

**2009 DRAFTING REQUEST**

**Bill**

Received: **01/15/2009**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Newcomer (608) 266-3007**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Adl. Drafters: **dkennedy  
csundber**

Subject: **Public Assistance - med. assist.  
Health - miscellaneous  
Occupational Reg. - misc  
Mental Health - miscellaneous**

Extra Copies: **TJD**

Submit via email: **YES**

Requester's email: **Rep.Newcomer@legis.wisconsin.gov**

Carbon copy (CC:) to: **robin.ryan@legis.wisconsin.gov  
cathlene.hanaman@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

MA benefits for autism and other support services; training and criteria for in-home autism service providers

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**Instructions:**

See attached

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**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>
/?	pkahler 01/28/2009	nmatzke 02/10/2009		_____			S&L
	dkennedy 01/30/2009			_____			
	csundber			_____			

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	02/09/2009			_____			
/1	csundber 02/12/2009	nmatzke 02/13/2009	mduchek 02/10/2009	_____	sbasford 02/10/2009		S&L
/2			phenry 02/16/2009	_____	lparisi 02/16/2009	lparisi 02/17/2009	

FE Sent For: *at intro*  
*3/13/09*

<END>

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	dkennedy 01/30/2009			_____			
	csundber			_____			

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/?	pkahler 01/28/2009 dkennedy 01/30/2009 csundber	nmatzke 02/10/2009					S&L

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

02/09/2009

1/2 nwn  
2/13

/1

mduchek  
02/10/2009

sbasford  
02/10/2009

FE Sent For:

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Files: TJD

*Emailed Rep. H.  
2/3/09 re: body*

Submit via email: YES

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Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pkahler 01/28/2009 dkennedy	1 nwn 2/19	<i>MD</i>	<i>MD</i> <i>RS</i>			
				<i>2/10</i>			

FE Sent For:

**<END>**



STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

1-28

Eric Knight

sum sufficient appropriation

no waiting list

no change to eligibility

## Kennedy, Debora

---

**From:** Kennedy, Debora  
**Sent:** Thursday, January 22, 2009 4:18 PM  
**To:** Knight, Eric  
**Cc:** Kahler, Pam  
**Subject:** Statutory autism services

Eric--

When we spoke on January 20, you indicated that you would like to see a listing of statutory programs that include services for autism. The following is a listing of these services, as best I can determine from the statutes and administrative rules, in chs. 46, 49, and 51, stats.:

### CH. 46

1. Section 46.286 (1), stats., provides entitlement to Family Care for, among others, persons with developmental disability who meet functional and financial eligibility criteria and are at least 18 years of age. The definition of "developmental disability" refers to the definition in s. 51.01 (5) (a), stats., which includes autism.
2. Section 46.485, stats., provides community aids general purpose revenue and Medical Assistance funds for services for severely emotionally disturbed (SED) children, as defined in s. 49.45 (25) (a), stats. The SED criteria would seem to apply to certain autistic children.

### CH. 49

1. Section 49.45 (25), stats., provides Medical Assistance case management services for "severely emotionally disturbed (SED) children" (individuals under age 21 years with emotional and behavioral problems that meet specified criteria) and to persons with developmental disability; the SED criteria would seem to apply to certain autistic children, and the definition of "developmental disability" refers to the definition in s. 51.01 (5) (a), stats., which includes autism.
2. Section 49.45 (30e), stats., provides Medical Assistance community-based psychosocial services.
3. Section 49.45 (30m), stats., provides certain services for developmentally disabled persons. The definition of "developmentally disabled" under s. 49.43 (3m), for purposes of the Medical Assistance statutes, refers to the definition in s. 51.05 (5) (a), stats., which includes autism.
4. Sections 49.46 (2) (b) 8. and 49.47 (6) (a) 1., stats., which specify benefits available under Medical Assistance, refer to the disabled children's long-term support program (the program referred to in 2007 Assembly Bill 901).

