

2007 DRAFTING REQUEST

Senate Amendment (SA-SB246)

Received: 02/18/2008

Received By: tkuczens

Wanted: As time permits

Identical to LRB:

For: Mark Miller (608) 266-9170

By/Representing: Laura Rose

This file may be shown to any legislator: NO

Drafter: tkuczens

May Contact:

Addl. Drafters: dkennedy
pkahler
tkuczens

Subject: Health - miscellaneous
Public Assistance - med. assist.
Occupational Reg. - prof lic

Extra Copies:

Submit via email: YES

Requester's email: Sen.Miller@legis.wisconsin.gov

Carbon copy (CC:) to: tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Various provider modifications

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	dkennedy 02/18/2008 tkuczens 02/19/2008 dkennedy 02/19/2008 tkuczens	kfollett 02/20/2008	pgreensl 02/20/2008	_____	lparisi 02/20/2008	lparisi 02/20/2008	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	02/19/2008 dkennedy 02/19/2008			_____			
/2	dkennedy 02/25/2008	csicilia 02/26/2008	rschluet 02/26/2008	_____	sbasford 02/26/2008	sbasford 02/26/2008	
/3	dkennedy 02/26/2008	csicilia 02/26/2008	rschluet 02/26/2008	_____	sbasford 02/26/2008	sbasford 02/26/2008	

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Handwritten notes: 1/3 cjs 2/26/08

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/2	dkennedy 02/25/2008	csicilia 02/26/2008	rschluet 02/26/2008	_____ _____	sbasford 02/26/2008	sbasford 02/26/2008	

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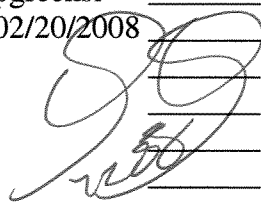
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		1/2 cjs 2/26 08					

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	02/19/2008			_____			
	dkennedy			_____			
	02/19/2008			_____			

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/1	dkennedy	1/16/f 2/20	2/20 PS	2/20 PS/DR			

FE Sent For:

<END>



WISCONSIN LEGISLATIVE COUNCIL

Laura Rose, Deputy Director

laura.rose@legis.wisconsin.gov

608/266-9791

2.15.08

Tracy,

Here is a proposed
revision to LR Ba 1137/1, as
I referenced in my phone
message to you. I'll call you
Monday to discuss.

Jamie
get package
etc on wed but not on order
Thomas
Laura

One East Main, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536
608/266-1304 • FAX 608/266-3830
www.legis.state.wi.us/lc

**SENATE AMENDMENT ,
TO 2007 SENATE BILL 246**

1 At the locations indicated, amend the bill as follows:

2 ~~1. Page 1, line 6: delete "services and" and substitute "services,".~~

3 ~~2. Page 1, line 7: after "requirements" insert ", and requiring the exercise of~~
4 ~~rule-making authority"~~

5 **3.** Page 3, line 14: after that line insert:

6 "SECTION 3e. 51.01 (11m) of the statutes is created to read:

7 51.01 (11m) "Licensed mental health professional" has the meaning given in
8 s. 632.89 (1) (dm).

9 SECTION 3g. 51.30 (1) (b) of the statutes is amended to read:

10 51.30 (1) (b) "Treatment records" include the registration and all other records
11 that are created in the course of providing services to individuals for mental illness,
12 developmental disabilities, alcoholism, or drug dependence and that are maintained
13 by the department, by county departments under s. 51.42 or 51.437 and their staffs,

1 and; by treatment facilities; or by psychologists licensed under s. 455.04 (1) or
2 licensed mental health professionals who are not affiliated with a county department
3 or treatment facility. Treatment records do not include notes or records maintained
4 for personal use by an individual providing treatment services for the department,
5 a county department under s. 51.42 or 51.437, or a treatment facility, if the notes or
6 records are not available to others.

