



2009 SENATE BILL 634

March 23, 2010 - Introduced by Senators ERPENBACH, TAYLOR and LEHMAN, cosponsored by Representatives BERCEAU, BENEDICT, POPE-ROBERTS and A. WILLIAMS. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

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; 4) a person licensed as a genetic counselor in another state or country who is authorized by the board to provide consulting services in this state on a temporary basis, as defined by the board by rule; and 5) a person who is not licensed as a genetic counselor in another state but who is certified by the American Board of Genetic Counseling (ABGC) or the American Board of Medical Genetics (ABMG) and is authorized by the board to provide consulting services in this state on a temporary basis, as defined by the board by rule.

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 ABGC or ABMG. In addition, the person must have passed either an examination administered by ABGC or the genetic counseling examination administered by ABMG. 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 examination; 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

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

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, as affected by 2009 Wisconsin Acts
2 113 and 149, is amended to read:

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

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

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

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

4 146.81 (1) (dd) A genetic counselor licensed under subch. VIII of ch. 448.

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

6 146.997 (1) (d) 4. A physician, podiatrist, perfusionist, physical therapist, ~~or~~
7 physical therapist assistant, or genetic counselor licensed under ch. 448.

8 **SECTION 6.** 155.01 (7) of the statutes, as affected by 2009 Wisconsin Act
9 (Senate Bill 471), is amended to read:

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

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

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

22 252.14 (1) (ar) 4s. A genetic counselor licensed under subch. VIII of ch. 448.

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

24 440.03 (13) (b) 30m. Genetic counselor.

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

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

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

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

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9 **448.970 Definitions.** In this subchapter:

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

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

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

20 (a) Individual and family medical histories.

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

23 (c) Social and psychological support.

24 (4) “Genetic counselor” means an individual who is licensed by the affiliated
25 credentialing board to practice genetic counseling.

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

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

10 **448.972 Applicability.** (1) A license is not required under this subchapter
11 for any of the following if the person does not claim to be a genetic counselor:

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

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

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

19 (d) A person who is licensed to practice genetic counseling in another state or
20 country and who is providing consulting services in this state on a temporary basis,
21 as determined by the affiliated credentialing board by rule, if the person notifies the
22 affiliated credentialing board that he or she will be providing consulting services and
23 of the nature and date of those services and receives authorization from the affiliated
24 credentialing board to provide consulting services on a temporary basis under this
25 paragraph.

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1 (e) A person who is not licensed to practice genetic counseling in another state
2 or country and who is providing consulting services in this state on a temporary
3 basis, as determined by the affiliated credentialing board by rule, if the person
4 satisfies all of the following:

5 1. The person is certified by the American Board of Genetic Counseling or the
6 American Board of Medical Genetics.

7 2. The person notifies the affiliated credentialing board that he or she will be
8 providing consulting services and of the nature and date of those services.

9 3. The person receives authorization from the affiliated credentialing board to
10 provide consulting services on a temporary basis under this paragraph.

11 **448.973 Duties and powers of affiliated credentialing board.** (1) The
12 affiliated credentialing board shall promulgate rules that establish each of the
13 following:

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

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

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

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

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

24 (d) The definition of "temporary basis" for purposes of s. 448.972 (1) (d) and (e).

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

3 **448.974 Licensure of genetic counselors.** (1) Except as provided in sub.
4 (2), the affiliated credentialing board shall grant a license as a genetic counselor to
5 a person who does all of the following:

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

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

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

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

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

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

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

24 (e) If the person was educated in a degree-granting program in genetic
25 counseling that is not in the United States, the person satisfies any additional

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1 requirements for demonstrating competence to practice genetic counseling that the
2 affiliated credentialing board may establish by rule.

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

10 **448.975 Temporary license.** (1) The affiliated credentialing board may, by
11 rule, provide for a temporary license to practice genetic counseling for a person who
12 satisfies the requirements of s. 448.974 but who has not successfully completed the
13 examination required under s. 448.974 (1) (d) 2.

