



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0760/1²
TKK:wlj:pg

in 8/29/07

EMNR

2007 BILL

Regen

1 AN ACT *to renumber* 252.14 (1) (ar) 4q. and 448.970; *to amend* 15.085 (1m) (b),
2 146.997 (1) (d) 4., 155.01 (7) and 450.10 (3) (a) 5.; and *to create* 15.406 (6),
3 48.981 (2) (a) 30., 146.81 (1) (dd), 252.14 (1) (ar) 4s., 440.03 (13) (b) 30m., 440.08
4 (2) (a) 37m. and subchapter VIII of chapter 448 [precedes 448.970] of the
5 statutes; **relating to:** the regulation and licensure of genetic counselors,
6 creating a genetic counselors affiliated credentialing board, requiring the
7 exercise of rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires a person who practices genetic counseling to be licensed by a seven-member genetic counselors affiliated credentialing board (board), created by the bill. The board consists of four persons licensed under the bill, two persons licensed to practice medicine and surgery, and one public member. The board members serve four-year terms.

The bill defines genetic counseling as interpreting, analyzing, integrating, and delivering any of the following to individuals and families: 1) individual and family medical histories; 2) education and information about inheritance, genetic testing, management, prevention, resources, and research; and 3) social and psychological support. In addition, the foregoing activities do not satisfy the definition of "genetic counseling" unless they are performed for the following purposes: 1) to provide

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guidance about the medical, psychological, and familial implications of genetic contributions to disease; 2) to assess the mode of inheritance and chance of occurrence or recurrence of conditions with a genetic component; or 3) to promote informed choices and adaptations to a risk or condition.

The following persons are exempt from the bill's licensure requirement: 1) any person lawfully practicing within the scope of a license, permit, registration, or certification granted by the state or the federal government; 2) any person assisting and under the direct supervision of a licensed genetic counselor; 3) certain students of genetic counseling who are assisting a genetic counselor; and 4) a person who is licensed to practice genetic counseling in another state or country and is providing assistance to a genetic counselor licensed in this state.

To qualify for licensure under the bill, a person must have completed a degree-granting educational program in genetic counseling approved by the board and accredited by the American Board of Genetic Counseling (ABGC). In addition, the person must have passed either an examination administered by ABGC or the genetic counseling exam administered by the American Board of Medical Genetics. Finally, the person must obtain and maintain certification with ABGC. The board may waive these requirements for a person who holds an unexpired genetic counselor license issued by another state or territory if the board determines that the requirements for licensure and renewal are substantially equivalent to the requirements for licensure and renewal in this state. If the person completed a degree-granting educational program in genetic counseling that is not in the United States, the person must satisfy any additional requirements established by the board by rule.

This bill permits the board to provide, by rule, for the issuance of a temporary license not to exceed one year to a person who has not passed the requisite exam; the temporary license may be renewed for not more than five years. A person holding a temporary license may practice genetic counseling only under the supervision of a person licensed under the bill.

The bill also authorizes the board to make investigations and conduct hearings to determine whether a violation of the bill has occurred. The board may reprimand a genetic counselor or deny, limit, suspend, or revoke a license granted under the bill if a genetic counselor or applicant for licensure has engaged in prohibited conduct. The bill requires the board to revoke the license of a genetic counselor who has failed to maintain certification with ABGC or whose certification with ABGC has been revoked.

The bill requires the board to promulgate rules that define the standards of practice of genetic counseling and permits the board to define the scope of practice of genetic counseling. In addition, this bill also 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

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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.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.085 (1m) (b) of the statutes is amended to read:

2 15.085 **(1m)** (b) The public members of the physical therapists affiliated
3 credentialing board, podiatrists affiliated credentialing board, ~~or~~ occupational
4 therapists affiliated credentialing board, or genetic counselors affiliated
5 credentialing board shall not be engaged in any profession or occupation concerned
6 with the delivery of physical or mental health care.

7 **SECTION 2.** 15.406 (6) of the statutes is created to read:

8 15.406 **(6)** GENETIC COUNSELORS AFFILIATED CREDENTIALING BOARD. There is
9 created in the department of regulation and licensing, attached to the medical
10 examining board, a genetic counselors affiliated credentialing board consisting of the
11 following members appointed for 4-year terms:

12 (a) Four genetic counselors who are licensed under subch. VIII of ch. 448.

13 (b) Two members who are licensed to practice medicine and surgery under
14 subch. II of ch. 448, one of whom is a clinical geneticist.

15 (c) One public member.

16 **SECTION 3.** 48.981 (2) (a) 30. of the statutes is created to read:

17 48.981 **(2)** (a) 30. A genetic counselor.

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

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1 146.81 (1) (dd) A genetic counselor licensed under subch. VIII of ch. 448.

2 **SECTION 5.** 146.997 (1) (d) 4. of the statutes is amended to read:

3 146.997 (1) (d) 4. A physician, podiatrist, perfusionist, physical therapist, or
4 physical therapist assistant, or genetic counselor licensed under ch. 448.

5 **SECTION 6.** 155.01 (7) of the statutes is amended to read:

6 155.01 (7) "Health care provider" means a nurse licensed or permitted under
7 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
8 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
9 therapist assistant, occupational therapist, or occupational therapy assistant, or
10 genetic counselor licensed under ch. 448, a person practicing Christian Science
11 treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch.
12 455, a partnership thereof, a corporation or limited liability company thereof that
13 provides health care services, an operational cooperative sickness care plan
14 organized under ss. 185.981 to 185.985 that directly provides services through
15 salaried employees in its own facility, or a home health agency, as defined in s. 50.49
16 (1) (a).

