



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2517/1
KP:kjf

2021 SENATE BILL 259

March 31, 2021 - Introduced by Senators TESTIN, DARLING, ERPENBACH, JOHNSON, LARSON, PFAFF and WIRCH, cosponsored by Representatives STEFFEN, ROZAR, BROSTOFF, BILLINGS, CABRAL-GUEVARA, DITTRICH, DUCHOW, GOYKE, KITCHENS, KUGLITSCH, SKOWRONSKI, TITTL and WICHGERS. Referred to Committee on Insurance, Licensing and Forestry.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber* 252.14 (1) (ar) 4q., 448.970, subchapter VIII (title) of
2 chapter 448 [precedes 448.980] and subchapter IX (title) of chapter 448
3 [precedes 448.985]; *to amend* 15.085 (1m) (b), 49.45 (9r) (a) 7. b., 146.81 (1) (dg),
4 146.997 (1) (d) 4., 155.01 (7), 252.14 (1) (ar) 4e., 446.01 (1v) (d), 448.956 (1m),
5 448.956 (4), 450.10 (3) (a) 5., 451.02 (1) and 462.04; and *to create* 15.406 (7),
6 48.981 (2) (a) 20m., 146.81 (1) (eu), 252.14 (1) (ar) 4s., 440.03 (13) (b) 30m.,
7 440.08 (2) (a) 37m. and subchapter VIII of chapter 448 [precedes 448.970] of the
8 statutes; **relating to:** the regulation and licensure of genetic counselors,
9 creating a genetic counselors affiliated credentialing board, providing an
10 exemption from emergency rule procedures, granting rule-making authority,
11 and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill provides for regulation and licensing for the practice of genetic counseling.

Under the bill, subject to certain exceptions, no one may practice genetic counseling, as defined in the bill, or use the title "genetic counselor" or make similar

SENATE BILL 259

representations without a license to practice genetic counseling. A license is granted by the seven-member Genetic Counselors Affiliated Credentialing Board, created in the bill. Under the bill, the board is attached for limited purposes to the Medical Examining Board, which regulates physicians and certain other professions.

Under the bill, the board may grant an initial license to a person who has successfully completed academic requirements for genetic counseling specified in the bill, has passed an examination specified in the bill, is certified by the American Board of Genetic Counseling, does not have an arrest or conviction record, and pays a fee. The bill also allows the board, for three months after the requirement in the bill to obtain a license goes into effect, to grant an initial license to practice genetic counseling to certain individuals who cannot satisfy all of the requirements described above but who satisfy certain experience and other requirements. Biennial renewal of a license requires completion of at least 30 hours of continuing education and maintenance of certification or recertification through the American Board of Genetic Counseling. The bill also includes provisions for the unlicensed temporary practice of genetic counseling and temporary licenses to practice genetic counseling.

The bill requires the board to promulgate rules to adopt the National Society of Genetic Counselors code of ethics to govern the professional conduct of genetic counselors, establish licensure renewal requirements, and establish criteria for the approval of continuing education programs and courses.

The bill includes provisions for the professional discipline of licensees, which allow the board to take certain actions against a licensee who violates certain prohibitions in the bill.

Finally, the bill also applies certain other laws, such as the law providing for confidentiality of health care records and the health care workers whistleblowers protection law, to licensed genetic counselors.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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 podiatry affiliated credentialing
- 3 board, ~~or occupational therapists affiliated credentialing board, or genetic~~
- 4 counselors affiliated credentialing board shall not be engaged in any profession or
- 5 occupation concerned with the delivery of physical or mental health care.

SENATE BILL 259

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

2 15.406 (7) GENETIC COUNSELORS AFFILIATED CREDENTIALING BOARD. There is
3 created in the department of safety and professional services, attached to the medical
4 examining board, a genetic counselors affiliated credentialing board consisting of the
5 following members appointed for 4-year terms:

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

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

9 (c) One public member.

10 **SECTION 3.** 48.981 (2) (a) 20m. of the statutes is created to read:

11 48.981 (2) (a) 20m. A genetic counselor.

12 **SECTION 4.** 49.45 (9r) (a) 7. b. of the statutes is amended to read:

13 49.45 (9r) (a) 7. b. A physical therapist who is licensed under subch. III of ch.
14 448 or who holds a compact privilege under subch. ~~IX~~ X of ch. 448.