14 (2) A temporary license issued under this section shall expire on whichever of
15 the following dates and circumstances apply to the person who obtains the
16 temporary license under this section:

17 (a) If, after the person obtains a temporary license under this section, the
18 American Board of Genetic Counseling administers the examination required under
19 s. 448.974 (1) (d) 2. and the person does not take the examination, the date on which
20 the examination is administered.

21 (b) If, after the person obtains a temporary license under this section, the
22 American Board of Genetic Counseling administers the examination required under
23 s. 448.974 (1) (d) 2. and the person does take the examination, 30 days after the
24 results of the examination are issued by the American Board of Genetic Counseling.

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1 **(3)** The board may, in its discretion and only once, renew a temporary license
2 issued to a person under this section if the person maintains active candidate status
3 with the American Board of Genetic Counseling. The board may require an applicant
4 for the renewal of a temporary license to appear before a member of the board for an
5 interview.

6 **(4)** A person who holds a temporary license issued under this section may not
7 practice genetic counseling unless the person is under the supervision and direction
8 of a genetic counselor at all times while the person is practicing genetic counseling.
9 The affiliated credentialing board may promulgate rules governing general
10 supervision of a person holding a temporary license under this section by a genetic
11 counselor.

12 **448.976 Issuance of license; expiration and renewal.** **(1)** The department
13 shall issue a certificate of licensure to each person who is licensed under this
14 subchapter.

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

20 **448.977 Disciplinary proceedings and actions.** **(1)** Subject to the rules
21 promulgated under s. 440.03 (1), the affiliated credentialing board may make
22 investigations and conduct hearings to determine whether a violation of this
23 subchapter or any rule promulgated under this subchapter has occurred.

24 **(2)** Subject to the rules promulgated under s. 440.03 (1), the affiliated
25 credentialing board may reprimand a genetic counselor or may deny, limit, suspend,

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1 or revoke a license granted under this subchapter if it finds that the applicant or
2 genetic counselor has done any of the following:

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

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

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

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

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

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

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

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

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

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

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

24 **(4)** (a) A genetic counselor may voluntarily surrender his or her license to the
25 affiliated credentialing board, which may refuse to accept the surrender if the

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1 affiliated credentialing board has received allegations of unprofessional conduct
2 against the genetic counselor. The affiliated credentialing board may negotiate
3 stipulations in consideration for accepting the surrender of licenses.

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

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

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

13 **448.978 Injunctive relief.** If the affiliated credentialing board has reason to
14 believe that any person is violating this subchapter or any rule promulgated under
15 this subchapter, the affiliated credentialing board, the department, the attorney
16 general, or the district attorney of the proper county may investigate and may, in
17 addition to any other remedies, bring an action in the name and on behalf of this state
18 to enjoin the person from the violation.

19 **448.979 Penalties.** Any person who violates this subchapter or any rule
20 promulgated under this subchapter may be fined not more than \$10,000 or
21 imprisoned for not more than 9 months or both.

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

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

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1 450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical
2 therapist, physical therapist assistant, occupational therapist, ~~or~~ occupational
3 therapy assistant, or genetic counselor licensed under ch. 448.

SECTION 14. Nonstatutory provisions.

4
5 (1) INITIAL APPOINTMENTS. Notwithstanding the lengths of the terms specified
6 in section 15.406 (6) (intro.) of the statutes, as created by this act, the initial members
7 of the genetic counselors affiliated credentialing board shall be initially appointed
8 for the following terms:

9 (a) One genetic counselor and one person licensed to practice medicine and
10 surgery under subchapter II of chapter 448 of the statutes who is a clinical geneticist,
11 for terms expiring on July 1, 2010.

12 (b) One genetic counselor and one person licensed to practice medicine and
13 surgery under subchapter II of chapter 448 of the statutes, for terms expiring on July
14 1, 2011.

15 (c) Two genetic counselors and one public member, for terms expiring on July
16 1, 2012.

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

