amended to read:

9 **905.04 (1) (b)** A communication or information is “confidential” if not intended
10 to be disclosed to 3rd persons other than those present to further the interest of the
11 patient in the consultation, examination, or interview, or persons reasonably
12 necessary for the transmission of the communication or information or persons who
13 are participating in the diagnosis and treatment under the direction of the physician,
14 registered nurse, chiropractor, psychologist, psychotherapist, social worker,
15 marriage and family therapist or professional counselor, including the members of
16 the patient’s family.

History: Sup. Ct. Order, 59 Wis. 2d R121, 1975 c. 393, 1977 c. 61, 418, 1979 c. 32 s. 92 (1), 1979 c. 221, 352; 1983 a. 400, 535; 1987 a. 233, 264; Sup. Ct. Order, 151 Wis. 2d xxi (1989); 1991 a. 32, 39, 160; 1993 a. 98; 1995 a. 77, 275, 436; 1997 a. 292

17 **SECTION 13.** 905.04 (1) (c) of the statutes is amended to read:

18 **905.04 (1) (c)** “Patient” means an individual; couple, family or group of
19 individuals who consults with or is examined or interviewed by a physician,
20 registered nurse, chiropractor, psychologist, psychotherapist, social worker,
21 marriage and family therapist or professional counselor.

History: Sup. Ct. Order, 59 Wis. 2d R121, 1975 c. 393, 1977 c. 61, 418, 1979 c. 32 s. 92 (1), 1979 c. 221, 352, 1983 a. 400, 535; 1987 a. 233, 264; Sup. Ct. Order, 151 Wis. 2d xxi (1989); 1991 a. 32, 39, 160; 1993 a. 98; 1995 a. 77, 275, 436; 1997 a. 292

22 **SECTION 14.** 905.04 (1) (em) of the statutes is created to read:

1 905.04 (1) (em) “Psychotherapist” means an individual licensed as a
2 psychotherapist under ch. 475[✓] or an individual reasonably believed by the patient
3 to be a psychotherapist.

4 **SECTION 15.** 905.04 (2)[✓] of the statutes is amended to read:

5 905.04 (2) GENERAL RULE OF PRIVILEGE. A patient has a privilege to refuse to
6 disclose and to prevent any other person from disclosing confidential
7 communications made or information obtained or disseminated for purposes of
8 diagnosis or treatment of the patient’s physical, mental or emotional condition,
9 among the patient, the patient’s physician, the patient’s registered nurse, the
10 patient’s chiropractor, the patient’s psychologist, the patient’s psychotherapist, the
11 patient’s social worker, the patient’s marriage and family therapist, the patient’s
12 professional counselor or persons, including members of the patient’s family, who are
13 participating in the diagnosis or treatment under the direction of the physician,
14 registered nurse, chiropractor, psychologist, psychotherapist, social worker,
15 marriage and family therapist or professional counselor.

History: Sup. Ct. Order, 59 Wis. 2d R121, 1975 c. 393; 1977 c. 61, 418; 1979 c. 32 s. 92 (1), 1979 c. 221, 352, 1983 a. 400, 535; 1987 a. 233, 264; Sup. Ct. Order, 151 Wis. 2d xxi (1989); 1991 a. 32, 39, 160; 1993 a. 98; 1995 a. 77, 275, 436; 1997 a. 292

16 **SECTION 16.** 905.04 (3)[✓] of the statutes is amended to read:

17 905.04 (3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the
18 patient, by the patient’s guardian or conservator, or by the personal representative
19 of a deceased patient. The person who was the physician, registered nurse,
20 chiropractor, psychologist, psychotherapist, social worker, marriage and family
21 therapist or professional counselor may claim the privilege but only on behalf of the
22 patient. The authority so to do is presumed in the absence of evidence to the contrary.

History: Sup. Ct. Order, 59 Wis. 2d R121; 1975 c. 393; 1977 c. 61, 418; 1979 c. 32 s. 92 (1); 1979 c. 221, 352; 1983 a. 400, 535; 1987 a. 233, 264; Sup. Ct. Order, 151 Wis. 2d xxi (1989); 1991 a. 32, 39, 160; 1993 a. 98; 1995 a. 77, 275, 436, 1997[✓]a. 292

23 **SECTION 17.** 905.04 (4) (a) of the statutes is amended to read:

1 905.04 (4) (a) *Proceedings for hospitalization, guardianship, protective services*
2 *or protective placement.* There is no privilege under this rule as to communications
3 and information relevant to an issue in proceedings to hospitalize the patient for
4 mental illness, to appoint a guardian under s. 880.33, for court-ordered protective
5 services or protective placement or for review of guardianship, protective services or
6 protective placement orders, if the physician, registered nurse, chiropractor,
7 psychologist, psychotherapist, social worker, marriage and family therapist or
8 professional counselor in the course of diagnosis or treatment has determined that
9 the patient is in need of hospitalization, guardianship, protective services or
10 protective placement.

History: Sup. Ct. Order, 59 Wis. 2d R121; 1975 c. 393; 1977 c. 61, 418; 1979 c. 32 s. 92 (1); 1979 c. 221, 352; 1983 a. 400, 535; 1987 a. 233, 264; Sup. Ct. Order, 151 Wis. 2d xxi (1989); 1991 a. 32, 39, 160, 1993 a. 98; 1995 a. 77, 275, 436; 1997 a. 292.

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

12 905.04 (4) (e) 2. There is no privilege in situations where the examination of
13 an abused or neglected child creates a reasonable ground for an opinion of the
14 physician, registered nurse, chiropractor, psychologist, psychotherapist, social
15 worker, marriage and family therapist or professional counselor that the abuse or
16 neglect was other than accidentally caused or inflicted by another.

History: Sup. Ct. Order, 59 Wis. 2d R121; 1975 c. 393; 1977 c. 61, 418; 1979 c. 32 s. 92 (1); 1979 c. 221, 352; 1983 a. 400, 535; 1987 a. 233, 264; Sup. Ct. Order, 151 Wis. 2d xxi (1989); 1991 a. 32, 39, 160; 1993 a. 98; 1995 a. 77, 275, 436; 1997 a. 292.

17 **SECTION 19.** 905.04 (4) (e) 3. of the statutes is amended to read:

18 905.04 (4) (e) 3. There is no privilege in situations where the examination of
19 the expectant mother of an abused unborn child creates a reasonable ground for an
20 opinion of the physician, registered nurse, chiropractor, psychologist,
21 psychotherapist, social worker, marriage and family therapist or professional
22 counselor that the physical injury inflicted on the unborn child was caused by the
23 habitual lack of self-control of the expectant mother of the unborn child in the use

1 of alcohol beverages, controlled substances or controlled substance analogs,
2 exhibited to a severe degree.

History: Sup. Ct. Order, 59 Wis. 2d R121; 1975 c. 393; 1977 c. 61, 418; 1979 c. 32 s 92 (1), 1979 c. 221, 352; 1983 a. 400, 535; 1987 a. 233, 264; Sup. Ct. Order, 151 Wis. 2d xxi (1989); 1991 a. 32, 39, 160; 1993 a. 98; 1995 a. 77, 275, 436, 1997 a. 792.

3 **SECTION 20.** 940.22 (1) (cm) of the statutes is created to read:

4 940.22 (1) (cm) “Psychotherapist” means a person licensed to practice
5 psychotherapy under ch. 475.

6 **SECTION 21.** 940.22 (1) (i) of the statutes is amended to read:

7 940.22 (1) (i) “Therapist” means a physician, psychologist, psychotherapist,
8 social worker, marriage and family therapist, professional counselor, nurse,
9 chemical dependency counselor, member of the clergy or other person, whether or not
10 licensed or certified by the state, who performs or purports to perform psychotherapy.

History: 1983 a. 434; 1985 a. 275; 1987 a. 352, 380; 1991 a. 160; 1993 a. 107, 1995 a. 300.

11 **SECTION 22. Nonstatutory provisions.**

12 (1) DEFINITIONS. In this section, “examining board” means the psychotherapy
13 examining board.

14 ^{A.R. (B) ↓} (2) INITIAL APPOINTMENTS. Notwithstanding section 15.405 (18) (intro.) of the
15 statutes, as created by this act, the initial members of the psychotherapy examining
16 board shall be appointed by the first day of the 3rd month beginning after the
17 effective date of this subsection for the following terms:

18 (a) One independent clinical social worker member and one public member, for
19 terms expiring on July 1, 2002.

20 (b) One marriage and family therapist member, for a term expiring on July 1,
21 2003.

22 (c) One professional counselor member and one public member, for terms
23 expiring on July 1, 2004.

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0246/lins
MDK:.....

1

INSERT 3-17:

2

~~4~~ [#] SECTION 252.14 (1) (ar) 9. of the statutes is amended to read:

3

252.14 (1) (ar) 9. An employe or agent of any provider specified under subds.

4

1. to ~~8~~ 8m.

[#]
History: 1989 a. 201; 1991 a. 32, 39, 160, 189, 269, 315; 1993 a. 27 ss. 326 to 331; Stats. 1993 s. 252.14, 1993 a. 105, 190, 252, 443; 1993 a. 490 s. 143; 1993 a. 491, 495, 1995 a. 27 ss. 6322, 9145 (1); 1997 a. 27, 35, 67, 75, 175; s. 13.93 (2) (c).

5

~~9~~ [#] SECTION 252.14 (1) (ar) 10. of the statutes is amended to read:

6

252.14 (1) (ar) 10. A partnership of any provider specified under subds. 1. to

7

~~8~~ 8m.

[#]
History: 1989 a. 201; 1991 a. 32, 39, 160, 189, 269, 315; 1993 a. 27 ss. 326 to 331; Stats. 1993 s. 252.14; 1993 a. 105, 190, 252, 443; 1993 a. 490 s. 143; 1993 a. 491, 495; 1995 a. 27 ss. 6322, 9145 (1); 1997 a. 27, 35, 67, 75, 175; s. 13.93 (2) (c).