### CH. 51

1. Section 51.01 (5) (a), stats., defines "developmental disability" for purposes of the chapter as a whole, to include "autism".
2. Section 51.06, stats., outlines inpatient services at the centers for developmentally disabled.
3. Section 51.07, stats., specifies outpatient services for patients who are contracted with county departments of community programs (under s. 51.42, stats.) and county departments of developmental disabilities services (under s. 51.437, stats.)
4. Section 51.10, stats., refers to voluntary admission of adults to centers for the developmentally disabled (through county departments)
5. Section 51.13, stats., specifies procedures and criteria for admission of minors to treatment facilities for treatment of developmental disability and mental illness.
6. Section 51.15, stats., specifies criteria and procedures for emergency detention of persons who are dangerous and mentally ill, drug dependent, or developmentally disabled.

7. Section 51.20, stats., specifies criteria and procedures for involuntary commitment of persons who are dangerous and mentally ill, drug dependent, or developmentally disabled.

8. Section 51.423, stats., specifies community support programs for mental illness, developmental disability, alcoholism, and drug abuse that are funded by state community aids, federal social services block grants, and Medical Assistance.

9. Section 51.44, stats., specifies a statewide system of coordinated, multidisciplinary programs to provide early intervention services (known as the Birth to 3 Program) for eligible children and their families. Under administrative rules (DHS 90.08 (4), a child is eligible under the program if he or she is determined to be developmentally delayed or if he or she has a diagnosed physical or mental condition which will likely result in developmental delay. A "diagnosed condition", under DHS 90.08 (6), includes autism.

PLEASE NOTE: In light of all the services that include autism under one or more definitions of "developmental disability," the provision under s. 146.85 of 2007 Assembly Bill 901, requiring a health care provider to provide a treatment plan for a patient diagnosed with a condition, injury, or illness OTHER THAN developmental disability appears not to work, if it is intended that this section would be requiring a treatment plan for a patient diagnosed with autism.

Please let me know if I may provide you with further assistance.

Debora Kennedy

*Debora A. Kennedy*  
Managing Attorney  
Legislative Reference Bureau  
(608) 266-0137  
debora.kennedy@legis.state.wi.us

-1534

1/27 From Eric Knight + Rep Newcomer

No treatment plan  
Wants to have group from examining  
boards of medicine, social work, +  
psychology establish criteria and  
training for performance of autism  
therapy by in-home workers.

Referral: Dan Swanson 608 206-3451



h. 2/9/09 wanted Wed. Am, 2/11/09

State of Wisconsin

2007-2008 LEGISLATURE

2009-2010

1534/1

LRB-4206/1

PJK&DAK:kjfas

N nwn+kj/f  
CTS

2009 ←  
**2007 ASSEMBLY BILL 901**

February 28, 2008 - Introduced by Representatives NEWCOMER, PETERSEN, LOTHIAN, ALBERS, BALLWEG, BIES, DAVIS, J. FITZGERALD, FRISKE, GOTTLIEB, GUNDERSON, HAHN, HINES, HONADEL, HUEBSCH, JESKEWITZ, KAUFERT, KERKMAN, KESTELL, KLEEFISCH, KRAMER, LEMAHIEU, MEYER, MONTGOMERY, MOULTON, MURSAU, MURTHA, MUSSER, NASS, NERISON, NYGREN, A. OTT, J. OTT, OWENS, PETROWSKI, PRIDEMORE, RHOADES, STONE, SUDER, TAUCHEN, TOWNSEND, VAN ROY, VUKMIR, WIECKERT, M. WILLIAMS, WOOD and ZIPPERER. Referred to Committee on Rules.

SA ✓  
X-ref ✓

- 1 AN ACT *to create* 51.03 (7) and 146.85 of the statutes; **relating to:** requiring
- 2 development and distribution of a brochure, requiring a treatment plan and
- 3 referral when certain diagnoses are made, *increasing* funding for the Medical
- 4 Assistance autism benefit, and making an appropriation.

*Repealed*

INS 1-405

*improvement*

**Analysis by the Legislative Reference Bureau**

*Insert A-1*

This bill increases a general purpose revenue appropriation to the Department of Health and Family Services (DHFS) by \$6,060,000 in fiscal year 2008-09 for the autism benefit under the Medical Assistance (MA) program. Under an MA waiver of federal law, DHFS provides in-home services to children who have been diagnosed with an autism spectrum disorder and who would not otherwise be eligible for MA benefits. The funding increase under this bill would be used to provide those services to children diagnosed with an autism spectrum disorder who are on the statewide waiting list for those services.

