

State of Wisconsin



2021 Senate Bill 259

Date of enactment: **April 8, 2022**
Date of publication*: **April 9, 2022**

2021 WISCONSIN ACT 251

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

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

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

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

SECTION 2. 15.406 (8) of the statutes is created to read:

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

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

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

(c) One public member.

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

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

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

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

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

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

SECTION 6. 146.81 (1) (et) of the statutes is created to read:

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

SECTION 7. 146.997 (1) (d) 4. of the statutes, as affected by 2021 Wisconsin Act 123, is amended to read:

146.997 (1) (d) 4. A physician, physician assistant, podiatrist, perfusionist, physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant, or genetic counselor licensed under ch. 448; a physical therapist or physical therapist assistant who holds a compact privilege under subch. IX X of ch. 448; or an occupational therapist or occupational therapy assistant who holds a compact privilege under subch. XI of ch. 448.

SECTION 8. 155.01 (7) of the statutes, as affected by 2021 Wisconsin Acts 123, 130 and 131, is amended to read:

155.01 (7) “Health care provider” means a nurse licensed or permitted under ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a physician, physician assistant, perfusionist, podiatrist, physical therapist, physical therapist assistant, occupational therapist, or occupational therapy assistant, or genetic counselor licensed under ch. 448, a naturopathic doctor licensed under ch. 466, a person practicing Christian Science treatment, an optometrist licensed under ch. 449, a psychologist who is licensed under ch. 455, who is exercising the temporary authorization to practice, as defined in s. 455.50 (2) (o), in this state, or who is practicing under the authority to practice interjurisdictional telepsychology, as defined in s. 455.50 (2) (b), a physical therapist or physical therapist assistant who holds a compact privilege under subch. IX X of ch. 448, an occupational therapist or occupational therapy assistant who holds a compact privilege under subch. XI of ch. 448, a partnership thereof, a corporation or limited liability company thereof that provides health care services, a cooperative health care association organized under s. 185.981 that directly provides services through salaried employees in its own facility, or a home health agency, as defined in s. 50.49 (1) (a).

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

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

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

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

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

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

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

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

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

446.01 (1v) (d) Physical therapy examining board under subch. III of ch. 448. “Health care professional” also includes an individual who holds a compact privilege under subch. IX X of ch. 448.

SECTION 15. 448.956 (1m) of the statutes, as affected by 2021 Wisconsin Act 123, is amended to read:

448.956 (1m) Subject to sub. (1) (a), a licensee may provide athletic training to an individual without a referral, except that a licensee may not provide athletic training as described under s. 448.95 (5) (d) or (e) in an outpatient rehabilitation setting unless the licensee has obtained a written referral for the individual from a practitioner licensed or certified under subch. II, III, IV, V, or VII of this chapter; under ch. 446; or under s. 441.16 (2) or from a practitioner who holds a compact privilege under subch. IX X or XI of ch. 448.

SECTION 16. 448.956 (4) of the statutes, as affected by 2021 Wisconsin Act 71, is amended to read:

448.956 (4) If a licensee determines that a patient’s medical condition is beyond the scope of practice of the licensee, the licensee shall, in accordance with the protocol established under sub. (1) (a), refer the patient to a health care practitioner who is licensed under ch. 446 or 447 or subch. II, III or IV of ch. 448; or who holds a compact privilege under subch. IX X of ch. 448 and who can provide appropriate treatment to the patient.

SECTION 17. Subchapter VIII of chapter 448 [precedes 448.970] of the statutes is created to read:

CHAPTER 448

SUBCHAPTER VIII

GENETIC COUNSELORS AFFILIATED CREDENTIALING BOARD

448.970 Definitions. In this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) A person who is not licensed to practice genetic counseling in another state or country and who is providing consulting services in this state on a temporary basis,

as determined by the board by rule, if the person satisfies all of the following:

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

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

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

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

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

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

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

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

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

(4) Adopt a definition of “temporary basis” for purposes of s. 448.971 (2) (d) and (e).