8

~~9~~ [#] SECTION 252.14 (1) (ar) 11. of the statutes is amended to read:

9

252.14 (1) (ar) 11. A corporation of any provider specified under subds. 1. to ~~8~~ 9

10

8m that provides health care services.

History: 1989 a. 201; 1991 a. 32, 39, 160, 189, 269, 315; 1993 a. 27 ss. 326 to 331; Stats. 1993 s. 252.14; 1993 a. 105, 190, 252, 443; 1993 a. 490 s. 143; 1993 a. 491, 495; 1995 a. 27 ss. 6322, 9145 (1); 1997 a. 27, 35, 67, 75, 175; s. 13.93 (2) (c).

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0246/1dn

MDK:/:....

WLj

Representative Urban:

Please review this substitute amendment very carefully to make sure that it achieves your intent. In particular, please note the following:

1. Please review the grounds for disciplining a psychotherapist. Note that the grounds related to violating professional confidences and making referrals for a fee are based on comparable disciplinary grounds for psychologists.

2. Are the penalties for violation of proposed ch. 475[✓] okay? There is such a wide disparity between penalties under ch. 455 (psychologists[✓]) and ch. 457 (social workers, etc.), that I'm not sure what penalties are appropriate for psychotherapists.

3. In proposed s. 475.09[✓], is the name of the association correct?

4. Do you want to include references to licensed psychotherapists in s. 880.33[✓], stats. (incompetency; appointment of guardian)?

5. Note that the substitute amendment may be subject to a germaneness challenge. Under Assembly Rule 54 (1), a substitute amendment is not germane if it "relates to a different subject or is intended to accomplish a different purpose than that of the proposal to which it relates or which, if adopted and passed, would require a relating clause for the proposal which is substantially different from the proposal's original relating clause or which would totally alter the nature of the proposal".

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

1000

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0246/1dn
MDK:wlj:jf

January 18, 2000

Representative Urban:

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Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

tomorrow
thurs
11/27
by 4:00pm

O-NOTE

2

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 420

RM NOT
RUN

Regen

1 AN ACT to amend 15.08 (1m) (b), 48.981 (2), 252.14 (1) (ar) 9., 252.14 (1) (ar) 10.,
2 252.14 (1) (ar) 11., 895.70 (1) (e), 905.04 (title), 905.04 (1) (b), 905.04 (1) (c),
3 905.04 (2), 905.04 (3), 905.04 (4) (a), 905.04 (4) (e) 2., 905.04 (4) (e) 3. and 940.22
4 (1) (i); and to create 15.405 (18), 146.81 (1) (hs), 180.1901 (1m) (h), 252.14 (1)
5 (ar) 8m., 440.08 (2) (a) 64m., chapter 475, 895.70 (1) (bm), 905.04 (1) (em) and
6 940.22 (1) (cm) of the statutes; relating to: regulating the practice of
7 psychotherapy, creating a psychotherapy examining board, granting
8 rule-making authority and providing a penalty.

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

9 SECTION 1. 15.08 (1m) (b) of the statutes is amended to read:
10 15.08 (1m) (b) The public members of the chiropractic examining board, the
11 dentistry examining board, the hearing and speech examining board, the medical
12 examining board, occupational therapy examining council, respiratory care

1 practitioners examining council and council on physician assistants, the board of
2 nursing, the nursing home administrator examining board, the veterinary
3 examining board, the optometry examining board, the pharmacy examining board,
4 the examining board of social workers, marriage and family therapists and
5 professional counselors ~~and~~, the psychology examining board and the psychotherapy
6 examining board shall not be engaged in any profession or occupation concerned with
7 the delivery of physical or mental health care.

8 **SECTION 2.** 15.405 (18) of the statutes is created to read:

9 15.405 (18) PSYCHOTHERAPY EXAMINING BOARD. There is created in the
10 department of regulation and licensing a psychotherapy examining board consisting
11 of the following members appointed for 4-year terms:

12 (a) One member who is certified as an independent clinical social worker under
13 under ch. 457.

14 (b) One member who is certified as a marriage and family therapist under ch.
15 457.

16 (c) One member who is certified as a professional counselor under ch. 457.

17 (d) Two public members.

18 **SECTION 3.** 48.981 (2) of the statutes is amended to read:

19 48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical
20 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, psychotherapist,
21 other medical or mental health professional, social worker, marriage and family
22 therapist, professional counselor, public assistance worker, including a financial and
23 employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or
24 counselor, mediator under s. 767.11, child care worker in a day care center or child
25 caring institution, day care provider, alcohol or other drug abuse counselor, member

1 of the treatment staff employed by or working under contract with a county
2 department under s. 46.23, 51.42 or 51.437, physical therapist, occupational
3 therapist, dietitian, speech–language pathologist, audiologist, emergency medical
4 technician or police or law enforcement officer having reasonable cause to suspect
5 that a child seen in the course of professional duties has been abused or neglected
6 or having reason to believe that a child seen in the course of professional duties has
7 been threatened with abuse or neglect and that abuse or neglect of the child will occur
8 shall, except as provided under sub. (2m), report as provided in sub. (3). Any other
9 person, including an attorney, having reason to suspect that a child has been abused
10 or neglected or reason to believe that a child has been threatened with abuse or
11 neglect and that abuse or neglect of the child will occur may make such a report. Any
12 person, including an attorney having reason to suspect that an unborn child has been
13 abused or reason to believe that an unborn child is at substantial risk of abuse may
14 report as provided in sub. (3). No person making a report under this subsection may
15 be discharged from employment for so doing.

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

17 146.81 (1) (hs) A psychotherapist licensed under ch. 475.

18 **SECTION 5.** 180.1901 (1m) (h) of the statutes is created to read:

19 180.1901 (1m) (h) The psychotherapy examining board under ch. 475.

20 **SECTION 6.** 252.14 (1) (ar) 8m. of the statutes is created to read:

21 252.14 (1) (ar) 8m. A psychotherapist licensed under ch. 475.

22 **SECTION 7.** 252.14 (1) (ar) 9. of the statutes is amended to read:

23 252.14 (1) (ar) 9. An employe or agent of any provider specified under subds.
24 1. to & 8m.

25 **SECTION 8.** 252.14 (1) (ar) 10. of the statutes is amended to read:

1 252.14 (1) (ar) 10. A partnership of any provider specified under subds. 1. to
2 8 8m.

3 **SECTION 9.** 252.14 (1) (ar) 11. of the statutes is amended to read:

4 252.14 (1) (ar) 11. A corporation of any provider specified under subds. 1. to 8-
5 8m. that provides health care services.

6 **SECTION 10.** 440.08 (2) (a) 64m. of the statutes is created to read:

7 440.08 (2) (a) 64m. Psychotherapist: July 1 of each odd-numbered year, \$47.

8 **SECTION 11.** Chapter 475 of the statutes is created to read:

9 **CHAPTER 475**

10 **PSYCHOTHERAPY EXAMINING BOARD**

11 **475.01 Definitions.** In this chapter:

12 (1) “Advanced practice social worker” means a person certified as an advanced
13 practice social worker under ch. 457.

14 (2) “Examining board” means the psychotherapy examining board.

15 (3) “Field of study” means social work, marriage and family therapy,
16 professional counseling or a field of study approved by the examining board in rules
17 promulgated under s. 475.08 (1).

18 (4) “Independent clinical social worker” means a person certified as an
19 independent clinical social worker under.

20 (5) “Independent social worker” means a person certified as an independent
21 social worker under ch. 457.

22 (6) “Marriage and family therapist” means a person certified as a marriage and
23 family therapist under ch. 457.

24 (7) “Marriage and family therapy” has the meaning given under s. 457.01 (5).

25 (8) “Professional counseling” has the meaning given in s. 457.01 (6).

1 (9) “Professional counselor” means a person certified as a professional
2 counselor under ch. 457.

3 (10) “Psychological intern” means a person enrolled in a doctoral program in
4 psychology at an accredited college or university or engaged in a formal psychology
5 internship program.

6 (11) “Psychologist” means a person licensed as psychologist under ch. 455.

7 (12) “Psychotherapist” means a person licensed to practice psychotherapy
8 under this chapter.

9 (13) “Psychotherapy” has the meaning given in s. 455.01 (6).

10 (14) “Social work” has the meaning given in s. 457.01 (9).

11 (15) “Social worker” means a person certified as a social worker under ch. 457.

12 **475.02 License required.** (1) Except as provided in s. 475.03, no person may
13 practice psychotherapy for compensation or in the expectation of compensation,
14 designate himself or herself as a psychotherapist, use the title “psychótherapist” or
15 use any other title or designation that represents or may tend to represent the person
16 as a psychotherapist unless the person is licensed under this chapter.

17 (2) (a) Except for an independent clinical social worker, no person may use the
18 title “clinical social worker” unless the person is a social worker and is licensed under
19 this chapter.

20 (b) No person may use the title “clinical marriage and family therapist” unless
21 the person is a marriage and family therapist and is licensed under this chapter.

22 (c) No person may use the title “clinical professional counselor” unless the
23 person is a professional counselor and is licensed under this chapter.

24 (d) No person may use the word “clinical” in a title used by a practitioner of a
25 field of study approved under rules promulgated under s. 475.08 (1) unless the

1 person has a master's or doctorate degree in that field of study and is licensed under
2 this chapter.

3 **475.03 Applicability.** A license under this chapter is not required for any of
4 the following:

5 (1) A person lawfully practicing psychotherapy within the scope of a license,
6 permit, registration, certificate or certification granted by this state.

7 (2) An advanced practice social worker or independent social worker practicing
8 psychotherapy under supervision as specified in rules promulgated by the
9 examining board of social workers, marriage and family therapists and professional
10 counselors.

11 (3) A person practicing psychotherapy as directed, supervised and inspected
12 by a psychologist who has the power to direct, decide and oversee the practice.