7 SECTION 3i. 51.30 (8) of the statutes is amended to read:

8 51.30 (8) GRIEVANCES. Failure to comply with any provisions of this section may
9 be processed as a grievance under s. 51.61 (5) (a), except that the grievance resolution
10 procedures ^{required} ~~established~~ under s. ~~457.26~~ ^{457.26(2)(gs)} apply to failures to comply by a licensed
11 mental health professional who is not affiliated with a county department or
12 treatment facility. However, use of the grievance procedure is not required before
13 bringing any civil action or filing a criminal complaint under this section.

14 SECTION 3k. 51.61 (1) (y) of the statutes is created to read:

15 51.61 (1) (y) Have the right, if provided services by a licensed mental health
16 professional, to receive from the professional a copy of the grievance resolution
17 procedures ^{Required} ~~established by rule~~ under s. ~~457.245~~ ^{457.26(2)(gs)}.

18 SECTION 3m. 51.61 (2) of the statutes is amended to read:

19 51.61 (2) A patient's rights guaranteed under sub. (1) (p) to (t) may be denied
20 for cause after review by the director of the facility, and may be denied when
21 medically or therapeutically contraindicated as documented by the patient's
22 physician or licensed psychologist in the patient's treatment record. The individual
23 shall be informed in writing of the grounds for withdrawal of the right and shall have
24 the opportunity for a review of the withdrawal of the right in an informal hearing
25 before the director of the facility or his or her designee. There shall be documentation

or licensed mental health professional } is this change needed?

1 of the grounds for withdrawal of rights in the patient's treatment record. After an
 2 informal hearing is held, a patient or his or her representative may petition for
 3 review of the denial of any right under this subsection through the use of the
 4 grievance procedure provided in sub. (5) (a) or, alternatively for review of the denial
 5 of a right by a licensed mental health professional, through the use of ^{one of} the grievance
 6 resolution procedure ^{§ 457.26(2)(gs)} under s. ~~457.245~~. Alternatively, or in addition to the use of such
 7 the appropriate grievance procedure, a patient or his or her representative may bring
 8 an action under sub. (7).

9 **SECTION 3p.** 51.61 (5) (e) of the statutes is created to read:

10 51.61 (5) (e) A licensed mental health professional shall make available to each
 11 patient to whom the professional provides services a copy of the grievance resolution
 12 procedures ^{§ 457.26(2)(gs)} established by rule under s. ~~457.245~~. Paragraphs (a) and (b) do not apply
 13 to this paragraph.

14 **SECTION 3r.** 51.61 (9) of the statutes is amended to read:

15 51.61 (9) The Except for grievance resolution procedures ^{required} established by rule
 16 under s. ^{§ 457.26(2)(gs)} ~~457.245~~, the department shall promulgate rules to implement this section.".

17 ~~4. Page 3, line 14: after that line insert:~~

18 "SECTION ~~3t.~~ 457.245 of the statutes is created to read:

19 **457.245 Grievance resolution procedures.** (1) Upon the advice of the
 20 social worker section, marriage and family therapist section, and professional
 21 counselor section, the examining board shall promulgate rules establishing
 22 standards for grievance resolution procedures to be made available to clients with
 23 complaints about licensees. The rules shall require a licensee to provide the
 24 grievance resolution procedures to a client in writing before the client receives

option
 that the
 professional
 will make
 available
 to the
 patient,
 as
 required

1 services, therapy, or counseling from the licensee and upon the request of the client.
 2 The written grievance resolution procedures provided by a licensee to his or her
 3 client shall include all of the information required under sub. (2) and shall provide
 4 the name, address, and telephone number of, and any other contact information
 5 available for, one or both of the following:

6 (a) The appropriate section of the examining board that is responsible for
 7 receiving a complaint and investigating and conducting a hearing under s. 457.26 (1).

8 (b) A person not involved in the services, therapy, or counseling giving rise to
 9 the complaint who would be available to receive and investigate a complaint.

10 (2) The standards established by rule under this section shall include all of the
 11 following:

12 (a) The manner by which a client may present a complaint.

13 (b) The manner by which a client may appeal the resolution of a complaint
 14 presented under par. (a).

15 (c) Time limits for filing, processing, and appealing the resolution of a
 16 complaint presented under par. (a) and a requirement that the written grievance
 17 resolution procedures provide notice of such time limits.