The bill requires a health care provider who diagnoses a patient with a condition, injury, or illness other than alcoholism, drug dependency, mental illness, or developmental disability that requires further treatment, to provide the patient (or, if a minor, the patient's parent, guardian, or legal custodian) with a treatment plan and to provide any necessary and appropriate referral for further treatment or services.

In addition, the bill directs DHFS to develop and periodically update a brochure describing the activities that a parent or guardian of a child with autism may engage in at home with the child to complement the child's treatment or individualized

**ASSEMBLY BILL 901**

INS ACS DHS

education program. DHFS must distribute the brochure to local educational agencies and physicians. ✓

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

INS 2-1 Cs

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

Insert 2-1

1 SECTION 1. <sup>xx</sup> 51.03 (7) of the statutes is created to read:

2 51.03 (7) The department shall develop and periodically update a brochure  
3 describing the activities that a parent of a child with autism may engage in at home  
4 with the child to complement the child's treatment or individualized education  
5 program, as defined in s. 115.76 (9). ✓ In developing the brochure, the department  
6 shall consult with teachers of special education, as defined in s. 115.76 (15); ✓ parents  
7 of autistic children; physicians; and representatives of organizations that advocate  
8 for the interests of children with disabilities. The department shall distribute the  
9 brochure to local educational agencies, as defined in s. 115.76 (10), ✓ and physicians. ✓

10 SECTION 2. <sup>xx</sup> 146.85 of the statutes is created to read:

11 **146.85 Treatment plan and referral required.** (1) Except as provided  
12 under sub. (2), a health care provider, as defined in s. 146.81 (1), ✓ who diagnoses a  
13 patient with a condition, injury, or illness, other than alcoholism, drug dependency, ✓ or  
14 mental illness, or developmental disability, shall provide the patient or, if the patient  
15 is a minor, the patient's parent, guardian, or legal custodian, with a treatment plan  
16 for the patient. For a condition, injury, or illness that requires further treatment or  
17 services, the health care provider shall provide the patient or, if the patient is a  
18 minor, the patient's parent, guardian, or legal custodian, with any necessary and  
19 appropriate referral for the treatment or services.

INS  
2-19 CS

if the condition, injury, or  
illness requires  
further treatment or  
services

**ASSEMBLY BILL 901**

1           (2) A health care provider need not provide a treatment plan under sub. (1) for  
2           a condition, injury, or illness that may be successfully treated during the patient visit  
3           at which the diagnosis is made.

4           **SECTION 3. Fiscal changes.**

5           (1) MEDICAL ASSISTANCE AUTISM BENEFIT. In the schedule under section 20.005  
6           (3) of the statutes for the appropriation to the department of health and family  
7           services under section 20.435 (4) (b) of the statutes, as affected by the acts of 2007,  
8           the dollar amount is increased by \$6,060,000 for fiscal year 2008-09 to increase  
9           funding for the autism benefit under the children's long-term care Medical  
10          Assistance waiver program, as described under 2003 Wisconsin Act 33, section 9124  
11          (8c), to provide autism services to children on the statewide waiting list for those  
12          services under that program.

13

(END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1534/?ins  
PJK:.....

**INSERT A-1**

Under current law, the Department of Health Services (DHS) provides in-home services, under a Medical Assistance (MA) waiver of federal law, to children who have been diagnosed with an autism spectrum disorder and who would not otherwise be eligible for MA benefits. This bill requires DHS to provide autism services under the MA autism benefit to all individuals who are eligible for the services and prohibits DHS from using a waiting list to limit or delay the provision of those services to eligible individuals. The bill also creates a sum sufficient general purpose revenue appropriation to DHS for the autism benefit. In addition, DHS is required to seek a waiver or an amendment to the existing waiver if DHS determines that that is necessary for the provision of the services to all individuals who are eligible and to authorize federal financial participation for MA reimbursement for providing the services to all eligible individuals.

