

1

**INSERT 2-13:**

2

insurance coverage for services provided by clinical social workers, marriage  
and family therapists, and professional counselors,

3

4

**INSERT 2-A:**

This bill does the following: 1) makes changes to the regulation of social workers, marriage and family therapists, and professional counselors; and 2) under certain circumstances, requires insurers and group health plans to cover services provided by clinical social workers, marriage and family therapists, and professional counselors.

5

**INSERT 2-B:**

*Regulation of social workers, marriage and family therapists, and professional counselors.*

6

**INSERT 3-A:**

*From* Under current law, an applicant for a professional counselor certificate who has a master's degree must also have two years of supervised clinical experience, but an applicant with a doctorate degree must have one year.

This bill requires 3,000 hours of supervised experience, not two years, for clinical social worker and marriage and family therapist license applicants and for professional counselor license applicants who have a master's degree. The bill does not change the one year required for professional counselor license applicants who have a doctorate degree. In addition, for all license applicants, the bill requires that the experience must be supervised by one of the following: 1) a person with the same license who has a doctorate degree; 2) if the first type of supervision is not practicable, a person with same license who has *5* years experience; ~~and~~ 3) if the second type of supervision is not practicable, a psychiatrist or psychologist.

7

**INSERT 3-B:**

*five* 1. The bill requires a licensed clinical social worker, marriage and family therapist, or professional counselor who treats an individual and determines that the individual requires additional treatment that is outside the licensee's scope of practice to refer the individual to a health care practitioner who is authorized to provide the additional treatment. Alternatively, the licensee may consult with such a health care practitioner. If the licensee does not refer or consult, the licensee may not continue to treat the individual.

8

**INSERT 4-A:**

*7* *or* **Insurer and group health plan requirements.** Current law prohibits an insurer from refusing to provide or pay for health care services provided by a licensed

health care professional on the ground that the services were not provided by a physician, unless the insurance policy clearly excludes coverage of services provided by the health care professional. In addition, current law prohibits an insurer from excluding coverage of the services of certain specified health care professionals, such as chiropractors and dentists, if the insurance policy covers those same services, or services for the treatment of the same condition, when provided by a physician or another health care provider. The bill prohibits an insurer from excluding coverage of psychotherapy services provided by a licensed clinical social worker, marriage and family therapist, or professional counselor, within the scope of his or her license, if the insurance policy, plan, or contract covers psychotherapy services provided by another health care provider.

Also under current law, a group health plan that provides coverage of any outpatient treatment is required to provide coverage for an insured under the plan of at least \$2,000, minus any applicable cost sharing, of outpatient services for the treatment of nervous or mental disorders or alcoholism or other drug abuse problems. Outpatient services are defined as nonresidential services that are provided to an insured: 1) in an outpatient treatment facility or a physician's office by a licensed physician who has completed a residency in psychiatry; 2) by a licensed psychologist who is listed in the national register of health service providers in psychology or who is certified by the American board of professional psychology; or 3) by a program in an outpatient treatment facility approved by the department of health and family services. The bill adds that outpatient services are also nonresidential services that are provided to an insured by a licensed clinical social worker, marriage and family therapist, or professional counselor, thus requiring a group health plan to include nonresidential treatment of nervous or mental disorders or alcoholism or other drug abuse problems by a licensed clinical social worker, marriage and family therapist, or professional counselor within the \$2,000 minimum amount of coverage that the plan must provide for outpatient services for the treatment of those conditions.

1  
2  
3  
4  
5  
6  
7  
8  
9

**INSERT 5-24:**

**SECTION 1.** 15.405 (7c) (am) 3. of the statutes is created to read:

15.405 (7c) (am) 3. One member who is licensed under ch. 457 as a clinical social worker.

**INSERT 6-25:**

**SECTION 2.** 15.405 (7c) (c) of the statutes is amended to read:

15.405 (7c) (c) All matters pertaining to granting, denying, limiting, suspending, or revoking a certificate or license under ch. 457, and all other matters of interest to either the social worker, marriage and family therapist, or professional

1 counselor section shall be acted upon solely by the interested section of the  
2 examining board.

History: 1973 c. 90, 156; 1975 c. 39, 86, 199, 200, 383, 422; 1977 c. 26, 29, 203; 1977 c. 418; 1979 c. 34 ss. 45, 47 to 52; 1979 c. 221, 304; 1981 c. 94 ss. 5, 9; 1981 c. 356; 1983 a. 27, 403, 485, 538; 1985 a. 340; 1987 a. 257 s. 2; 1987 a. 264, 265, 316; 1989 a. 316, 340; 1991 a. 39, 78, 160, 189, 269; 1993 a. 16, 102, 463, 465, 491; 1995 a. 27 s. 9126 (19); 1995 a. 225; 1995 a. 305 s. 1; 1995 a. 321, 417; 1997 a. 96, 252, 300.

3 **SECTION 3. 40.51 (8) of the statutes is amended to read:**

4 40.51 (8) Every health care coverage plan offered by the state under sub. (6)  
5 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)  
6 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.87 (3) to  
7 ~~(5)~~ (6), 632.895 (5m) and (8) to (14), and 632.896.

8 **NOTE: NOTE: NOTE: Sub. (8) is shown as affected by three acts of the 1999 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:**

History: 1981 c. 96; 1983 a. 27; 1985 a. 29; 1987 a. 27, 107, 356; 1987 a. 403 s. 256; 1989 a. 31, 93, 121, 129, 182, 201, 336, 359; 1991 a. 39, 70, 113, 152, 269, 315, 1993 a. 450, 481; 1995 a. 289; 1997 a. 27, 155, 202, 237, 252; 1999 a. 32, 95, 115, 155; s. 13.93 (2) (c).