18 (d) Protections against retaliation for a client who presents a complaint under
 19 par. (a) and for any person who assists the client to present a complaint under par.
 20 (a).

21 SECTION 3v. 457.26 (2) (gs) of the statutes is created to read:

22 457.26 (2) (gs) Performed clinical social work, marriage and family therapy, or
 23 professional counseling without making available to his or her client in writing ~~the~~
 24 grievance resolution procedures established by rule under ~~s. 457.245~~.

one of following options for a

(insert A here)

1 **5.** Page 3, line 24: delete that line and substitute "under s. 457.10, or a
2 professional counselor who is licensed under s. 457.12."

3 **6.** Page 3, line 24: after that line insert:

4 "**SECTION 5m.** 632.89 (1) (e) 3. of the statutes is repealed and recreated to read:
5 632.89 (1) (e) 3. A psychologist licensed under ch. 455."

6 **7.** Page 4, line 1: after "professional" insert "practicing within the scope of his
7 or her license under ch. 457 and applicable rules".

8 ~~**8.** Page 4, line 1: after that line insert:~~

9 "**SECTION 6m. Nonstatutory provisions.**

10 (1) ~~GRIEVANCE RESOLUTION PROCEDURES: RULES.~~ The marriage and family
11 therapy, professional counseling, and social work examining board in the
12 department of regulation and licensing shall submit in proposed form the rules
13 required under section 457.245 of the statutes, as created by this act, to the
14 legislative council staff under section 227.15 (1) of the statutes no later than the first
15 day of the 5th month beginning after the effective date of this subsection."

16 **9.** Page 4, line 3: after "(1)" insert "LICENSED MENTAL HEALTH PROFESSIONALS."

17 **10.** Page 4, line 7: after that line insert:

18 "(2) **PSYCHOLOGISTS.** If a group health insurance policy that is in effect on the
19 effective date of this subsection contains a provision that is inconsistent with the
20 treatment of section 632.89 (1) (e) 3. of the statutes, the treatment of section 632.89
21 (1) (e) 3. of the statutes first applies to that insurance policy on the date on which it
22 is renewed.

23 **SECTION 7m. Effective dates.** This act takes effect on the first day of the
24 month beginning after publication, except as follows:

19th
WJA

1
2
3

(1) The creation of section 457.245 of the statutes and SECTION 6m (1) of this act take effect on the day after publication."

(END)

INSERT A to LRB 1137/1

1. A written grievance resolution procedure that contains all of the following elements:
 - a. The name, address, and telephone number of, and any other contact information available for, the appropriate section of the examining board that is responsible for receiving a complain and investigating and conducting a hear in under s. 457.26(1).
 - b. The name, address, and telephone number of, and any other contact information available for, a person not involved in the services, therapy, or counseling giving rise to the complain t who would be available to receive and investigate a complaint.
 - c. The manner by which a client may present a complaint.
 - d. The manner by which a client may appeal the resolution of a complaint presented under subpar. a. or b.
 - e. Time limits for filing, processing, and appealing the resolution of a complaint presented under subpar. a. or b. and a requirement that the written grievance resolution procedures provide notice of such time limits.
 - f. Protections against retaliation for a client who presents a complaint under subpar. a. or b. and for ay persons who assists the client to present a complaint under subpar. a. or b.
2. A written grievance resolution procedure that complies with the rules promulgated under s. 51.61(5)(b).
3. A written grievance resolution procedure that is available to the licensed mental health professional through a professional association of which the professional is a member.

2/18/08

SB 246

T. conference with Jamie Sen. Miller's office
re: amendment LRBa1137/1

→ Do not create LRBa1137/2.

create a new amendment that addresses only
"the 3 things ..."

2/19/08 Discussion w/ Laura Rose (leg. counsel)

~~Revised~~

In addition to permitting the 3 sections of the marriage & family therapy, professional counseling, & social work examining board to reprimand /penalize uncredentialed holder if they fail to provide a client w/ a written copy of the grievance resolution procedure, *also* require each credential holder/applicant to submit a written copy of the procedure to the client ~~before practicing~~ before practicing mft therapy, p. counseling, or social work.



