

**2001 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-SB55)**

Received: 06/22/2001

Received By: **kunkemd**

Wanted: As time permits

Identical to LRB:

For: Assembly Republican Caucus

By/Representing: **Hughes**

This file may be shown to any legislator: NO

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: NO

Requester's email:

**Pre Topic:**

ARC:.....Hughes - AM22,

**Topic:**

Certification of alcohol and drug counselors

**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>
/1	kunkemd 06/27/2001	hhagen 06/27/2001	rschluet 06/27/2001	_____	lrb_docadmin 06/27/2001		
	kunkemd 06/28/2001	hhagen 06/28/2001		_____			
/2			rschluet 06/28/2001	_____	lrb_docadmin 06/28/2001		

FE Sent For:

**<END>**

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/1	kunkemd 06/27/2001	hhagen 06/27/2001 <i>12hnh 6/28/01</i>	rschluet 06/27/2001 <i>[Signature]</i>		lrb_docadmin 06/27/2001		

FE Sent For:

*6-28-01*

<END>

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Wanted: As time permits

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For: Assembly Republican Caucus

By/Representing: Hughes

This file may be shown to any legislator: NO

Drafter: kunkemd

May Contact: Bill Topel 715/732-7762

Addl. Drafters:

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1?	kunkemd	ll hmk 6/27/01	cm /1 6/22	_____	_____	_____	_____

FE Sent For:

<END>

# Memorandum

61500  
H

**To:** Fred Ammerman – Fiscal Bureau  
Cathlene Hanaman – Reference Bureau

**CC:** Heather Smith – Assembly Republican Caucus

**From:** Paul Tessmer – Assembly Republican Caucus

**Date:** 06/21/01

**Re:** ARC Amendments – Passed 6-20-01

Please find enclosed copies of the budget amendments passed by the Assembly Republicans in Caucus on Tuesday, June 20, 2001. The amendments are provided in the following four areas:

- The Health Care Working Group Package. Associated freestanding amendments incorporated in this package are also provided. Contact Carolyn Hughes (ARC) at 7-4887.
- The Agriculture Working Group Package. Associated freestanding amendments incorporated in this package are also provided. Contact Mark Jefferson (ARC) at 7-0900.
- The Higher Education Working Group Package. Associated freestanding amendments incorporated in this package are also provided. Contact Jim Emerson (ARC) at 7-0904.
- Other Freestanding Amendments. Contact the ARC analyst listed on the amendment at 6-1452.

**NOTE:** The Working Group Package document takes precedence over its associated freestanding amendments. Please call the contact person listed above (or the ARC analyst listed on the amendment) for supporting documentation.

**Hard copies of the Working Group Packages are also being sent to your office. The hard copies may contain supporting documentation not included in the Word document.**

I am also available to help answer questions at 4-8587.



# ARC Amendment # 22

## ARC Health Care Working Group Package

Budget Package Components:	Savings and (Spending)
1. Increase the co-payment for MA participants for name brand drugs from \$1 to \$2. Currently, MA participants pay \$1 for brand name and \$1 for generic. There is a \$5 a month cap on co-payments. (Ladwig Proposal)	\$1.7 million GPR-REV
2. Reduce Disproportionate Share Hospital payments	\$1 million GPR
3. Income Augmentation (LFB Paper 462):  Income Augmentation funds are unanticipated federal funds DHFS receives under Titles IV-E (foster care), XVIII (Medicare) and XIX (MA) of the federal Social Security Act as reimbursement for costs that were initially paid with state or local revenue, or revenue from one of these sources that would not otherwise have been available, had it not been for activities conducted specifically to augment federal income.  DHFS currently contracts with a private firm, Maximus, Inc., to conduct activities that will increase the amount of revenue the state receives under these federal programs. Maximus assists counties and DHFS in identifying costs that were paid with county or state funds that could have been claimed for federal reimbursement.  Alternative 1: Required DHFS to lapse \$6.75 million in income augmentation revenues by June 30, 2003.  JFC required DHFS to lapse only \$3.85 million in income augmentation revenues by June 30, 2003.  This motion requires DHFS to lapse the remaining \$2.9 million by June 30, 2003.  Statewide Automated Child Welfare Information System (LFB Paper 508, Alternative 1):  The federal Omnibus Budget Reconciliation Act of 1993 authorized DHHS to provide states enhanced matching funds to support the costs of Creating a statewide-automated child welfare information system. In Wisconsin, SACWIS is referred to as WISACWIS.  Under current law, DHFS may distribute excess Title IV-E funds to non-Milwaukee counties that are making a good faith effort to implement WISACWIS by July 1, 2005.  Alternative 1: Approved Governor's recommendations. In addition, lapse \$7,002,000 in 2001-03 of federal income augmentation revenues to	\$ 2.9 million GPR

part of the bill. This motion would require payment by health insurers to pay anesthesiologists for the two distinct services.

**MDK** 29. Dental School Staff Licensing:

An applicant who is invited to serve on the academic staff of a dental school in this state as a member of the faculty shall be granted a faculty license if the applicant does not engage in any of the types of conduct prohibited by ss. 447.07(3)(a)-(o).

Such license shall remain in force only while the holder is serving full-time on the academic staff of a dental school. The holder's license allows practice within educational facilities and as adjunct to teaching functions. Such license shall expire 2 years after its date of granting and may be renewed at the discretion of the Dental Examining Board (DEB). The board may require an applicant for licensure under this subdivision to appear for an interview.