15 **SECTION 5.** 146.81 (1) (dg) of the statutes is amended to read:

16 146.81 (1) (dg) A physical therapist or physical therapist assistant who is
17 licensed under subch. III of ch. 448 or who holds a compact privilege under subch.
18 ~~IX~~ X of ch. 448.

19 **SECTION 6.** 146.81 (1) (eu) of the statutes is created to read:

20 146.81 (1) (eu) A genetic counselor licensed under subch. VIII of ch. 448.

21 **SECTION 7.** 146.997 (1) (d) 4. of the statutes is amended to read:

22 146.997 (1) (d) 4. A physician, podiatrist, or perfusionist, physical therapist,
23 or physical therapist assistant, or genetic counselor licensed under ch. 448 or a
24 physical therapist or physical therapist assistant who holds a compact privilege
25 under subch. ~~IX~~ X of ch. 448.

SENATE BILL 259**SECTION 8**

1 **SECTION 8.** 155.01 (7) of the statutes is amended to read:

2 155.01 (7) “Health care provider” means a nurse licensed or permitted under
3 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
4 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
5 therapist assistant, occupational therapist, ~~or~~ occupational therapy assistant, or
6 genetic counselor licensed under ch. 448, a person practicing Christian Science
7 treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch.
8 455, a physical therapist or physical therapist assistant who holds a compact
9 privilege under subch. ~~IX~~ X of ch. 448, a partnership thereof, a corporation or limited
10 liability company thereof that provides health care services, a cooperative health
11 care association organized under s. 185.981 that directly provides services through
12 salaried employees in its own facility, or a home health agency, as defined in s. 50.49
13 (1) (a).

14 **SECTION 9.** 252.14 (1) (ar) 4e. of the statutes is amended to read:

15 252.14 (1) (ar) 4e. A physical therapist or physical therapist assistant who is
16 licensed under subch. III of ch. 448 or who holds a compact privilege under subch.
17 ~~IX~~ X of ch. 448.

18 **SECTION 10.** 252.14 (1) (ar) 4q. of the statutes is renumbered 252.14 (1) (ar) 4n.

19 **SECTION 11.** 252.14 (1) (ar) 4s. of the statutes is created to read:

20 252.14 (1) (ar) 4s. A genetic counselor licensed under subch. VIII of ch. 448.

21 **SECTION 12.** 440.03 (13) (b) 30m. of the statutes is created to read:

22 440.03 (13) (b) 30m. Genetic counselor.

23 **SECTION 13.** 440.08 (2) (a) 37m. of the statutes is created to read:

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

25 **SECTION 14.** 446.01 (1v) (d) of the statutes is amended to read:

SENATE BILL 259**SECTION 17**

1 **(1)** “Accreditation Council for Genetic Counseling,” “American Board of
2 Genetic Counseling,” “American Board of Medical Genetics and Genomics,” and
3 “National Society of Genetic Counselors” include an equivalent successor
4 organization as determined by the board.

5 **(2)** “Board” means the genetic counselors affiliated credentialing board.

6 **(3)** “Genetic counseling” means to do any of the following:

7 (a) Obtain and evaluate individual, family, and medical histories to determine
8 genetic risk for genetic or medical conditions and diseases in a patient, a patient’s
9 offspring, and other family members.

10 (b) Discuss the features, natural history, means of diagnosis, genetic and
11 environmental factors, and management of risk for genetic or medical conditions and
12 diseases.

13 (c) Identify, coordinate, and order genetic laboratory tests as appropriate for a
14 genetic assessment.

15 (d) Integrate genetic laboratory test results with personal and family medical
16 history to assess and communicate risk factors for genetic or medical conditions and
17 diseases.

18 (e) Explain the clinical implications of genetic laboratory tests and other
19 diagnostic studies and their results.

20 (f) Evaluate a patient’s or family’s responses to the condition or risk of
21 recurrence and provide patient-centered counseling and anticipatory guidance.

22 (g) Provide written documentation of medical, genetic, and counseling
23 information for families and health care professionals.

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

SENATE BILL 259**SECTION 17**

1 **448.971 License required; exceptions.** (1) (a) Except as provided in sub.
2 (2), no person may practice genetic counseling unless the person is licensed under
3 this subchapter.