13 (4) The performance of official duties by personnel of any of the armed services
14 or federal health services of the United States.

15 (5) A person employed in a position as a psychologist or psychological assistant
16 by an accredited college, junior college or university or other academic or research
17 institution, if the person practices psychotherapy as part of the duties for which he
18 or she is employed, is practicing psychotherapy solely within the confines of or under
19 the jurisdictions of the institution in which he or she is employed and does not
20 practice psychotherapy for the public for a fee over and above the salary that he or
21 she receives for the performance of the official duties with the institution with which
22 he or she is employed.

23 (6) A person pursuing a course of study leading to a graduate degree in
24 medicine, social work, marriage and family therapy, professional counseling or a
25 field of study approved under rules promulgated under s. 475.08 (1) at an accredited

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1 college or university while working in a training program, if the person's practice of
2 psychotherapy constitutes a part of his or her supervised course of study and the
3 person is designated by a title that clearly indicates the training status appropriate
4 to the person's level of training.

5 (7) A graduate student or psychological intern in psychology pursuing a course
6 of study leading to a graduate degree in psychology at an accredited college or
7 university while working in a training program, if his or her practice of
8 psychotherapy constitutes a part of the supervised course of study and he or she is
9 designated by a title such as "psychological intern", "psychological trainee" or other
10 title clearly indicating the training status appropriate to his or her level of training.

11 (8) A person certified by the department of public instruction to provide
12 psychological or counseling services, if the person practices psychotherapy as part
13 of the duties for which he or she is employed, is practicing psychotherapy solely
14 within the confines of or under the jurisdiction of the school district by which he or
15 she is employed and does not practice psychotherapy for the public for a fee over and
16 above the salary that he or she receives for the performance of the official duties with
17 the school district by which he or she is employed.

18 (9) A person who has a doctoral degree in psychology and who has met the
19 requirements for predoctoral supervised experience specified in rules promulgated
20 by the psychology examining board while employed as a psychology resident by a
21 clinic certified by the department of health and family services.

22 (10) An ordained member of the clergy of any religious denomination or sect
23 who is associated with a church, synagogue or other religious organization,
24 contributions to which are tax deductible for federal and state income tax purposes,
25 if the member of the clergy practices psychotherapy within the scope of his or her

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1 regular duties as a member of the clergy and the member of the clergy does not
2 practice psychotherapy for the public for a fee over and above the salary or other
3 compensation that the member of the clergy receives for the performance of his or her
4 official duties as a member of the clergy with the church, synagogue or religious
5 organization with which he or she is associated.

6 (11) A person engaged in employment counseling or testing for other than
7 therapeutic purposes.

8 (12) A mental health professional who has met all of the qualifications for
9 employment as a mental health professional in an outpatient psychotherapy clinic
10 certified by the department of health and family services under rules promulgated
11 by the department, if the person practices psychotherapy as part of the duties for
12 which he or she is employed by such a certified outpatient psychotherapy clinic and
13 the practice is solely within the confines of or under the jurisdiction of the clinic by
14 which he or she is employed.

15 (13) A person practicing psychotherapy as an employe of a federal, state or local
16 governmental agency, if the person is practicing psychotherapy as a part of the duties
17 for which he or she is employed, is practicing psychotherapy solely within the
18 confines of or under the jurisdiction of the agency by which he or she is employed and
19 does not practice psychotherapy for the public for a fee over and above the salary that
20 he or she receives for the performance of the official duties with the agency by which
21 he or she is employed.

22 (14) A person coordinating or participating in the activities of a nonprofit peer
23 support group, if the person practices psychotherapy solely within the confines of the
24 peer support group and does practice psychotherapy for the public for a fee.

1

1 **475.04 Licensure.** ~~10/9~~ The examining board shall grant a license to practice
2 psychotherapy to a person who does all of the following:

3 ~~10/1~~ ^{ⓑ (1)} Submits an application for the license to the department on a form provided
4 by the department.

5 ~~10/2~~ ^{ⓑ (2)} Pays the fee specified in s. 440.05 (1).

6 ~~10/3~~ ^{ⓑ (3)} Has a master's or doctorate degree in social work, marriage and family
7 therapy, professional counseling or a field of study approved by the examining board
8 under rules promulgated under s. 475.08 (1).

9 ~~10/4~~ ^{ⓑ (4)} Submits evidence satisfactory to the examining board that he or she has
10 completed 3,000 hours of psychotherapy practice within a 2-year period under the
11 supervision of a person who satisfies any of the following:

12 ~~10/1~~ ^(a) The person is licensed under this chapter and satisfies one of the following:

13 ~~10/1~~ ^{1.} The person has a master's degree in the same field of study as the applicant
14 and the person has at least 5 years of clinical experience in that field of study.

15 ~~10/2~~ ^{2.} The person has a doctorate degree in the same field of study as the applicant.

16 ~~10/3~~ ^(b) ~~The person lawfully practices psychotherapy within the scope of a license,~~
17 ~~permit, registration, certificate or certification granted by this state and the person~~
18 ~~has a doctorate degree in the same field of study as the applicant.~~

19 ~~10/4~~ ^{ⓑ (5)} Passes an examination under s. 475.05.

20 **475.05 Examination.** (1) The examining board shall conduct or arrange for
21 examinations for licensure under this chapter at least semiannually and at times
22 and places determined by the examining board.

23 (2) Examinations shall consist of written or oral tests, or both, requiring
24 applicants to demonstrate minimum competency in psychotherapy.

is a physician licensed under subch. II
of ch. 448 who specializes in psychiatry or is
a psychologist

1 **475.06 Issuance of license; expiration and renewal.** (1) The department
2 shall issue a certificate of licensure to each person who is licensed under this chapter.

3 (2) The renewal dates for licenses granted under this chapter are specified
4 under s. 440.08 (2) (a). Renewal applications shall be submitted to the department
5 on a form provided by the department and shall include the renewal fee specified in
6 s. 440.08 (2) (a).

7 **475.07 Reciprocal license.** Upon application and payment of the fee
8 specified in s. 440.05 (2), the examining board shall grant a license under this chapter
9 to a person who holds a similar license or certificate in another state or territory of
10 the United States if the examining board determines that the requirements for
11 receiving the license or certificate in the other state or territory are substantially
12 equivalent to the requirements under s. 475.04.

13 **475.08 Rules.** The examining board shall promulgate rules for each of the
14 following:

15 (1) Approving a field of study for purposes of s. 475.04 ⁽³⁾ ~~and~~. The rules shall
16 require the examining board to consider whether a field of study satisfies nationally
17 recognized standards for preparing students for the practice of psychotherapy.

18 (2) Establishing a code of ethics that governs the practice of psychotherapy by
19 persons licensed under this chapter.

20 **475.09 Psychometric testing.** A psychotherapist may not conduct
21 psychometric testing unless he or she satisfies the requirements of the American
22 ~~Psychology~~ ^{Psychological} Association for conducting the testing. The examining board shall
23 promulgate rules for determining whether a psychotherapist satisfies the
24 requirements.

1 **475.10 Disciplinary proceedings.** (1) Subject to the rules promulgated
2 under s. 440.03 (1), the examining board may make investigations and conduct
3 hearings to determine whether a violation of this chapter or any rule promulgated
4 under this chapter has occurred.

5 (2) Subject to the rules promulgated under s. 440.03 (1), the examining board
6 may reprimand a psychotherapist or deny, limit, suspend or revoke a license under
7 this chapter if it finds that the applicant or psychotherapist has done any of the
8 following:

9 (a) Made a material misstatement in an application for a license or for renewal
10 of a license.

11 (b) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the
12 circumstances of which substantially relate to the practice of psychotherapy.

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

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

15 (e) Subject to ss. 111.321, 111.322 and 111.34, practiced psychotherapy while
16 his or her ability to practice was impaired by alcohol or other drugs.

17 (f) Engaged in unprofessional or unethical conduct in violation of the code of
18 ethics established in rules promulgated under s. 475.08 (2).

19 (g) Engaged in conduct while practicing psychotherapy that jeopardizes the
20 health, safety or welfare of a client or that evidences a lack of knowledge of, inability
21 to apply or the negligent application of, principles or skills of psychotherapy.

22 (h) Engaged in the wilful, unauthorized communication of information that is
23 received in professional confidence.

24 (i) Accepted a commission, rebate or other form of fee for referring persons to
25 other professionals.

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1 (j) Violated this chapter or any rule promulgated under this chapter.

2 (3) The examining board may restore a license that has been suspended or
3 revoked on such terms and conditions as the examining board may deem
4 appropriate.

5 **475.11 Penalties.** Any person who violates this chapter or any rule
6 promulgated under this chapter may be fined not more than \$1,000 for each
7 violation, imprisoned not more than 6 months, or both.

8 **SECTION 12.** 895.70 (1) (bm) of the statutes is created to read:

9 895.70 (1) (bm) “Psychotherapist” means a person licensed to practice
10 psychotherapy under ch. 475.

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

12 895.70 (1) (e) “Therapist” means a physician, psychologist, psychotherapist,
13 social worker, marriage and family therapist, professional counselor, nurse,
14 chemical dependency counselor, member of the clergy or other person, whether or not
15 licensed or certified by the state, who performs or purports to perform psychotherapy.

16 **SECTION 14.** 905.04 (title) of the statutes is amended to read:

17 **905.04 (title) Physician-patient, registered nurse-patient,**
18 **chiropractor-patient, psychologist-patient, psychotherapist-patient,**
19 **social worker-patient, marriage and family therapist-patient and**
20 **professional counselor-patient privilege.**

21 **SECTION 15.** 905.04 (1) (b) of the statutes is amended to read:

22 905.04 (1) (b) A communication or information is “confidential” if not intended
23 to be disclosed to 3rd persons other than those present to further the interest of the
24 patient in the consultation, examination, or interview, or persons reasonably
25 necessary for the transmission of the communication or information or persons who

1 are participating in the diagnosis and treatment under the direction of the physician,
2 registered nurse, chiropractor, psychologist, psychotherapist, social worker,
3 marriage and family therapist or professional counselor, including the members of
4 the patient's family.