(END OF INSERT A-1)

**INSERT 2-1**

1083

1           **SECTION 1.** 20.435 (4) (b) of the statutes is amended to read:  
2           20.435 (4) (b) *Medical Assistance program benefits.* Biennially, the amounts  
3           in the schedule to provide a portion of the state share of Medical Assistance program  
4           benefits administered under subch. IV of ch. 49, excluding amounts provided under  
5           par. (c), for a portion of the Badger Care health care program under s. 49.665, to  
6           provide a portion of the Medical Assistance program benefits administered under  
7           subch. IV of ch. 49 that are not also provided under par. (o), to fund the pilot project  
8           under s. 46.27 (9) and (10), to provide a portion of the facility payments under 1999  
9           Wisconsin Act 9, section 9123 (9m), to fund services provided by resource centers  
10          under s. 46.283, for services under the family care benefit under s. 46.284 (5), for  
11          assisting victims of diseases, as provided in ss. 49.68, 49.683, and 49.685, and for  
12          reduction of any operating deficits as specified in 2005 Wisconsin Act 15, section 3.  
13          Notwithstanding s. 20.002 (1), the department may transfer from this appropriation  
14          account to the appropriation account under sub. (7) (kb) funds in the amount of and



*Ins 2-1 cont'd 2 of 3*

1 for the purposes specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002  
 2 (1), the department may credit or deposit into this appropriation account and may  
 3 transfer between fiscal years funds that it transfers from the appropriation account  
 4 under sub. (7) (kb) for the purposes specified in s. 46.485 (3r). Notwithstanding s.  
 5 20.002 (1), the department may transfer from this appropriation account to the  
 6 appropriation account under sub. (7) (bd) funds in the amount and for the purposes  
 7 specified in s. 49.45 (6v).<sup>✓</sup>

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; s. 13.92 (2) (i).

8 **SECTION 2.** 20.435 (4) (c) of the statutes is created to read:

9 20.435 (4) (c) *Medical Assistance autism benefit.* A sum sufficient for the state's  
 10 share of the Medical Assistance autism benefit to provide autism services under the  
 11 children's long-term care Medical Assistance waiver program, as described under s.  
 12 49.45 (38m) and 2003 Wisconsin Act 33, section 9124 (8c).<sup>✓</sup>

13 **SECTION 3.** 49.45 (38m) of the statutes is created to read:

14 49.45 (38m) **AUTISM BENEFIT.** (a) The department shall provide autism services  
 15 under the autism benefit program under the children's long-term care Medical  
 16 Assistance waiver program, as described under 2003 Wisconsin Act 33, section 9124  
 17 (8c),<sup>✓</sup> to all individuals who are eligible for the services and may not use a waiting list  
 18 to limit or delay the provision of services to eligible individuals.<sup>✓</sup>

19 (b) If the department determines that it needs a waiver or an amendment to  
 20 the waiver described under 2003 Wisconsin Act 33, section 9124 (8c),<sup>✓</sup> to provide the  
 21 services as required under par. (a) and to authorize federal financial participation  
 22 for Medical Assistance reimbursement for the services, the department shall request

*Ins 2-1 cont'd 3/3*

- 1 from the secretary of the federal department of health and human services a waiver
- 2 or a waiver amendment to allow the department to provide the services as required
- 3 under par. (a) and to authorize federal financial participation for those services.

(END OF INSERT 2-1)

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

INS  
1-4CS

1 AN ACT *to create* 15.405 (6r), 440.08 (2) (a) 15m. and chapter 462 of the statutes;

2 **relating to:** licensure of autism paraprofessionals, creating an autism

3 paraprofessional board, and granting rule-making authority.

INS  
A CS

***Analysis by the Legislative Reference Bureau***

This bill requires licensure of persons who engage in autism paraprofessional practice, defined as the provision of services for compensation to an individual with autism for which current law does not require a licensure as a physician, physician's assistant, nurse, chiropractor, pharmacist, psychologist, or other professional specified in the bill.

The bill creates an Autism Paraprofessional Board (board) composed of two psychiatrists, one pediatrician, one psychologist, one social worker, and two public members. The public members must each be the parent of a child who has been diagnosed with autism. The bill requires the board to promulgate rules that establish educational criteria and practice standards for autism paraprofessionals and permits the board to promulgate rules that create ethical standards and continuing education requirements for autism paraprofessionals.