The board may promulgate rules to carry out the purposes of this subdivision. This reflects an agreement between DEB and Marquette Dental School.

**MDK** 30. Drug and Alcohol Regulation and Licensing:

Require certification for Alcohol and Drug Counselors to Regulation and Licensing, and grant rule-making authority. This will ensure we have counselors who are certified.

**DAK** 31. Prescription Drug Plan:

Eligibility	Age 65 or Older Income less than 185% of FPL* (\$15,448/individual or \$20,800/couple)*
Enrollment Fee	\$25
Co-Payment	\$10 for generic \$20 for brand name
Deductible	\$840 per individual <sup>1</sup>
Drugs Covered	Limited to those drugs produced by manufacturers entered into rebate agreements with the state <sup>2</sup>
State Cost	Approximately \$44 million
Number Eligible	171,000 individuals
Start Date	July 2002

\*FPL – Federal Poverty Level

<sup>1</sup> An approximate 18% discount of prescription drugs would be available to enrollees during their deductible period.

<sup>2</sup> Pharmacist's Reimbursement will be AWP minus 10%

## Kunkel, Mark

---

**From:** Tessmer, Paul  
**Sent:** Friday, June 22, 2001 9:01 AM  
**To:** Kunkel, Mark  
**Subject:** RE: ARC amendment: drug and alcohol regulation and licensing

Good Morning, Mark.

The contact person for the Health Care items is Carolyn Hughes at 7-4887. I have forwarded your email to her.

-----Original Message-----

**From:** Kunkel, Mark  
**Sent:** Friday, June 22, 2001 8:54 AM  
**To:** Tessmer, Paul  
**Subject:** ARC amendment: drug and alcohol regulation and licensing

Paul:

Is there someone I can talk to get more info about what you want to do with item 30 of the health care package, which requires the Dept. of Reg. and Licensing to certify alcohol and drug counselors?

I have a number of questions. Here are a few:

1. I assume that you want to prohibit people who aren't certified from practicing as an alcohol or drug counselor, right? In the area of professional certification, there are 2 alternative regulatory schemes. First, under a practice protection scheme, you can: (a) prohibit people from doing something unless they are certified by the state and (b) prohibit people from using a protected title unless they are certified. Second, under a title protection scheme, you only do item (b). Under a title protection scheme, anybody can do the things that a certified person is allowed to do, but only people who are certified are allowed to use a protected title. So, I'm assuming you want the first scheme. Is that correct?
2. How do you want to define the practice of alcohol or drug counseling? This question is especially important if you want a practice protection scheme because you are prohibiting people who are not certified from engaging in the defined activity.
3. Do you want any exemptions from the certification requirement? Typically, other health care professionals are exempted, provided they are practicing within the scope of their license, certification, or whatever their credential is called. However, you might want to exempt other sorts of people.
4. What requirements should a person have to satisfy for a certificate? You could spell out the education, experience, and/or training that is required.
5. How do you want to deal with people who are currently practicing as alcohol or drug counselors? Should they get a break and have to comply with lesser requirements? You could establish a window of time for such people to apply and take advantage of the lesser requirements.

I'll probably have more questions, but the above are the major ones that occur to me.

Thanks for your help,

---

Mark Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131 mark.kunkel@legis.state.wi.us



Bill Topel 715/732-7762

Marinette County Health & Human Services

6/25 phone call

— title protection:

— use rules (be flexible)

— allow for different levels  
(e.g. Master's degree)



ARC:.....Hughes – AM22, Certification of alcohol and drug counselors

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS ASSEMBLY AMENDMENT**

**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**

**TO 2001 SENATE BILL 55**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 583, line 2: after that line insert:

3 “SECTION 1651g. 48.981 (2) of the statutes is amended to read:

4 48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical  
5 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or  
6 mental health professional, social worker, marriage and family therapist,  
7 professional counselor, public assistance worker, including a financial and  
8 employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or  
9 counselor, mediator under s. 767.11, child care worker in a day care center or child  
caring institution, day care provider, alcohol ~~or other~~ and drug abuse counselor,

10

*plain*

1 member 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, first responder or police or law enforcement officer having reasonable  
5 cause to suspect that a child seen in the course of professional duties has been abused  
6 or neglected or having reason to believe that a child seen in the course of professional  
7 duties has been threatened with abuse or neglect and that abuse or neglect of the  
8 child will occur shall, except as provided under sub. (2m), report as provided in sub.  
9 (3). A court–appointed special advocate having reasonable cause to suspect that a  
10 child seen in the course of the court–appointed special advocate’s activities under s.  
11 48.236 (3) has been abused or neglected or having reason to believe that a child seen  
12 in the course of those activities has been threatened with abuse and neglect and that  
13 abuse or neglect of the child will occur shall, except as provided in sub. (2m), report  
14 as provided in sub. (3). Any other person, including an attorney, having reason to  
15 suspect that a child has been abused or neglected or reason to believe that a child has  
16 been threatened with abuse or neglect and that abuse or neglect of the child will occur  
17 may make such a report. Any person, including an attorney having reason to suspect  
18 that an unborn child has been abused or reason to believe that an unborn child is at  
19 substantial risk of abuse may report as provided in sub. (3). No person making a  
20 report under this subsection may be discharged from employment for so doing.”.

