



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

COMMITTEE NOTICES ...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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**STATE OF WISCONSIN
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING
AND SOCIAL WORK EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : MARRIAGE AND FAMILY THERAPY,
MARRIAGE AND FAMILY THERAPY, : PROFESSIONAL COUNSELING AND
PROFESSIONAL COUNSELING AND : SOCIAL WORK EXAMINING BOARD
SOCIAL WORK EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 08-088)**

TO: Senator Jim Holperin, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 409 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the MARRIAGE AND FAMILY THERAPY,
PROFESSIONAL COUNSELING AND SOCIAL WORK EXAMINING BOARD is submitting
in final draft form rules relating to supervised practice, training licenses and academic programs
for professional counselors.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any
questions concerning the final draft form or desire additional information, please contact Pamela
Haack at 266-0495.

Thank you.

**STATE OF WISCONSIN
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING
AND SOCIAL WORK EXAMINING BOARD**

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
MARRIAGE AND FAMILY THERAPY, : **ON CLEARINGHOUSE RULE 08-088**
PROFESSIONAL COUNSELING AND : **(s. 227.19 (3), Stats.)**
SOCIAL WORK EXAMINING BOARD :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

The Department of Regulation and Licensing estimates that this rule will require staff time in the Office of Legal Counsel, Office of Exams, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$2,533. The department finds that this rule has no significant fiscal effect on the private sector.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

One of the requirements for becoming licensed as a professional counselor is the accrual of 3,000 hours of supervised practice. The addition of s. MPSW 12.01 (4) and (5) is intended to permit applicants who are interested in becoming licensed in Wisconsin as professional counselors to use supervised professional counselor practice hours that were accrued in another state. The existing rules do not allow the professional counselor section to consider supervised practice hours that were obtained out-of-state. These changes are intended to remedy that situation and will likely result in more clinicians being eligible to practice in Wisconsin.

Since approximately 2004, the section has attempted to advise those entering the field that in order to practice and train for full licensure, one needs to accrue hours under a training license. A training license expires after four years, and is renewable at the discretion of the section. The benefit of a training license is that it assures the trainee that their supervisor is approved. The benefit to the public is that they can be assured that the training license holder has met certain standards required for safe practice under supervision – including that they hold an approved master's degree in professional

counseling and they have passed the State ethics examination -- and that they are required to observe their code of conduct, violation of which opens practitioners to disciplinary action.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on October 27, 2008. Charles Lindsey, Wisconsin Counseling Association and Joseph D'Costa, DWD/DVR, Madison, WI, both appeared in support of the proposed rules. No written comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 4. Is it necessary for the board to consider revisions to s. MPSW 12.02 in order to accommodate the recognition of out-of-state supervisors?

Response: No, because the section will determine whether the supervisor is acceptable under s. MPSW 12.01 (3).

All of the other recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

STATE OF WISCONSIN
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING
AND SOCIAL WORK EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : MARRIAGE AND FAMILY THERAPY,
MARRIAGE AND FAMILY THERAPY, : PROFESSIONAL COUNSELING AND
PROFESSIONAL COUNSELING AND : SOCIAL WORK EXAMINING BOARD
SOCIAL WORK EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 08-088)

PROPOSED ORDER

An order of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board to renumber MPSW 12.01 (1) and (2); to renumber and amend MPSW 12.01; to amend MPSW 11.01 (1) (b) and 14.01 (2) (intro.); and to create MPSW 12.01 (4) and (5), relating to supervised practice, training licenses and academic programs for professional counselors.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Sections 457.12 and 457.13, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 457.03 (1), Stats.

Explanation of agency authority:

The Marriage and Family Therapy, Professional Counseling and Social Work Examining Board has the authority under s. 457.03, Stats., to promulgate rules.

Related statutes or rules:

There are no other related statutes or rules other than those listed above.

Plain language analysis:

One of the requirements for becoming licensed as a professional counselor is the accrual of 3,000 hours of supervised practice. The addition of s. MPSW 12.01 (4) and (5) is intended to permit applicants who are interested in becoming licensed in Wisconsin as professional counselors to use supervised professional counselor practice hours that were accrued in another state. The existing rules do not allow the professional counselor section to consider supervised practice hours that were obtained out-of-state. These

changes are intended to remedy that situation and will likely result in more clinicians being eligible to practice in Wisconsin.

SECTION 1 adds the acronym "CORE" for the Council on Rehabilitation Education, to make it consistent with the rest of the paragraph.

SECTION 2 provides for an exception to the requirement that applicants obtain their supervised professional counseling practice in this state. It also amends the section to make it clear that a training license is required in order to begin accruing supervised professional counseling hours.

SECTION 3 rennumbers s. MPSW 12.01 (1) and (2).

SECTION 4 allows applicants who obtained their supervised professional counseling practice hours in another state to be given credit for those hours provided they are sufficiently clinical in nature and are completed under the direction of a supervisor acceptable to the professional counselor's section.

SECTION 5 clarifies that a single counseling theory course is required. It also eliminates the requirement that certain courses be a minimum of three credits, instead allowing for multiple courses to count towards the required credit amount.

