

Clearinghouse Rule 07-031

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 07-)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to create chs. RL 160, 161, 162, 163, 166, 167 and 168 relating to substance abuse professionals.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 440.88, Stats.

Statutory authority:

Section 227.11 (2), Stats., and Subchapter VII of ch. 440, Stats., as created by 2005 Wisconsin Act 25, renumbered by 2005 Wisconsin Act 254, and amended by 2005 Wisconsin Act 407.

Explanation of agency authority:

Subchapter VII of ch 440, Stats., was enacted on July 25, 2005. It was amended by Act 407 which was enacted on May 10, 2006. Under subch. VII of ch. 440, Stats., the Department of Regulation and Licensing is required to promulgate rules relating to the issuance and renewal of credentials, requirements for certification, supervised practice, scope of practice, education approval, grounds for discipline and professional liability insurance.

Related statute or rule:

Wisconsin Administrative Code s. MPSW 1.09 which relates to certification of social workers, professional counselors and marriage and family therapists to treat substance use disorder patients as a specialty.

Wisconsin Administrative Code ch. HFS 75 which relates to the certification of substance use disorder treatment clinics and programs.

Plain language analysis:

2005 Wisconsin Act 25 created Subchapter VII of chapter 440, Stats., Substance Abuse Counselors, Clinical Supervisors, and Prevention Specialists. This Act transferred the certification and regulation of Alcohol and Other Drug Abuse (AODA) counselors from the Department of Health and Family Services to the Department of Regulation and Licensing, effective 2006. This proposed rule-making order creates rules relating to definitions, requirements for certification, supervised practice, scope of practice, education approval, and professional liability insurance for substance abuse professionals.

Chapter RL 160 is being created to include definitions of terms that are used in subch. VII of ch. 440, Stats., and in chs. RL 160 to 167. The proposed rules include definitions for “accredited,” “assessment,” “behavioral science field,” “CEH,” “clinical substance abuse counselor,” “clinical supervision,” “clinical supervisor,” “clinical supervisor-in-training,” “comprehensive program,” “core functions,” “credential,” “department,” “DSM,” “hour,” “independent clinical supervisor,” “intermediate clinical supervisor,” “patient,” “practice dimensions,” “prevention,” “prevention domains,” “prevention specialist,” “prevention specialist-in-training,” “substance,” “substance abuse counselor,” “substance abuse counselor-in-training,” “substance use disorder” and “transdisciplinary foundations.”

Chapter RL 161 is being created to identify the requirements and procedures for submitting applications for licenses.

Chapter RL 162 is being created to identify the restrictions and minimum requirements for supervision of counselors by clinical supervisors.

Chapter 163 is being created to identify the scope and restrictions on the practice of the credential holders.

Chapter RL 166 is being created to identify the approval process and educational requirements for educational coursework and continuing education opportunities.

Chapter RL 167 is being created to require credential holders to have liability insurance in effect.

Chapter RL 168 is being created to identify the requirements for continuing education.

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

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by this rule.

Comparison with rules in adjacent states:

Illinois:

§ 20 ILCS 301/15-5. Applicability. (a) It is unlawful for any person to provide treatment for alcoholism and other drug abuse or dependency or to provide services as specified in subsections (c), (d), (e), and (f) of Section 15-10 of this Act [20 ILCS 301/15-10] unless the person is licensed to do so by the Department. The performance of these activities by any person in violation of this Act is declared to be inimical to the public health and welfare, and to be a public nuisance. The Department may undertake such inspections and investigations as it deems appropriate to determine whether licensable activities are being conducted without the requisite license.

(b) Nothing in this Act shall be construed to require any hospital, as defined by the Hospital Licensing Act [210 ILCS 85/1 et seq.], required to have a license from the Department of Public Health pursuant to the Hospital Licensing Act [210 ILCS 85/1 et seq.] to obtain any license under this Act for any alcoholism and other drug dependency treatment services operated on the licensed premises of the hospital, and operated by the hospital or its designated agent, provided that such services are covered within the scope of the Hospital Licensing Act [210 ILCS 85/1 et seq.]. No person or facility required to be licensed under this Act shall be required to obtain a license pursuant to the Hospital Licensing Act [210 ILCS 85/1 et seq.] or the Child Care Act of 1969 [225 ILCS 10/1 et seq.].