21 **NOTE: NOTE: NOTE:** Sub. (2) is shown as affected by two acts of the 1999 legislature and as merged by the revisor under s. 13.93 (2) (c).**NOTE:**

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; 1999 a. 9, 20, 32, 56, 84, 149, 192; s. 13.93 (2) (c).

22 **2.** Page 1147, line 15: after that line insert:

23 **“SECTION 3517m. 440.08 (2) (a) 10. of the statutes is created to read:**

1 440.08 (2) (a) 10. Alcohol and drug counselor: July 1 of each odd-numbered  
2 year; \$53.”.

3 **3.** Page 1156, line 6: after that line insert:

4 “SECTION 3605m. Subchapter XII of chapter 440 [precedes 440.99] of the  
5 statutes is created to read:

6 **CHAPTER 440**

7 **SUBCHAPTER XII**

8 **CERTIFICATION OF ALCOHOL**

9 **AND DRUG COUNSELORS**

10 **440.99 Definitions.** In this subchapter:

11 (1) “Alcohol and drug counselor” means a person who engages in alcohol and  
12 drug counseling for compensation.

13 (2) “Alcohol and drug counseling” means counseling for the assessment,  
14 treatment, or prevention of alcohol, drug, or other substance addiction or abuse.

15 **440.991 Applicability.** This subchapter does not apply to a person holding a  
16 license, permit, registration, or certification granted by this state or the federal  
17 government who does not use any title or description that implies that he or she is  
18 certified under this subchapter or represent himself or herself to be certified under  
19 this subchapter.

20 **440.992 Use of title.** No person may use the title “alcohol counselor”, “drug  
21 counselor”, “alcohol and drug counselor”, “certified alcohol counselor”, “certified  
22 drug counselor”, “certified alcohol and drug counselor”, “Wisconsin certified alcohol  
23 counselor”, “Wisconsin certified drug counselor”, or “Wisconsin certified alcohol and  
24 drug counselor”, use any title or description that implies that he or she is certified

1 under this subchapter, or represent himself or herself to be certified under this  
2 subchapter unless the person has been certified as an alcohol and drug counselor  
3 under this subchapter.

4 **440.993 Duties and powers of department.** (1) The department shall  
5 promulgate rules that do all of the following:

6 (a) Establish the education, training, competency, or examination  
7 requirements that a person must satisfy to be certified as an alcohol and drug  
8 counselor under this subchapter.

9 (b) Establish a code of ethics to govern the professional conduct of persons  
10 certified under this subchapter. Rules promulgated under this paragraph may  
11 specify the services that a person certified under this subchapter is qualified to  
12 perform and the degree of supervision, if any, required to perform those services.

13 (2) The department may promulgate rules that do all of the following:

14 (a) Establish different levels of certification, specify the educational, training,  
15 competency, or examination requirements for certification at the different levels, and  
16 specify the services that persons certified at the different levels are qualified to  
17 perform and the degree of supervision, if any, required to perform those services.

18 (b) Establish continuing education requirements that a person must satisfy to  
19 renew a certification that is granted under this subchapter.

20 **440.994 Certification requirements.** The department shall grant a  
21 certification as an alcohol and drug counselor to a person who does all of the  
22 following:

23 (1) Submits an application to the department on a form provided by the  
24 department.

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

1           (3) Submits evidence satisfactory to the department that he or she satisfies the  
2 requirements established in rules promulgated under s. 440.993 (1) (a) or (2) (a).

3           **440.995 Reciprocal certification.** Upon application and payment of the fee  
4 specified in s. 440.05 (2), the department may grant certification as an alcohol and  
5 drug counselor to a person who has been granted a similar license, registration, or  
6 certificate by another state or territory of the United States or another country if the  
7 department determines that the requirements for granting the license, registration,  
8 or certificate are substantially equivalent to the requirements under this  
9 subchapter.

10           **440.996 Renewal of certification.** The renewal dates for certifications  
11 granted under this subchapter are specified in s. 440.08 (2) (a). Renewal applications  
12 shall be submitted to the department on a form provided by the department and shall  
13 include the renewal fee specified in s. 440.08 (2) (a) and, if the department has  
14 established continuing education requirements in rules promulgated rules under s.  
15 440.993 (2) (b), evidence satisfactory to the department that the applicant has  
16 completed the requirements.

17           **440.997 Disciplinary proceedings and actions.** (1) Subject to the rules  
18 promulgated under s. 440.03 (1), the department may make investigations and  
19 conduct hearings to determine whether a violation of this subchapter or any rule  
20 promulgated under this subchapter has occurred.

21           (2) Subject to the rules promulgated under s. 440.03 (1), the department may  
22 reprimand a person certified under this subchapter, or may deny, limit, suspend, or  
23 revoke a certification, if an applicant or person certified under this subchapter has  
24 done any of the following:

1 (a) Made a material misstatement in an application for certification or for  
2 renewal of a certification.

3 (b) Been adjudicated mentally incompetent by a court of competent  
4 jurisdiction, a certified copy of the record of adjudication of incompetency to be  
5 conclusive evidence of such incompetency.

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

7 (d) Advertised, practiced, or attempted to engage in alcohol and drug  
8 counseling under another's name.

9 (e) Subject to ss. 111.321, 111.322, and 111.34, engaged in alcohol and drug  
10 counseling while impaired by alcohol or other drugs.

