2007 SENATE BILL 570

March 12, 2008 – Introduced by Senator DARLING. Referred to Committee on Health, Human Services, Insurance, and Job Creation.

AN ACT to renumber 252.14 (1) (ar) 4q. and 448.970; to amend 15.085 (1m) (b), 146.997 (1) (d) 4., 155.01 (7), 440.08 (2) (a) 37m. and 450.10 (3) (a) 5.; and to create 15.406 (6), 48.981 (2) (a) 30., 146.81 (1) (dd), 252.14 (1) (ar) 4s., 440.03 (13) (b) 30m., 440.08 (2) (a) 37m. and subchapter VIII of chapter 448 [precedes 448.970] of the statutes; relating to: the regulation and licensure of genetic counselors, creating a genetic counselors affiliated credentialing board, requiring the 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
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 to a person who has not passed the requisite exam; the temporary license may be renewed only once. 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 regarding abused or neglected children; and 4) provides to genetic counselors the
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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:

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

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

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

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

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

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

(c) One public member.

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

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

SECTION 4. 146.81 (1) (dd) of the statutes is created to read:
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146.81 (1) (dd) A genetic counselor licensed under subch. VIII of ch. 448.

SECTION 5. 146.997 (1) (d) 4. of the statutes is amended to read:
146.997 (1) (d) 4. A physician, podiatrist, perfusionist, physical therapist, or physical therapist assistant, or genetic counselor licensed under ch. 448.

SECTION 6. 155.01 (7) of the statutes is amended to read:
155.01 (7) “Health care provider” means a nurse licensed or permitted under ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a physician, physician assistant, perfusionist, podiatrist, physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant, or genetic counselor licensed under ch. 448, a person practicing Christian Science treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a partnership thereof, a corporation or limited liability company thereof that provides health care services, an operational cooperative sickness care plan organized under ss. 185.981 to 185.985 that directly provides services through salaried employees in its own facility, or a home health agency, as defined in s. 50.49 (1) (a).

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

SECTION 8. 252.14 (1) (ar) 4s. of the statutes is created to read:
252.14 (1) (ar) 4s. A genetic counselor licensed under subch. VIII of ch. 448.

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

SECTION 10. 440.08 (2) (a) 37m. of the statutes is created to read:
440.08 (2) (a) 37m. Genetic counselor: November 1 of each odd-numbered year;

$106.
 SECTION 11. 440.08 (2) (a) 37m. of the statutes, as created by 2007 Wisconsin Act .... (this act), is amended to read:

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

 SECTION 12. Subchapter VIII of chapter 448 [precedes 448.970] of the statutes is created to read:

CHAPTER 448
SUBCHAPTER VIII
GENETIC COUNSELORS AFFILIATED CREDENTIALING BOARD

448.970 Definitions. In this subchapter:

(1) “Affiliated credentialing board” means the genetic counselors affiliated credentialing board.

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

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

(a) Individual and family medical histories.

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

(c) Social and psychological support.
(4) “Genetic counselor” means an individual who is licensed by the affiliated credentialing board to practice genetic counseling.

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

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

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

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

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

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

(d) A person who is licensed to practice genetic counseling in another state or country and is providing a consultation or demonstration with a genetic counselor who is licensed under this subchapter.
448.973 Duties and powers of affiliated credentialing board. (1) The affiliated credentialing board shall promulgate rules that establish each of the following:

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

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

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

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

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

3. Demonstrate continued competence in genetic counseling.

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

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

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

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

(c) Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory to the affiliated credentialing board that the applicant does not have an arrest or a conviction record.
(d) Submits evidence satisfactory to the affiliated credentialing board that he or she has done all of the following:

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

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

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

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

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

448.975 Temporary license. The affiliated credentialing board may, by rule, provide for a temporary license to practice genetic counseling for a person who satisfies the requirements of s. 448.974 and who has applied for active candidate
status with the American Board of Genetic Counseling but who has not passed an
examination under s. 448.974 (1) (d) 2. The board may issue a temporary license
which shall expire 60 days after the next examination for licensure is given by the
American Board of Genetic Counseling or on the date following the examination on
which the American Board of Genetic Counseling reports the results of the
examination, whichever occurs first; but the temporary license shall automatically
expire on the first day the American Board of Genetic Counseling begins its
examination of applicants after the board has granted the temporary license, unless
its holder submits to examination on such date. The board may, in its discretion and
only once, renew a temporary license issued to a person under this section. The board
may require an applicant for the renewal of a temporary license to appear before a
member of the board for an interview. A person who holds a temporary license may
not practice genetic counseling unless the person is under the supervision and
direction of a genetic counselor at all times while the person is practicing genetic
counseling. The affiliated credentialing board may promulgate rules governing
general supervision of a person holding a temporary license under this section by a
genetic counselor.

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

(2) The renewal dates for licenses granted under this subchapter are specified
under s. 440.08 (2) (a). Renewal applications shall be submitted to the department
on a form provided by the department, and shall include the renewal fee specified in
s. 440.08 (2) (a) and proof of compliance with the requirements established by rules
promulgated by the affiliated credentialing board pursuant to s. 448.973 (1) (c).
448.977 Disciplinary proceedings and actions. (1) Subject to the rules promulgated under s. 440.03 (1), the affiliated credentialing board may make investigations and conduct hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred.

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

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

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

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

(d) Been adjudicated mentally incompetent by a court.

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

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

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

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

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

(j) Violated this subchapter or any rule promulgated under this subchapter.
(3) The affiliated credentialing board shall revoke the license of a genetic
counselor who has failed to maintain certification with the American Board of
Genetic Counseling or whose certification with the American Board of Genetic
Counseling has been revoked.

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

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

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

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

448.978 Injunctive relief. If the affiliated credentialing board has reason to
believe that any person is violating this subchapter or any rule promulgated under
this subchapter, the affiliated credentialing board, the department, the attorney
general, or the district attorney of the proper county may investigate and may, in
addition to any other remedies, bring an action in the name and on behalf of this state
to enjoin the person from the violation.
Penalties. Any person who violates this subchapter or any rule promulgated under this subchapter may be fined not more than $10,000 or imprisoned for not more than 9 months or both.

Section 13. 448.970 of the statutes is renumbered 448.9695.

Section 14. 450.10 (3) (a) 5. of the statutes is amended to read:

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

Section 15. Nonstatutory provisions.

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

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

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

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

(2) Qualifications of initial members of the genetic counselors affiliated credentialing board. Notwithstanding section 15.406 (6) of the statutes, as created by this act, an initial member of the genetic counselors affiliated credentialing board appointed under section 15.406 (6) of the statutes is not required to be a licensed
genetic counselor under section 448.974 of the statutes, as created by this act, if the appointment occurs before the effective date of this subsection and at the time of the appointment the individual holds a valid certification issued by the American Board of Genetic Counseling as defined in section 448.970 (2) of the statutes, as created by this act.

(3) RULE MAKING.

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

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

SECTION 16. Effective dates. This act takes effect on the first day of the 13th month beginning after publication except as follows:

(1) The treatment of sections 15.085 (1m) (b) and 15.406 (6) of the statutes and Section 15 of this act take effect on the day after publication.
(2) The amendment of section 440.08 (2) (a) 37m. of the statutes takes effect on July 1, 2009.

(END)