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

11 **(2)** A license is not required under this subchapter for any of the following if
12 the person does not claim to be a genetic counselor:

13 (a) Any person, such as a physician, who is lawfully practicing within the scope
14 of a license, permit, registration, or certification granted by this state or the federal
15 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 who is providing consulting services in this state on a temporary basis,
23 as determined by the board by rule, if the person notifies the board that he or she will
24 be providing consulting services and of the nature and date of those services and

SENATE BILL 259**SECTION 17**

1 receives authorization from the board to provide consulting services on a temporary
2 basis under this paragraph.

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

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

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

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

12 **448.973 Duties and powers of board.** The board shall promulgate rules to
13 do all of the following:

14 (1) Adopt the National Society of Genetic Counselors code of ethics as a code
15 of ethics governing the professional conduct of genetic counselors.

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

18 (3) Establish requirements for an applicant seeking renewal of a genetic
19 counselor license, including that an applicant has satisfied all of the following:

20 (a) Successfully completed at least 30 hours of continuing education in the prior
21 2-year period.

22 (b) Maintained certification from and, if applicable, achieved recertification
23 through the American Board of Genetic Counseling.

24 (4) Adopt a definition of "temporary basis" for purposes of s. 448.971 (2) (d) and
25 (e).

SENATE BILL 259

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

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

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

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

9 (d) Submits evidence satisfactory to the board that he or she has done all of the
10 following:

11 1. Satisfied one of the following:

12 a. Successfully completed the academic and clinical requirements of and
13 developed the practice-based competencies required by a degree-granting program
14 in genetic counseling that is accredited by the Accreditation Council for Genetic
15 Counseling or the American Board of Medical Genetics and Genomics.

16 b. Successfully completed a degree-granting program outside of the United
17 States that the board determines is substantially equivalent to a program described
18 in subd. 1. a.

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 and Genomics.

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

24 **(2)** (a) The board may waive the requirements of sub. (1) (d) if the applicant
25 holds an unexpired genetic counselor license issued by another state or territory or

SENATE BILL 259**SECTION 17**

1 foreign country or province and the requirements for licensure and for renewal of a
2 genetic counselor license of such other state or territory or foreign country or
3 province are deemed by the board to be substantially equivalent to the requirements
4 for licensure and for renewal of a genetic counselor license of this state.

5 (b) The board may waive the requirements of sub. (1) (d) if the applicant does
6 all of the following:

7 1. Applies for licensure under sub. (1) by the first day of the 4th month
8 beginning after the effective date of this subdivision [LRB inserts date].

9 2. Submits evidence satisfactory to the board of all of the following:

10 a. Having at least 10 years of documented work experience practicing genetic
11 counseling.

12 b. Having completed, within the previous 5 years, 25 hours of continuing
13 education approved by the National Society of Genetic Counselors.

14 3. Submits to the board 2 letters of recommendation, one from a genetic
15 counselor and another from a physician.

16 **448.975 Temporary license.** (1) The board may, by rule, provide for a
17 temporary license to practice genetic counseling for an applicant who satisfies the
18 requirements of s. 448.974 (1) other than the examination requirement under s.
19 448.974 (1) (d) 2.

20 (2) Except as provided in sub. (3), a temporary license issued under this section
21 expires upon granting of a license under s 448.974 (1) or on whichever of the following
22 dates occurs first:

23 (a) The date that is one year after the date on which the temporary license was
24 granted.

SENATE BILL 259**SECTION 17**

1 (b) If, after the applicant obtains a temporary license under this section, the
2 American Board of Genetic Counseling administers the examination required under
3 s. 448.974 (1) (d) 2. and the applicant takes the examination, 30 days after the results
4 of the examination are issued by the American Board of Genetic Counseling.

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

10 (4) A person who holds a temporary license issued under this section may not
11 practice genetic counseling unless the person is under the supervision and direction
12 of a genetic counselor or physician at all times while the person is practicing genetic
13 counseling. The board may promulgate rules governing general supervision of a
14 person holding a temporary license under this section by a genetic counselor or
15 physician.

16 **448.976 Issuance of license; expiration and renewal.** (1) The department
17 shall issue a certificate of licensure to each person who is licensed under this
18 subchapter.

19 (2) Except as provided in s. 448.975, the renewal dates for licenses granted
20 under this subchapter are specified under s. 440.08 (2) (a). Renewal applications
21 shall be submitted to the department on a form provided by the department, and
22 shall include the renewal fee specified in s. 440.08 (2) (a) and proof of compliance with
23 the requirements established by rules promulgated by the board under s. 448.973 (3).