9 **SECTION 4. 40.51 (8m) of the statutes is amended to read:**

10 40.51 (8m) Every health care coverage plan offered by the group insurance  
11 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,  
12 632.748, 632.83, 632.835, 632.85, 632.87 (6), 632.853, 632.855, and 632.895 (11) to  
13 (14).

14 **NOTE: NOTE: NOTE: Sub. (8m) is shown as affected by three acts of the 1999 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:**

History: 1981 c. 96; 1983 a. 27; 1985 a. 29; 1987 a. 27, 107, 356; 1987 a. 403 s. 256; 1989 a. 31, 93, 121, 129, 182, 201, 336, 359; 1991 a. 39, 70, 113, 152, 269, 315, 1993 a. 450, 481; 1995 a. 289; 1997 a. 27, 155, 202, 237, 252; 1999 a. 32, 95, 115, 155; s. 13.93 (2) (c).

15 **SECTION 5. 60.23 (25) of the statutes is amended to read:**

16 60.23 (25) SELF-INSURED HEALTH PLANS. Provide health care benefits to its  
17 officers and employees on a self-insured basis if the self-insured plan complies with  
18 ss. 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85,  
19 632.853, 632.855, 632.87 (4) and, (5), and (6), 632.895 (9) and (11) to (14), and  
20 632.896.

History: 1983 a. 532; 1985 a. 316 s. 25; 1987 a. 205; 1989 a. 121, 197, 276, 359; 1991 a. 28, 296; 1993 a. 105, 246, 456; 1995 a. 27 ss. 3300m, 9116 (5); 1995 a. 77, 201, 289, 448; 1997 a. 27, 111, 155, 237; 1999 a. 115; 1999 a. 150 ss. 8, 9, 672.

21 **SECTION 6. 66.0137 (4) of the statutes is amended to read:**

22 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or  
23 a village provides health care benefits under its home rule power, or if a town

1 provides health care benefits, to its officers and employees on a self-insured basis,  
2 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),  
3 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and,  
4 (5), and (6), 632.895 (9) to (14), 632.896, and 767.25 (4m) (d). ✓

History: 1999 a. 9, 115; 1999 a. 150 ss. 34, 303 to 306; Stats. 1999 s. 66.0137; 1999 a. 186 s. 63.

5 **SECTION 7. 111.91 (2) (pm) of the statutes is created to read:**

6 111.91 (2) (pm) The requirements related to coverage of psychotherapy services  
7 under s. 632.87 (6). ✓

8 **SECTION 8. 120.13 (2) (g) of the statutes is amended to read:**

9 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.  
10 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),  
11 632.85, 632.853, 632.855, 632.87 (4) and, (5), and (6), 632.895 (9) to (14), 632.896, and  
12 767.25 (4m) (d). ✓

History: 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186.

13 **INSERT 8-9:**

14 **SECTION 9. 185.981 (4t) of the statutes is amended to read:**

15 185.981 (4t) A sickness care plan operated by a cooperative association is  
16 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,  
17 632.853, 632.855, 632.87 (2m), (3), (4) and, (5), and (6), 632.895 (10) to (14), and  
18 632.897 (10) and chs. 149 and 155. ✓

NOTE: NOTE: Sub. (4t) is shown as affected by two acts of the 1999 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE: e

History: 1971 c. 40 s. 93; 1971 c. 307 s. 118; 1975 c. 98; 1975 c. 223 s. 28; 1975 c. 224 s. 146; 1975 c. 421; 1981 c. 39 s. 22; 1981 c. 205; 1981 c. 391 s. 210; 1985 a. 29; 1985 a. 30 s. 42; 1987 a. 27 ss. 1917e, 3202 (47) (a); 1987 a. 312 s. 17; 1989 a. 121, 129, 200, 201, 336; 1991 a. 39, 123, 269; 1993 a. 27, 450, 481; 1995 a. 27, 118, 289; 1997 a. 27, 155, 237; 1999 a. 95, 115; s. 13.93 (2) (c).

19 **SECTION 10. 185.983 (1) (intro.) of the statutes is amended to read:**

20 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be  
21 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,  
22 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,

1 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,  
2 632.855, 632.87 (2m), (3), (4) and, (5), and (6), 632.895 (5) and (9) to (14), 632.896, and  
3 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association  
4 shall:

NOTE: NOTE: Sub. (1)(intro.) 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: 1975 c. 98; 1975 c. 224 s. 146; 1975 c. 352; 1975 c. 422 s. 163; 1977 c. 339; 1979 c. 89; 1981 c. 20; 1981 c. 39 s. 22; 1981 c. 82; 1981 c. 391 s. 210; 1983 a. 189 s. 329 (25); 1983 a. 396; 1985 a. 29 ss. 2060d to 2060r, 3202 (30); 1987 a. 27, 325; 1989 a. 23, 31, 129, 200, 201, 336, 359; 1991 a. 39, 189, 250, 269, 315; 1993 a. 450, 481, 482; 1995 a. 289; 1997 a. 27, 155, 237; 1999 a. 95, 115; s. 13.93 (2) (c).

5 **INSERT 11-7:**

6 **SECTION 11.** 457.01 (8e) of the statutes is created to read:

7 457.01 (8e) "Psychiatrist" means a physician licensed under subch. II of ch. 448  
8 who specializes in psychiatry.