11 (f) Engaged in conduct while engaged in alcohol and drug counseling that  
12 jeopardizes the health, safety, or welfare of a patient or client or which evidences a  
13 lack of knowledge or ability to apply professional principles or skills.

14 (g) Violated this subchapter or any rule promulgated under this subchapter.

15 (h) Aided another person in violating this subchapter or any rule promulgated  
16 under this subchapter.

17 **440.998 Injunctive relief.** If the department has reason to believe that any  
18 person is violating this subchapter or any rule promulgated under this subchapter,  
19 the department, the attorney general, or the district attorney of the proper county  
20 may investigate and may, in addition to any other remedies, bring an action in the  
21 name and on behalf of this state to enjoin the person from the violation.

22 **440.999 Penalties.** (1) Any person who violates this subchapter or any rule  
23 promulgated under this subchapter may be required to forfeit not more than \$5,000  
24 for the first offense and may be required to forfeit not more than \$10,000 for the 2nd

1 or <sup>3608</sup> ~~any later~~ <sup>Subsequent</sup> offense within a year. Each day of continued violation constitutes a  
2 separate offense.

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

6 SECTION 3608g. 457.02 (1) of the statutes is amended to read:  
7 457.02 (1) Require any individual to be certified under this chapter in order to  
8 use the title "pastoral counselor", "investment counselor", "vocational counselor",  
9 "career counselor", "alcohol counselor", "drug counselor", or "alcohol and drug  
10 counselor" or "~~chemical dependency counselor~~".

11 History: 1991 a. 160; 1995 a. 27 ss. 9126 (19), 9145 (1); 1997 a. 27.  
12 SECTION 3608i. 457.02 (5) of the statutes is amended to read:  
13 457.02 (5) Authorize any individual who is certified under this chapter to use  
14 the title "alcohol counselor", "drug counselor", or "alcohol and drug counselor" or  
15 "~~chemical dependency counselor~~" unless the individual is certified as an alcohol and  
16 drug counselor or as a ~~chemical dependency counselor through a process recognized~~  
by the department of health and family services under subch. XII of ch. 440."

17 History: 1991 a. 160; 1995 a. 27 ss. 9126 (19), 9145 (1); 1997 a. 27.  
18 4. Page 1423, line 11: after that line insert:  
19 "~~(3)~~ ALCOHOL OR DRUG COUNSELORS. The treatment of sections <sup>2</sup> ~~(???)~~ of the  
20 statutes takes effect on the first day of the 13th month beginning after the effective  
21 date of this subsection."

(END)

48.981 (2), 440.08 (2) (a) 10., and  
457.02 (1) and (5) of the statutes  
and subchapter XII of  
Chapter 440



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

LRBb1500/1dn  
MDK.hmh

*Date*

Carolyn Hughes:

Please note the following about this amendment:

1. Note that, based on my discussion with Bill Topel of the Marinette County Health and Human Services Department, the amendment establishes a "title protection" scheme, instead of a "practice protection" scheme. Therefore, only certified persons may use regulated titles, but persons who aren't certified can do the things an alcohol and drug counselor does, provided they don't use a regulated title.
2. The instructions did not provide many details, so I assumed that the amendment should authorize DRL to promulgate rules that fill in the details. Also, I've included provisions that are typically found in other professional licensing or certification statutes. However, note that penalty provisions are not consistent. This amendment uses the same penalties that apply to social workers, etc., under ch. 457, stats. Is that okay?
- ③ 3. Please review the definition of "alcohol and drug counseling". If it isn't satisfactory, it may be possible simply to delete it because, as noted above, the amendment establishes a "title protection" scheme instead of a "practice protection" scheme. Because you aren't prohibiting noncertified people from engaging in the practice, the definition of the practice is less important.
4. Instead of having DRL grant certificates, you could create an examining or affiliated credentialing board to do so. Of course, this would involve creating a new governmental entity. Also, you would have to specify the number of members.
5. Should other titles be regulated, such as substance abuse or addiction counselor? I'm not sure whether anybody actually uses the foregoing titles, but you may want to consider if there are other titles that people use that should be regulated. Also, I deleted the references to "chemical dependency counselor" in s. 457.02 (1) and (5), stats., because it does not appear that DHFS uses that title in its rules.
6. Because DHFS has had some experience in regulating alcohol and drug counselors, you could require DRL to consult with DHFS in promulgating rules.
7. The language regarding a code of ethics and different levels of certification is based on the powers and duties of the examining board of social workers, marriage and family therapists, and professional counselors at s. 457.03 (2) and (3), stats.

