



2007 SENATE BILL 570

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

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), 440.08 (2) (a) 37m. and 450.10 (3) (a) 5.; and *to*
3 **create** 15.406 (6), 48.981 (2) (a) 30., 146.81 (1) (dd), 252.14 (1) (ar) 4s., 440.03
4 (13) (b) 30m., 440.08 (2) (a) 37m. and subchapter VIII of chapter 448 [precedes
5 448.970] of the statutes; **relating to:** the regulation and licensure of genetic
6 counselors, creating a genetic counselors affiliated credentialing board,
7 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

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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 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:

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

3 440.08 (2) (a) 37m. Genetic counselor: November 1 of each odd-numbered year;
4 \$106.

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

7 **CHAPTER 448**

8 SUBCHAPTER VIII

9 GENETIC COUNSELORS AFFILIATED

10 CREDENTIALING BOARD

11 **448.970 Definitions.** In this subchapter:

12 (1) "Affiliated credentialing board" means the genetic counselors affiliated
13 credentialing board.

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

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

22 (a) Individual and family medical histories.

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

25 (c) Social and psychological support.

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

3 **448.971 License required.** (1) Except as provided in s. 448.972, no person
4 may practice genetic counseling unless the person is licensed under this subchapter.

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

12 **448.972 Applicability.** (1) A license is not required under this subchapter
13 for any of the following if the person does not claim to be a genetic counselor:

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

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

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

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

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

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

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

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

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

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

14 3. Demonstrate continued competence in genetic counseling.

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

17 **448.974 Licensure of genetic counselors.** (1) Except as provided in sub.
18 (2), the affiliated credentialing board shall grant a license as a genetic counselor to
19 a person who does all of the following:

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

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

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

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

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

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

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

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

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

23 **448.975 Temporary license.** The affiliated credentialing board may, by rule,
24 provide for a temporary license to practice genetic counseling for a person who
25 satisfies the requirements of s. 448.974 and who has applied for active candidate

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

18 **448.976 Issuance of license; expiration and renewal. (1)** The department
19 shall issue a certificate of licensure to each person who is licensed under this
20 subchapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **448.978 Injunctive relief.** If the affiliated credentialing board has reason to
20 believe that any person is violating this subchapter or any rule promulgated under
21 this subchapter, the affiliated credentialing board, the department, the attorney
22 general, or the district attorney of the proper county may investigate and may, in
23 addition to any other remedies, bring an action in the name and on behalf of this state
24 to enjoin the person from the violation.

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1 **448.979 Penalties.** Any person who violates this subchapter or any rule
2 promulgated under this subchapter may be fined not more than \$10,000 or
3 imprisoned for not more than 9 months or both.

4 **SECTION 13.** 448.970 of the statutes is renumbered 448.9695.

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

6 450.10 **(3)** (a) 5. A physician, physician assistant, podiatrist, physical
7 therapist, physical therapist assistant, occupational therapist, ~~or~~ occupational
8 therapy assistant, or genetic counselor licensed under ch. 448.

9 **SECTION 15. Nonstatutory provisions.**

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

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

17 (b) One genetic counselor and one person licensed to practice medicine and
18 surgery under subchapter II of chapter 448 of the statutes, for terms expiring on July
19 1, 2009.

20 (c) Two genetic counselors and one public member, for terms expiring on July
21 1, 2010.

22 (2) QUALIFICATIONS OF INITIAL MEMBERS OF THE GENETIC COUNSELORS AFFILIATED
23 CREDENTIALING BOARD. Notwithstanding section 15.406 (6) of the statutes, as created
24 by this act, an initial member of the genetic counselors affiliated credentialing board
25 appointed under section 15.406 (6) of the statutes is not required to be a licensed

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1 genetic counselor under section 448.974 of the statutes, as created by this act, if the
2 appointment occurs before the effective date of this subsection and at the time of the
3 appointment the individual holds a valid certification issued by the American Board
4 of Genetic Counseling as defined in section 448.970 (2) of the statutes, as created by
5 this act.

6 (3) RULE MAKING.

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

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

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

24 (1) The treatment of sections 15.085 (1m) (b) and 15.406 (6) of the statutes and
25 SECTION 15 of this act take effect on the day after publication.