9 **INSERT 11-9:**

10 the diagnosis or treatment of mental, emotional, or behavioral disorders, conditions,  
11 or addictions through the application of methods derived from established  
12 psychological principles for the purpose of assisting people in modifying their  
13 behaviors, cognitions, emotions, or other personal characteristics, which may  
14 include the purpose of understanding unconscious processes or intrapersonal,  
15 interpersonal, or psychosocial dynamics.

16 **INSERT 11-10:**

17 **SECTION 12.** 457.03 (12) of the statutes is created to read:

18 457.03 (12) Upon the advice of the appropriate section of the examining board,  
19 promulgate rules for an applicant for a license to show that supervision is not  
20 practicable for purposes of s. 457.08 (4) (c) 2. and 3., 457.10 (3) (b) and (c), and 457.12 (3)  
21 (a) 2. and 3. and (b) 2. and 3.

22 **INSERT 22-4:**



1 SECTION 14. 609.655 (3) (a) of the statutes is amended to read:

2 609.655 (3) (a) A clinical assessment of the dependent student's nervous or  
3 mental disorders or alcoholism or other drug abuse problems, conducted by a  
4 provider described in s. 632.89 (1) (e) 2. ~~or~~ 3, <sup>2</sup> or 4. who is located in this state and  
5 in reasonably close proximity to the school in which the dependent student is  
6 enrolled and who may be designated by the managed care plan.

History: 1989 a. 121; 1993 a. 399; 1997 a. 237; 1999 a. 175<sup>A</sup>

7 SECTION 15. 609.71 of the statutes is created to read:

8 **609.71 Coverage of psychotherapy providers.** Managed care plans are  
9 subject to s. 632.87 (6).

10 SECTION 16. 632.87 (1) of the statutes is amended to read:

11 632.87 (1) No insurer may refuse to provide or pay for benefits for health care  
12 services provided by a licensed health care professional on the ground that the  
13 services were not rendered by a physician as defined in s. 990.01 (28), unless the  
14 contract clearly excludes services by such practitioners, but no contract or plan may  
15 exclude services in violation of sub. (2), (2m), (3), (4) ~~or~~ (5) <sup>1</sup> or (6).

History: 1975 c. 223, 371, 422; 1981 c. 205; 1983 a. 27; 1985 a. 29; 1987 a. 27; 1991 a. 39, 269; 1995 a. 412.

16 SECTION 17. 632.87 (6) of the statutes is created to read:

17 632.87 (6) (a) In this subsection, "psychotherapy" has the meaning given in s.  
18 457.01 (8m).

19 (b) No policy, plan, or contract that covers psychotherapy services may exclude  
20 or refuse to provide coverage for psychotherapy services performed by a clinical  
21 social worker licensed under ch. 457, a marriage and family therapist licensed under  
22 ch. 457, or a professional counselor licensed under ch. 457, within the scope of the  
23 clinical social worker's, marriage and family therapist's, or professional counselor's  
24 professional license, if the policy, plan, or contract includes coverage for

1 psychotherapy services performed by another health care provider, as defined in s.  
2 146.81 (1).

3 SECTION 18. 632.89 (1) (e) 4. of the statutes is created to read:

4 632.89 (1) (e) 4. A clinical social worker who is licensed under ch. 457, a  
5 marriage and family therapist who is licensed under ch. 457, or a professional  
6 counselor who is licensed under ch. 457.

7 **INSERT 42-22:**

8 **SECTION 19. Initial applicability.**

9 (1) INSURANCE COVERAGE OF SERVICES. The treatment of sections 40.51 (8) and  
10 (8m), 60.23 (25), 66.0137 (4), 111.91 (2) (pm), 120.13 (2) (g), 185.981 (4t), 185.983 (1)  
11 (intro.), 609.655 (3) (a), 609.71, 632.87 (1) and (6), and 632.89 (1) (e) 4. of the statutes  
12 first applies to all of the following:

13 (a) Except as provided in paragraphs (b) and (c), insurance policies, plans, or  
14 contracts that are issued or renewed, and self-insured health plans that are  
15 established, extended, modified, or renewed, on the effective date of this paragraph.

16 (b) Insurance policies, plans, or contracts covering employees who are affected  
17 by a collective bargaining agreement containing provisions inconsistent with this act  
18 that are issued or renewed on the earlier of the following:

- 19 1. The day on which the collective bargaining agreement expires.
- 20 2. The day on which the collective bargaining agreement is extended, modified,  
21 or renewed.

22 (c) Self-insured health plans covering employees who are affected by a  
23 collective bargaining agreement containing provisions inconsistent with this act  
24 that are established, extended, modified, or renewed on the earlier of the following:

- 25 1. The day on which the collective bargaining agreement expires.

1            2. The day on which the collective bargaining agreement is extended, modified,  
2            or renewed.

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

LRB-0746/1dn

MDK:/.....