8. Other statutes prohibit a person from being licensed or certified for a profession or occupation if he or she has an arrest or conviction record the circumstances of which substantially relate to the profession or occupation. I did not include such a prohibition in this amendment because I understand that it's not uncommon for recovering alcoholics or addicts to pursue a career in alcohol and drug counseling. Such people might have arrest or conviction records related to alcohol or drugs, and I didn't think that you want to prohibit them from being certified. On the other hand, it's possible to argue that a typical alcohol or drug arrest or conviction does not substantially relate to alcohol or drug *counseling*, and, thus, such a prohibition is acceptable. Please let me know if you are interested in pursuing this issue. (If you do want to include such a prohibition, it should also be added as a ground for discipline.)
9. The amendment includes a delayed effective date (1 year) to give DRL time to promulgate the rules. Also, you could consider giving DRL the authority to use the emergency rule-making procedure to promulgate temporary rules that are in effect before the permanent rules become effective.
10. With other professional licensing or certification legislation, people who currently practice the newly regulated profession are sometimes allowed to take advantage of "grandfather" provisions that permit them, for a limited time, to be licensed or certified without meeting all of the new requirements. You may want to consider whether it is appropriate to add grandfather provisions to this amendment. However, you'd have to have in mind specific requirements that people must satisfy to take advantage of the grandfather provisions.
11. The \$53 renewal fee is the base renewal fee for all new professional licenses or certificates created in this biennium.
12. Except for the change to s. 48.981 (2), stats., I haven't had time to determine whether other statutes that apply to licensed, certified, or registered health care providers should be amended to also apply to alcohol and drug counselors certified under the amendment. This issue could be addressed in follow-up legislation.

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

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

LRBb1500/1dn  
MDK:hmh:cmh

Carolyn Hughes:

Please note the following about this amendment:

1. Note that, based on my discussion with Bill Topel of the Marinette County Health and Human Services Department, the amendment establishes a "title protection" scheme, instead of a "practice protection" scheme. Therefore, only certified persons may use regulated titles, but persons who aren't certified can do the things an alcohol and drug counselor does, provided they don't use a regulated title.
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6. Because DHFS has had some experience in regulating alcohol and drug counselors, you could require DRL to consult with DHFS in promulgating rules.
7. The language regarding a code of ethics and different levels of certification is based on the powers and duties of the examining board of social workers, marriage and family therapists, and professional counselors at s. 457.03 (2) and (3), stats.

8. Other statutes prohibit a person from being licensed or certified for a profession or occupation if he or she has an arrest or conviction record the circumstances of which substantially relate to the profession or occupation. I did not include such a prohibition in this amendment because I understand that it's not uncommon for recovering alcoholics or addicts to pursue a career in alcohol and drug counseling. Such people might have arrest or conviction records related to alcohol or drugs, and I didn't think that you want to prohibit them from being certified. On the other hand, it's possible to argue that a typical alcohol or drug arrest or conviction does not substantially relate to alcohol or drug *counseling*, and, thus, such a prohibition is acceptable. Please let me know if you are interested in pursuing this issue. (If you do want to include such a prohibition, it should also be added as a ground for discipline.)

9. The amendment includes a delayed effective date (1 year) to give DRL time to promulgate the rules. Also, you could consider giving DRL the authority to use the emergency rule-making procedure to promulgate temporary rules that are in effect before the permanent rules become effective.

10. With other professional licensing or certification legislation, people who currently practice the newly regulated profession are sometimes allowed to take advantage of "grandfather" provisions that permit them, for a limited time, to be licensed or certified without meeting all of the new requirements. You may want to consider whether it is appropriate to add grandfather provisions to this amendment. However, you'd have to have in mind specific requirements that people must satisfy to take advantage of the grandfather provisions.

11. The \$53 renewal fee is the base renewal fee for all new professional licenses or certificates created in this biennium.

12. Except for the change to s. 48.981 (2), stats., I haven't had time to determine whether other statutes that apply to licensed, certified, or registered health care providers should be amended to also apply to alcohol and drug counselors certified under the amendment. This issue could be addressed in follow-up legislation.

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*NOTE*

ARC:.....Hughes – AM22, Certification of alcohol and drug counselors  
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION  
**CAUCUS ASSEMBLY AMENDMENT**  
**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**  
**TO 2001 SENATE BILL 55**

1           At the locations indicated, amend the substitute amendment as follows:  
2           **1.** Page 583, line 2: after that line insert:  
3           **“SECTION 1651g.** 48.981 (2) of the statutes is amended to read:  
4           48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical  
5           examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or  
6           mental health professional, social worker, marriage and family therapist,  
7           professional counselor, public assistance worker, including a financial and  
8           employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or  
9           counselor, mediator under s. 767.11, child care worker in a day care center or child  
10          caring institution, day care provider, alcohol ~~or other~~ and drug abuse counselor,

1 member 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, first responder or police or law enforcement officer having reasonable  
5 cause to suspect that a child seen in the course of professional duties has been abused  
6 or neglected or having reason to believe that a child seen in the course of professional  
7 duties has been threatened with abuse or neglect and that abuse or neglect of the  
8 child will occur shall, except as provided under sub. (2m), report as provided in sub.  
9 (3). A court–appointed special advocate having reasonable cause to suspect that a  
10 child seen in the course of the court–appointed special advocate’s activities under s.  
11 48.236 (3) has been abused or neglected or having reason to believe that a child seen  
12 in the course of those activities has been threatened with abuse and neglect and that  
13 abuse or neglect of the child will occur shall, except as provided in sub. (2m), report  
14 as provided in sub. (3). Any other person, including an attorney, having reason to  
15 suspect that a child has been abused or neglected or reason to believe that a child has  
16 been threatened with abuse or neglect and that abuse or neglect of the child will occur  
17 may make such a report. Any person, including an attorney having reason to suspect  
18 that an unborn child has been abused or reason to believe that an unborn child is at  
19 substantial risk of abuse may report as provided in sub. (3). No person making a  
20 report under this subsection may be discharged from employment for so doing.”.

