

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0760/P1dn
TKK:wlj:jf

February 9, 2007

Senator Darling:

Please review the attached draft to ensure that it is consistent with your intent.

In addition to the notes embedded in the text of the draft, I have a number of questions:

1. Title protection. I have included a provision granting title protection to genetic counselors. See proposed s. 448.971 (2). This section prohibits a person from referring to himself or herself as a genetic counselor, licensed genetic counselor, or registered genetic counselor or affixing "G.C.," "L.G.C.," or "R.G.C." to his or her name unless that person is licensed under subch. VIII of ch. 448. Are these appropriate titles and initials? Could they be confused with any other licensed or registered fields? Are there other more appropriate titles that should be used instead?

2. Compensation as an element of the practice of genetic counseling. Do you wish to include compensation as an element of the definition of the practice of genetic counseling? See, for example, s. 453.02 (6) governing the practice of veterinary medicine. When compensation is included as part of the definition, persons who provide gratuitous genetic counseling services do not fall under the purview of the affiliated credentialing board's regulatory authority.

3. Licensure of genetic counselor assistants. Did you wish to provide for the licensure of genetic counselor assistants? See, for example, the title protection and licensure provisions for physical therapist assistants at ss. 448.51 (1s) and 448.535. As drafted, this bill does not contemplate genetic counselor assistants.

3. Regarding "grandfathering," alternative certification requirements and waivers. In the absence of any "grandfathering" provision, some persons who have practiced in the profession before the statute goes into effect but who do not meet all of the licensing requirements may not be permitted to pursue their livelihoods. A "grandfathering" provision offers a path by which the affiliated credentialing board can grant a license under certain circumstances; for example, if the person demonstrates that he or she has met certain requirements or has practiced for a certain period of time. It is possible to impose a deadline by which all applicants for a license will be required to meet the statutory requirements.

With these thoughts in mind, please consider whether the genetic counselor affiliated credentialing board should be empowered to:

- a. Grant temporary licenses? Under what conditions?
 - b. Grant reciprocal licensure to persons who are licensed in other states but who do not meet one or more of the requirements in Wisconsin? For example:
 - (1) Should an out-of-state licensed practitioner be permitted to avoid taking an exam?
 - (2) Should an out-of-state licensed practitioner who graduated from a program not approved by the board be permitted to obtain a license in Wisconsin?
 - c. What about persons who have not graduated from an American Board of Genetic Counseling (ABGC)-accredited program? Persons who have not been certified by ABGC? Would these individuals need to provide some other evidence of their competency/skills?
4. Practice requirements. Did you wish to include any practice requirements? For example, the statutes governing podiatrists impose restrictions on fee splitting and establish guidelines for billing. See s. 448.67. The statutes governing physical therapists impose the former requirements, make the practice of physical therapy contingent on the physical therapist receiving a written referral, and establish conditions in which a physical therapist has a duty to refer the patient to an appropriate health care practitioner. See s. 448.56.
 5. Coverage under Health Insurance Risk-Sharing Plans. Did you wish to include genetic counseling services under the Health Insurance Risk-Sharing Plan under subch. II of ch. 149? As drafted, genetic counseling services are not included.
 6. Penalties. The proposed penalties provision is adopted from subch. III of ch. 448, which regulates physical therapists. Please advise if you wish to increase, decrease, or eliminate the penalty.
 7. Rule making. The genetic counselors affiliated credentialing board is required to submit proposed rules to the Joint Legislative Counsel no later than the first day of the eighth month beginning after publication, and may prepare emergency rules to go into effect before the permanent rules have been finalized. Please let me know if you would like to modify these provisions.
 8. Delayed effective date. With the exception of the requirements related to licensure, proposed s. 448.971, 448.974, and 448.976, which go into effect on the first day of the thirteenth month beginning after publication, the bill goes into effect on the day after publication. The exceptions provide the affiliated credentialing board with time to promulgate rules, and give persons practicing in the field of genetic counseling time to comply with the affiliated credentialing board's rules. Please let me know if you would like to modify the effective dates.
 9. Other statutes. Finally, please be aware that, in addition to regulating genetic counselors under a new subchapter of ch. 448, this bill does each of the following: 1) makes current law regarding the preservation, destruction, and confidentiality of patient health care records applicable to genetic counselors; 2) includes genetic counselors in the definition of "health care provider" for the requirements under

current law for powers of attorney for health care and for the prohibition under current law on discrimination related to acquired immunodeficiency syndrome; 3) requires a genetic counselor, like other professionals under current law, to make certain reports regarding abused or neglected children; and 4) provides to genetic counselors the same protection from discipline under current law that is available to other health care professionals who make certain reports regarding violations of laws applicable to pharmacists or controlled substances or of laws or clinical or ethical standards by health care facilities, health care providers, or employees of such facilities or providers.

Please contact me after you have had an opportunity to review the draft so that we can discuss the open questions raised in this drafter's note and make any additional changes to this draft.

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