5 **SECTION 16.** 905.04 (1) (c) of the statutes is amended to read:

6 905.04 (1) (c) "Patient" means an individual, couple, family or group of
7 individuals who consults with or is examined or interviewed by a physician,
8 registered nurse, chiropractor, psychologist, psychotherapist, social worker,
9 marriage and family therapist or professional counselor.

10 **SECTION 17.** 905.04 (1) (em) of the statutes is created to read:

11 905.04 (1) (em) "Psychotherapist" means an individual licensed as a
12 psychotherapist under ch. 475 or an individual reasonably believed by the patient
13 to be a psychotherapist.

14 **SECTION 18.** 905.04 (2) of the statutes is amended to read:

15 905.04 (2) GENERAL RULE OF PRIVILEGE. A patient has a privilege to refuse to
16 disclose and to prevent any other person from disclosing confidential
17 communications made or information obtained or disseminated for purposes of
18 diagnosis or treatment of the patient's physical, mental or emotional condition,
19 among the patient, the patient's physician, the patient's registered nurse, the
20 patient's chiropractor, the patient's psychologist, the patient's psychotherapist, the
21 patient's social worker, the patient's marriage and family therapist, the patient's
22 professional counselor or persons, including members of the patient's family, who are
23 participating in the diagnosis or treatment under the direction of the physician,
24 registered nurse, chiropractor, psychologist, psychotherapist, social worker,
25 marriage and family therapist or professional counselor.

1 **SECTION 19.** 905.04 (3) of the statutes is amended to read:

2 **905.04 (3) WHO MAY CLAIM THE PRIVILEGE.** The privilege may be claimed by the
3 patient, by the patient's guardian or conservator, or by the personal representative
4 of a deceased patient. The person who was the physician, registered nurse,
5 chiropractor, psychologist, psychotherapist, social worker, marriage and family
6 therapist or professional counselor may claim the privilege but only on behalf of the
7 patient. The authority so to do is presumed in the absence of evidence to the contrary.

8 **SECTION 20.** 905.04 (4) (a) of the statutes is amended to read:

9 **905.04 (4) (a)** *Proceedings for hospitalization, guardianship, protective services*
10 *or protective placement.* There is no privilege under this rule as to communications
11 and information relevant to an issue in proceedings to hospitalize the patient for
12 mental illness, to appoint a guardian under s. 880.33, for court-ordered protective
13 services or protective placement or for review of guardianship, protective services or
14 protective placement orders, if the physician, registered nurse, chiropractor,
15 psychologist, psychotherapist, social worker, marriage and family therapist or
16 professional counselor in the course of diagnosis or treatment has determined that
17 the patient is in need of hospitalization, guardianship, protective services or
18 protective placement.

19 **SECTION 21.** 905.04 (4) (e) 2. of the statutes is amended to read:

20 **905.04 (4) (e) 2.** There is no privilege in situations where the examination of
21 an abused or neglected child creates a reasonable ground for an opinion of the
22 physician, registered nurse, chiropractor, psychologist, psychotherapist, social
23 worker, marriage and family therapist or professional counselor that the abuse or
24 neglect was other than accidentally caused or inflicted by another.

25 **SECTION 22.** 905.04 (4) (e) 3. of the statutes is amended to read:

1 905.04 (4) (e) 3. There is no privilege in situations where the examination of
2 the expectant mother of an abused unborn child creates a reasonable ground for an
3 opinion of the physician, registered nurse, chiropractor, psychologist,
4 psychotherapist, social worker, marriage and family therapist or professional
5 counselor that the physical injury inflicted on the unborn child was caused by the
6 habitual lack of self-control of the expectant mother of the unborn child in the use
7 of alcohol beverages, controlled substances or controlled substance analogs,
8 exhibited to a severe degree.

9 **SECTION 23.** 940.22 (1) (cm) of the statutes is created to read:

10 940.22 (1) (cm) “Psychotherapist” means a person licensed to practice
11 psychotherapy under ch. 475.

12 **SECTION 24.** 940.22 (1) (i) of the statutes is amended to read:

13 940.22 (1) (i) “Therapist” means a physician, psychologist, psychotherapist,
14 social worker, marriage and family therapist, professional counselor, nurse,
15 chemical dependency counselor, member of the clergy or other person, whether or not
16 licensed or certified by the state, who performs or purports to perform psychotherapy.

17 **SECTION 25. Nonstatutory provisions.**

18 (1) DEFINITIONS. In this section, “examining board” means the psychotherapy
19 examining board.

20 (2) INITIAL APPOINTMENTS. Notwithstanding section 15.405 (18) (intro.) of the
21 statutes, as created by this act, the initial members of the psychotherapy examining
22 board shall be appointed by the first day of the 3rd month beginning after the
23 effective date of this subsection for the following terms:

24 (a) One independent clinical social worker member and one public member, for
25 terms expiring on July 1, 2002.

1 (b) One marriage and family therapist member, for a term expiring on July 1,
2 2003.

3 (c) One professional counselor member and one public member, for terms
4 expiring on July 1, 2004.

5 (3) WAIVER OF LICENSURE REQUIREMENTS. Notwithstanding section 475.04 of
6 the statutes, as created by this act, the examining board shall grant a license to
7 practice psychotherapy to a person who, no later than the first day of the 6th month
8 beginning after the effective date of this subsection, submits evidence satisfactory
9 to the examining board that he or she holds a valid independent clinical social worker
10 certificate, marriage and family therapist certificate or professional counselor
11 certificate granted under chapter 457 of the statutes.

12 **SECTION 26. Effective dates.** This act takes effect on the first day of the 6th
13 month beginning after publication, except as follows:

14 (1) SECTION (25) (2) of this act takes effect on the day after publication.

15 (END)

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0246/2dn

MDK:.....

Wij

Representative Urban:

This version is identical to the previous version, except that: 1) the numbering of proposed s. 475.04 has been corrected; 2) proposed s. 475.04 (4) (b) is changed to refer to psychologists and psychiatrists; and 3) proposed s. 475.09 has been corrected to refer to the "American Psychological Association".

If you have any questions or redraft instructions, please contact me.

Mark D. Kunkel
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10-10-10

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0246/2dn
MDK:wlj:km

January 26, 2000

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Mark D. Kunkel
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ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 420

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1 AN ACT *to amend* 15.08 (1m) (b), 48.981 (2), 252.14 (1) (ar) 9., 252.14 (1) (ar) 10.,
2 252.14 (1) (ar) 11., 895.70 (1) (e), 905.04 (title), 905.04 (1) (b), 905.04 (1) (c),
3 905.04 (2), 905.04 (3), 905.04 (4) (a), 905.04 (4) (e) 2., 905.04 (4) (e) 3. and 940.22
4 (1) (i); and *to create* 15.405 (18), 146.81 (1) (hs), 180.1901 (1m) (h), 252.14 (1)
5 (ar) 8m., 440.08 (2) (a) 64m., chapter 475, 895.70 (1) (bm), 905.04 (1) (em) and
6 940.22 (1) (cm) of the statutes; **relating to:** regulating the practice of
7 psychotherapy, creating a psychotherapy examining board, granting
8 rule-making authority and providing a penalty.

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

9 SECTION 1. 15.08 (1m) (b) of the statutes is amended to read:
10 15.08 (1m) (b) The public members of the chiropractic examining board, the
11 dentistry examining board, the hearing and speech examining board, the medical
12 examining board, occupational therapy examining council, respiratory care

1 practitioners examining council and council on physician assistants, the board of
2 nursing, the nursing home administrator examining board, the veterinary
3 examining board, the optometry examining board, the pharmacy examining board,
4 the examining board of social workers, marriage and family therapists and
5 professional counselors and, the psychology examining board and the psychotherapy
6 examining board shall not be engaged in any profession or occupation concerned with
7 the delivery of physical or mental health care.

8 **SECTION 2.** 15.405 (18) of the statutes is created to read:

9 15.405 (18) PSYCHOTHERAPY EXAMINING BOARD. There is created in the
10 department of regulation and licensing a psychotherapy examining board consisting
11 of the following members appointed for 4-year terms:

12 (a) One member who is certified as an independent clinical social worker under
13 under ch. 457.

14 (b) One member who is certified as a marriage and family therapist under ch.
15 457.

16 (c) One member who is certified as a professional counselor under ch. 457.

17 (d) Two public members.

18 **SECTION 3.** 48.981 (2) of the statutes is amended to read:

19 48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical
20 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, psychotherapist,
21 other medical or mental health professional, social worker, marriage and family
22 therapist, professional counselor, public assistance worker, including a financial and
23 employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or
24 counselor, mediator under s. 767.11, child care worker in a day care center or child
25 caring institution, day care provider, alcohol or other drug abuse counselor, member

1 of the treatment staff employed by or working under contract with a county
2 department under s. 46.23, 51.42 or 51.437, physical therapist, occupational
3 therapist, dietitian, speech–language pathologist, audiologist, emergency medical
4 technician or police or law enforcement officer having reasonable cause to suspect
5 that a child seen in the course of professional duties has been abused or neglected
6 or having reason to believe that a child seen in the course of professional duties has
7 been threatened with abuse or neglect and that abuse or neglect of the child will occur
8 shall, except as provided under sub. (2m), report as provided in sub. (3). Any other
9 person, including an attorney, having reason to suspect that a child has been abused
10 or neglected or reason to believe that a child has been threatened with abuse or
11 neglect and that abuse or neglect of the child will occur may make such a report. Any
12 person, including an attorney having reason to suspect that an unborn child has been
13 abused or reason to believe that an unborn child is at substantial risk of abuse may
14 report as provided in sub. (3). No person making a report under this subsection may
15 be discharged from employment for so doing.

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

17 146.81 (1) (hs) A psychotherapist licensed under ch. 475.