CS

Representative Urban:

Please review this bill, which is based on instructions from Dismas Becker, very carefully to make sure that it achieves your intent. In particular, please note the following:

1. I changed the definition of "psychotherapy" because I do not understand the definition included in the instructions. For example, the instructions include a reference to "informed and intentional" application of "clinical methods and interpersonal stances". I don't know what "clinical" methods are, so this bill refers only to "methods". Perhaps you can clarify the meaning of "clinical methods". Also, I don't know what an "interpersonal stance" is, so I didn't include the term. I'm also not sure why the application of methods must be "informed" or "intentional". As for "informed", don't you want to be able to regulate licensees who apply methods in an uninformed way? If "informed" is included in the definition, someone who acted in an uninformed way can say that he or she was not practicing psychotherapy, and, therefore, is not subject to the examining board's authority. As for "intentional", I don't know why it's necessary to use this term. Won't all applications be intentional? In addition, I didn't include the language regarding "directions that participants deem desirable". My reason is similar to my reason for not including "informed". Suppose that, after treatment, a client realizes that a direction was in fact undesirable and that the licensee behaved unprofessionally in deeming that direction as desirable. If the language about a desirable direction is included, the licensee can argue that he or she wasn't practicing psychotherapy after all and, therefore, the examining board has no authority. Finally, I wasn't sure about the relationship to the rest of the definition of the last phrase in the instructions regarding "including understanding unconscious processes," etc. Please review my treatment of the phrase to see if it is consistent with your intent.

2. There are several references under current law to "clinical" marriage and family therapy practice and "clinical" professional counseling practice. See ss. 457.10 (3), 457.12 (3) (a) and (b), and 457.13 (1) (d), stats. I did not delete the word "clinical" from these provisions. Is this okay?

3. The instructions don't make any changes to the "one year" that is specified in s. 457.12 (3) (b) (intro.). Is it okay to refer to "one year" even though you change the "2

years" in s. 457.12 (3) (a) (intro.) to 3,000 hours? Also, in general, please review the changes to s. 457.12 (3) (a) and (b) because the instructions appear to omit some changes that I assume you want to make.

4. Please review proposed s. 457.23, which creates a duty to consult or refer. I'm not sure about the rationale for the duty to consult. If additional treatment is outside the scope of practice of, for example, a clinical social worker, what is the point of requiring the clinical social worker to consult with somebody else who can provide the treatment? Why not just create a duty to refer?

5. I will include the changes that you received from DORL in the next version of the draft, which will be available shortly.

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**

LRB-0746/1dn  
MDK:cs:jf

January 3, 2001

Representative Urban:

Please review this bill, which is based on instructions from Dismas Becker, very carefully to make sure that it achieves your intent. In particular, please note the following:

1. I changed the definition of "psychotherapy" because I do not understand the definition included in the instructions. For example, the instructions include a reference to "informed and intentional" application of "clinical methods and interpersonal stances." I don't know what "clinical" methods are, so this bill refers only to "methods." Perhaps you can clarify the meaning of "clinical methods?" Also, I don't know what an "interpersonal stance" is, so I didn't include the term. I'm also not sure why the application of methods must be "informed" or "intentional." As for "informed," don't you want to be able to regulate licensees who apply methods in an uninformed way? If "informed" is included in the definition, someone who acted in an uninformed way can say that he or she was not practicing psychotherapy, and, therefore, is not subject to the examining board's authority. As for "intentional," I don't know why it's necessary to use this term. Won't all applications be intentional? In addition, I didn't include the language regarding "directions that participants deem desirable." My reason is similar to my reason for not including "informed." Suppose that, after treatment, a client realizes that a direction was in fact undesirable and that the licensee behaved unprofessionally in deeming that direction as desirable. If the language about a desirable direction is included, the licensee can argue that he or she wasn't practicing psychotherapy after all and, therefore, the examining board has no authority. Finally, I wasn't sure about the relationship to the rest of the definition of the last phrase in the instructions regarding "including understanding unconscious processes," etc. Please review my treatment of the phrase to see if it is consistent with your intent.

2. There are several references under current law to "clinical" marriage and family therapy practice and "clinical" professional counseling practice. See ss. 457.10 (3), 457.12 (3) (a) and (b), and 457.13 (1) (d), stats. I did not delete the word "clinical" from these provisions. Is this okay?

3. The instructions don't make any changes to the "one year" that is specified in s. 457.12 (3) (b) (intro.). Is it okay to refer to "one year" even though you change the "2

years" in s. 457.12 (3) (a) (intro.) to 3,000 hours? Also, in general, please review the changes to s. 457.12 (3) (a) and (b) because the instructions appear to omit some changes that I assume you want to make.

4. Please review proposed s. 457.23, which creates a duty to consult or refer. I'm not sure about the rationale for the duty to consult. If additional treatment is outside the scope of practice of, for example, a clinical social worker, what is the point of requiring the clinical social worker to consult with somebody else who can provide the treatment? Why not just create a duty to refer?

5. I will include the changes that you received from DORL in the next version of the draft, which will be available shortly.

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

**Kunkel, Mark**

**From:** Dismas Becker  
**Sent:** Tuesday, January 16, 2001 2:41 PM  
**To:** Mark Kunkel  
**Subject:** suggested changes to draft-0746

Dear Mark,

I have made a preliminary review of LRB 0746 and have asked members of the professional groups to submit responses. The following are changes we feel can be made immediately. There may be more. I will submit them to you as soon as they come in.

1. In your cover letter you said you made changes in the definition of "psychotherapy". So far no one objects to your reasoning for using "clinical methods" and dropping "informed" or "intentional" as well as "directions that participants deem desirable." The latter are accepted ethical expectations. For "interpersonal stance" we would like you to insert the words "or systematic" on page 11 line 4 following the word psychological. ✓

While I am on the definition of "Psychotherapy" there are a couple of other changes that should be made.