Under the bill, the board may discipline an autism paraprofessional who does any of the following: 1) intentionally makes a material misstatement in an application for a license or for renewal; 2) engages in autism paraprofessional practice while impaired by alcohol or other drugs; 3) makes a substantial misrepresentation that is relied upon by a client; or 4) violates any law that substantially relates to autism paraprofessional practice.

END INS A CS

the

INS  
2-1 CS

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. 15.405 (6r) of the statutes is created to read:

2 15.405 (6r) AUTISM PARAPROFESSIONAL BOARD. There is created an autism  
3 paraprotectional board in the department of regulation and licensing consisting of  
4 the following members appointed for staggered 4-year terms:

5 (a) Two board-certified psychiatrists who have expertise in providing services  
6 for individuals with autism.

7 (b) One board-certified pediatrician who has expertise in services providing for  
8 individuals with autism.

9 (c) One psychologist licensed under s. 455.04 who has expertise in providing  
10 services for individuals with autism.

11 (d) One social worker certified or licensed under s. 457.08 who has expertise  
12 in providing services for individuals with autism.

13 (e) Two public members, each of whom is a parent of a child who has been  
14 diagnosed with autism.

INS  
2-19  
CS

15 SECTION 2. 440.08 (2) (a) 15m. of the statutes is created to read:

16 440.08 (2) (a) 15m. Autism paraprotectional: January 1 of each  
17 even-numbered year.

18 SECTION 3. Chapter 462 of the statutes is created to read:

19 CHAPTER 462

20 AUTISM PARAPROFESSIONALS

21 462.01 Definitions. In this chapter:

1 (1) "Board" means the autism paraprofessional board.

2 (2) "Autism paraprofessional practice" means the provision of services for  
3 compensation to an individual with autism that may be provided by an individual  
4 who is not licensed under chs. 440, 441, 446, 447, 448, 449, 450, 451, 455, 457, 459,  
5 or 460.

6 **462.02 Licensure.** (1) No person may engage in autism paraprofessional  
7 practice unless the person holds a license issued by the board.

8 (2) The board may grant a license to engage in autism paraprofessional  
9 practice to an applicant who submits an application on a form provided by the  
10 department and pays the initial credential fee determined by the department under  
11 s. 440.03 (9) (a).

12 (3) The renewal date for a license granted under this chapter is specified in s.  
13 440.08 (2) (a). A renewal application shall be submitted to the department on a form  
14 provided by the department and shall include the renewal fee determined by the  
15 department under s. 440.03 (9) (a).

16 **462.03 Rule making.** (1) The board shall promulgate rules that establish all  
17 of the following:

18 (a) Educational criteria for licensure under this chapter.

19 (b) Practice standards for autism paraprofessional practice.

20 (2) The board may promulgate rules creating ethical standards and continuing  
21 education requirements for autism paraprofessional practice.

22 **462.04 Discipline.** (1) Subject to the rules promulgated under s. 440.03 (1),  
23 the department may conduct investigations and hearings to determine whether a  
24 violation of this subchapter or any rule promulgated under this subchapter has  
25 occurred.

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(2) Subject to the rules promulgated under s. 440.03 (1), the department may reprimand an autism paraprofessional or deny, limit, suspend, or revoke a license granted under this chapter to an autism paraprofessional if the department determines the autism paraprofessional has done any of the following:

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

(b) Subject to ss. 111.321, 111.322, and 111.34, engaged in autism paraprofessional practice while impaired by alcohol or other drugs.

(c) In the course of engaging in autism paraprofessional practice, made a substantial misrepresentation that was relied upon by a client.

(d) Violated any law of this state or federal law that substantially relates to autism paraprofessional practice, violated this chapter, or violated any rule promulgated under this chapter.

(END)

END INS 2-19 CS

## **Sundberg, Christopher**

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**From:** Knight, Eric  
**Sent:** Thursday, February 12, 2009 3:28 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: in home autism service provider board

51.03 (7) The department shall (insert) "annually inform and educate parents of children with Autism on the therapies" that a parent.....