(c) Nothing in this Act shall be construed to require an individual employee of a licensed program to be licensed under this Act.

(d) Nothing in this Act shall be construed to require any private professional practice, whether by an individual practitioner, by a partnership, or by a duly incorporated professional service corporation, that provides outpatient treatment for alcoholism and other drug abuse to be licensed under this Act, provided that the treatment is rendered personally by the professional in his own name and the professional is authorized by individual professional licensure or registration from the Department of Professional Regulation to do such treatment unsupervised. This exemption shall not apply to such private professional practice which specializes primarily or exclusively in the treatment of alcoholism and other drug abuse. This exemption shall also not apply to intervention services, research, or residential treatment services as defined in this Act or by rule. Notwithstanding any other provisions of this subsection to the contrary, persons licensed to practice medicine in all of its branches in Illinois shall not require licensure under this Act unless their private professional practice specializes exclusively in the treatment of alcoholism and other drug abuse.

(e) Nothing in this Act shall be construed to require any employee assistance program operated by an employer or any intervener program operated by a professional association to obtain any license pursuant to this Act to perform services that do not constitute licensable treatment or intervention as defined in this Act

(f) Before any violation of this Act is reported by the Department or any of its agents to any State's Attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the Department or its designated agent, either orally or in

writing, in person or by an attorney, with regard to such contemplated proceeding. Nothing in this Act shall be construed as requiring the Department to report minor violations of this Act whenever the Department believes that the public interest would be adequately served by a suitable written notice or warning.

77 Ill. Adm. Code 2060.201 Types of Licenses. Substance abuse treatment and intervention services as specified in Section 2060.101 of this Part shall be licensed by the Department. An organization may apply for an intervention and a treatment license at the same facility and all services authorized by both an intervention and a treatment license shall be authorized by a single license issued to that facility. Consistent with rules herein, services may be provided to adults as well as adolescents. The license certificate for the facility shall specify all levels of care and a designation of adult and/or adolescent services. Individuals who are 16 and 17 may be admitted as adults and individuals who are 18, 19 and 20 may be admitted as adolescents provided that the assessment of such individuals includes justification based on the person's behavior and life experience.

a) Treatment. A treatment license issued by the Department may authorize substance abuse services as established in the ASAM Patient Placement Criteria. The level of care and category (adolescent/adult) shall be specified on the license application or, after licensure, on any application to add an additional level of care and/or category (adolescent/adult).

b) Intervention. An intervention license issued by the Department may authorize the following services:

1) DUI Evaluation. Substance abuse evaluation services for persons who are charged with driving under the influence (DUI) offenses pursuant to the Illinois Vehicle Code [625 ILCS 5/11-501] or similar local ordinances that determine the offender's risk to public safety and make a subsequent corresponding recommendation for intervention to the Illinois courts or the Office of the Secretary of State.

2) DUI Risk Education. Substance abuse risk education services for persons who are charged with driving under the influence (DUI) offenses pursuant to the Illinois Vehicle Code [625 ILCS 5/11-501] or similar local ordinances.

3) Designated Program. A program designated by the Department to provide screening, assessment, referral and tracking services pursuant to Article 40 of the Act.

4) Recovery Homes. Alcohol and drug free housing with rules, peer-led groups, staff activities and/or other structured operations which are directed toward maintenance of sobriety for persons in early recovery from substance abuse or persons who have completed substance abuse treatment services or who may still be receiving such treatment at another licensed facility.

77 Ill. Adm. Code 2060.205 Unlicensed Practice. (a) Whenever the Department determines that an unlicensed organization or person is engaging in activities that require licensure, pursuant to the specifications in Section 2060.101 of this Part, it shall issue an order to that organization or person to cease and desist from engaging in the activity. The order shall specify the particular services that require licensure, and shall include citation of relevant Sections of the Act and this Part.

(b) The Department's order shall be accompanied by a notice that instructs the recipient that written documentation may be submitted to the Department within 10 calendar days

to support a claim that licensure is not required, or that the recipient is properly authorized to conduct the services.

(c) After the expiration of the 10 day period, if the Department believes that the organization or unlicensed person is continuing to provide services that require licensure, the matter shall be referred to the appropriate State's Attorney or to the Office of the Attorney General for prosecution.