17 **SECTION 7.** 252.14 (1) (ar) 4q. of the statutes is renumbered 252.14 (1) (ar) 4n.

18 **SECTION 8.** 252.14 (1) (ar) 4s. of the statutes is created to read:

19 252.14 (1) (ar) 4s. A genetic counselor licensed under subch. VIII of ch. 448.

20 **SECTION 9.** 440.03 (13) (b) 30m. of the statutes is created to read:

21 440.03 (13) (b) 30m. Genetic counselor.

22 **SECTION 10.** 440.08 (2) (a) 37m. of the statutes is created to read:

23 440.08 (2) (a) 37m. Genetic counselor: November 1 of each odd-numbered year;

24 \$106.

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1 **SECTION 11.** Subchapter VIII of chapter 448 [precedes 448.970] of the statutes
2 is created to read:

CHAPTER 448**SUBCHAPTER VIII****GENETIC COUNSELORS AFFILIATED****CREDENTIALING BOARD**

7 **448.970 Definitions.** In this subchapter:

8 (1) "Affiliated credentialing board" means the genetic counselors affiliated
9 credentialing board.

10 (2) "American Board of Genetic Counseling" includes a successor organization
11 as determined by the affiliated credentialing board.

12 (3) "Genetic counseling" means the interpretation, analysis, integration, and
13 delivery of any of the following to individuals and families to provide guidance about
14 the medical, psychological, and familial implications of genetic contributions to
15 disease; to assess the mode of inheritance and chance of occurrence or recurrence of
16 conditions with a genetic component; or to promote informed choices and adaptations
17 to a risk or condition:

18 (a) Individual and family medical histories.

19 (b) Education and information about inheritance, genetic testing,
20 management, prevention, resources, and research.

21 (c) Social and psychological support.

22 (4) "Genetic counselor" means an individual who is licensed by the affiliated
23 credentialing board to practice genetic counseling.

24 **448.971 License required.** (1) Except as provided in s. 448.972, no person
25 may practice genetic counseling unless the person is licensed under this subchapter.

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1 (2) No person may designate himself or herself as a genetic counselor or use
 2 or assume the title "genetic associate," ~~genetic consultant~~ "genetic counselor,"
 3 "licensed genetic counselor," or "registered genetic counselor," or append to the
 4 person's name the letters "G.A.," "G.C.," "L.G.C.," or "R.G.C.," or claim to render
 5 genetic counseling services unless the person is licensed under this subchapter.

6 **448.972 Applicability.** (1) A license is not required under this subchapter
 7 for any of the following if the person does not claim to be a genetic counselor:

8 (a) Any person lawfully practicing within the scope of a license, permit,
 9 registration, or certification granted by this state or the federal government.

10 (b) Any person assisting a genetic counselor in practice under the direct,
 11 on-premises supervision of the genetic counselor.

12 (c) A student of genetic counseling assisting a genetic counselor in the practice
 13 of genetic counseling if the assistance is within the scope of the student's education
 14 or training.

15 (d) A person who is licensed to practice genetic counseling in another state or
 16 country and is providing a consultation or demonstration with a genetic counselor
 17 who is licensed under this subchapter.

18 **448.973 Duties and powers of affiliated credentialing board.** (1) The
 19 affiliated credentialing board shall promulgate rules that establish each of the
 20 following:

21 (a) Standards of practice for and a code of ethics governing the professional
 22 conduct of genetic counselors.

23 (b) Criteria for the approval of continuing education programs and courses
 24 required for renewal of a genetic counselor license.

or use any insignia or designation that would imply that the individual is licensed or certified or registered as a genetic counselor.

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1 (c) Requirements for an applicant seeking renewal of a genetic counselor
2 license, including that an applicant do all of the following:

3 1. Successfully complete the minimum number of hours of continuing
4 education.

5 2. Maintain certification from and, if applicable, achieve recertification
6 through the American Board of Genetic Counseling.

7 3. Demonstrate continued competence in genetic counseling.

8 (2) The affiliated credentialing board may promulgate rules that define the
9 scope of practice of genetic counseling.

10 **448.974 Licensure of genetic counselors.** (1) Except as provided in sub.
11 (2), the affiliated credentialing board shall grant a license as a genetic counselor to
12 a person who does all of the following:

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

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

16 (c) Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory
17 to the affiliated credentialing board that the applicant does not have an arrest or a
18 conviction record.

19 (d) Submits evidence satisfactory to the affiliated credentialing board that he
20 or she has done all of the following:

21 1. Successfully completed the academic and clinical requirements of and
22 developed the practice-based competencies required by a degree-granting program
23 in genetic counseling approved by the affiliated credentialing board and accredited
24 by the American Board of Genetic Counseling.

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1 2. Passed an examination administered by the American Board of Genetic
2 Counseling or the genetic counseling examination administered by the American
3 Board of Medical Genetics.

4 3. Obtained certification, maintained valid certification, and, if applicable,
5 achieved recertification with the American Board of Genetic Counseling.

6 (e) If the person was educated in a degree-granting program in genetic
7 counseling that is not in the United States, the person satisfies any additional
8 requirements for demonstrating competence to practice genetic counseling that the
9 affiliated credentialing board may establish by rule.

10 (2) The affiliated credentialing board may waive the requirements of sub. (1)
11 (d) if a person holds an unexpired genetic counselor license issued by another state
12 or territory or foreign country or province and the requirements for licensure and for
13 renewal of a genetic counselor license of such other state or territory or foreign
14 country or province are deemed by the affiliated credentialing board to be
15 substantially equivalent to the requirements for licensure and for renewal of a
16 genetic counselor license of this state.