(WED., if possible)
State of Wisconsin
2007 - 2008 LEGISLATURE

a 1284/1
LRBa 1137/A
DAK/PJK/TKK:kjf:z

SENATE AMENDMENT,
TO 2007 SENATE BILL 246

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3 **2.** Page 1, line 7: after “requirements” insert “, and requiring the exercise of
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13 by the department; by county departments under s. 51.42 or 51.437 and their staffs,

1 and; by treatment facilities; or by psychologists licensed under s. 455.04 (1) or
2 licensed mental health professionals who are not affiliated with a county department
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4 for personal use by an individual providing treatment services for the department,
5 a county department under s. 51.42 or 51.437, or a treatment facility, if the notes or
6 records are not available to others.

options
required

457.04(8)

7 SECTION 3i. 51.30 (8) of the statutes is amended to read:

8 51.30 (8) GRIEVANCES. Failure to comply with any provisions of this section may
9 be processed as a grievance under s. 51.61 (5) (a), except that the grievance resolution
10 procedures established under s. 457.245 apply to failures to comply by a licensed
11 mental health professional who is not affiliated with a county department or
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13 bringing any civil action or filing a criminal complaint under this section.

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457.04(8)

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19 51.61 (2) A patient's rights guaranteed under sub. (1) (p) to (t) may be denied
20 for cause after review by the director of the facility, and may be denied when
21 medically or therapeutically contraindicated as documented by the patient's
22 physician ² or licensed psychologist in the patient's treatment record. The individual
23 shall be informed in writing of the grounds for withdrawal of the right and shall have
24 the opportunity for a review of the withdrawal of the right in an informal hearing
25 before the director of the facility or his or her designee. There shall be documentation

or licensed mental
health professional

options

1 of the grounds for withdrawal of rights in the patient's treatment record. After an
 2 informal hearing is held, a patient or his or her representative may petition for
 3 review of the denial of any right under this subsection through the use of the
 4 grievance procedure provided in sub. (5) (a) or, alternatively for review of the denial
 5 of a right by a licensed mental health professional, through the use of the grievance
 6 resolution procedure under s. 457.245. Alternatively, or in addition to the use of such
 7 the appropriate grievance procedure, a patient or his or her representative may bring
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one of

457.04(8)

457.04(8)

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15 51.61 (9) The Except for grievance resolution procedures established by rule
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options required

INSERT 3-17

4. Page 3, line 14: after that line insert:

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 grievance resolution procedures to a client in writing before the client receives

option that the professional makes available to the patient, as required

1 services, therapy, or counseling from the licensee and upon the request of the client.
 2 The written grievance resolution procedures provided by a licensee to his or her
 3 client shall include all of the information required under sub. (2) and shall provide
 4 the name, address, and telephone number of, and any other contact information
 5 available for, one or both of the following:

6 (a) The appropriate section of the examining board that is responsible for
 7 receiving a complaint and investigating and conducting a hearing under s. 457.26 (1).

8 (b) A person not involved in the services, therapy, or counseling giving rise to
 9 the complaint who would be available to receive and investigate a complaint.

10 (2) The standards established by rule under this section shall include all of the
 11 following:

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13 (b) The manner by which a client may appeal the resolution of a complaint
 14 presented under par. (a).

15 (c) Time limits for filing, processing, and appealing the resolution of a
 16 complaint presented under par. (a) and a requirement that the written grievance
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18 (d) Protections against retaliation for a client who presents a complaint under
 19 par. (a) and for any person who assists the client to present a complaint under par.

20 (a).

21 SECTION 3v. 457.26 (2) (gs) of the statutes is created to read:

22 457.26 (2) (gs) Performed clinical social work, marriage and family therapy, or
 23 professional counseling without making available to his or her client in writing the
 24 grievance resolution procedures established by rule under s. 457.245".

1 **5.** Page 3, line 24: delete that line and substitute “under s. 457.10, or a
2 professional counselor who is licensed under s. 457.12.”.