18 **SECTION 5.** 180.1901 (1m) (h) of the statutes is created to read:

19 180.1901 (1m) (h) The psychotherapy examining board under ch. 475.

20 **SECTION 6.** 252.14 (1) (ar) 8m. of the statutes is created to read:

21 252.14 (1) (ar) 8m. A psychotherapist licensed under ch. 475.

22 **SECTION 7.** 252.14 (1) (ar) 9. of the statutes is amended to read:

23 252.14 (1) (ar) 9. An employe or agent of any provider specified under subds.

24 1. to 8 8m.

25 **SECTION 8.** 252.14 (1) (ar) 10. of the statutes is amended to read:

INSEAT
4-1715

1 252.14 (1) (ar) 10. A partnership of any provider specified under subsds. 1. to
2 § 8m.

3 SECTION 9. 252.14 (1) (ar) 11. of the statutes is amended to read:

4 252.14 (1) (ar) 11. A corporation of any provider specified under subsds. 1. to 8.
5 8m. that provides health care services.

clinical social worker

6 SECTION 10. 440.08 (2) (a) 64⁵ of the statutes is created to read:

7 440.08 (2) (a) 64⁵ Psychotherapist: July 1 of each odd-numbered year, \$47.

8 SECTION 11. Chapter 475 of the statutes is created to read:

9 CHAPTER 475

10 PSYCHOTHERAPY EXAMINING BOARD

11 475.01 Definitions. In this chapter:

12 ~~(1) "Advanced practice social worker" means a person certified as an advanced~~
13 ~~practice social worker under ch. 457.~~

14 (2) "Examining board" means the psychotherapy examining board.

15 (3) "Field of study" means social work, marriage and family therapy,
16 professional counseling or a field of study approved by the examining board in rules
17 promulgated under s. 475.08 (1).

18 ~~(4) "Independent clinical social worker" means a person certified as an~~
19 ~~independent clinical social worker under.~~

20 ~~(5) "Independent social worker" means a person certified as an independent~~
21 ~~social worker under ch. 457.~~

22 ~~(6) "Marriage and family therapist" means a person certified as a marriage and~~
23 ~~family therapist under ch. 457.~~

24 (7) "Marriage and family therapy" has the meaning given under s. 457.01 (5).

25 (8) "Professional counseling" has the meaning given in s. 457.01 (6).

INSEAT 4-23

INSERT 5-3

1 (9) "Professional counselor" means a person certified as a professional
2 counselor under ch. 457.

3 (10) "Psychological intern" means a person enrolled in a doctoral program in
4 psychology at an accredited college or university or engaged in a formal psychology
5 internship program.

6 (11) "Psychologist" means a person licensed as psychologist under ch. 455.

7 (12) "Psychotherapist" means a person licensed to practice psychotherapy
8 under this chapter.

INSERT 5-9

(13) "Psychotherapy" has the meaning given in s. 455.01 (6).
independently and without supervision

10 (14) "Social work" has the meaning given in s. 457.01 (9).

11 (15) "Social worker" means a person certified as a social worker under ch. 457.

12 **475.02 License required.** (1) Except as provided in s. 475.03, no person may
13 practice psychotherapy for compensation or in the expectation of compensation,
14 designate himself or herself as a psychotherapist, use the title "psychotherapist" or
15 use any other title or designation that represents or may tend to represent the person
16 as a psychotherapist unless the person is licensed under this chapter.

17 (2) (a) Except for *a person certified as* an independent clinical social worker, *under ch. 457*, no person may use the
18 title "clinical social worker" unless the person is *a social worker* and is licensed under
19 *this chapter* s. 475.04 (2) ✓

20 (b) No person may use the title "clinical marriage and family therapist" unless
21 the person is a *marriage and family therapist* and is licensed under *this chapter* s. 475.04 (3) ✓

22 (c) No person may use the title "clinical professional counselor" unless the
23 person is a *professional counselor* and is licensed under *this chapter* s. 475.04 (4) ✓

24 (d) No person may use the word "clinical" in a title used by a practitioner of a
25 field of study approved under rules promulgated under s. 475.08 (1) unless the

1 person has a master's or doctorate degree in that field of study and is licensed under

2 ~~this chapter.~~ s. 475.04(5) ✓

3 **475.03 Applicability.** A license under this chapter is not required for any of
4 the following:

5 (1) A person lawfully practicing psychotherapy within the scope of a license,
6 permit, registration, certificate or certification granted by this state.

7 (2) ~~An~~ A person certified as an advanced practice social worker or independent social worker practicing
8 psychotherapy under supervision as specified in rules promulgated by the
9 examining board of social workers, marriage and family therapists and professional
10 counselors.

under ch 457 ✓

11 (3) A person practicing psychotherapy as directed, supervised and inspected
12 by a psychologist who has the power to direct, decide and oversee the practice.

13 (4) The performance of official duties by personnel of any of the armed services
14 or federal health services of the United States.

15 (5) A person employed in a position as a psychologist or psychological assistant
16 by an accredited college, junior college or university or other academic or research
17 institution, if the person practices psychotherapy as part of the duties for which he
18 or she is employed, is practicing psychotherapy solely within the confines of or under
19 the jurisdictions of the institution in which he or she is employed and does not
20 practice psychotherapy for the public for a fee over and above the salary that he or
21 she receives for the performance of the official duties with the institution with which
22 he or she is employed.

23 (6) A person pursuing a course of study leading to a graduate degree in
24 medicine, social work, marriage and family therapy, professional counseling or a
25 field of study approved under rules promulgated under s. 475.08 (1) at an accredited

1 college or university while working in a training program, if the person's practice of
2 psychotherapy constitutes a part of his or her supervised course of study and the
3 person is designated by a title that clearly indicates the training status appropriate
4 to the person's level of training.

5 (7) A graduate student or psychological intern in psychology pursuing a course
6 of study leading to a graduate degree in psychology at an accredited college or
7 university while working in a training program, if his or her practice of
8 psychotherapy constitutes a part of the supervised course of study and he or she is
9 designated by a title such as "psychological intern", "psychological trainee" or other
10 title clearly indicating the training status appropriate to his or her level of training.

11 (8) A person certified by the department of public instruction to provide
12 psychological or counseling services, if the person practices psychotherapy as part
13 of the duties for which he or she is employed, is practicing psychotherapy solely
14 within the confines of or under the jurisdiction of the school district by which he or
15 she is employed and does not practice psychotherapy for the public for a fee over and
16 above the salary that he or she receives for the performance of the official duties with
17 the school district by which he or she is employed.

18 (9) A person who has a doctoral degree in psychology and who has met the
19 requirements for predoctoral supervised experience specified in rules promulgated
20 by the psychology examining board while employed as a psychology resident by a
21 clinic certified by the department of health and family services.

22 (10) An ordained member of the clergy of any religious denomination or sect
23 who is associated with a church, synagogue or other religious organization,
24 contributions to which are tax deductible for federal and state income tax purposes,
25 if the member of the clergy practices psychotherapy within the scope of his or her

1 regular duties as a member of the clergy and the member of the clergy does not
2 practice psychotherapy for the public for a fee over and above the salary or other
3 compensation that the member of the clergy receives for the performance of his or her
4 official duties as a member of the clergy with the church, synagogue or religious
5 organization with which he or she is associated.

6 (11) A person engaged in employment counseling or testing for other than
7 therapeutic purposes.

8 (12) A mental health professional who has met all of the qualifications for
9 employment as a mental health professional in an outpatient psychotherapy clinic
10 certified by the department of health and family services under rules promulgated
11 by the department, if the person practices psychotherapy as part of the duties for
12 which he or she is employed by such a certified outpatient psychotherapy clinic and
13 the practice is solely within the confines of or under the jurisdiction of the clinic by
14 which he or she is employed.

15 (13) A person practicing psychotherapy as an employe of a federal, state or local
16 governmental agency, if the person is practicing psychotherapy as a part of the duties
17 for which he or she is employed, is practicing psychotherapy solely within the
18 confines of or under the jurisdiction of the agency by which he or she is employed and
19 does not practice psychotherapy for the public for a fee over and above the salary that
20 he or she receives for the performance of the official duties with the agency by which
21 he or she is employed.

22 (14) A person coordinating or participating in the activities of a nonprofit peer
23 support group, if the person practices psychotherapy solely within the confines of the
24 peer support group and does practice psychotherapy for the public for a fee.

(1)
(B)

may not

1 **475.04 Licensure.** The examining board ~~shall~~ grant a license to practice
2 psychotherapy to a person ~~who~~ ^{unless the person} does all of the following:

(a)

3 ~~(a)~~ Submits an application for the license to the department on a form provided
4 by the department.

(b)

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

6 ~~(3)~~ Has a master's or doctorate degree in social work, marriage and family

7 therapy, professional counseling or a field of study approved by the examining board

8 under rules promulgated under s. 475.08 (1).

(c)

9 ~~(c)~~ Submits evidence satisfactory to the examining board that he or she has
10 completed 3,000 hours of psychotherapy practice within a 2-year period under the
11 supervision of a person who satisfies any of the following:

1. ~~(1)~~

12 ~~(1)~~ The person is licensed under this chapter and satisfies one of the following:

a. ~~(a)~~

13 ~~(a)~~ The person has a master's degree in the same field of study as the applicant
14 and the person has at least 5 years of clinical experience in that field of study.

b. ~~(b)~~

15 ~~(b)~~ The person has a doctorate degree in the same field of study as the applicant.

2. ~~(2)~~

16 ~~(2)~~ The person is a physician licensed under subch. II of ch. 448 who specializes
17 in psychiatry or is a psychologist.

(d)

18 ~~(d)~~ Passes an examination under s. 475.05.

19 **475.05 Examination.** (1) The examining board shall conduct or arrange for
20 examinations for licensure under this chapter at least semiannually and at times
21 and places determined by the examining board.