17 **448.975 Temporary license.** The affiliated credentialing board may, by rule,
18 provide for a temporary license to practice genetic counseling for a person who
19 satisfies the requirements of s. 448.974, who has applied for active candidate status
20 with the American Board of Genetic Counseling, but who has not passed an
21 examination under s. 448.974 (1) (d) 2. The board may issue a temporary license for
22 a period not to exceed one year and may renew a temporary license annually for not
23 more than 5 years. A person who holds a temporary license may not practice genetic
24 counseling unless the person is under the supervision and direction of a genetic
25 counselor at all times while the person is practicing genetic counseling. The

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1 affiliated credentialing board may promulgate rules governing supervision by
2 genetic counselors, except that those rules may not require the immediate physical
3 presence of the supervising genetic counselor.

4 **448.976 Issuance of license; expiration and renewal.** (1) The department
5 shall issue a certificate of licensure to each person who is licensed under this
6 subchapter.

7 (2) The renewal dates for licenses granted under this subchapter are specified
8 under s. 440.08 (2) (a). Renewal applications shall be submitted to the department
9 on a form provided by the department, and shall include the renewal fee specified in
10 s. 440.08 (2) (a) and proof of compliance with the requirements established by rules
11 promulgated by the affiliated credentialing board pursuant to s. 448.973 (1) (c).

12 **448.977 Disciplinary proceedings and actions.** (1) Subject to the rules
13 promulgated under s. 440.03 (1), the affiliated credentialing board may make
14 investigations and conduct hearings to determine whether a violation of this
15 subchapter or any rule promulgated under this subchapter has occurred.

16 (2) Subject to the rules promulgated under s. 440.03 (1), the affiliated
17 credentialing board may reprimand a genetic counselor or may deny, limit, suspend,
18 or revoke a license granted under this subchapter if it finds that the applicant or
19 genetic counselor has done any of the following:

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

22 (b) Interfered with an investigation or disciplinary proceeding by using threats,
23 harassment, or intentional misrepresentation of facts.

24 (c) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an offense the
25 circumstances of which substantially relate to the practice of genetic counseling.

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1 (d) Been adjudicated mentally incompetent by a court.

2 (e) Advertised in a manner that is false, deceptive, or misleading.

3 (f) Advertised, practiced, or attempted to practice under another's name.

4 (g) Subject to ss. 111.321, 111.322, and 111.34, practiced or assisted in the
5 practice of genetic counseling while the applicant's or licensee's ability to practice or
6 assist was impaired by alcohol or other drugs.

7 (h) Engaged in unprofessional or unethical conduct in violation of the code of
8 ethics established in the rules promulgated under s. 448.973 (1) (a).

9 (i) Engaged in conduct while practicing genetic counseling that evidences a lack
10 of knowledge or ability to apply professional principles or skills.

11 (j) Violated this subchapter or any rule promulgated under this subchapter.

12 (3) The affiliated credentialing board shall revoke the license of a genetic
13 counselor who has failed to maintain certification with the American Board of
14 Genetic Counseling or whose certification with the American Board of Genetic
15 Counseling has been revoked.

16 (4) (a) A genetic counselor may voluntarily surrender his or her license to the
17 affiliated credentialing board, which may refuse to accept the surrender if the
18 affiliated credentialing board has received allegations of unprofessional conduct
19 against the genetic counselor. The affiliated credentialing board may negotiate
20 stipulations in consideration for accepting the surrender of licenses.

21 (b) The affiliated credentialing board may restore a license that has been
22 voluntarily surrendered under par. (a) on such terms and conditions as it considers
23 appropriate.

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1 (5) The affiliated credentialing board shall prepare and disseminate to the
2 public an annual report that describes final disciplinary action taken against genetic
3 counselors during the preceding year.

4 (6) The affiliated credentialing board may report final disciplinary action
5 taken against a genetic counselor to any national database that includes information
6 about disciplinary action taken against health care professionals.

7 **448.978 Injunctive relief.** If the affiliated credentialing board has reason to
8 believe that any person is violating this subchapter or any rule promulgated under
9 this subchapter, the affiliated credentialing board, the department, the attorney
10 general, or the district attorney of the proper county may investigate and may, in
11 addition to any other remedies, bring an action in the name and on behalf of this state
12 to enjoin the person from the violation.

13 **448.979 Penalties.** Any person who violates this subchapter or any rule
14 promulgated under this subchapter may be fined not more than \$10,000 or
15 imprisoned for not more than 9 months or both.

16 **SECTION 12.** 448.970 of the statutes is renumbered 448.9695.

17 **SECTION 13.** 450.10 (3) (a) 5. of the statutes is amended to read:

18 450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical
19 therapist, physical therapist assistant, occupational therapist, ~~or~~ occupational
20 therapy assistant, or genetic counselor licensed under ch. 448.

21 **SECTION 14. Nonstatutory provisions.**

22 (1) INITIAL APPOINTMENTS. Notwithstanding the lengths of the terms specified
23 in section 15.406 (6) (intro.) of the statutes, as created by this act, the initial members
24 of the genetic counselors affiliated credentialing board shall be initially appointed
25 for the following terms:

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1 (a) One genetic counselor and one person licensed to practice medicine and
2 surgery under subchapter II of chapter 448 of the statutes who is a clinical geneticist,
3 for terms expiring on July 1, 2008.