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6 **7.** Page 4, line 1: after “professional” insert “practicing within the scope of his
7 or her license under ch. 457 and applicable rules”.

8 **8.** Page 4, line 1: after that line insert:

9 “**SECTION 6m. Nonstatutory provisions.**

10 (1) GRIEVANCE RESOLUTION PROCEDURES; RULES. The marriage and family,
11 therapy, professional counseling, and social work examining board in the
12 department of regulation and licensing shall submit in proposed form the rules
13 required under section 457.245 of the statutes, as created by this act, to the
14 legislative council staff under section 227.15 (1) of the statutes no later than the first
15 day of the 5th month beginning after the effective date of this subsection.”

16 **9.** Page 4, line 3: after “(1)” insert “LICENSED MENTAL HEALTH PROFESSIONALS.”.

17 **10.** Page 4, line 7: after that line insert:

18 “(2) PSYCHOLOGISTS. If a group health insurance policy that is in effect on the
19 effective date of this subsection contains a provision that is inconsistent with the
20 treatment of section 632.89 (1) (e) 3. of the statutes, the treatment of section 632.89
21 (1) (e) 3. of the statutes first applies to that insurance policy on the date on which it
is renewed.

22 **SECTION 7m. Effective dates.** This act takes effect on the first day of the 13th
23 month beginning after publication, except as follows:
24

chang
action * NS:
effdate

(1) ← text * NS: effdate A
19th
e 0 0

1 (1) The creation of section 457.245 of the statutes and SECTION 6m (1) of this
2 act take effect on the day after publication.”

3

(END)



2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1284/lins
DAK/PJK/TKK.....

1 **INSERT 3-17** ³⁸

2 **SECTION ??** 457.04 (8) of the statutes is created to read:

3 457.04 (8) Practice clinical social work, marriage and family therapy, or
4 professional counseling without making available to his or her client in writing one
5 of the following options for a grievance resolution procedure:

6 (a) A written grievance resolution procedure that contains all of the following
7 elements:

8 1. The name, address, and telephone number of, and any other contact
9 information available for, the appropriate section of the examining board that is
10 responsible for receiving a complaint and investigating and conducting a hearing
11 under s. 457.26 (1).

12 2. The name, address, and telephone number of, and any other contact
13 information available for, a person not involved in the services, therapy, or
14 counseling giving rise to the complaint who would be available to receive and
15 investigate a complaint.

16 3. The manner by which a client may present a complaint to a person identified
17 in subd. 1. or 2.

18 4. The manner by which a client may appeal the resolution of a complaint
19 presented in subd. 3.

20 5. Time limits for filing, processing, and appealing the resolution of a complaint
21 presented under subd. 3.

1 6. Protections against retaliation for a client who presents a complaint under
2 subd. [✓]3. and for any person who assists the client to present a complaint under [✓]subd.

3 3.

4 (b) A written grievance resolution procedure that complies with the rules
5 promulgated under s. 51.61 (5) (b).

6 (c) A written grievance resolution procedure that is available to the credential
7 holder through a professional association of which the credential holder is a
8 member.”

Kennedy, Debora

From: Rose, Laura
Sent: Monday, February 25, 2008 2:55 PM
To: Kennedy, Debora
Subject: Fw: SB 246 amendment
Importance: Low

Hi Debora

I will be calling you about this momentarily. Please see Comment #1 in Dan Zimmerman's email. Do you think a more general reference to s. 51.61(5), rather than to s. 51.61(5)(a), is warranted?

Also, he is asserting that the second sentence in SECTION 1 of SB 246 "nullifies the regulation of these provider types". I think this is a pretty expansive reading of what SECTION 1 does.

Talk to you soon,

Laura

From: Plona, Katie [mailto:PlonaKP@dhfs.state.wi.us]
Sent: Fri 2/22/2008 10:08 AM
To: State-of-Wisconsin.ENTERPRISE.Irose-LTSB; Rose, Laura
Subject: [Possible Spam] Fw: SB 246 amendment

Laura, please see the email I just sent to Jamie about the SB 246 amendment. We greatly appreciate the concessions they have made. There is only one issue remaining and it has to do with supervision in licensed facilities. Do you agree with Dan's analysis. If so, could you talk to Jamie about it?