22 (2) Examinations shall consist of written or oral tests, or both, requiring
23 applicants to demonstrate minimum competency in psychotherapy.

24 **475.06 Issuance of license; expiration and renewal.** (1) The department
25 shall issue a certificate of licensure to each person who is licensed under this chapter.

INSERT 9-18

INSERT
10-15

1 (2) The renewal dates for licenses granted under this chapter are specified
2 under s. 440.08 (2) (a). Renewal applications shall be submitted to the department
3 on a form provided by the department and shall include the renewal fee specified in
4 s. 440.08 (2) (a).

5 **475.07 Reciprocal license.** Upon application and payment of the fee
6 specified in s. 440.05 (2), the examining board shall grant a license under this chapter
7 to a person who holds a similar license or certificate in another state or territory of
8 the United States if the examining board determines that the requirements for
9 receiving the license or certificate in the other state or territory are substantially
10 equivalent to the requirements under s. 475.04.

11 **475.08 Rules.** The examining board shall promulgate rules for each of the
12 following:

(granting licenses under

13 (1) Approving a field of study for purposes of s. 475.04 (5). The rules shall
14 require the examining board to consider whether the field of study satisfies nationally
15 recognized standards for preparing students for the practice of psychotherapy.

16 (2) Establishing a code of ethics that governs the practice of psychotherapy by
17 persons licensed under this chapter.

18 **475.09 Psychometric testing.** A psychotherapist may not conduct
19 psychometric testing unless he or she satisfies the requirements of the American
20 Psychological Association for conducting the testing. The examining board shall
21 promulgate rules for determining whether a psychotherapist satisfies the
22 requirements.

23 **475.10 Disciplinary proceedings.** (1) Subject to the rules promulgated
24 under s. 440.03 (1), the examining board may make investigations and conduct

1 hearings to determine whether a violation of this chapter or any rule promulgated
2 under this chapter has occurred.

3 (2) Subject to the rules promulgated under s. 440.03 (1), the examining board
4 may reprimand a psychotherapist or deny, limit, suspend or revoke a license under
5 this chapter if it finds that the applicant or psychotherapist has done any of the
6 following:

7 (a) Made a material misstatement in an application for a license or for renewal
8 of a license.

9 (b) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the
10 circumstances of which substantially relate to the practice of psychotherapy.

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

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

13 (e) Subject to ss. 111.321, 111.322 and 111.34, practiced psychotherapy while
14 his or her ability to practice was impaired by alcohol or other drugs.

15 (f) Engaged in unprofessional or unethical conduct in violation of the code of
16 ethics established in rules promulgated under s. 475.08 (2). 3J

17 (g) Engaged in conduct while practicing psychotherapy that jeopardizes the
18 health, safety or welfare of a client or that evidences a lack of knowledge of, inability
19 to apply or the negligent application of, principles or skills of psychotherapy.

20 (h) Engaged in the wilful, unauthorized communication of information that is
21 received in professional confidence.

22 (i) Accepted a commission, rebate or other form of fee for referring persons to
23 other professionals.

24 (j) Violated this chapter or any rule promulgated under this chapter.

FR 2/4
by 4:00

O-NOTE

4

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 420

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NOT
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Regen

1 AN ACT *to amend* 15.08 (1m) (b), 48.981 (2), 252.14 (1) (ar) 9., 252.14 (1) (ar) 10.,
2 252.14 (1) (ar) 11., 895.70 (1) (e), 905.04 (title), 905.04 (1) (b), 905.04 (1) (c),
3 905.04 (2), 905.04 (3), 905.04 (4) (a), 905.04 (4) (e) 2., 905.04 (4) (e) 3. and 940.22
4 (1) (i); and *to create* 15.405 (18), 146.81 (1) (hs), 180.1901 (1m) (h), 252.14 (1)
5 (ar) 8m., 440.08 (2) (a) 64h., 440.08 (2) (a) 64p., 440.08 (2) (a) 64s., 440.08 (2) (a)
6 64t., chapter 475, 895.70 (1) (bm), 905.04 (1) (em) and 940.22 (1) (cm) of the
7 statutes; **relating to:** regulating the practice of psychotherapy, creating a
8 psychotherapy examining board, granting rule-making authority and
9 providing a penalty.

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

10 SECTION 1. 15.08 (1m) (b) of the statutes is amended to read:
11 15.08 (1m) (b) The public members of the chiropractic examining board, the
12 dentistry examining board, the hearing and speech examining board, the medical

1 examining board, occupational therapy examining council, respiratory care
2 practitioners examining council and council on physician assistants, the board of
3 nursing, the nursing home administrator examining board, the veterinary
4 examining board, the optometry examining board, the pharmacy examining board,
5 the examining board of social workers, marriage and family therapists and
6 professional counselors ~~and~~, the psychology examining board and the psychotherapy
7 examining board shall not be engaged in any profession or occupation concerned with
8 the delivery of physical or mental health care.

9 **SECTION 2.** 15.405 (18) of the statutes is created to read:

10 15.405 (18) PSYCHOTHERAPY EXAMINING BOARD. There is created in the
11 department of regulation and licensing a psychotherapy examining board consisting
12 of the following members appointed for 4–year terms:

13 (a) One member who is certified as an independent clinical social worker under
14 under ch. 457.

15 (b) One member who is certified as a marriage and family therapist under ch.
16 457.

17 (c) One member who is certified as a professional counselor under ch. 457.

18 (d) Two public members.

19 **SECTION 3.** 48.981 (2) of the statutes is amended to read:

20 48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical
21 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, psychotherapist,
22 other medical or mental health professional, social worker, marriage and family
23 therapist, professional counselor, public assistance worker, including a financial and
24 employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or
25 counselor, mediator under s. 767.11, child care worker in a day care center or child

1 caring institution, day care provider, alcohol or other drug abuse counselor, member
2 of the treatment staff employed by or working under contract with a county
3 department under s. 46.23, 51.42 or 51.437, physical therapist, occupational
4 therapist, dietitian, speech–language pathologist, audiologist, emergency medical
5 technician or police or law enforcement officer having reasonable cause to suspect
6 that a child seen in the course of professional duties has been abused or neglected
7 or having reason to believe that a child seen in the course of professional duties has
8 been threatened with abuse or neglect and that abuse or neglect of the child will occur
9 shall, except as provided under sub. (2m), report as provided in sub. (3). Any other
10 person, including an attorney, having reason to suspect that a child has been abused
11 or neglected or reason to believe that a child has been threatened with abuse or
12 neglect and that abuse or neglect of the child will occur may make such a report. Any
13 person, including an attorney having reason to suspect that an unborn child has been
14 abused or reason to believe that an unborn child is at substantial risk of abuse may
15 report as provided in sub. (3). No person making a report under this subsection may
16 be discharged from employment for so doing.

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

18 146.81 (1) (hs) A psychotherapist licensed under ch. 475.

19 **SECTION 5.** 180.1901 (1m) (h) of the statutes is created to read:

20 180.1901 (1m) (h) The psychotherapy examining board under ch. 475.

21 **SECTION 6.** 252.14 (1) (ar) 8m. of the statutes is created to read:

22 252.14 (1) (ar) 8m. A psychotherapist licensed under ch. 475.

23 **SECTION 7.** 252.14 (1) (ar) 9. of the statutes is amended to read:

24 252.14 (1) (ar) 9. An employe or agent of any provider specified under subds.

25 1. to 8 8m.

1 (2) "Field of study" means social work, marriage and family therapy,
2 professional counseling or a field of study approved by the examining board in rules
3 promulgated under s. 475.08 (1).

4 ~~(3) "Marriage and family therapist section" means the marriage and family~~
5 ~~therapist section of the examining board of social workers, marriage and family~~
6 ~~therapists and professional counselors.~~

7 ~~(3) (4)~~ "Marriage and family therapy" has the meaning given under s. 457.01 (5).

8 ~~(4) (5)~~ "Professional counseling" has the meaning given in s. 457.01 (6).

9 ~~(6) "Professional counselor section" means the professional counselor section~~
10 ~~of the examining board of social workers, marriage and family therapists and~~
11 ~~professional counselors.~~

12 ~~(5) (7)~~ "Psychological intern" means a person enrolled in a doctoral program in
13 psychology at an accredited college or university or engaged in a formal psychology
14 internship program.

15 ~~(6) (8)~~ "Psychologist" means a person licensed as psychologist under ch. 455.

16 ~~(7) (9)~~ "Psychotherapist" means a person licensed to practice psychotherapy under
17 this chapter.

18 ~~(8) (10)~~ "Psychotherapy" has the meaning given in s. 455.01 (6).

19 ~~(9) (11)~~ "Social work" has the meaning given in s. 457.01 (9).

20 ~~(12) "Social worker section" means the social worker section of the examining~~
21 ~~board of social workers, marriage and family therapists and professional counselors.~~

22 **475.02 License required.** (1) Except as provided in s. 475.03, no person may
23 practice psychotherapy, independently and without supervision, for compensation or
24 in the expectation of compensation, designate himself or herself as a
25 psychotherapist, use the title "psychotherapist" or use any other title or designation

1 that represents or may tend to represent the person as a psychotherapist unless the
2 person is licensed under this chapter.

3 (2) (a) Except for a person certified as an independent clinical social worker
4 under ch. 457, no person may use the title “clinical social worker” unless the person
5 is licensed under s. 475.04 (2).

6 (b) No person may use the title “clinical marriage and family therapist” unless
7 the person is licensed under s. 475.04 (3).

8 (c) No person may use the title “clinical professional counselor” unless the
9 person is licensed under s. 475.04 (4).

10 (d) No person may use the word “clinical” in a title used by a practitioner of a
11 field of study approved under rules promulgated under s. 475.08 (1) unless the
12 person is licensed under s. 475.04 (5).

13 **475.03 Applicability.** A license under this chapter is not required for any of
14 the following:

15 (1) A person lawfully practicing psychotherapy within the scope of a license,
16 permit, registration, certificate or certification granted by this state.