4 (b) One genetic counselor and one person licensed to practice medicine and
5 surgery under subchapter II of chapter 448 of the statutes, for terms expiring on July
6 1, 2009.

7 (c) Two genetic counselors and one public member, for terms expiring on July
8 1, 2010.

9 (2) QUALIFICATIONS OF INITIAL MEMBERS OF THE GENETIC COUNSELORS AFFILIATED
10 CREDENTIALING BOARD. Notwithstanding section 15.406 (6) of the statutes, as created
11 by this act, an initial member of the genetic counselors affiliated credentialing board
12 appointed under section 15.406 (6) of the statutes is not required to be a licensed
13 genetic counselor under section 448.974 of the statutes, as created by this act, if the
14 appointment occurs before the effective date of this subsection and at the time of the
15 appointment the individual holds a valid certification issued by the American Board
16 of Genetic Counseling as defined in section 448.970 (2) of the statutes, as created by
17 this act.

18 (3) RULE MAKING.

19 (a) The genetic counselors affiliated credentialing board shall submit in
20 proposed form the rules required under section 448.973 of the statutes, as created
21 by this act, to the legislative council staff under section 227.15 (1) of the statutes no
22 later than the first day of the 8th month beginning after the effective date of this
23 paragraph.

24 (b) Using the procedure under section 227.24 of the statutes, the genetic
25 counselors affiliated credentialing board may promulgate rules required under

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1 section 448.973 of the statutes, as created by this act, for the period before the
2 effective date of the rules submitted under paragraph (a), but not to exceed the period
3 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
4 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the genetic counselors affiliated
5 credentialing board is not required to provide evidence that promulgating a rule
6 under this paragraph as an emergency rule is necessary for the preservation of the
7 public peace, health, safety, or welfare and is not required to provide a finding of
8 emergency for a rule promulgated under this paragraph.

9 **SECTION 15. Effective dates.** This act takes effect on the first day of the 13th
10 month beginning after publication except as follows:

11 (1) The treatment of sections 15.085 (1m) (b) and 15.406 (6) of the statutes and
12 SECTION 14 of this act take effect on the day after publication.

13 (END)

Kuczenski, Tracy

From: Walby, Kathleen M. [KWalby@foley.com]
Sent: Thursday, March 06, 2008 2:07 PM
To: Kuczenski, Tracy
Subject: Temp license

DRL's feedback:

DRL has some concern about the temporary license and the number of years available for renewal. Temporary licenses under the jurisdiction of the Medical Examining Board they are structured as follows: a temporary license to practice medicine (expires 60 days after examination and renewable once); Visiting Professor (expires after 2 years and renewable for additional 2 years); and a Locum Tenens temporary license (expires 90 days from issuance and renewable no more 3 consecutive times). Similarly, the Physicians Assistants and Respiratory Care Practitioner temporary licenses expire on the first day after the next regularly scheduled examinations and are non-renewable. We understand that the national examination for genetic counselors may only be available every 3 years, and that is why the higher number of renewals is proposed. However, we are not sure that this a good idea because it allows a person to practice in the field for a relatively lengthy period, not typical of most health care professions, without demonstrating their competence through passage of the certifying examination. We do not believe that supervision by another licensee, as proposed in the legislation, would be a sufficient safeguard in lieu of examination.

Our response:

We are very agreeable to changing the temporary license to a schedule similar to the visiting professors (expires after 2 years, and renewable for additional 2 years). The issue here is that the exam is only offered every two years (although that is likely to change to every year soon), and our concern is the lag time between when training is completed and when the next exam is available. Perhaps we can draft the legislation in a manner that links it to the next available exam, instead of allowing the temporary license for such a long period of time?

Katie Walby
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 Foley & Lardner LLP
 150 E. Gilman St.
 Post Office Box 1497
 Madison, WI 53701-1497
 Tel: 608.258.4783
 Fax: 608.258.4258

3/6/08 Katie referred me to Deborah, whom (genetic counselor)
 to talk about fixing temporary license to exam (ABGC)
 (w) (414) 351-7323
 (payer) (414) 222-5855

3/8/08 → T. call w/ Deborah - retain eligibility for temp. license a 1/2
 but wait term to time b/t exams. ~~First~~ Permit ^{Appointed C. Bd} to renew only 1X.

The preceding email message may be confidential or protected by the attorney-client privilege. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message. Legal advice contained in the preceding message is solely for the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party.

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Kuczenski, Tracy

From: Volz, David
Sent: Tuesday, March 04, 2008 12:01 PM
To: Kuczenski, Tracy
Subject: RE: LRB 0760

Beg your pardon. The contact is:

Katie Walby
Public Affairs Advisor
Foley & Lardner LLP
150 E. Gilman St.
Post Office Box 1497
Madison, WI 53701-1497
Tel: 608.258.4783
KWalby@foley.com

3/5/08
T. call (message left) to Katie

3/6/08
Goal: get draft introduced this session.
see comments on next pg.

I know she's been in contact with DRL but I have not myself.

From: Kuczenski, Tracy
Sent: Tuesday, March 04, 2008 11:46 AM
To: Volz, David
Subject: RE: LRB 0760

Hi David.

I will address these changes as time allows.

The first item indicates that the person will "work with the drafter" to come up with alternative language. I trust that this person will contact me, as there is no contact information provided below?

Also; did the Department (of Regulation and Licensing) provide you with any comments or information about the bill about which I should be aware?

Thanks,
Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

From: Volz, David
Sent: Tuesday, March 04, 2008 11:22 AM
To: Kuczenski, Tracy
Subject: LRB 0760

Tracy,

Following are the changes to LRB 0760 suggested by the genetic counselors. Please let me know if there are any questions. Thanks much.