Thanks as always for everything!

Katie

-----Original Message-----
Date: 02/22/2008 09:50 am -0600 (Friday)
From: Katie Plona
To: jkuhn-LTSB.ENTERPRISE.State-of-Wisconsin, Kuhn, Jamie
CC: Plona, Katie
Subject: Fw: SB 246 amendment

Jamie,

I am providing Dan Zimmerman from our department's comments. I have discussed his comments with him this morning and concur. Sorry I could not get back to you by the end of yesterday. I didn't have enough time to review myself with committees.

Thank you very much for maintaining the DHFS grievance process as an option and for moving back the effective date to address our fiscal concerns and the legislature's ability to pass the bill because it will no longer have a fiscal impact in this biennium. We greatly appreciate it. That second part will address our near-term fiscal concerns, especially in light of

02/25/2008

additional lapses we will have to do because of the budget shortfall.

So, for DHFS, the only remaining issue is the removal of licensed entities to oversee their employees. The term used in the statute is supervision. I think in our discussions and mine with Marc, it has come across as us wanting to maintain direct supervision to practice of licensed social workers -- having to get approval to treat someone --, which we understand is the intent to remove and we are not trying to screw with that. Our request is to put back into the bill the kind of supervision from a regulatory standpoint for all entities with its employees. The bill right now changes that basic relationship. Dan describes it below.

We have made this request in our testimony in both committees. I have discussed it with Marc and Dan and I discussed it with Laura when we met with her. Can we revise the amendment to address this situation?

I am at O'hare leaving for Detroit in a bit. I will be back on email in a couple of hours or please call me if you want to talk. I'll forward this email to Laura as well so she can review Dan's comments.

Thanks, Katie

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

Date: 02/21/2008 12:51 pm -0600 (Thursday)

From: Daniel Zimmerman

To: Plona, Katie

Subject: Re: SB 246 amendment

I have the following questions or issues with the amendment:

1) On page 3, line 3. I suggest deleting the (a) at the very beginning of the line. If left in, it would mean that clients in settings other than Mendota or Winnebago Mental Health Institute (e.g., other inpatient psychiatric hospital, nursing home, community support program, etc.) have no right to grieve a denial of their rights. Lines 3-5 and the creation of s. 457.04 (8) make it clear that the licensed mental health professionals who practice independently have a different process.

2) On page 4, lines 14 - 15. This is more of a question. If licensed mental health professionals must develop a written grievance resolution procedure that complies with the rules promulgated under s. 51.61 (5) (b), in other words HFS 94, Subchapter III, then it would seem to render the need for all of par. (a) moot --- e.g., there are clear time limits for the program level review, such as 30 days for completion of the client rights specialists inquiry and written report. Also, HFS 94, Subchapter III details the administrative review by the county or state/DHFS (Stages 2 - 4). It would seem that there needs to be a choice of par. (a) or par. (b), but not both, unless the process criteria are to be the same, such as timeliness of inquiries (e.g., HFS 94.41 (5)) should be the standard for par. (a) 5.

3) On page 4, lines 16 - 18. Is it safe to assume that if a professional does not belong to a professional association that this paragraph then is not applicable? Is it intended that this be an additional option for consumers to use if the professional belongs to an association? I don't have a problem with the paragraph, but is that the sole intent of the paragraph?

4) The bill does not address the issue of sentence #2 in Section 1 of the bill: "Except for services provided under sub. (30e), the department may not require that licensed mental health professionals or licensed psychologists

be supervised; may not require that clinical psychotherapy or alcohol and other drug abuse services be provided under a certified program; and, notwithstanding subs. (9) and (9m), may not require that a physician or other health care provider first prescribe psychotherapy or alcohol and other drug abuse to be provided by a licensed mental health professional or licensed psychologist before the professional or psychologist may provide the services to the recipient." Section 49.45 (30e) states, "COMMUNITY*BASED PSYCHOSOCIAL SERVICE PROGRAMS. (a) When services are reimbursable. Services under s. 49.46 (2) (b) 6. Lm. provided to an individual are reimbursable under the medical assistance program only if all of the following conditions are met: ..." The result of sentence #2 in Section 1 is that DHFS would be prohibited from requiring supervision/oversight of the professionals in the following settings:

- e. Inpatient hospital, skilled nursing facility and intermediate care facility services for patients of any institution for mental diseases who are under 21 years of age, are under 22 years of age and who were receiving these services immediately prior to reaching age 21, or are 65 years of age or older.
- f. Medical day treatment services, mental health services and alcohol and other drug abuse services, including services provided by a psychiatrist.
- fm. Subject to the limitations under s. 49.45 (45), mental health services and alcohol and other drug abuse services, including services provided by a psychiatrist, to an individual who is 21 years of age or older in the individual*s home or in the community.
- k. Alcohol and other drug abuse day treatment services.
- L. Mental health and psychosocial rehabilitative services, including case management services, provided by the staff of a community support program certified under s. 49.45 (2) (a) 11.

9. Case management services, as specified under s. 49.45 (24) or (25).
 15. Mental health crisis intervention services under s. 49.45 (41).
 18. Alcohol or other drug abuse residential treatment services of no more than 45 days per treatment episode, under s. 49.45 (46) This subdivision does not apply after June 30, 2003.

This second sentence in Section 1, especially without a definition of "supervision", would effectively nullify the DHFS regulations for these provider types because the statutory language implies that DHFS cannot require the provider to oversee the provision of services by these professionals. The second sentence needs to be deleted or a very narrow definition of "supervision" needs to added.

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>>> Katie Plona 2/21/2008 11:09 AM >>>
 Dan, can you please look at this amendment? I am in the capitol and cannot open it. Ideally, I would like to get back to Jamie later today. She told me

yesterday that they were keeping in the DHFS grievance process as an option. However, it would create these other outlets, like going through NASW. But, that seems fine with me, given that they can already do that.

But, I don't know if the amendment addresses other issues.

Thanks, Katie



stays

SENATE AMENDMENT,
TO 2007 SENATE BILL 246

SAV

Change on p. 3 only

1 At the locations indicated, amend the bill as follows:

2 1. Page 3, line 14: after that line insert:

3 "SECTION 3e. 51.01 (11m) of the statutes is created to read:

4 51.01 (11m) "Licensed mental health professional" has the meaning given in
5 s. 632.89 (1) (dm).

6 SECTION 3g. 51.30 (1) (b) of the statutes is amended to read:

7 51.30 (1) (b) "Treatment records" include the registration and all other records
8 that are created in the course of providing services to individuals for mental illness,
9 developmental disabilities, alcoholism, or drug dependence and that are maintained
10 by the department; by county departments under s. 51.42 or 51.437 and their staffs;
11 and; by treatment facilities; or by psychologists licensed under s. 455.04 (1) or
12 licensed mental health professionals who are not affiliated with a county department
13 or treatment facility. Treatment records do not include notes or records maintained

1 for personal use by an individual providing treatment services for the department,
2 a county department under s. 51.42 or 51.437, or a treatment facility, if the notes or
3 records are not available to others.

4 **SECTION 3i.** 51.30 (8) of the statutes is amended to read:

5 51.30 (8) GRIEVANCES. Failure to comply with any provisions of this section may
6 be processed as a grievance under s. 51.61 (5) (a), except that the grievance resolution
7 procedure options required under s. 457.04 (8) apply to failures to comply by a
8 licensed mental health professional who is not affiliated with a county department
9 or treatment facility. However, use of the grievance procedure is not required before
10 bringing any civil action or filing a criminal complaint under this section.

11 **SECTION 3k.** 51.61 (1) (y) of the statutes is created to read:

12 51.61 (1) (y) Have the right, if provided services by a licensed mental health
13 professional, to receive from the professional a copy of the grievance resolution
14 procedure option that the professional makes available to the patient, as required
15 under s. 457.04 (8).