Summary of, and comparison with, existing or proposed federal regulation:

There is no applicable existing federal legislation.

Comparison with rules in adjacent states:

Minnesota:

Minnesota requires a 48 credit minimum master's or doctoral degree in counseling. The degree must be from a regionally accredited institution or the degree program accredited through the Commission for Accreditation of Counseling and Related Educational Programs (CACREP). The board requires specific topic areas, similar or equivalent to that of Wisconsin's, however will automatically accept CACREP as meeting the standards in the statutes.

If the applicants graduated prior to 2003 and they hold a master's degree with 5 years of experience, they are exempt from the 48 credit or CACREP requirement (experience counselor transition language found in the statutes).

Interestingly, a license applicant may apply and receive the license only after completing 12 semester hour graduate credits with the qualification that they complete the remainder in 4 years.

The supervised practice requirement is post licensure (first 2,000 hours).

Iowa:

Iowa licenses mental health counselors rather than professional counselors. To qualify for licensure in Iowa, an applicant must either demonstrate that they hold a master's or doctoral degree in counseling with a mental health counseling concentration from a CACREP accreditation specifically in mental health counseling (CACREP accredits both community counseling and mental health counseling). If they do not have a CACREP mental health counseling degree, they must submit a "content equivalent degree of at least 45 hours over a number of counseling specific areas (similar to Wisconsin). The courses in the program must be made up of 3 semester hour courses.

Iowa requires 2 years of supervised clinical practice completed post coursework and practicum (but the applicant may start to accumulate hours prior to their thesis – curious). There does not appear to be a training level or limited credential to practice under while accumulating the hours. It appears that Iowa MHC is envisioned as "clinical" licensure meaning expectations for DSM IV diagnosis and treatment of mental health disorders rather than the more common community counselor level. This is evident in the requirement for CACREP mental health counselor accreditation and the psychopathology requirement in the equivalency.

It is not clear that Iowa approves programs or approves applicants on an as reviewed basis (though from the application materials and the lack of an approval list, it appears through the latter).

Iowa considers applicants who have obtained Certified Clinical Mental Health Counselor status with the National Board for Certified Counselors (NBCC) as having met the educational and clinical experience requirements necessary for licensure.

Illinois:

Licensure requires a master's or doctoral degree in counseling, psychology or rehabilitation counseling. Illinois will also accept a bachelor's degree in the aforementioned programs along with 5 years of supervised practice.

Beginning January 1, 2005, the Illinois licensing division approves programs that are 48 hours minimum in length with at least one course in each of the 13 identified content areas. After January 1, 2008, Illinois is requiring that the courses submitted be at least 3 semester hours in length (similar to Wisconsin's equivalency standards).

It appears that Illinois preapproves programs on a per school basis. All Master's Degree programs that are CACREP or Council on Rehabilitation Education (CORE) accredited are automatically considered approved. All Doctoral degree programs in psychology of the APA or the Council for the National Register of Health Service Providers in psychology are preapproved.

For those who graduate in a program that has not been approved, they will have to submit their transcripts and program materials to the board for review.

Michigan:

Professional Counseling Licensure requires a master's or doctoral degree in counseling or student personnel work in a program approved by the board. The license also requires 3,000 hours of supervised practice. Effective January 1, 2005, the supervision shall begin upon the issuance of a limited license.

The board has program approval standards that describe the approval of counselor training programs which includes a minimum of 48 hours over a number of specified topic areas without any minimum credit hour per course requirement. The board shall also accept any programs accredited by CORE or CACREP as automatically approved.

Summary of factual data and analytical methodologies:

The Professional Counselor Section is amending their degree equivalency rules which require a minimum of a one 3-credit semester hour or 4-quarter hour course in a number of "topic areas" to eliminate the minimum 3-credit-course requirement. The section has found that applicants denied for licensure based on the 3-credit-course requirement for degree equivalency are licensable in other states and have been practicing successfully in Wisconsin under the exemption in the statutes allowing psychotherapeutic practice in s. HFS 61.96 certified clinics. In addition, the Council for Accreditation of Counseling and Related Education Programs (CACREP), a nationally recognized accreditation body, does not specify a 3-credit-course minimum.

The section is also amending their rules to include a requirement to hold a professional counselor training license in order to accrue hours of supervised professional counseling practice towards licensure. The practice of professional counseling is a protected practice (pursuant to s. 457.04 (6), Stats.); however, the requirement to hold a training license in order to accrue supervised professional counseling practice hours is not found explicitly in the rules. The section has found that people practicing professional counseling without training certification or licensure may constitute a violation of law and could pose a significant risk to the health, safety and well-being of the public. In addition to adding the requirement for accruing supervised hours while holding the training license, the section has determined that due to increased mobility, such rules should also include flexibility in considering practice hours gained out of state if those hours are substantially equivalent to practice hours gained in other states.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

The changes proposed should not provide substantial negative effect on small business in terms of increased operating costs. Since approximately 2004, the section has attempted to advise those entering the field that in order to practice and train for full licensure, one

needs to accrue hours under a training license. The cost to obtain a training license is \$53 and expires after four years (and is renewable at the discretion of the section). The benefit of a training license is that it assures the trainee that their supervisor is approved. The benefit to the public is that they can be assured that the training license holder has met certain standards required for safe practice under supervision – including that they hold an approved master’s degree in professional counseling and they have passed the State ethics examination – and that they are required to observe their code of conduct, violation of which opens practitioners to disciplinary action.