Dave Volz
Office of Sen. Darling

1. **Temporary licensure** (p8 line 23-25). To address the concerns the department had with the "5 year" temporary license, we suggest linking it to the next available exam, instead of putting a time frame on it. We will work with the drafter on language, but it could read something like: "The board may issue a temporary license that expires 60 days after receipt of results of the next available ABGC exam or the date upon which a license is granted, whichever occurs first. Within 60 days of notification of having failed the examination, applicant may renew the temporary license for no more than one additional examination cycle."

2. **Supervision of those with temporary licenses** (p9 line 4-5). DRL had some concerns with: "...except that those rules may not require the immediate physical presence of the supervising genetic counselor." What if we change it to: "those rules may not necessarily require the immediate physical presence of the supervising genetic counselor"?

No.

OR

✓ On p9 line 4 we propose deleting"except that those rules may not require the immediate physical presence of the supervising genetic counselor." and adding the word "general" to line 3 between "governing" and "supervision".

Yes.

✓ 3. Add 'Wisconsin licensed' on p 9 line 1 and line 4 right before 'genetic counselors' in both instances.

1 1

Visiting professor license?



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0760/2³

TKK:wlj:jf

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insert
dnote
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in 3/7/08

wanted 3/10/08

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To qualify for licensure under the bill, a person must have completed a degree-granting educational program in genetic counseling approved by the board and accredited by the American Board of Genetic Counseling (ABGC). In addition, the person must have passed either an examination administered by ABGC or the genetic counseling exam administered by the American Board of Medical Genetics. Finally, the person must obtain and maintain certification with ABGC. The board may waive these requirements for a person who holds an unexpired genetic counselor license issued by another state or territory if the board determines that the requirements for licensure and renewal are substantially equivalent to the requirements for licensure and renewal in this state. If the person completed a degree-granting educational program in genetic counseling that is not in the United States, the person must satisfy any additional requirements established by the board by rule.

X This bill permits the board to provide, by rule, for the issuance of a temporary license ~~not to exceed one year~~ to a person who has not passed the requisite exam; the temporary license may be renewed ~~for not more than five years~~. A person holding a temporary license may practice genetic counseling only under the supervision of a person licensed under the bill. *only once*

The bill also authorizes the board to make investigations and conduct hearings to determine whether a violation of the bill has occurred. The board may reprimand a genetic counselor or deny, limit, suspend, or revoke a license granted under the bill if a genetic counselor or applicant for licensure has engaged in prohibited conduct. The bill requires the board to revoke the license of a genetic counselor who has failed to maintain certification with ABGC or whose certification with ABGC has been revoked.

The bill requires the board to promulgate rules that define the standards of practice of genetic counseling and permits the board to define the scope of practice of genetic counseling. In addition, this bill also 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

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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.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.085 (1m) (b) of the statutes is amended to read:

2 15.085 **(1m)** (b) The public members of the physical therapists affiliated
3 credentialing board, podiatrists affiliated credentialing board, ~~or~~ occupational
4 therapists affiliated credentialing board, or genetic counselors affiliated
5 credentialing board shall not be engaged in any profession or occupation concerned
6 with the delivery of physical or mental health care.

7 **SECTION 2.** 15.406 (6) of the statutes is created to read:

8 15.406 **(6)** GENETIC COUNSELORS AFFILIATED CREDENTIALING BOARD. There is
9 created in the department of regulation and licensing, attached to the medical
10 examining board, a genetic counselors affiliated credentialing board consisting of the
11 following members appointed for 4-year terms:

12 (a) Four genetic counselors who are licensed under subch. VIII of ch. 448.

13 (b) Two members who are licensed to practice medicine and surgery under
14 subch. II of ch. 448, one of whom is a clinical geneticist.

15 (c) One public member.

16 **SECTION 3.** 48.981 (2) (a) 30. of the statutes is created to read:

17 48.981 **(2)** (a) 30. A genetic counselor.

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

BILL

1 146.81 (1) (dd) A genetic counselor licensed under subch. VIII of ch. 448.

2 **SECTION 5.** 146.997 (1) (d) 4. of the statutes is amended to read:

3 146.997 (1) (d) 4. A physician, podiatrist, perfusionist, physical therapist, or
4 physical therapist assistant, or genetic counselor licensed under ch. 448.

5 **SECTION 6.** 155.01 (7) of the statutes is amended to read:

6 155.01 (7) "Health care provider" means a nurse licensed or permitted under
7 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
8 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
9 therapist assistant, occupational therapist, or occupational therapy assistant, or
10 genetic counselor licensed under ch. 448, a person practicing Christian Science
11 treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch.
12 455, a partnership thereof, a corporation or limited liability company thereof that
13 provides health care services, an operational cooperative sickness care plan
14 organized under ss. 185.981 to 185.985 that directly provides services through
15 salaried employees in its own facility, or a home health agency, as defined in s. 50.49
16 (1) (a).

17 **SECTION 7.** 252.14 (1) (ar) 4q. of the statutes is renumbered 252.14 (1) (ar) 4n.

18 **SECTION 8.** 252.14 (1) (ar) 4s. of the statutes is created to read:

19 252.14 (1) (ar) 4s. A genetic counselor licensed under subch. VIII of ch. 448.

20 **SECTION 9.** 440.03 (13) (b) 30m. of the statutes is created to read:

21 440.03 (13) (b) 30m. Genetic counselor.