16 **SECTION 3m.** 51.61 (2) of the statutes is amended to read:

17 51.61 (2) A patient's rights guaranteed under sub. (1) (p) to (t) may be denied
18 for cause after review by the director of the facility, and may be denied when
19 medically or therapeutically contraindicated as documented by the patient's
20 physician ~~or~~ licensed psychologist, or licensed mental health professional in the
21 patient's treatment record. The individual shall be informed in writing of the
22 grounds for withdrawal of the right and shall have the opportunity for a review of
23 the withdrawal of the right in an informal hearing before the director of the facility
24 or his or her designee. There shall be documentation of the grounds for withdrawal
25 of rights in the patient's treatment record. After an informal hearing is held, a

1 patient or his or her representative may petition for review of the denial of any right
2 under this subsection through the use of the grievance procedure provided in sub. (5)
3 (a) or, alternatively for review of the denial of a right by a licensed mental health
4 professional, through the use of one of the grievance resolution procedure options
5 under s. 457.04 (8). Alternatively, or in addition to the use of such the appropriate
6 grievance procedure, a patient or his or her representative may bring an action under
7 sub. (7).

8 **SECTION 3p.** 51.61 (5) (e) of the statutes is created to read:

9 51.61 (5) (e) A licensed mental health professional shall make available to each
10 patient to whom the professional provides services a copy of the grievance resolution
11 procedure option that the professional makes available to the patient, as required
12 under s. 457.04 (8). Paragraphs (a) and (b) do not apply to this paragraph.

13 **SECTION 3r.** 51.61 (9) of the statutes is amended to read:

14 51.61 (9) The Except for grievance resolution procedure options required under
15 s. 457.04 (8), the department shall promulgate rules to implement this section.

16 **SECTION 3t.** 457.04 (8) of the statutes is created to read:

17 457.04 (8) Practice clinical social work, marriage and family therapy, or
18 professional counseling without making available to his or her client in writing one
19 of the following options for a grievance resolution procedure:

20 (a) A written grievance resolution procedure that contains all of the following
21 elements:

22 1. The name, address, and telephone number of, and any other contact
23 information available for, the appropriate section of the examining board that is
24 responsible for receiving a complaint and investigating and conducting a hearing
25 under s. 457.26 (1).

1 2. The name, address, and telephone number of, and any other contact
2 information available for, a person not involved in the services, therapy, or
3 counseling giving rise to the complaint who would be available to receive and
4 investigate a complaint.

5 3. The manner by which a client may present a complaint to a person identified
6 in subd. 1. or 2.

7 4. The manner by which a client may appeal the resolution of a complaint
8 presented in subd. 3.

9 5. Time limits for filing, processing, and appealing the resolution of a complaint
10 presented under subd. 3.

11 6. Protections against retaliation for a client who presents a complaint under
12 subd. 3. and for any person who assists the client to present a complaint under subd.
13 3.

14 (b) A written grievance resolution procedure that complies with the rules
15 promulgated under s. 51.61 (5) (b).

16 (c) A written grievance resolution procedure that is available to the credential
17 holder through a professional association of which the credential holder is a
18 member.”.

19 **2.** Page 3, line 24: delete that line and substitute “under s. 457.10, or a
20 professional counselor who is licensed under s. 457.12.”.

21 **3.** Page 3, line 24: after that line insert:

22 “**SECTION 5m.** 632.89 (1) (e) 3. of the statutes is repealed and recreated to read:
23 632.89 (1) (e) 3. A psychologist licensed under ch. 455.”.



[NOW]
State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa1284/3
DAK/PJK/TKK:kjf:ms

Stays

**SENATE AMENDMENT ,
TO 2007 SENATE BILL 246**

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11 and; by treatment facilities; or by psychologists licensed under s. 455.04 (1) or
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22 grounds for withdrawal of the right and shall have the opportunity for a review of
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24 or his or her designee. There shall be documentation of the grounds for withdrawal
25 of rights in the patient's treatment record. After an informal hearing is held, a

1 patient or his or her representative may petition for review of the denial of any right
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3 or, ~~alternatively~~ for review of the denial of a right by a licensed mental health
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