In the second line on page 5 strike word brochure, and say " In gathering information for distribution" the department shall consult

Line 5 on Page 5, The department shall determine what information and how it will be distributed to local educational agencies.

Let me know if you have any questions.

Eric Knight  
Office of Rep. Scott Newcomer  
608-266-3007  
888-529-0033  
Eric.Knight@legis.wi.gov

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**From:** Sundberg, Christopher  
**Sent:** Thursday, February 05, 2009 10:16 AM  
**To:** Knight, Eric  
**Subject:** RE: in home autism service provider board

I've added a SW.

Should there be any criteria for licensure other than submitting an application and paying a fee? It seems as though many or most people who currently provide in home autism services already have some kind of professional licensure, so it might make sense not to require any kind of specific educational background.

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**From:** Knight, Eric  
**Sent:** Thursday, February 05, 2009 9:55 AM  
**To:** Sundberg, Christopher  
**Subject:** RE: in home autism service provider board

Yeah, add either a in-home therapist or a social worker.

Eric Knight  
Office of Rep. Scott Newcomer  
608-266-3007  
888-529-0033  
Eric.Knight@legis.wi.gov

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**From:** Sundberg, Christopher  
**Sent:** Thursday, February 05, 2009 9:54 AM  
**To:** Knight, Eric

**Subject:** in home autism service provider board

Your message specified 2 psychiatrists, 1 psychologist, 1 pediatrician, and 2 public members. Most boards have an odd number of members to prevent tie votes. Do you want to add or subtract a member?

Christopher Sundberg  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-9739  
christopher.sundberg@legis.state.wi.us





In: 2/12/09

State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1534/1 <sup>Z</sup> RMNR

PJK/CTS/DAK:nwn&kjf:md

**2009 BILL**

Regen.

autism-related information

1 AN ACT *to amend* 20.435 (4) (b); and *to create* 15.405 (6r), 20.435 (4) (c), 49.45  
 2 (38m), 51.03 (7), 146.85, 440.08 (2) (a) 15m. and chapter 462 of the statutes;  
 3 **relating to:** requiring development and distribution of a brochure, requiring  
 4 a referral when certain diagnoses are made, providing funding for the Medical  
 5 Assistance autism benefit, licensure of autism paraprofessionals, creating an  
 6 autism paraprofessional board, granting rule-making authority, and making  
 7 an appropriation.

***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Health Services (DHS) provides in-home services, under a Medical Assistance (MA) waiver of federal law, to children who have been diagnosed with an autism spectrum disorder and who would not otherwise be eligible for MA benefits. This bill requires DHS to provide autism services under the MA autism benefit to all individuals who are eligible for the services and prohibits DHS from using a waiting list to limit or delay the provision of those services to eligible individuals. The bill also creates a sum sufficient general purpose revenue appropriation to DHS for the autism benefit. In addition, DHS is required to seek a waiver or an amendment to the existing waiver if DHS determines that that is necessary for the provision of the services to all individuals who are eligible and to authorize federal financial participation for MA reimbursement for providing the services to all eligible individuals.

**BILL**

*annually distribute to parents of children with autism information regarding therapies such parents may provide*

The bill requires a health care provider who diagnoses a patient with a condition, injury, or illness other than alcoholism, drug dependency, or mental illness, that requires further treatment, to provide the patient (or, if a minor, the patient's parent, guardian, or legal custodian) with any necessary and appropriate referral for further treatment or services.

In addition, the bill directs DHS to develop and periodically update a brochure describing the activities that a parent of a child with autism may engage in at home with the child to complement the child's treatment or individualized education program. DHS must distribute the brochure to local educational agencies and physicians.

The bill requires licensure of persons who engage in autism paraprofessional practice, defined as the provision of services for compensation to an individual with autism for which current law does not require a licensure as a physician, physician assistant, nurse, chiropractor, pharmacist, psychologist, or other professional specified in the bill.

The bill creates an Autism Paraprofessional Board (board) composed of two psychiatrists, one pediatrician, one psychologist, one social worker, and two public members. The public members must each be the parent of a child who has been diagnosed with autism. The bill requires the board to promulgate rules that establish educational criteria and practice standards for autism paraprofessionals and permits the board to promulgate rules that create ethical standards and continuing education requirements for autism paraprofessionals.