22 **SECTION 10.** 440.08 (2) (a) 37m. of the statutes is created to read:

23 440.08 (2) (a) 37m. Genetic counselor: November 1 of each odd-numbered year;
24 \$106.

Insert 4-25 ↓

BILL

1 **SECTION 11.** Subchapter VIII of chapter 448 [precedes 448.970] of the statutes
2 is created to read:

CHAPTER 448**SUBCHAPTER VIII****GENETIC COUNSELORS AFFILIATED****CREDENTIALING BOARD**

3
4
5
6
7 **448.970 Definitions.** In this subchapter:

8 (1) "Affiliated credentialing board" means the genetic counselors affiliated
9 credentialing board.

10 (2) "American Board of Genetic Counseling" includes a successor organization
11 as determined by the affiliated credentialing board.

12 (3) "Genetic counseling" means the interpretation, analysis, integration, and
13 delivery of any of the following to individuals and families to provide guidance about
14 the medical, psychological, and familial implications of genetic contributions to
15 disease; to assess the mode of inheritance and chance of occurrence or recurrence of
16 conditions with a genetic component; or to promote informed choices and adaptations
17 to a risk or condition:

18 (a) Individual and family medical histories.

19 (b) Education and information about inheritance, genetic testing,
20 management, prevention, resources, and research.

21 (c) Social and psychological support.

22 (4) "Genetic counselor" means an individual who is licensed by the affiliated
23 credentialing board to practice genetic counseling.

24 **448.971 License required.** (1) Except as provided in s. 448.972, no person
25 may practice genetic counseling unless the person is licensed under this subchapter.

BILL**SECTION 11**

1 (2) No person may designate himself or herself as a genetic counselor or use
2 or assume the title "genetic associate," "genetic counselor," "licensed genetic
3 counselor," or "registered genetic counselor," or append to the person's name the
4 letters "G.A.," "G.C.," "L.G.C.," or "R.G.C.," or use any insignia or designation that
5 would imply that the individual is licensed or certified or registered as a genetic
6 counselor, or claim to render genetic counseling services unless the person is licensed
7 under this subchapter.

8 **448.972 Applicability.** (1) A license is not required under this subchapter
9 for any of the following if the person does not claim to be a genetic counselor:

10 (a) Any person lawfully practicing within the scope of a license, permit,
11 registration, or certification granted by this state or the federal government.

12 (b) Any person assisting a genetic counselor in practice under the direct,
13 on-premises supervision of the genetic counselor.

14 (c) A student of genetic counseling assisting a genetic counselor in the practice
15 of genetic counseling if the assistance is within the scope of the student's education
16 or training.

17 (d) A person who is licensed to practice genetic counseling in another state or
18 country and is providing a consultation or demonstration with a genetic counselor
19 who is licensed under this subchapter.

20 **448.973 Duties and powers of affiliated credentialing board.** (1) The
21 affiliated credentialing board shall promulgate rules that establish each of the
22 following:

23 (a) Standards of practice for and a code of ethics governing the professional
24 conduct of genetic counselors.

BILL

1 (b) Criteria for the approval of continuing education programs and courses
2 required for renewal of a genetic counselor license.

3 (c) Requirements for an applicant seeking renewal of a genetic counselor
4 license, including that an applicant do all of the following:

5 1. Successfully complete the minimum number of hours of continuing
6 education.

7 2. Maintain certification from and, if applicable, achieve recertification
8 through the American Board of Genetic Counseling.

9 3. Demonstrate continued competence in genetic counseling.

10 (2) The affiliated credentialing board may promulgate rules that define the
11 scope of practice of genetic counseling.

12 **448.974 Licensure of genetic counselors.** (1) Except as provided in sub.
13 (2), the affiliated credentialing board shall grant a license as a genetic counselor to
14 a person who does all of the following:

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

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

18 (c) Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory
19 to the affiliated credentialing board that the applicant does not have an arrest or a
20 conviction record.

21 (d) Submits evidence satisfactory to the affiliated credentialing board that he
22 or she has done all of the following:

23 1. Successfully completed the academic and clinical requirements of and
24 developed the practice-based competencies required by a degree-granting program

BILL

1 in genetic counseling approved by the affiliated credentialing board and accredited
2 by the American Board of Genetic Counseling.

3 2. Passed an examination administered by the American Board of Genetic
4 Counseling or the genetic counseling examination administered by the American
5 Board of Medical Genetics.

6 3. Obtained certification, maintained valid certification, and, if applicable,
7 achieved recertification with the American Board of Genetic Counseling.

8 (e) If the person was educated in a degree-granting program in genetic
9 counseling that is not in the United States, the person satisfies any additional
10 requirements for demonstrating competence to practice genetic counseling that the
11 affiliated credentialing board may establish by rule.

12 (2) The affiliated credentialing board may waive the requirements of sub. (1)
13 (d) if a person holds an unexpired genetic counselor license issued by another state
14 or territory or foreign country or province and the requirements for licensure and for
15 renewal of a genetic counselor license of such other state or territory or foreign
16 country or province are deemed by the affiliated credentialing board to be
17 substantially equivalent to the requirements for licensure and for renewal of a
18 genetic counselor license of this state.

19 **448.975 Temporary license.** The affiliated credentialing board may, by rule,
20 provide for a temporary license to practice genetic counseling for a person who
21 satisfies the requirements of s. 448.974 ^{and} who has applied for active candidate status
22 with the American Board of Genetic Counseling ^{and} but who has not passed an
23 examination under s. 448.974 (1) (d) 2. The board may issue a temporary license for

24 a period not to exceed one year and may renew a temporary license annually for not
25 more than 5 years. A person who holds a temporary license may not practice genetic

Insert 8-23

BILL

1 counseling unless the person is under the supervision and direction of a genetic
 2 counselor at all times while the person is practicing genetic counseling. The
 3 affiliated credentialing board may promulgate rules governing ^{general} supervision by
 4 ^a genetic ^{counselor} counselors, except that those rules may not require the immediate physical
 5 presence of the supervising genetic counselor.

