



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4489/P4
KP:amn&ahe

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 457.02 (5) and 457.02 (5m); *to renumber* 455.08; *to amend*
2 440.88 (3) (a) (intro.), 440.88 (3m), 961.385 (2) (cm) 1. (intro.) and 961.385 (2)
3 (cm) 2.; and *to create* 440.88 (12), 455.08 (2) and 457.031 of the statutes;
4 **relating to:** substance abuse counseling by psychologists, clinical social
5 workers, marriage and family therapists, and professional counselors.

Analysis by the Legislative Reference Bureau

This bill makes the following changes regarding substance abuse counseling provided by psychologists, clinical social workers, marriage and family therapists, and professional counselors:

1. The bill allows marriage and family therapists and professional counselors to represent themselves to the public as substance abuse counselors without holding a certification for that purpose granted by the Department of Safety and Professional Services.

2. The bill also prohibits DSPS; the Psychology Examining Board; and the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board from promulgating certain rules, including a rule that requires a person who holds certain licenses granted by the Medical Examining Board; the Psychology Examining Board; or the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board to be supervised or satisfy additional requirements in order to provide treatment of a substance use disorder that is within the scope of the person's license.

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.** 440.88 (3) (a) (intro.) of the statutes is amended to read:

2 440.88 (3) (a) (intro.) Subject to pars. (b) and (c) and except as provided in sub.
3 (3m), the department shall promulgate rules that establish minimum standards and
4 qualifications for the certification of all of the following, including substance abuse
5 counselors and clinical supervisors ~~described under s. HFS 75.02 (11) and (84), Wis.~~
6 Adm. Code, in effect on December 15, 2006, as defined by the department of health
7 services by rule:

8 **SECTION 2.** 440.88 (3m) of the statutes is amended to read:

9 440.88 (3m) EXCEPTION. ~~This~~ Except as provided in sub. (12), section does not
10 apply to a physician, as defined in s. 448.01 (5), a clinical social worker, as defined
11 in s. 457.01 (1r), ~~or a licensed psychologist, as defined in s. 455.01 (4), a marriage and~~
12 family therapist, as defined in s. 457.01 (3), or a professional counselor, as defined
13 in s. 457.01 (7), who practices as a substance abuse clinical supervisor or provides
14 substance abuse counseling, treatment, or prevention services within the scope of his
15 or her licensure.

16 **SECTION 3.** 440.88 (12) of the statutes is created to read:

17 440.88 (12) RULES ESTABLISHING CERTAIN REQUIREMENTS. The department may
18 not promulgate a rule under sub. (11) that does any of the following:

19 (a) Requires a person who holds a license under ch. 448, 455, or 457 to be
20 supervised in order to provide treatment of a substance use disorder within the scope
21 of the person's license.

1 (b) Establishes educational requirements that a person who holds a license
2 under ch. 448, 455, or 457 is required to satisfy in order to provide treatment of a
3 substance use disorder within the scope of the person's license.

4 **SECTION 4.** 455.08 of the statutes is renumbered 455.08 (1).

5 **SECTION 5.** 455.08 (2) of the statutes is created to read:

6 455.08 (2) The examining board may not promulgate a rule that does any of the
7 following:

8 (a) Requires a licensed psychologist to be supervised while engaging in the
9 practice of psychology except that the examining board may temporarily require a
10 licensed psychologist to be supervised as a part of a disciplinary action against the
11 psychologist for a violation of the rules of professional conduct established by the
12 examining board.

13 (b) Requires a person who is licensed under s. 455.04 to be supervised in order
14 to provide treatment of a substance use disorder within the scope of the person's
15 license.

16 (c) Establishes educational requirements that a person who is licensed under
17 s. 455.04 is required to satisfy in order to provide treatment of a substance use
18 disorder within the scope of the person's license.

19 **SECTION 6.** 457.02 (5) of the statutes is repealed.

20 **SECTION 7.** 457.02 (5m) of the statutes is repealed.

21 **SECTION 8.** 457.031 of the statutes is created to read:

22 **457.031 Rules establishing certain requirements.** The examining board
23 may not promulgate a rule that does any of the following:

1 **(1)** Requires a person licensed under s. 457.08 (4), 457.10, 457.12, or 457.14 (1)
2 (d) to (f) to be supervised in order to provide treatment of a substance use disorder
3 within the scope of the person's license.

4 **(2)** Establishes additional minimum educational requirements other than
5 educational requirements established under ss. 457.08 (4), 457.10, and 457.12 that
6 a person licensed under s. 457.08 (4), 457.10, 457.12, or 457.14 (1) (d) to (f) is required
7 to satisfy in order to treat substance use disorder as a specialty.

8 **(3)** Establishes additional minimum supervision requirements other than
9 supervision requirements established under ss. 457.08 (4), 457.10, and 457.12 that
10 a person licensed under s. 457.08 (4), 457.10, 457.12, or 457.14 (1) (d) to (f) is required
11 to satisfy in order to treat substance use disorder as a specialty.

12 **SECTION 9.** 961.385 (2) (cm) 1. (intro.) of the statutes, as created by 2015
13 Wisconsin Act 266, is amended to read:

14 961.385 **(2)** (cm) 1. (intro.) A practitioner, pharmacist, registered nurse
15 licensed under s. 441.06, substance abuse counselor, as defined in s. 440.88 (1) (b),
16 or individual ~~authorized under s. 457.02 (5m) to treat~~ who treats, within the scope
17 of his or her credential, alcohol or substance dependency or abuse as a specialty if any
18 of the following is applicable:

19 **SECTION 10.** 961.385 (2) (cm) 2. of the statutes, as created by 2015 Wisconsin
20 Act 266, is amended to read:

21 961.385 **(2)** (cm) 2. A person who medically coordinates, directs, or supervises,
22 or establishes standard operating procedures for, a practitioner, pharmacist,
23 registered nurse, substance abuse counselor, or individual ~~authorized under s.~~
24 ~~457.02 (5m) to treat~~ who treats, within the scope of his or her credential, alcohol or
25 substance dependency or abuse as a specialty to whom records may be disclosed

1 under subd. 1., if the person is evaluating the job performance of the practitioner,
2 pharmacist, registered nurse, substance abuse counselor, or individual, or is
3 performing quality assessment and improvement activities, including outcomes
4 evaluation or development of clinical guidelines, and if the disclosure does not
5 contain personally identifiable information, as defined in s. 19.62 (5), of a patient and
6 is limited to only those records about the practitioner, pharmacist, registered nurse,
7 substance abuse counselor, or individual the person medically coordinates, directs,
8 or supervises, or for whom the person establishes standard operating procedures.

9 (END)