- o On page 11, line 2 delete "or" following "diagnosis" and insert the word "and". ✓
- o On page 11, line 5 following the word "emotions" insert "and/" ✓

1. We agree with your assumption in the use of the word "clinical" as stated in # 2. ✓
2. In regard to the use of the term "one year" for those with doctorate degrees, we feel you should replace one year with "1,000 hours". This 1,000 hours can be fulfilled as part of the doctorate program. If it is not part of the doctorate program, it must be fulfilled before a license is granted. ✓
3. The clinical workers raised a concern that matters of discipline would not be reviewed by a panel of their peers if the social workers' section did not have more clinical social workers on it. Instead of increasing the number of members in that section, we would like each section to have the option to create an independent panel of peers to hear and rule on discipline infractions of licensed practitioners. ✓
4. We are going to have a difficulty with those who are licensed to practice psychotherapy under the independent clinic statute. We would like to address that with a grandfather clause that would allow those with a Master Degree level and licensed under the independent clinic statute to take the exam of the section of their choice and be licensed if they pass. This is similar to the grandfather clause used in the original certification act. → d-NOTE ?
- ✓ 5. We would like a clarification of the credentials of supervisors as stated in 457.08 (4) (c) 1., 2., and 3., 457.10 (3) (a), (b) and (c) and 457.12 (3) (a) 1., 2. And 3. The first option is fine as it stands but the second option should have equal status. In other words the second option should not be based on a condition that it was a hardship to find or choose the first option. The third option should be conditioned on the availability of the first or second option. The third option should also require that the licensed psychiatrist or psychologist practice psychotherapy, not all psychiatrist or psychologist practice psychotherapy. page 3  
also

6. Another concern that is not addressed in the draft or in the present statute is the education and training requirements of an applicant. We would like the whole examining board to establish common minimum course requirements in education and training of psychotherapy and diagnosis. Each section could make them more specific to fit their profession. We do not want the board to be dictating courses but we would like to see them ask for minimum credits 3 or 6 in both or

combined courses. We would not want these minimums to be retroactive or force recent graduates to return to school. The requirements should gradually be established say within a three to four year period from promulgation of the rules. Is this possible?

That is all for now. Rep. Urban may have other concerns that will be coming to his attention. We will get them to you as soon as they come in. Thank you.

Dismas

Issues to be resolved:  
1 Code of Ethics or 3? ✓ 1 code of ethics

- music, art, dance therapists

Exempt?

John Sweitzer, DORL

(Other option

- allow DORL

to license?)

- don't do this

until first

option is

exhausted

See my copy in binder: - talk to Urban?

- See p16 lines 20-22 ✓ ; p17 lines 1-2 ✓

- p19 line 6 ✓

Same as p20 line 9 ✓

p22 line 1 & line 15 ✓

- want defint of SW

Add clinical swers

to 905. ✓

- p33 line 22 - get rid of temp IC SW ✓

01/22/2001 - p34 line 4 - get rid of reciprocal ✓

**Kunkel, Mark**

---

**From:** Dismas Becker  
**Sent:** Monday, January 22, 2001 4:34 PM  
**To:** Mark Kunkel  
**Subject:** redraft of LRB 746

Mark,

One slight change on my previous instructions. Number 5 on my page and number 4 on your page deals with the grandfathering of those master degree psychotherapist who practice under the protection of the Dept. of Health and Family Services' independent mental health clinic statute. One change should be made. They should be grandfathered in without having to take the exam. They should be treated the same way as those who are presently certified to practice psychotherapy under ss 457.

Thank you,

Dismas

- see HFS 34.21(3)(b)8.

"master clinician"

shd be grandfathered in  
w/o taking exam?

sd-note?

## Kunkel, Mark

---

**From:** Schweitzer, John  
**Sent:** Sunday, January 28, 2001 1:34 PM  
**To:** 'dismas@gdinet.com'  
**Cc:** Kunkel, Mark  
**Subject:** psychotherapy bill

Dismas and Mark,

Here is a revised version of the summary and comments I prepared last week, based on the discussion at various section meetings. Some are just additional suggestions; the most significant additions are all of the provisions of the legislation that was drafted and died last session. All revisions are in bold. Feel free to contact me for clarification.

John Schweitzer  
Legal Counsel to the Examining Board of SWMFTPC  
267-5205



Dismas bill  
comments.doc

**1/28/01 revision – most recent revisions in bold**

I. Summary of Proposed Psychotherapy Licensure Bill, 2001

1. The practice of clinical social work, marriage and family therapy, and professional counseling will be restricted to persons holding those titles.
2. The practice of psychotherapy is restricted to those licensed under chapter 457, or APSWs and ISWs practicing under supervision.
3. All other aspects of the other social worker levels – SWs, APSWs, and ISWs – remain unchanged.
4. The board remains generally in its current form:
  - 4 social workers: an APSW, an ISW, a clinical social worker, and a gov't social worker
  - 3 MFTs
  - 3 PCs
  - 3 public members
5. The board's name is changed to the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board.
6. Current holders of MFT certificates, PC certificates, and ICSW certificates receive their respective licenses.
7. Current holders of temporary MFT and PC certificates receive temporary licenses.
8. Definitions of "psychotherapy" (p. 11, line 2) and "clinical social work" (p. 9, line 18) are created.
9. The title "employee assistance counselor" is added to the list of titles that do not need certification.
10. Separate codes of ethics are authorized for PCs, MFTs, and clinical social workers.
11. The promulgation of rules regarding psychometric testing is authorized.
12. The bill replaces the current list of persons who may supervise practice prior to licensure. For each profession, the list becomes
  - first, a person holding the same license, with a doctorate,
  - second, a person holding the same license with 5 years of clinical experience,
  - third and only if the first two are not "practicable", a psychiatrist or psychologist.
13. The bill would allow each section to establish necessary qualifications for the psychiatrists and psychologists in the line above.
14. The bill would replace the phrase "2 years" with "3,000 hours" for clinical practice.
15. The bill would create an MFT training certificate.
16. Reciprocal licensure would be available for persons who have met substantially equivalent requirements in other states.
17. The bill authorizes separate continuing education rules for each section.
18. The bill creates a duty to "consult or refer" if a licensed person determines that a client requires additional treatment that is outside the scope of the provider's practice.
19. The bill updates references in many other statutes, such as in the definition of health care providers, the pharmacy code, etc.
20. The legislation would become effective 6 months after passage and publication.