17 (2) A person certified as an advanced practice social worker or independent
18 social worker under ch. 457 practicing psychotherapy under supervision as specified
19 in rules promulgated by the examining board of social workers, marriage and family
20 therapists and professional counselors.

21 (3) A person practicing psychotherapy as directed, supervised and inspected
22 by a psychologist who has the power to direct, decide and oversee the practice.

23 (4) The performance of official duties by personnel of any of the armed services
24 or federal health services of the United States.

1 (5) A person employed in a position as a psychologist or psychological assistant
2 by an accredited college, junior college or university or other academic or research
3 institution, if the person practices psychotherapy as part of the duties for which he
4 or she is employed, is practicing psychotherapy solely within the confines of or under
5 the jurisdictions of the institution in which he or she is employed and does not
6 practice psychotherapy for the public for a fee over and above the salary that he or
7 she receives for the performance of the official duties with the institution with which
8 he or she is employed.

9 (6) A person pursuing a course of study leading to a graduate degree in
10 medicine, social work, marriage and family therapy, professional counseling or a
11 field of study approved under rules promulgated under s. 475.08 (1) at an accredited
12 college or university while working in a training program, if the person's practice of
13 psychotherapy constitutes a part of his or her supervised course of study and the
14 person is designated by a title that clearly indicates the training status appropriate
15 to the person's level of training.

16 (7) A graduate student or psychological intern in psychology pursuing a course
17 of study leading to a graduate degree in psychology at an accredited college or
18 university while working in a training program, if his or her practice of
19 psychotherapy constitutes a part of the supervised course of study and he or she is
20 designated by a title such as "psychological intern", "psychological trainee" or other
21 title clearly indicating the training status appropriate to his or her level of training.

22 (8) A person certified by the department of public instruction to provide
23 psychological or counseling services, if the person practices psychotherapy as part
24 of the duties for which he or she is employed, is practicing psychotherapy solely
25 within the confines of or under the jurisdiction of the school district by which he or

1 she is employed and does not practice psychotherapy for the public for a fee over and
2 above the salary that he or she receives for the performance of the official duties with
3 the school district by which he or she is employed.

4 (9) A person who has a doctoral degree in psychology and who has met the
5 requirements for predoctoral supervised experience specified in rules promulgated
6 by the psychology examining board while employed as a psychology resident by a
7 clinic certified by the department of health and family services.

8 (10) An ordained member of the clergy of any religious denomination or sect
9 who is associated with a church, synagogue or other religious organization,
10 contributions to which are tax deductible for federal and state income tax purposes,
11 if the member of the clergy practices psychotherapy within the scope of his or her
12 regular duties as a member of the clergy and the member of the clergy does not
13 practice psychotherapy for the public for a fee over and above the salary or other
14 compensation that the member of the clergy receives for the performance of his or her
15 official duties as a member of the clergy with the church, synagogue or religious
16 organization with which he or she is associated.

17 (11) A person engaged in employment counseling or testing for other than
18 therapeutic purposes.

19 (12) A mental health professional who has met all of the qualifications for
20 employment as a mental health professional in an outpatient psychotherapy clinic
21 certified by the department of health and family services under rules promulgated
22 by the department, if the person practices psychotherapy as part of the duties for
23 which he or she is employed by such a certified outpatient psychotherapy clinic and
24 the practice is solely within the confines of or under the jurisdiction of the clinic by
25 which he or she is employed.

1 **(13)** A person practicing psychotherapy as an employe of a federal, state or local
2 governmental agency, if the person is practicing psychotherapy as a part of the duties
3 for which he or she is employed, is practicing psychotherapy solely within the
4 confines of or under the jurisdiction of the agency by which he or she is employed and
5 does not practice psychotherapy for the public for a fee over and above the salary that
6 he or she receives for the performance of the official duties with the agency by which
7 he or she is employed.

8 **(14)** A person coordinating or participating in the activities of a nonprofit peer
9 support group, if the person practices psychotherapy solely within the confines of the
10 peer support group and does practice psychotherapy for the public for a fee.

11 **475.04 Licensure. (1)** The examining board may not grant a license to
12 practice psychotherapy to a person unless the person does all of the following:

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

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

16 (c) Submits evidence satisfactory to the examining board that he or she has
17 completed 3,000 hours of psychotherapy practice within a 2-year period under the
18 supervision of a person who satisfies any of the following:

19 1. The person is licensed under this chapter and satisfies one of the following:

20 a. The person has a master's degree in the same field of study as the applicant
21 and the person has at least 5 years of clinical experience in that field of study.

22 b. The person has a doctorate degree in the same field of study as the applicant.

23 2. The person is a physician licensed under subch. II of ch. 448 who specializes
24 in psychiatry or is a psychologist.

25 (d) Passes an examination under s. 475.05.

1 (2) The examining board shall grant a license to practice psychotherapy as a
2 clinical social worker to a person who satisfies the requirements under sub. (1) and
3 who satisfies one of the following:

4 (a) The person is certified as an independent clinical social worker under ch.
5 457.

6 (b) The person submits evidence satisfactory to the examining board of all of
7 the following:

8 1. That the person has received a master’s degree in social work from a program
9 accredited by, or a preaccreditation program of, the Council on Social Work
10 Education or a doctorate degree in social work and, as part of the master’s or
11 doctorate degree program, had a clinical social work concentration and completed
12 supervised clinical field training.

13 2. That after receiving a master’s or doctorate degree in social work the person
14 has engaged in the equivalent of at least 2 years of full-time supervised clinical social
15 work practice approved by the ~~social worker section~~ *examining board*.

16 3. That the person has passed an examination approved by the ~~social worker~~
17 ~~section to~~ *examining board to* determine minimum competence to practice as an independent clinical
18 social worker as specified in the rules promulgated under s. 457.03 (2) or has passed
19 an advanced clinical social work examination approved by the ~~social worker section~~ *examining board*.

20 (3) The examining board shall grant a license to practice psychotherapy as a
21 clinical marriage and family therapist to a person who satisfies the requirements
22 under sub. (1) and who satisfies one of the following:

23 (a) The person is certified as a marriage and family therapist under ch. 457.

24 (b) The person submits evidence satisfactory to the examining board of all of
25 the following:

1 1. That the person has received one of the following:

2 a. A master's or doctorate degree in marriage and family therapy from a
3 program accredited by the Commission on Accreditation for Marriage and Family
4 Therapy Education.

5 b. A master's or doctorate degree in marriage and family therapy, psychology,
6 sociology, social work, professional counseling or other mental health field that
7 included course work that the ~~marriage and family therapist section~~ *examining board* determines is
8 substantially equivalent to the course work required for a master's or doctorate
9 degree in marriage and family therapy described under subd. 1. a.

10 2. That after receiving a master's or doctorate degree required under subd. 1.,
11 the person has engaged in the equivalent of at least 2 years of full-time supervised
12 clinical marriage and family therapy practice approved by the ~~marriage and family~~
13 ~~therapist section~~ *examining board*

14 3. That the person has passed an examination approved by the ~~marriage and~~
15 ~~family therapist section~~ *examining board* to determine minimum competence to practice marriage and
16 family therapy.

17 (4) The examining board shall grant a license to practice psychotherapy as a
18 clinical professional counselor to a person who satisfies the requirements under sub.
19 (1) and who satisfies one of the following:

20 (a) The person is certified as a professional counselor under ch. 457.

21 (b) The person submits evidence satisfactory to the examining board of all of
22 the following:

23 1. That the person has received a master's or doctorate degree in professional
24 counseling or its equivalent from a program approved by the ~~professional counselor~~

25 ~~section~~ *examining board*

1 2. That the person has done one of the following:

2 a. After receiving a master’s degree in professional counseling or its equivalent,
3 the person has engaged in the equivalent of at least 2 years of full-time supervised
4 clinical professional counseling practice approved by the ~~professional counselor~~

5 ~~section.~~ *examining board*

6 b. After receiving a doctorate degree in professional counseling or its
7 equivalent, the person has engaged in the equivalent of at least one year of full-time
8 supervised clinical professional counseling practice approved by the ~~professional~~

9 ~~counselor section.~~ *examining board*

10 3. That the person has passed an examination approved by the ~~professional~~
11 ~~counselor section~~ *to determine minimum competence to practice professional*
12 counseling. *examining board*

13 (5) The examining board shall grant a license to practice psychotherapy as a
14 practitioner of a field of study approved by the examining board under rules
15 promulgated under s. 475.08 (1) to a person who satisfies the requirements under
16 sub. (1) and who submits evidence satisfactory to the examining board of all of the
17 following:

18 (a) That the person has a master’s or doctorate degree in that field of study.

19 (b) That the person satisfies the requirements under the rules promulgated
20 under s. 475.08 (2).

21 **475.05 Examination.** (1) The examining board shall conduct or arrange for
22 examinations for licensure under this chapter at least semiannually and at times
23 and places determined by the examining board.

24 (2) Examinations shall consist of written or oral tests, or both, requiring
25 applicants to demonstrate minimum competency in psychotherapy.

1 **475.06 Issuance of license; expiration and renewal.** (1) The department
2 shall issue a certificate of licensure to each person who is licensed under this chapter.

3 (2) The renewal dates for licenses granted under this chapter are specified
4 under s. 440.08 (2) (a). Renewal applications shall be submitted to the department
5 on a form provided by the department and shall include the renewal fee specified in
6 s. 440.08 (2) (a).

7 **475.07 Reciprocal license.** Upon application and payment of the fee
8 specified in s. 440.05 (2), the examining board shall grant a license under this chapter
9 to a person who holds a similar license or certificate in another state or territory of
10 the United States if the examining board determines that the requirements for
11 receiving the license or certificate in the other state or territory are substantially
12 equivalent to the requirements under s. 475.04.

13 **475.08 Rules.** The examining board shall promulgate rules for each of the
14 following:

15 (1) Approving fields of study for purposes of granting licenses under s. 475.04
16 (5). The rules shall require the examining board to consider whether the field of
17 study satisfies nationally recognized standards for preparing students for the
18 practice of psychotherapy.