21 **2.** Page 1147, line 15: after that line insert:

22 “SECTION 3517m. 440.08 (2) (a) 10. of the statutes is created to read:

23 440.08 (2) (a) 10. Alcohol and drug counselor: July 1 of each odd–numbered  
24 year; \$53.”.



*In consultation with the department of health and family services,*

1 subchapter unless the person has been certified as an alcohol and drug counselor  
2 under this subchapter.

3 **440.993 Duties and powers of department.** (1) The department shall  
4 promulgate rules that do all of the following:

5 (a) Establish the education, training, competency, or examination  
6 requirements that a person must satisfy to be certified as an alcohol and drug  
7 counselor under this subchapter. *INSERT 4-7*

8 (b) Establish a code of ethics to govern the professional conduct of persons  
9 certified under this subchapter. Rules promulgated under this paragraph may  
10 specify the services that a person certified under this subchapter is qualified to  
11 perform and the degree of supervision, if any, required to perform those services.

12 (2) The department may promulgate rules that do all of the following:

13 (a) Establish different levels of certification, specify the educational, training,  
14 competency, or examination requirements for certification at the different levels, and  
15 specify the services that persons certified at the different levels are qualified to  
16 perform and the degree of supervision, if any, required to perform those services.

17 (b) Establish continuing education requirements that a person must satisfy to  
18 renew a certification that is granted under this subchapter.

19 **440.994 Certification requirements.** The department shall grant a  
20 certification as an alcohol and drug counselor to a person who does all of the  
21 following:

22 (1) Submits an application to the department on a form provided by the  
23 department.

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



1           (3) Submits evidence satisfactory to the department that he or she satisfies the  
2 requirements established in rules promulgated under s. 440.993 (1) (a) or (2) (a).

3           **440.995 Reciprocal certification.** Upon application and payment of the fee  
4 specified in s. 440.05 (2), the department may grant certification as an alcohol and  
5 drug counselor to a person who has been granted a similar license, registration, or  
6 certificate by another state or territory of the United States or another country if the  
7 department determines that the requirements for granting the license, registration,  
8 or certificate are substantially equivalent to the requirements under this  
9 subchapter.

10           **440.996 Renewal of certification.** The renewal dates for certifications  
11 granted under this subchapter are specified in s. 440.08 (2) (a). Renewal applications  
12 shall be submitted to the department on a form provided by the department and shall  
13 include the renewal fee specified in s. 440.08 (2) (a) and, if the department has  
14 established continuing education requirements in rules promulgated under s.  
15 440.993 (2) (b), evidence satisfactory to the department that the applicant has  
16 completed the requirements.

17           **440.997 Disciplinary proceedings and actions.** (1) Subject to the rules  
18 promulgated under s. 440.03 (1), the department may make investigations and  
19 conduct hearings to determine whether a violation of this subchapter or any rule  
20 promulgated under this subchapter has occurred.

21           (2) Subject to the rules promulgated under s. 440.03 (1), the department may  
22 reprimand a person certified under this subchapter, or may deny, limit, suspend, or  
23 revoke a certification, if an applicant or person certified under this subchapter has  
24 done any of the following:

1 (a) Made a material misstatement in an application for certification or for  
2 renewal of a certification.

3 (b) Been adjudicated mentally incompetent by a court of competent  
4 jurisdiction, a certified copy of the record of adjudication of incompetency to be  
5 conclusive evidence of such incompetency.

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

7 (d) Advertised, practiced, or attempted to engage in alcohol and drug  
8 counseling under another's name.

9 (e) Subject to ss. 111.321, 111.322, and 111.34, engaged in alcohol and drug  
10 counseling while impaired by alcohol or other drugs.

11 (f) Engaged in conduct while engaged in alcohol and drug counseling that  
12 jeopardizes the health, safety, or welfare of a patient or client or which evidences a  
13 lack of knowledge or ability to apply professional principles or skills.

14 (g) Violated this subchapter or any rule promulgated under this subchapter.

15 (h) Aided another person in violating this subchapter or any rule promulgated  
16 under this subchapter.

17 **440.998 Injunctive relief.** If the department has reason to believe that any  
18 person is violating this subchapter or any rule promulgated under this subchapter,  
19 the department, the attorney general, or the district attorney of the proper county  
20 may investigate and may, in addition to any other remedies, bring an action in the  
21 name and on behalf of this state to enjoin the person from the violation.

22 **440.999 Penalties.** (1) Any person who violates this subchapter or any rule  
23 promulgated under this subchapter may be required to forfeit not more than \$5,000  
24 for the first offense and may be required to forfeit not more than \$10,000 for the 2nd

1 or any subsequent offense within a year. Each day of continued violation constitutes  
2 a separate offense.

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

6 **SECTION 3608g.** 457.02 (1) of the statutes is amended to read:

7 457.02 (1) Require any individual to be certified under this chapter in order to  
8 use the title “pastoral counselor”, “investment counselor”, “vocational counselor”,  
9 “career counselor”, “alcohol counselor”, “drug counselor”, or “alcohol and drug  
10 counselor” ~~or “chemical dependency counselor”~~.

11 **SECTION 3608i.** 457.02 (5) of the statutes is amended to read:

12 457.02 (5) Authorize any individual who is certified under this chapter to use  
13 the title “alcohol counselor”, “drug counselor”, or “alcohol and drug counselor” ~~or~~  
14 ~~“chemical dependency counselor”~~ unless the individual is certified as an alcohol and  
15 drug counselor ~~or as a chemical dependency counselor through a process recognized~~  
16 ~~by the department of health and family services~~ under subch. XII of ch. 440.”.