## II. Comments and Questions about the Proposed Psychotherapy Bill

### One fairly significant potential problem.

1. Some, but by no means all, Music, Art and Dance Therapists are now qualified to practice psychotherapy. This bill does not address their interests.

- a. Should the bill be redrafted to include them? (This would be more than a minor addition, since those professions do not already have designations or distinctions to identify those qualified to practice psychotherapy.)
- b. Should reference be made in the bill to potential future licensure of these professions? E.g. some reference to those professions in the paragraph prohibiting the practice of psychotherapy, the to-be-created section sec. 457.04(7).
- c. Should no reference be made at this time, since future legislation could address all necessary changes.

Many minor matters in the bill as drafted.

2. The text of page 14, line 17 through page 15, line 4 of the draft bill (newly-created sections 457.03 (4), (5) and (6)), authorizes each section to promulgate rules for educational standards. Don't these three paragraphs just duplicate the authority already in section 457.03 (1), lines 13-20 on page 14? *check - if okay, then follow instruction - YES - make change*
3. The newly-created sections 457.03(7), (8) and (9), lines 6-14 on page 15, authorize separate codes of ethics for each of the sections, and for the ICSWs separate from the other social workers. Is this the right way to proceed? *→ go back to current law - ONE code of ethics for all*
4. Line 17, page 16 through line 2, page 17 need to be simplified, since ICSWs and ISWs never call themselves APSWs, and ICSWs never call themselves ISWs. *See changes in pencil in bill*
5. Even though there is a new section that says no credential is needed for a person practicing within the scope of another license (lines 3-7 on page 13), shouldn't the general prohibition on the practice of psychotherapy, section 457.04 (7), lines 2-4 on page 18, include an exception for psychologists and psychiatrists **and psychiatric nurses**? *NOT NECESSARY*
6. The bill makes a change in eligible supervisors, who will now have to have a doctor's degree or five years (not defined) of full-time clinical work". Page 19, lines 4-8; page 20, lines 7-11; pages 21, line 22 through page 22, line 3. Is this what the profession wants? *NO CHANGE NECESSARY*
7. Shouldn't the reference to renewal dates at lines 14-16 on page 25 include training certificates, i.e. "other than training certificates and temporary certificates and licenses"? *- See if necessary & make change if so*
8. New definitions for MFTs and PCs are included for chapter 905 (lines 6-12 on page 32). Shouldn't there be a definition for ICSWs, too?

*→ Add clinical social worker  
& temp social worker*

*refer to rules  
allow each to promulgate rules  
& rules must be comparable to chapter*

*13*

*NO CHANGE*

*NO CHANGE*

9. The words "social worker" need to be eliminated from line 20, page 33, and "temporary independent clinical social worker" need to be eliminated from 22., since there are no temporary ICSW certificates. *check & make change*

10. Lines 4-9, page 34 need to be eliminated. The drafter apparently created this section for the transition period to cover the transformation of reciprocal certificates into reciprocal licenses, but it is unnecessary since, once reciprocity is granted, a person is simply granted a certificate. *make change*

11. It might be very helpful to add more definition to the phrase "3,000 hours". On e suggestion was that it become something like "3,000 hours, as required by DHFS for certification of providers in outpatient mental health clinics, with a minimum of 1,000 of face-to-face client contact" or in some way make this requirement a reference to the DHFS standard. *3,000, w/ at least 1,000 face to face & rules on how to calculate*

12. All sections would like to have the option of approving other persons as supervisors, either by category (such as "a person who holds an 'approved supervisor' certification from the American association for marriage and family therapists" now in sec. SFC 16.05), or in exceptional circumstances where other supervisors are truly unavailable. This would entail adding something like the following as 457.08 (c) 4., 457.10 (3) (d), and 457.12 (3) (a) 4.: "Another qualified professional either approved individually in advance by the section or approved as a member of a category approved by the section in a rule." *1 - person described in #12  
2 - 3 or 4 (2)  
4 (3)*

13. As currently drafted, 457.04 (7) recognizes the supervised practice of psychotherapy by APSWs and ISWs, but 457.04 (4) does not allow APSWs and ISWs to practice "clinical social work". The Social Worker Section recommends adding to 457.04 (4) something like "or unless the individual is certified as an advanced practice social worker or independent social worker and the individual practices clinical social work under the supervision of a clinical social worker who is licensed under this chapter." *Make change*

Wording in the existing statutes that should be changed while we're at it.