19 (2) Establishing requirements for a person to satisfy for licensure to practice
20 psychotherapy as practitioner of a field of study approved by the examining board
21 under rules promulgated under sub. (1).

22 (3) Establishing a code of ethics that governs the practice of psychotherapy by
23 persons licensed under this chapter.

24 **475.09 Psychometric testing.** A psychotherapist may not conduct
25 psychometric testing unless he or she satisfies the requirements of the American

1 Psychological Association for conducting the testing. The examining board shall
2 promulgate rules for determining whether a psychotherapist satisfies the
3 requirements.

4 **475.10 Disciplinary proceedings.** (1) Subject to the rules promulgated
5 under s. 440.03 (1), the examining board may make investigations and conduct
6 hearings to determine whether a violation of this chapter or any rule promulgated
7 under this chapter has occurred.

8 (2) Subject to the rules promulgated under s. 440.03 (1), the examining board
9 may reprimand a psychotherapist or deny, limit, suspend or revoke a license under
10 this chapter if it finds that the applicant or psychotherapist has done any of the
11 following:

12 (a) Made a material misstatement in an application for a license or for renewal
13 of a license.

14 (b) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the
15 circumstances of which substantially relate to the practice of psychotherapy.

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

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

18 (e) Subject to ss. 111.321, 111.322 and 111.34, practiced psychotherapy while
19 his or her ability to practice was impaired by alcohol or other drugs.

20 (f) Engaged in unprofessional or unethical conduct in violation of the code of
21 ethics established in rules promulgated under s. 475.08 (3).

22 (g) Engaged in conduct while practicing psychotherapy that jeopardizes the
23 health, safety or welfare of a client or that evidences a lack of knowledge of, inability
24 to apply or the negligent application of, principles or skills of psychotherapy.

1 (h) Engaged in the wilful, unauthorized communication of information that is
2 received in professional confidence.

3 (i) Accepted a commission, rebate or other form of fee for referring persons to
4 other professionals.

5 (j) Violated this chapter or any rule promulgated under this chapter.

6 (3) The examining board may restore a license that has been suspended or
7 revoked on such terms and conditions as the examining board may deem
8 appropriate.

9 **475.11 Penalties.** Any person who violates this chapter or any rule
10 promulgated under this chapter may be fined not more than \$1,000 for each
11 violation, imprisoned not more than 6 months, or both.

12 **SECTION 15.** 895.70 (1) (bm) of the statutes is created to read:

13 895.70 (1) (bm) “Psychotherapist” means a person licensed to practice
14 psychotherapy under ch. 475.

15 **SECTION 16.** 895.70 (1) (e) of the statutes is amended to read:

16 895.70 (1) (e) “Therapist” means a physician, psychologist, psychotherapist,
17 social worker, marriage and family therapist, professional counselor, nurse,
18 chemical dependency counselor, member of the clergy or other person, whether or not
19 licensed or certified by the state, who performs or purports to perform psychotherapy.

20 **SECTION 17.** 905.04 (title) of the statutes is amended to read:

21 **905.04 (title) Physician-patient, registered nurse-patient,**
22 **chiropractor-patient, psychologist-patient, psychotherapist-patient,**
23 **social worker-patient, marriage and family therapist-patient and**
24 **professional counselor-patient privilege.**

25 **SECTION 18.** 905.04 (1) (b) of the statutes is amended to read:

1 905.04 (1) (b) A communication or information is “confidential” if not intended
2 to be disclosed to 3rd persons other than those present to further the interest of the
3 patient in the consultation, examination, or interview, or persons reasonably
4 necessary for the transmission of the communication or information or persons who
5 are participating in the diagnosis and treatment under the direction of the physician,
6 registered nurse, chiropractor, psychologist, psychotherapist, social worker,
7 marriage and family therapist or professional counselor, including the members of
8 the patient’s family.

9 **SECTION 19.** 905.04 (1) (c) of the statutes is amended to read:

10 905.04 (1) (c) “Patient” means an individual, couple, family or group of
11 individuals who consults with or is examined or interviewed by a physician,
12 registered nurse, chiropractor, psychologist, psychotherapist, social worker,
13 marriage and family therapist or professional counselor.

14 **SECTION 20.** 905.04 (1) (em) of the statutes is created to read:

15 905.04 (1) (em) “Psychotherapist” means an individual licensed as a
16 psychotherapist under ch. 475 or an individual reasonably believed by the patient
17 to be a psychotherapist.

18 **SECTION 21.** 905.04 (2) of the statutes is amended to read:

19 905.04 (2) GENERAL RULE OF PRIVILEGE. A patient has a privilege to refuse to
20 disclose and to prevent any other person from disclosing confidential
21 communications made or information obtained or disseminated for purposes of
22 diagnosis or treatment of the patient’s physical, mental or emotional condition,
23 among the patient, the patient’s physician, the patient’s registered nurse, the
24 patient’s chiropractor, the patient’s psychologist, the patient’s psychotherapist, the
25 patient’s social worker, the patient’s marriage and family therapist, the patient’s

1 professional counselor or persons, including members of the patient's family, who are
2 participating in the diagnosis or treatment under the direction of the physician,
3 registered nurse, chiropractor, psychologist, psychotherapist, social worker,
4 marriage and family therapist or professional counselor.

5 **SECTION 22.** 905.04 (3) of the statutes is amended to read:

6 905.04 (3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the
7 patient, by the patient's guardian or conservator, or by the personal representative
8 of a deceased patient. The person who was the physician, registered nurse,
9 chiropractor, psychologist, psychotherapist, social worker, marriage and family
10 therapist or professional counselor may claim the privilege but only on behalf of the
11 patient. The authority so to do is presumed in the absence of evidence to the contrary.

12 **SECTION 23.** 905.04 (4) (a) of the statutes is amended to read:

13 905.04 (4) (a) *Proceedings for hospitalization, guardianship, protective services*
14 *or protective placement.* There is no privilege under this rule as to communications
15 and information relevant to an issue in proceedings to hospitalize the patient for
16 mental illness, to appoint a guardian under s. 880.33, for court-ordered protective
17 services or protective placement or for review of guardianship, protective services or
18 protective placement orders, if the physician, registered nurse, chiropractor,
19 psychologist, psychotherapist, social worker, marriage and family therapist or
20 professional counselor in the course of diagnosis or treatment has determined that
21 the patient is in need of hospitalization, guardianship, protective services or
22 protective placement.

23 **SECTION 24.** 905.04 (4) (e) 2. of the statutes is amended to read:

24 905.04 (4) (e) 2. There is no privilege in situations where the examination of
25 an abused or neglected child creates a reasonable ground for an opinion of the

1 physician, registered nurse, chiropractor, psychologist, psychotherapist, social
2 worker, marriage and family therapist or professional counselor that the abuse or
3 neglect was other than accidentally caused or inflicted by another.

4 **SECTION 25.** 905.04 (4) (e) 3. of the statutes is amended to read:

5 905.04 (4) (e) 3. There is no privilege in situations where the examination of
6 the expectant mother of an abused unborn child creates a reasonable ground for an
7 opinion of the physician, registered nurse, chiropractor, psychologist,
8 psychotherapist, social worker, marriage and family therapist or professional
9 counselor that the physical injury inflicted on the unborn child was caused by the
10 habitual lack of self-control of the expectant mother of the unborn child in the use
11 of alcohol beverages, controlled substances or controlled substance analogs,
12 exhibited to a severe degree.

13 **SECTION 26.** 940.22 (1) (cm) of the statutes is created to read:

14 940.22 (1) (cm) “Psychotherapist” means a person licensed to practice
15 psychotherapy under ch. 475.

16 **SECTION 27.** 940.22 (1) (i) of the statutes is amended to read:

17 940.22 (1) (i) “Therapist” means a physician, psychologist, psychotherapist,
18 social worker, marriage and family therapist, professional counselor, nurse,
19 chemical dependency counselor, member of the clergy or other person, whether or not
20 licensed or certified by the state, who performs or purports to perform psychotherapy.

21 **SECTION 28. Nonstatutory provisions.**

22 (1) DEFINITIONS. In this section, “examining board” means the psychotherapy
23 examining board.

24 (2) INITIAL APPOINTMENTS. Notwithstanding section 15.405 (18) (intro.) of the
25 statutes, as created by this act, the initial members of the psychotherapy examining

1 board shall be appointed by the first day of the 3rd month beginning after the
2 effective date of this subsection for the following terms:

3 (a) One independent clinical social worker member and one public member, for
4 terms expiring on July 1, 2002.

5 (b) One marriage and family therapist member, for a term expiring on July 1,
6 2003.

7 (c) One professional counselor member and one public member, for terms
8 expiring on July 1, 2004.

9 (3) **WAIVER OF LICENSURE REQUIREMENTS.** Notwithstanding section 475.04 of the
10 statutes, as created by this act, the examining board shall grant a license to practice
11 psychotherapy as a clinical social worker, clinical marriage and family therapist or
12 clinical professional counselor to a person who, no later than the first day of the 6th
13 month beginning after the effective date of this subsection, submits evidence
14 satisfactory to the examining board that he or she holds a valid independent clinical
15 social worker certificate, marriage and family therapist certificate or professional
16 counselor certificate granted under chapter 457 of the statutes.

17 **SECTION 29. Effective dates.** This act takes effect on the first day of the 6th
18 month beginning after publication, except as follows:

19 (1) SECTION (28) (2) of this act takes effect on the day after publication.

20 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0246/4dn

MDK:/:....

Wlj

Representative Urban:

This version is identical to the previous version, except that it requires the psychotherapy examining board, rather than the appropriate section of the examining board of social workers, marriage and family therapists and professional counselors, to approve certain of the licensing requirements.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0246/4dn
MDK:wlj:km

February 4, 2000

Representative Urban:

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