6 **448.976 Issuance of license; expiration and renewal.** (1) The department
 7 shall issue a certificate of licensure to each person who is licensed under this
 8 subchapter.

9 (2) The renewal dates for licenses granted under this subchapter are specified
 10 under s. 440.08 (2) (a). Renewal applications shall be submitted to the department
 11 on a form provided by the department, and shall include the renewal fee specified in
 12 s. 440.08 (2) (a) and proof of compliance with the requirements established by rules
 13 promulgated by the affiliated credentialing board pursuant to s. 448.973 (1) (c).

14 **448.977 Disciplinary proceedings and actions.** (1) Subject to the rules
 15 promulgated under s. 440.03 (1), the affiliated credentialing board may make
 16 investigations and conduct hearings to determine whether a violation of this
 17 subchapter or any rule promulgated under this subchapter has occurred.

18 (2) Subject to the rules promulgated under s. 440.03 (1), the affiliated
 19 credentialing board may reprimand a genetic counselor or may deny, limit, suspend,
 20 or revoke a license granted under this subchapter if it finds that the applicant or
 21 genetic counselor has done any of the following:

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

24 (b) Interfered with an investigation or disciplinary proceeding by using threats,
 25 harassment, or intentional misrepresentation of facts.

Can this be removed from the bill?

of a person holding a temporary license under this section

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1 (c) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an offense the
2 circumstances of which substantially relate to the practice of genetic counseling.

3 (d) Been adjudicated mentally incompetent by a court.

4 (e) Advertised in a manner that is false, deceptive, or misleading.

5 (f) Advertised, practiced, or attempted to practice under another's name.

6 (g) Subject to ss. 111.321, 111.322, and 111.34, practiced or assisted in the
7 practice of genetic counseling while the applicant's or licensee's ability to practice or
8 assist was impaired by alcohol or other drugs.

9 (h) Engaged in unprofessional or unethical conduct in violation of the code of
10 ethics established in the rules promulgated under s. 448.973 (1) (a).

11 (i) Engaged in conduct while practicing genetic counseling that evidences a lack
12 of knowledge or ability to apply professional principles or skills.

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

14 **(3)** The affiliated credentialing board shall revoke the license of a genetic
15 counselor who has failed to maintain certification with the American Board of
16 Genetic Counseling or whose certification with the American Board of Genetic
17 Counseling has been revoked.

18 **(4)** (a) A genetic counselor may voluntarily surrender his or her license to the
19 affiliated credentialing board, which may refuse to accept the surrender if the
20 affiliated credentialing board has received allegations of unprofessional conduct
21 against the genetic counselor. The affiliated credentialing board may negotiate
22 stipulations in consideration for accepting the surrender of licenses.

23 (b) The affiliated credentialing board may restore a license that has been
24 voluntarily surrendered under par. (a) on such terms and conditions as it considers
25 appropriate.

BILL

1 (5) The affiliated credentialing board shall prepare and disseminate to the
2 public an annual report that describes final disciplinary action taken against genetic
3 counselors during the preceding year.

4 (6) The affiliated credentialing board may report final disciplinary action
5 taken against a genetic counselor to any national database that includes information
6 about disciplinary action taken against health care professionals.

7 **448.978 Injunctive relief.** If the affiliated credentialing board has reason to
8 believe that any person is violating this subchapter or any rule promulgated under
9 this subchapter, the affiliated credentialing board, the department, the attorney
10 general, or the district attorney of the proper county may investigate and may, in
11 addition to any other remedies, bring an action in the name and on behalf of this state
12 to enjoin the person from the violation.

13 **448.979 Penalties.** Any person who violates this subchapter or any rule
14 promulgated under this subchapter may be fined not more than \$10,000 or
15 imprisoned for not more than 9 months or both.

16 **SECTION 12.** 448.970 of the statutes is renumbered 448.9695.

17 **SECTION 13.** 450.10 (3) (a) 5. of the statutes is amended to read:

18 450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical
19 therapist, physical therapist assistant, occupational therapist, ~~or~~ occupational
20 therapy assistant, or genetic counselor licensed under ch. 448.

21 **SECTION 14. Nonstatutory provisions.**

22 (1) INITIAL APPOINTMENTS. Notwithstanding the lengths of the terms specified
23 in section 15.406 (6) (intro.) of the statutes, as created by this act, the initial members
24 of the genetic counselors affiliated credentialing board shall be initially appointed
25 for the following terms:

BILL

1 (a) One genetic counselor and one person licensed to practice medicine and
2 surgery under subchapter II of chapter 448 of the statutes who is a clinical geneticist,
3 for terms expiring on July 1, 2008.

4 (b) One genetic counselor and one person licensed to practice medicine and
5 surgery under subchapter II of chapter 448 of the statutes, for terms expiring on July
6 1, 2009.

7 (c) Two genetic counselors and one public member, for terms expiring on July
8 1, 2010.