14. As long as we are making changes, should we change the wording in section 457.15 (1) (d), lines 19-24 on page 23? The language "certified under par. (a) or under s. 457.08 (1)" means that a person must hold a Wisconsin basic social worker certificate (and not an APSW or ISW certificate) in order to be granted a reciprocal ICSW certificate. Unless I'm greatly mistaken, this is simply wrong. And if we make that change, should we make the same change in sections (b) and (c), which have the same requirement before granting APSW or ISW certification by reciprocity? *check & correct*

15. As long as we are making changes, how about eliminating lines 18-19 on page 30, which just duplicate lines 15-16 (in the existing rules as well as the proposed ones)? *No change necessary*

16. As long as we are making changes, should we change the reference in line 18 of page 18? It says an ICSW license may be granted to anyone who completes additional requirements after being certified at the basic social worker level. Shouldn't this be expanded to make APSWs and ISWs eligible, too? The only edit would be to change "sub. (1)" to "sub (1), (2) or (3)".

*NOT NECESSARY*

17. As long as we are making changes, the Social Worker Section would like to eliminate a confusing reference to "advanced social work practice" in 457.03(3), probably as follows: Upon the advice of the social work section, promulgate rules establishing levels of advanced social work practice for those holding masters or doctoral degrees in social work, ... *Make change*

Incorporating other proposed statutory changes.

The following are statutory changes sought by the board or the various sections in previously introduced legislation which, if not incorporated into this bill, will need to be separately re-introduced.

✓ 18. The bill already creates a marriage and family therapist training certificate, which was a provision in 1999 AB 642 (LRB-1133/1 and LRB-2633/1). That bill had one other provision which the Marriage and Family Therapist Section and the Professional Counselor Section would like to incorporate here: to permit applicants to take the required exam for certification prior to completing their period of supervised practice. This can be accomplished by the following changes in sec. 457.16(3): ... 457.10 (1) ~~to (3)~~ and (2) or 457.12 (1) ~~to (3)~~ and (2) ... *Make change*

19. LRB-3388 last session would have made two changes requested by the Social Worker Section, creating a temporary certificate for APSWs and permitting social work training certificate holders to take the practice exam prior to completing their courses and/or training. As drafted in 3388, these changes would have been

a. basically, to insert the phrase "advanced practice social worker" into what is currently 457.14. This change entailed a number of other editorial changes, renumbering sections, etc., which will not be copied here. LRB-3388/1 as drafted will provide those other necessary details.

✓ b. change 457.09 (5) (a) to read "A social worker training certificate holder may take the national social work examination before or after her or she completes the requirements under sub. (4)."  
*Make change*

20. All three sections would like to have the authority to require applicants for certification/licensure by reciprocity to take the state jurisprudence exam. The A.G. rendered an opinion that current statutes do not grant that authority. Such a change was drafted for the social worker section as LRB 1538/1 last session and, because it involved 2 1/2 pages of section renumberings, etc., all the necessary changes are not reproduced here.

✓ Basically, however, it would consist of inserting the following language into the present sections 457.15 (1) (a), (b) and (c), 457.15 (2), and 457.15 (3): "and who passes an examination approved by the [appropriate] section that tests knowledge of state law relating to [social work/marriage and family therapy/professional counseling]". LRB 1538/1 as drafted will provide the other necessary details. *Make change*

revision of 1/28/01 incorporating revisions (in bold) from board and section meetings on 1/25 and 1/26; also renumbering items the "comments and questions" from the previous draft - jns

**Kunkel, Mark**

---

**From:** Dismas Becker [dismas@gdinet.com]

**Sent:** Thursday, February 01, 2001 1:31

**To:** Mark Kunkel

**Subject:** psychotherapy bill

Mark,

I believe I already mention this but if I haven't.

The requirement for doctorate level applicants says that they must have 1000 hrs of supervision. That 1000 may be obtained before they receive their doctorate or even be a part of their doctorate training/courses.

If it doesn't say that please make sure it does.

Dismas

02/01/2001

## Kunkel, Mark

---

**From:** Dismas Becker [dismas@gdinet.com]  
**Sent:** Saturday, February 03, 2001 11:41 AM  
**To:** Kunkel, Mark  
**Subject:** Re: redraft of LRB 746

Mark,

I do not know the rule reference. Otis Wood at DHFS was the last director of the bureau for quality life, he would know the rule and the reference. The reference you made toward master level clinicians sounds familiar. I do not have the rule before me here. I will have to wait till Monday to see if I can find it. It is the rule for independent mental health clinics. In that rule it describes who can be a clinician and what training they need. Those are the people that we are grandfathering in.

I will contact you again on Monday.

Dismas

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

**From:** "Kunkel, Mark" <Mark.Kunkel@legis.state.wi.us>  
**To:** "Dismas Becker" <dismas@gdinet.com>  
**Sent:** Friday, February 02, 2001 10:48 AM  
**Subject:** RE: redraft of LRB 746

> Dismas:

>  
> Can you give me more guidance on your reference to the "independent mental health clinic statute"? I don't know what statute you are referring to.  
> I've discussed the issue with the attorney who does DHFS drafting, and she's  
> not sure either.  
>  
> It would be helpful if you could provide me with a reference to either the  
> statutes or DHFS's rules.  
>  
> I did find a reference to master's level clinicians under s. HFS 34.21 (3)  
> (b) 8., Wis. Adm. Code, but that rule describes the qualifications that a  
> master's level clinician must have in order to be a staff member of an  
> emergency mental health services program who is allowed to provide mental  
> health crisis services. Is that what you are talking about?