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

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

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

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

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

1. Satisfied one of the following:

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

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

2. Passed an examination administered by the American Board of Genetic Counseling or the genetic counsel-

ing examination administered by the American Board of Medical Genetics and Genomics.

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) A person who holds a temporary license issued under this section may not practice genetic counseling unless the person is under the supervision and direction

of a genetic counselor or physician at all times while the person is practicing genetic counseling. The board may promulgate rules governing general supervision of a person holding a temporary license under this section by a genetic counselor or physician.

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

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

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

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

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

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

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

(d) Been adjudicated mentally incompetent by a court.

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

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

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

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

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

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

(3) The board shall revoke the license of a genetic counselor who has failed to maintain certification with

the American Board of Genetic Counseling or whose certification with the American Board of Genetic Counseling has been revoked.

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

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

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

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

(7) A genetic counselor may not encourage an expectant parent to obtain an elective abortion.

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

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

SECTION 18. 448.970 of the statutes is renumbered 448.9695.

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

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

SECTION 21. 450.10 (3) (a) 5. of the statutes, as affected by 2021 Wisconsin Act 123, is amended to read:

450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical therapist, physical therapist assistant, occupational therapist, ~~or~~ occupational therapy assistant, or genetic counselor licensed under ch. 448, a physical therapist or physical therapist assistant who holds a compact privilege under subch. ~~IX~~ X of ch. 448, or an occupational therapist or occupational therapy assistant who holds a compact privilege under subch. XI of ch. 448.

SECTION 22. 451.02 (1) of the statutes, as affected by 2021 Wisconsin Act 123, is amended to read:

451.02 (1) An individual holding a license, permit or certificate under ch. 441, 446, 447, 448, or 449 or a compact privilege under subch. ~~IX~~ X or XI of ch. 448 who

engages in a practice of acupuncture that is also included within the scope of his or her license, permit, certificate, or privilege.

SECTION 23. 462.04 of the statutes, as affected by 2021 Wisconsin Act 130, is amended to read:

462.04 Prescription or order required. A person who holds a license or limited X-ray machine operator permit under this chapter may not use diagnostic X-ray equipment on humans for diagnostic purposes unless authorized to do so by prescription or order of a physician licensed under s. 448.04 (1) (a), a naturopathic doctor licensed under s. 466.04 (1), a dentist licensed under s. 447.04 (1), a podiatrist licensed under s. 448.63, a chiropractor licensed under s. 446.02, an advanced practice nurse certified under s. 441.16 (2), a physician assistant licensed under s. 448.04 (1) (f), or, subject to s. 448.56 (7) (a), a physical therapist who is licensed under s. 448.53 or who holds a compact privilege under subch. ~~IX~~ X of ch. 448.

SECTION 24. Nonstatutory provisions.

(1) INITIAL APPOINTMENTS. Notwithstanding the lengths of the terms specified in s. 15.406 (8) (intro.), the initial members of the genetic counselors affiliated credentialing board shall be initially appointed for the following terms:

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

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

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

(2) QUALIFICATIONS OF INITIAL MEMBERS OF THE GENETIC COUNSELORS AFFILIATED CREDENTIALING BOARD. Notwithstanding s. 15.406 (8), an initial member of the genetic counselors affiliated credentialing board appointed under s. 15.406 (8) is not required to be a licensed genetic counselor under s. 448.974, if the appointment occurs before the date specified in SECTION 25 (intro.) of this act and at the time of the appointment the individual holds a valid certification issued by the American Board of Genetic Counseling, as defined in s. 448.970 (1).

(3) RULE MAKING. Using the procedure under s. 227.24, the genetic counselors affiliated credentialing board may promulgate rules required under s. 448.973, for the period before permanent rules take effect, but not to exceed the period authorized under s. 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the genetic counselors affiliated credentialing board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding

of emergency for a rule promulgated under this subsection.

SECTION 25. Effective dates. This act takes effect on the first day of the 13th month beginning after publica-

tion except as follows:

(1) The treatment of ss. 15.085 (1m) (b) and 15.406 (8) and SECTION 24 of this act take effect on the day after publication.