9 (2) QUALIFICATIONS OF INITIAL MEMBERS OF THE GENETIC COUNSELORS AFFILIATED
10 CREDENTIALING BOARD. Notwithstanding section 15.406 (6) of the statutes, as created
11 by this act, an initial member of the genetic counselors affiliated credentialing board
12 appointed under section 15.406 (6) of the statutes is not required to be a licensed
13 genetic counselor under section 448.974 of the statutes, as created by this act, if the
14 appointment occurs before the effective date of this subsection and at the time of the
15 appointment the individual holds a valid certification issued by the American Board
16 of Genetic Counseling as defined in section 448.970 (2) of the statutes, as created by
17 this act.

18 (3) RULE MAKING.

19 (a) The genetic counselors affiliated credentialing board shall submit in
20 proposed form the rules required under section 448.973 of the statutes, as created
21 by this act, to the legislative council staff under section 227.15 (1) of the statutes no
22 later than the first day of the 8th month beginning after the effective date of this
23 paragraph.

24 (b) Using the procedure under section 227.24 of the statutes, the genetic
25 counselors affiliated credentialing board may promulgate rules required under

BILL

1 section 448.973 of the statutes, as created by this act, for the period before the
2 effective date of the rules submitted under paragraph (a), but not to exceed the period
3 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
4 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the genetic counselors affiliated
5 credentialing board is not required to provide evidence that promulgating a rule
6 under this paragraph as an emergency rule is necessary for the preservation of the
7 public peace, health, safety, or welfare and is not required to provide a finding of
8 emergency for a rule promulgated under this paragraph.

9 **SECTION 15. Effective dates.** This act takes effect on the first day of the 13th
10 month beginning after publication except as follows:

11 (1) The treatment of sections 15.085 (1m) (b) and 15.406 (6) of the statutes and
12 SECTION 14 of this act take effect on the day after publication.

13

(END)

Insert 13-12

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0760/3ins
TKK:wlj:jf

1 **INSERT 4-25**

2 **SECTION 10m.** 440.08 (2) (a) 37m. of the statutes, as created by 2007 Wisconsin
3 Act (this act), is amended to read:

4 440.08 (2) (a) 37m. Genetic counselor: November 1 of each odd-numbered year;
5 \$106.

6 **INSERT 8-23**

7 which shall expire 60 days after the next examination for ^{licensure}~~license~~ is given by the
8 American Board of Genetic Counseling or on the date following the examination on
9 which the American Board of Genetic Counseling reports the results of the
10 examination, whichever occurs first; but the temporary license shall automatically
11 expire on the first day the American Board of Genetic Counseling begins its
12 examination of applicants after the board has granted ^{the} ~~such~~ temporary license,
13 unless its holder submits to examination on such date. The board may, in its
14 discretion and only once, renew a temporary license issued to a person under this
15 section. The board may require an applicant for the renewal of a temporary license
16 to appear before a member of the board for an interview. ✓

17 **INSERT 13-12**

18 (2) The ^{amendment} ~~treatment~~ of section 440.08 (2) (a) 37m. of the statutes by ~~SECTION 10m~~
19 ~~of this act~~ takes effect on July 1, 2009.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0760/2dn
TKK:wlj:jf

Date

↑
stays

Senator Darling:

Pursuant to the drafting instructions in David Volz⁵ March 4, 2008 e-mail, this draft makes some changes to the term and expiration of temporary licenses issued by the genetic counselors affiliated credentialing board (board).

Eligibility to seeking a temporary license. Under the previous draft, the board may issue a temporary license to a person who satisfies the requirements of s. 448.974 and who has applied for active candidate status but has not yet passed an exam under s. 448.974 (1) (d) 2. The eligibility requirements for seeking a temporary license do not change in this draft.

Term of a temporary license. A temporary license issued under the previous draft had a one year term. ~~However~~ as revised, ^{this draft provides that} the temporary license does not have an express term. However, the temporary license expires 60 days after the next examination for ^{license} is given by the American Board of Genetic Counseling ^{or on the date following} the examination on which the American Board of Genetic Counseling (ABGC) reports the results of the examination, whichever occurs first. If the holder of a temporary license fails to submit to the next exam offered by the ABGC, the temporary license automatically ^{on the day of the examination.}

Renewal of temporary license. ^{In addition,} the previous draft authorized the board to renew a temporary license annually for not more than five years; this draft authorizes the board to renew a temporary license only once.

Please note that item 3 of the drafting instructions in the March 4 email requested that I modify the term, "genetic counselor" in proposed s. 448.975 with "Wisconsin licensed". However, the term "genetic counselor" is defined in the bill as "an individual who is licensed by the affiliated credentialing board to practice genetic counseling". The addition of "Wisconsin licensed", therefore, is not necessary.

Please let me know if you have any questions or wish to make additional changes.

Tracy K. Kuczenski
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licensure
expires

ABGC

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0760/3dn
TKK:wlj:rs

March 10, 2008

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Term of a temporary license. A temporary license issued under the previous draft had a one-year term. As revised, this draft provides that the temporary license does not have an express term. However, the temporary license expires 60 days after the next examination for licensure is given by the American Board of Genetic Counseling (ABGC) or on the date following the examination on which the ABGC reports the results of the examination, whichever occurs first. If the holder of a temporary license fails to submit to the next exam offered by the ABGC, the temporary license automatically expires on the day of the examination.

Renewal of temporary license. The previous draft authorized the board to renew a temporary license annually for not more than five years; this draft authorizes the board to renew a temporary license only once.

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Please let me know if you have any questions or wish to make additional changes.

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Duerst, Christina

From: Volz, David
Sent: Wednesday, March 12, 2008 3:17 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-0760/3 Topic: Licensure for genetic counselors.

Please Jacket LRB 07-0760/3 for the SENATE.