Under the bill, the board may discipline an autism paraprofessional who does any of the following: 1) intentionally makes a material misstatement in an application for a license or for renewal; 2) engages in autism paraprofessional practice while impaired by alcohol or other drugs; 3) makes a substantial misrepresentation that is relied upon by a client; or 4) violates any law that substantially relates to autism paraprofessional practice.

For further information see the **state and local** 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.** 15.405 (6r) of the statutes is created to read:
- 2           15.405 (6r) AUTISM PARAPROFESSIONAL BOARD. There is created an autism
- 3           paraprofessional board in the department of regulation and licensing consisting of
- 4           the following members appointed for staggered 4-year terms:
- 5           (a) Two board-certified psychiatrists who have expertise in providing services
- 6           for individuals with autism.

**BILL**

1 (b) One board-certified pediatrician who has expertise in services providing for  
2 individuals with autism.

3 (c) One psychologist licensed under s. 455.04 who has expertise in providing  
4 services for individuals with autism.

5 (d) One social worker certified or licensed under s. 457.08 who has expertise  
6 in providing services for individuals with autism.

7 (e) Two public members, each of whom is a parent of a child who has been  
8 diagnosed with autism.

9 **SECTION 2.** 20.435 (4) (b) of the statutes is amended to read:

10 20.435 (4) (b) *Medical Assistance program benefits.* Biennially, the amounts  
11 in the schedule to provide a portion of the state share of Medical Assistance program  
12 benefits administered under subch. IV of ch. 49, excluding amounts provided under  
13 par. (c), for a portion of the Badger Care health care program under s. 49.665, to  
14 provide a portion of the Medical Assistance program benefits administered under  
15 subch. IV of ch. 49 that are not also provided under par. (o), to fund the pilot project  
16 under s. 46.27 (9) and (10), to provide a portion of the facility payments under 1999  
17 Wisconsin Act 9, section 9123 (9m), to fund services provided by resource centers  
18 under s. 46.283, for services under the family care benefit under s. 46.284 (5), for  
19 assisting victims of diseases, as provided in ss. 49.68, 49.683, and 49.685, and for  
20 reduction of any operating deficits as specified in 2005 Wisconsin Act 15, section 3.  
21 Notwithstanding s. 20.002 (1), the department may transfer from this appropriation  
22 account to the appropriation account under sub. (7) (kb) funds in the amount of and  
23 for the purposes specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002  
24 (1), the department may credit or deposit into this appropriation account and may  
25 transfer between fiscal years funds that it transfers from the appropriation account

**BILL**

**SECTION 2**

1 under sub. (7) (kb) for the purposes specified in s. 46.485 (3r). Notwithstanding s.  
2 20.002 (1), the department may transfer from this appropriation account to the  
3 appropriation account under sub. (7) (bd) funds in the amount and for the purposes  
4 specified in s. 49.45 (6v).

5 **SECTION 3.** 20.435 (4) (c) of the statutes is created to read:

6 20.435 (4) (c) *Medical Assistance autism benefit.* A sum sufficient for the state's  
7 share of the Medical Assistance autism benefit to provide autism services under the  
8 children's long-term care Medical Assistance waiver program, as described under s.  
9 49.45 (38m) and 2003 Wisconsin Act 33, section 9124 (8c).

10 **SECTION 4.** 49.45 (38m) of the statutes is created to read:

11 49.45 (38m) **AUTISM BENEFIT.** (a) The department shall provide autism services  
12 under the autism benefit program under the children's long-term care Medical  
13 Assistance waiver program, as described under 2003 Wisconsin Act 33, section 9124  
14 (8c), to all individuals who are eligible for the services and may not use a waiting list  
15 to limit or delay the provision of services to eligible individuals.

16 (b) If the department determines that it needs a waiver or an amendment to  
17 the waiver described under 2003 Wisconsin Act 33, section 9124 (8c), to provide the  
18 services as required under par. (a) and to authorize federal financial participation  
19 for Medical Assistance reimbursement for the services, the department shall request  
20 from the secretary of the federal department of health and human services a waiver  
21 or a waiver amendment to allow the department to provide the services as required  
22 under par. (a) and to authorize federal financial participation for those services.