The additional changes, including changes for purpose of clarification, elimination of minimum credit per course requirements and acceptance of supervised hours gained out-of-state will make it easier for applicants to achieve state licensure thus helping to assure availability for the workforce and does not without compromising public safety.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that this rule will require staff time in the Office of Legal Counsel, Office of Exams, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$2,533.

Effect on small business:

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling 608-266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0495; email at pamela.haack@drl.state.wi.us.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box

8935, Madison, Wisconsin 53708-8935, or by email to pamela.haack@drl.state.wi.us. Comments must be received on or before November 10, 2008 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MPSW 11.01 (1) (b) is amended to read:

MPSW 11.01 (1) (b) Verification that the institution which awarded the degree was a regionally accredited college or university, or accredited by the commission for accreditation of counseling and related educational programs (CACREP), or the council on rehabilitation education (CORE) at the time the applicant graduated from the school, or that a degree awarded by a foreign institution of higher learning has been determined by the National Board for Certified Counselors (NBCC) or by another organization approved by the section to be equivalent to a degree from a program accredited by CACREP. If the applicant's education was not received in English, the applicant must demonstrate proficiency in English by achieving a score of 550 (or 213 on the computer-based exam) or above on the Test Of English as a Foreign Language (TOEFL) or an equivalent score on an equivalent examination.

SECTION 2. MPSW 12.01 is renumbered 12.01 (1) and is amended to read:

MPSW 12.01 Supervised practice requirement. (1) ~~An~~ Except as provided in sub. (4), an applicant for licensure as a professional counselor under s. 457.12, Stats., shall complete a period of supervised practice ~~to become~~ while holding a training license before being eligible for the license licensure. Supervision of the practice of professional counseling undertaken to meet the pre-licensure requirement may be exercised by a person other than an employment supervisor. The supervisor may exercise discretion as to the frequency, duration, and intensity of the supervision sessions to meet an average of one hour of supervision per week during the supervised practice period.

SECTION 3. MPSW 12.01 (1) and (2) are renumbered (2) and (3).

SECTION 4. MPSW 12.01 (4) and (5) are created to read:

MPSW 12.01 (4) An applicant who has received a master's degree in professional counseling or its equivalent and has completed any portion of his or her 3,000 hours of supervised professional counseling practice in another state shall be given credit for those hours provided they included at least 1,000 hours of face-to-face client contact, or a proportionate number thereof, and are completed under the supervision of a supervisor acceptable to the professional counselor section.

(5) An applicant who has received a doctoral degree in professional counseling or its equivalent and has completed any portion of his or her 1,000 hours of supervised professional counseling practice in another state shall be given credit for those

hours provided they are completed under the supervision of a supervisor acceptable to the professional counselor section.

SECTION 5. MPSW 14.01 (2) (intro.) is amended to read:

MPSW 14.01 (2) (intro.) The course work included successful completion of at least 3 semester hours or 4 quarter hours academic credit in a supervised counseling practicum; at least 3 semester hours or 4 quarter hours academic credit in a single counseling theory course; and ~~at least one course of~~ at least 3 semester hours or 4 quarter hours academic credit in at least 6 of the following 8 topic areas; and the course work included a total of at least 42 semester hours or 63 quarter hours of academic credit in counseling related courses distributed among at least 6 of the following 8 topic areas:

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated: _____

Agency _____

Chairperson
Marriage and Family Therapy, Professional
Counseling and Social Work
Examining Board

PC 11,12,14 CR08-088 (Supervision, training licenses, academic programs) Draft to Leg 2-4-09



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **08-088**

AN ORDER to amend MPSW 11.01 (1) (b), 12.01, and 14.01 (2) (intro.); and to create MPSW 12.01 (3) and (4), relating to supervised practice, training licenses and academic programs for professional counselors.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

09-08-2008 RECEIVED BY LEGISLATIVE COUNCIL.

10-02-2008 REPORT SENT TO AGENCY.

RNS:SG

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 08-088

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

Generally, s. MPSW 12.01 should be revised to incorporate each unit in a numbered subsection. Currently, the first paragraph is not numbered, nor does it appear to be material that could be classified as “introductory.” [See s. 1.03 (2) (h), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

Is it necessary for the board to consider revisions to s. MPSW 12.02 in order to accommodate the recognition of out-of-state supervisors?

5. Clarity, Grammar, Punctuation and Use of Plain Language

In the plain language section of the rule analysis, should the sentence beginning with “SECTION 2” describe an exception to the requirement that applicants obtain their supervised professional counseling practice in *this* state? (Emphasis added.)