17 **4.** Page 1423, line 11: after that line insert:

18 “(3f) ALCOHOL OR DRUG COUNSELORS. The treatment of sections 48.981 (2), 440.08  
19 (2) (a) 10., and 457.02 (1) and (5) of the statutes and subchapter XII of chapter 440  
20 of the statutes takes effect on the first day of the 13th month beginning after the  
21 effective date of this subsection.”.

22

(END)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBb1500/2ins  
MDK:.....

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**INSERT 3-19:**

“substance abuse counselor”, “chemical dependency counselor”, “alcohol and other drug abuse counselor”,

**INSERT 3-20:**

“certified substance abuse counselor”, “certified chemical dependency counselor”, <sup>or</sup> “certified alcohol and other drug abuse counselor,”

**INSERT 4-7:**

*Not* The rules shall require the department to waive some or all of the requirements for certification that would otherwise apply for a person who, before the first day of the 25th month beginning after the effective date of this paragraph .... [revisor inserts date], applies for certification and shows, to the satisfaction of the department, that he or she was employed in a position in which a substantial portion of his or her duties consisted of alcohol and drug counseling.

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

LRBb1500/2dn  
MDK: *h.m.*

*DATE*

Carolyn Hughes:

This version is identical to the previous version, except for the following changes that are based on my discussion with Bill Topel:

1. Additional titles are regulated. Also, upon further reflection, I eliminated the prohibitions regarding "Wisconsin certified" titles because the amendment prohibits using "certified" in connection with a title. Therefore, the prohibition regarding "Wisconsin certified" titles is redundant.
2. DRL must consult with DHFS in promulgating rules.
3. DRL's rules must include a "grandfather" provision applicable for persons employed to do alcohol and drug counseling on the effective date of the budget.

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

LRBb1500/2dn  
MDK:hmh:rs

June 28, 2001

Carolyn Hughes:

This version is identical to the previous version, except for the following changes that are based on my discussion with Bill Topel:

1. Additional titles are regulated. Also, upon further reflection, I eliminated the prohibitions regarding "Wisconsin certified" titles because the amendment prohibits using "certified" in connection with a title. Therefore, the prohibition regarding "Wisconsin certified" titles is redundant.
2. DRL must consult with DHFS in promulgating rules.
3. DRL's rules must include a "grandfather" provision applicable for persons employed to do alcohol and drug counseling on the effective date of the budget.

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State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb1500/2  
MDK:hmb:rs

ARC:.....Hughes – AM22, Certification of alcohol and drug counselors

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS ASSEMBLY AMENDMENT**

**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**

**TO 2001 SENATE BILL 55**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 583, line 2: after that line insert:

3 **"SECTION 1651g.** 48.981 (2) of the statutes is amended to read:

4 48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical  
5 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or  
6 mental health professional, social worker, marriage and family therapist,  
7 professional counselor, public assistance worker, including a financial and  
8 employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or  
9 counselor, mediator under s. 767.11, child care worker in a day care center or child  
10 caring institution, day care provider, alcohol ~~or other~~ and drug ~~abuse~~ counselor,

1 member 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, first responder or police or law enforcement officer having reasonable  
5 cause to suspect that a child seen in the course of professional duties has been abused  
6 or neglected or having reason to believe that a child seen in the course of professional  
7 duties has been threatened with abuse or neglect and that abuse or neglect of the  
8 child will occur shall, except as provided under sub. (2m), report as provided in sub.  
9 (3). A court–appointed special advocate having reasonable cause to suspect that a  
10 child seen in the course of the court–appointed special advocate’s activities under s.  
11 48.236 (3) has been abused or neglected or having reason to believe that a child seen  
12 in the course of those activities has been threatened with abuse and neglect and that  
13 abuse or neglect of the child will occur shall, except as provided in sub. (2m), report  
14 as provided in sub. (3). Any other person, including an attorney, having reason to  
15 suspect that a child has been abused or neglected or reason to believe that a child has  
16 been threatened with abuse or neglect and that abuse or neglect of the child will occur  
17 may make such a report. Any person, including an attorney having reason to suspect  
18 that an unborn child has been abused or reason to believe that an unborn child is at  
19 substantial risk of abuse may report as provided in sub. (3). No person making a  
20 report under this subsection may be discharged from employment for so doing.”.

21 **2.** Page 1147, line 15: after that line insert:

22 “**SECTION 3517m.** 440.08 (2) (a) 10. of the statutes is created to read:

23 440.08 (2) (a) 10. Alcohol and drug counselor: July 1 of each odd–numbered  
24 year; \$53.”.





1 herself to be certified under this subchapter unless the person has been certified as  
2 an alcohol and drug counselor under this subchapter.

3 **440.993 Duties and powers of department.** (1) In consultation with the  
4 department of health and family services, the department shall promulgate rules  
5 that do all of the following:

6 (a) Establish the education, training, competency, or examination  
7 requirements that a person must satisfy to be certified as an alcohol and drug  
8 counselor under this subchapter. The rules shall require the department to waive  
9 some or all of the requirements for certification that would otherwise apply for a  
10 person who, before the first day of the 25th month beginning after the effective date  
11 of this paragraph ... [revisor inserts date], applies for certification and shows, to the  
12 satisfaction of the department, that he or she was employed in a position in which  
13 a substantial portion of his or her duties consisted of alcohol and drug counseling.