24 **448.977 Disciplinary proceedings and actions.** (1) Subject to the rules
25 promulgated under s. 440.03 (1), the board may make investigations and conduct

SENATE BILL 259**SECTION 17**

1 hearings to determine whether a violation of this subchapter or any rule
2 promulgated under this subchapter has occurred.

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

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

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

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

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

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

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

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

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

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

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

SENATE BILL 259

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

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

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

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

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

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

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

24 **SECTION 18.** 448.970 of the statutes is renumbered 448.9695.

SENATE BILL 259**SECTION 19**

1 **SECTION 19.** Subchapter VIII (title) of chapter 448 [precedes 448.980] of the
2 statutes is renumbered subchapter IX (title) of chapter 448 [precedes 448.980].

3 **SECTION 20.** Subchapter IX (title) of chapter 448 [precedes 448.985] of the
4 statutes is renumbered subchapter X (title) of chapter 448 [precedes 448.985].

5 **SECTION 21.** 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 or a physical therapist
9 or physical therapist assistant who holds a compact privilege under subch. ~~IX~~ X of
10 ch. 448.

11 **SECTION 22.** 451.02 (1) of the statutes is amended to read:

12 451.02 (1) An individual holding a license, permit or certificate under ch. 441,
13 446, 447, 448, or 449 or a compact privilege under subch. ~~IX~~ X of ch. 448 who engages
14 in a practice of acupuncture that is also included within the scope of his or her license,
15 permit or certificate.

16 **SECTION 23.** 462.04 of the statutes is amended to read:

17 **462.04 Prescription or order required.** A person who holds a license or
18 limited X-ray machine operator permit under this chapter may not use diagnostic
19 X-ray equipment on humans for diagnostic purposes unless authorized to do so by
20 prescription or order of a physician licensed under s. 448.04 (1) (a), a dentist licensed
21 under s. 447.04 (1), a podiatrist licensed under s. 448.63, a chiropractor licensed
22 under s. 446.02, an advanced practice nurse certified under s. 441.16 (2), a physician
23 assistant licensed under s. 448.04 (1) (f), or, subject to s. 448.56 (7) (a), a physical
24 therapist who is licensed under s. 448.53 or who holds a compact privilege under
25 subch. ~~IX~~ X of ch. 448.

SENATE BILL 259**SECTION 24****1 SECTION 24. Nonstatutory provisions.**

2 (1) INITIAL APPOINTMENTS. Notwithstanding the lengths of the terms specified
3 in s. 15.406 (7) (intro.), the initial members of the genetic counselors affiliated
4 credentialing board shall be initially appointed for the following terms:

5 (a) One genetic counselor and one person licensed to practice medicine and
6 surgery under subch. II of ch. 448 who is a clinical geneticist, for terms expiring on
7 July 1, 2023.

8 (b) One genetic counselor and one person licensed to practice medicine and
9 surgery under subch. II of ch. 448, for terms expiring on July 1, 2024.

10 (c) Two genetic counselors and one public member, for terms expiring on July
11 1, 2025.

12 (2) QUALIFICATIONS OF INITIAL MEMBERS OF THE GENETIC COUNSELORS AFFILIATED
13 CREDENTIALING BOARD. Notwithstanding s. 15.406 (7), an initial member of the genetic
14 counselors affiliated credentialing board appointed under s. 15.406 (7) is not
15 required to be a licensed genetic counselor under s. 448.974, if the appointment
16 occurs before the date specified in SECTION 25 (intro.) of this act and at the time of
17 the appointment the individual holds a valid certification issued by the American
18 Board of Genetic Counseling, as defined in s. 448.970 (1).

19 (3) RULE MAKING. Using the procedure under s. 227.24, the genetic counselors
20 affiliated credentialing board may promulgate rules required under s. 448.973, for
21 the period before permanent rules take effect, but not to exceed the period authorized
22 under s. 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the
23 genetic counselors affiliated credentialing board is not required to provide evidence
24 that promulgating a rule under this subsection as an emergency rule is necessary for

SENATE BILL 259

SECTION 24

1 the preservation of the public peace, health, safety, or welfare and is not required to
2 provide a finding of emergency for a rule promulgated under this subsection.

3 **SECTION 25. Effective dates.** This act takes effect on the first day of the 13th
4 month beginning after publication except as follows:

5 (1) The treatment of ss. 15.085 (1m) (b) and 15.406 (7) and SECTION 24 of this
6 act take effect on the day after publication.

7 (END)