23 **SECTION 5.** 51.03 (7) of the statutes is created to read:

24 51.03 (7) The department shall develop and periodically update a brochure  
25 describing the activities that a parent of a child with autism may engage in at home

*provide*  
*annually distribute to parents of children with autism information regarding therapies*

**BILL**

*gathering information for distribution under this subsection ✓*

1 with the child to complement the child's treatment or individualized education  
 2 program, as defined in s. 115.76 (9). In developing the brochure, the department  
 3 shall consult with teachers of special education, as defined in s. 115.76 (15); parents  
 4 of autistic children; physicians; and representatives of organizations that advocate  
 5 for the interests of children with disabilities. The department shall distribute the  
 6 brochure to local educational agencies, as defined in s. 115.76 (10), and physicians.

*provide the information*  
*using a method determined by the department*

**SECTION 6.** 146.85 of the statutes is created to read:

**146.85 Referral required.** (1) A health care provider, as defined in s. 146.81

9 (1), who diagnoses a patient with a condition, injury, or illness, other than alcoholism,  
 10 drug dependency, or mental illness, shall provide the patient or, if the patient is a  
 11 minor, the patient's parent, guardian, or legal custodian, with any necessary and  
 12 appropriate referral for treatment or services if the condition, injury, or illness  
 13 requires further treatment or services.

**SECTION 7.** 440.08 (2) (a) 15m. of the statutes is created to read:

15 440.08 (2) (a) 15m. Autism paraprofessional: January 1 of each  
 16 even-numbered year.

**SECTION 8.** Chapter 462 of the statutes is created to read:

**CHAPTER 462**

**AUTISM PARAPROFESSIONALS**

**462.01 Definitions.** In this chapter:

(1) "Board" means the autism paraprofessional board.

22 (2) "Autism paraprofessional practice" means the provision of services for  
 23 compensation to an individual with autism that may be provided by an individual  
 24 who is not licensed under chs. 440, 441, 446, 447, 448, 449, 450, 451, 455, 457, 459,  
 25 or 460.

**BILL****SECTION 8**

1           **462.02 Licensure. (1)** No person may engage in autism paraprofessional  
2 practice unless the person holds a license issued by the board.

3           **(2)** The board may grant a license to engage in autism paraprofessional  
4 practice to an applicant who submits an application on a form provided by the  
5 department and pays the initial credential fee determined by the department under  
6 s. 440.03 (9) (a).

7           **(3)** The renewal date for a license granted under this chapter is specified in s.  
8 440.08 (2) (a). A renewal application shall be submitted to the department on a form  
9 provided by the department and shall include the renewal fee determined by the  
10 department under s. 440.03 (9) (a).

11           **462.03 Rule making. (1)** The board shall promulgate rules that establish all  
12 of the following:

13           (a) Educational criteria for licensure under this chapter.

14           (b) Practice standards for autism paraprofessional practice.

15           **(2)** The board may promulgate rules creating ethical standards and continuing  
16 education requirements for autism paraprofessional practice.

17           **462.04 Discipline. (1)** Subject to the rules promulgated under s. 440.03 (1),  
18 the department may conduct investigations and hearings to determine whether a  
19 violation of this chapter or any rule promulgated under this chapter has occurred.

20           **(2)** Subject to the rules promulgated under s. 440.03 (1), the department may  
21 reprimand an autism paraprofessional or deny, limit, suspend, or revoke a license  
22 granted under this chapter to an autism paraprofessional if the department  
23 determines the autism paraprofessional has done any of the following:

24           (a) Intentionally made a material misstatement in an application for a license  
25 or for renewal of a license.



**Parisi, Lori**

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**From:** Knight, Eric  
**Sent:** Tuesday, February 17, 2009 2:31 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-1534/2 Topic: MA benefits for autism and other support services; training and criteria for in-home autism service providers

\*\*\*\*\*RUSH\*\*\*\*\*

Please Jacket LRB 09-1534/2 for the ASSEMBLY.