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

>  
>  
>  
> -----Original Message-----  
> From: Dismas Becker [mailto:dismas@gdinet.com]  
> Sent: Monday, January 22, 2001 4:34 PM  
> To: Mark Kunkel  
> Subject: redraft of LRB 746

>  
>  
> Mark,  
>  
> One slight change on my previous instructions. Number 5 on my page and

- > numbr 4 on your page deals with the grandfathering of those master degree
- > psychotherapist who practice under the protection of the Dept. of Health
- and
- > Family Services' independent mental health clinic statute. One change
- > should be made. They should be grandfathered in without having to take
- the
- > exam. They should be treated the same way as those who are presently
- > certified to practice psychotherapy under ss 457.
- >
- > Thank you,
- >
- > Dismas
- >

Kunkel, Mark

**From:** Dismas Becker [dismas@gdinet.com]  
**Sent:** Wednesday, February 07, 2001 7:41 AM  
**To:** Mark Kunkel  
**Subject:** Last minute request on psychotherapy

Mark,

I found out at my meeting with the Dep. of Reg. & Lic. that we do not have to grandfather those practicing psychotherapy under DHSF 61.96 (2). Instead you should reference that those practicing psychotherapy under DHSF 61.96 (2) are not restricted by this statute from practicing psychotherapy. ✓

Also on page 15 lines 16-19 the Dept. would like you to insert language on line 19 after "rules" consistent with the guidelines of the American Psychological Association or other nationally recognized guideline etc. ✓

Finally, Marlene Cummings asked whether the reference to Art, Dance and Music therapist would allow the Dept. to license those eligible to practice psychotherapy under their rules. She wanted to talk to you by phone at 12:00 noon. I will call you as around 8:30 AM today. ✓

John Switzer has some language he is putting together. If it is not in time for completing the final draft we will have to offer it as an amendment. Rep. Urban is already asking people to sign on to LRB 0746 and he needs the final draft to give to those requesting to see it.

Dismas

Supersedes:  
 - must do joint rules ✓

Must consult with psychologist examining board

- elim. priority for supervision ✓

**Kunkel, Mark**

---

**From:** Schweitzer, John  
**Sent:** Thursday, February 08, 2001 8:12 AM  
**To:** Kunkel, Mark; 'dismas@gdinet.com'  
**Subject:** comments by Psychology Board



01.02.07.1.doc

February 7, 2001

Dismas Becker, Lobbyist  
The Wisconsin Coalition of Marriage and Family Therapists, Professional Counselors  
and Social Workers  
7 N. Pinckney Street  
Madison, WI 53703

Dear Dismas:

Secretary Cummings, Sara Bowen and I met with the Psychology Examining Board this morning to present some issues related to the pending Psychotherapy Licensure Bill, in draft as LRB-0746/1. I am sending this to you to report the board's comments, and simultaneously sending a copy to the drafter.

The board made the following two recommendations.

1. That section 39 of the bill be changed so that the responsibility for promulgating rules regarding psychometric testing be shared jointly by the new board and the Psychology Examining Board. This can be accomplished by rewriting the section to require that any rules be "jointly promulgated by the examining board and the psychology examining board". I must point out that this recommendation has not been discussed by the Psychotherapy Advisory Committee.
2. That this bill contain a provision identical to that in section 455.02 (2m) (L), Stats. This "exception" permits persons employed as "mental health professionals" in outpatient psychotherapy clinics to practice psychotherapy without licensure. Failure to include this would disenfranchise a number of professionals who are now practicing in such settings. The board does want to encourage these persons to become credentialed, however, and the board recommended that a time limit, or "sunset" provision, be included, such as "within three years of the effective date of this bill".

Finally, as you know from our lunch-hour meeting today, Secretary Cummings recommends that the bill include a provision for professional liability insurance similar to that now required of other professions; for example, section 446.02 (8), Stats., says "every practicing chiropractor shall have in effect professional liability insurance. The examining board shall promulgate rules establishing the minimum amount of insurance required under this subsection." This recommendation is consistent with the advisory committee's discussion of the issue yesterday.

Sincerely,

John Schweitzer  
Legal Counsel

cc: Marlene Cummings, Secretary  
Mark Kunkel, Legislative Reference Bureau

## Kunkel, Mark

---

**From:** Dismas Becker [dismas@gdinet.com]  
**Sent:** Thursday, February 08, 2001 12:05 PM  
**To:** Mark Kunkel  
**Subject:** Fw: comments by Psychology Board



01.02.07.1.doc

Mark,

I already mentioned two the changes that John Swietzer includes in his attachment. Also include the third regard the need to carry liability insurance. The chiropractor statute has language that we should use as well. If you have nay questions, e-mail me.

Dismas

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

**From:** "Schweitzer, John" <john.schweitzer@drl.state.wi.us>  
**To:** "Kunkel, Mark" <Mark.Kunkel@legis.state.wi.us>; <dismas@gdinet.com>  
**Sent:** Thursday, February 08, 2001 8:12 AM  
**Subject:** comments by Psychology Board

## Kunkel, Mark

---

**From:** Schweitzer, John  
**Sent:** Thursday, February 08, 2001 1:09 PM  
**To:** Kunkel, Mark; 'dismas@gdinet.com'  
**Subject:** RE: comments by Psychology Board

Dismas and Mark,

I am told this morning that the chair of the Psychology Board now says that the "sunset" provision I mentioned in yesterday's e-mail/letter can be left out of the legislation and left in DHSS's hands.

John

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

**From:** Schweitzer, John  
**Sent:** Thursday, February 08, 2001 8:12 AM  
**To:** Kunkel, Mark; 'dismas@gdinet.com'  
**Subject:** comments by Psychology Board

<< File: 01.02.07.1.doc >>