14 (b) Establish a code of ethics to govern the professional conduct of persons  
15 certified under this subchapter. Rules promulgated under this paragraph may  
16 specify the services that a person certified under this subchapter is qualified to  
17 perform and the degree of supervision, if any, required to perform those services.

18 (2) In consultation with the department of health and family services, the  
19 department may promulgate rules that do all of the following:

20 (a) Establish different levels of certification, specify the educational, training,  
21 competency, or examination requirements for certification at the different levels, and  
22 specify the services that persons certified at the different levels are qualified to  
23 perform and the degree of supervision, if any, required to perform those services.

24 (b) Establish continuing education requirements that a person must satisfy to  
25 renew a certification that is granted under this subchapter.

1           **440.994 Certification requirements.** The department shall grant a  
2 certification as an alcohol and drug counselor to a person who does all of the  
3 following:

4           (1) Submits an application to the department on a form provided by the  
5 department.

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

7           (3) Submits evidence satisfactory to the department that he or she satisfies the  
8 requirements established in rules promulgated under s. 440.993 (1) (a) or (2) (a).

9           **440.995 Reciprocal certification.** Upon application and payment of the fee  
10 specified in s. 440.05 (2), the department may grant certification as an alcohol and  
11 drug counselor to a person who has been granted a similar license, registration, or  
12 certificate by another state or territory of the United States or another country if the  
13 department determines that the requirements for granting the license, registration,  
14 or certificate are substantially equivalent to the requirements under this  
15 subchapter.

16           **440.996 Renewal of certification.** The renewal dates for certifications  
17 granted under this subchapter are specified in s. 440.08 (2) (a). Renewal applications  
18 shall be submitted to the department on a form provided by the department and shall  
19 include the renewal fee specified in s. 440.08 (2) (a) and, if the department has  
20 established continuing education requirements in rules promulgated rules under s.  
21 440.993 (2) (b), evidence satisfactory to the department that the applicant has  
22 completed the requirements.

23           **440.997 Disciplinary proceedings and actions.** (1) Subject to the rules  
24 promulgated under s. 440.03 (1), the department may make investigations and

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

3 (2) Subject to the rules promulgated under s. 440.03 (1), the department may  
4 reprimand a person certified under this subchapter, or may deny, limit, suspend, or  
5 revoke a certification, if an applicant or person certified under this subchapter has  
6 done any of the following:

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

9 (b) Been adjudicated mentally incompetent by a court of competent  
10 jurisdiction, a certified copy of the record of adjudication of incompetency to be  
11 conclusive evidence of such incompetency.

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

13 (d) Advertised, practiced, or attempted to engage in alcohol and drug  
14 counseling under another's name.

15 (e) Subject to ss. 111.321, 111.322, and 111.34, engaged in alcohol and drug  
16 counseling while impaired by alcohol or other drugs.

17 (f) Engaged in conduct while engaged in alcohol and drug counseling that  
18 jeopardizes the health, safety, or welfare of a patient or client or which evidences a  
19 lack of knowledge or ability to apply professional principles or skills.

20 (g) Violated this subchapter or any rule promulgated under this subchapter.

21 (h) Aided another person in violating this subchapter or any rule promulgated  
22 under this subchapter.

23 **440.998 Injunctive relief.** If the department has reason to believe that any  
24 person is violating this subchapter or any rule promulgated under this subchapter,  
25 the department, the attorney general, or the district attorney of the proper county

1 may investigate and may, in addition to any other remedies, bring an action in the  
2 name and on behalf of this state to enjoin the person from the violation.

3 **440.999 Penalties.** (1) Any person who violates this subchapter or any rule  
4 promulgated under this subchapter may be required to forfeit not more than \$5,000  
5 for the first offense and may be required to forfeit not more than \$10,000 for the 2nd  
6 or any subsequent offense within a year. Each day of continued violation constitutes  
7 a separate offense.

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

11 **SECTION 3608g.** 457.02 (1) of the statutes is amended to read:

12 457.02 (1) Require any individual to be certified under this chapter in order to  
13 use the title “pastoral counselor”, “investment counselor”, “vocational counselor”,  
14 “career counselor”, “alcohol counselor”, “drug counselor”, or “alcohol and drug  
15 counselor” or ~~“chemical dependency counselor”~~.

16 **SECTION 3608i.** 457.02 (5) of the statutes is amended to read:

17 457.02 (5) Authorize any individual who is certified under this chapter to use  
18 the title “alcohol counselor”, “drug counselor”, or “alcohol and drug counselor” or  
19 ~~“chemical dependency counselor”~~ unless the individual is certified as an alcohol and  
20 drug counselor or as a chemical dependency counselor through a process recognized  
21 by the department of health and family services under subch. XII of ch. 440.”.

22 **4.** Page 1423, line 11: after that line insert:

23 “(3f) ALCOHOL OR DRUG COUNSELORS. The treatment of sections 48.981 (2), 440.08  
24 (2) (a) 10., and 457.02 (1) and (5) of the statutes and subchapter XII of chapter 440

1 of the statutes takes effect on the first day of the 13th month beginning after the  
2 effective date of this subsection.”

3 (END)