77 Ill. Adm. Code s. 2060.221 Change of Ownership/Management. a) Each license issued by the Department shall be valid only for the premises and persons named in the application. Licensure is not transferable. A license shall become null and void when:

- 1) a change in ownership involving more than 25% of the aggregate ownership interest within a one year period or a significant change in management; or
- 2) a change of 50% or more in the board of directors of a not-for-profit corporation within a one year period.

b) In order to obtain a new license reflective of the change in ownership the licensee shall submit to the Department:

- 1) written notification at least ten calendar days prior to any of the above referenced changes in ownership; and
- 2) an application for initial licensure and the license application fee of \$200 per license.

c) Failure to notify the Department within ten calendar days relative to the above referenced changes in ownership will result in the imposition of a license fee of \$1000 for each affected license.

77 Ill. Adm. Code § 2060.309 Professional Staff Qualifications. (a) All professional staff providing clinical services (except as set forth in subsection (b)(2)), as defined in this Part, shall:

- 1) hold clinical certification as a Certified Alcohol and Drug Counselor from the Illinois Alcoholism and Other Drug Abuse Professional Certification Association (IAODAPCA), 1305 Wabash Avenue, Suite L, Springfield, Illinois 62704; or
- 2) be a licensed professional counselor or licensed clinical professional counselor pursuant to the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]; or
- 3) be a physician licensed to practice medicine in all its branches pursuant to the Medical Practice Act of 1987; or
- 4) be licensed as a psychologist pursuant to the Clinical Psychology Practice Act [225 ILCS 15]; or
- 5) be licensed as a social worker or licensed clinical social worker pursuant to the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

b) All professional staff providing only clinical assessments, DUI evaluations or designated program intervention services, as defined in this Part, shall:

- 1) meet one of the qualifications specified in subsection (a) above; or
- 2) hold assessor certification as a Certified Assessment and Referral Specialist (CARS) from IAODAPCA.

c) In any medically managed or monitored detoxification service at least one staff, 24 hours a day, shall:

- 1) be a registered nurse pursuant to Section 3(k) of the Illinois Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65/3(k)];
- 2) be a licensed practical nurse pursuant to Section 3(i) of the Illinois Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65/3(i)] who has completed at least 40 clock hours of formal training in the field of alcoholism or other substance abuse; or
- 3) be a certified emergency medical technician pursuant to Section 4.12 of the Emergency Medical Services (EMS) Systems Act [210 ILCS 50/4.12] who has completed at least 40 clock hours of formal training in the field of alcoholism or other substance abuse.
- d) Any other staff who provide direct patient care that is not defined as a clinical service shall be supervised by an individual who meets the requirements for professional staff as defined in subsection (a), (b) or (c)(1) and (2) as applicable to detoxification.
- e) any new professional staff, including interns, who will provide clinical services in a treatment or designated program service and who do not meet the requirements of subsection (a) or (b) when hired shall:
 - 1) meet the requirements specified in subsection (a) or (b) within two years after the date of employment; and
 - 2) not work in any supervisory capacity until such requirements are met; and
 - 3) work under the direct, verifiable supervision of an individual who has staff supervisory responsibility at the facility and who meets the requirements for professional staff specified in subsection (a); and
 - 4) sign, and adhere to, a professional code of ethics developed by the organization.
- f) The above referenced supervision shall last until the employee meets at least one of the requirements for professional staff designation specified in subsection (a) or (b) or until the two year period has elapsed. Such supervision is verifiable, at a minimum, by:
 - 1) signature of the supervisor and the affected employee on the treatment plan and all reviews of or any change to the patient's treatment plan; and
 - 2) documentation of face-to-face supervision meetings, at least once monthly.This supervision can occur in a group or individual setting and shall be a distinct activity separate from regularly scheduled patient staffings.
- g) Any employee providing clinical services under supervision at one or more organizations who does not meet at least one of the requirements specified in subsection (a) or (b) within the relevant two year period shall not provide any direct clinical services at the end of the two years until such requirement is met.
- h) All staff providing DUI risk education services shall:
 - 1) meet one of the qualifications specified in subsection (a); or
 - 2) hold Alcohol and Other Drug Abuse (AODA) certification from IAODAPCA.
- i) It is the responsibility of each organization to ensure that all professional staff meet the requirements outlined in this Section.
- j) The Department will consider granting an exception to the requirements specified in subsection (e) of this Section based upon timing of certification or licensure examinations and part-time employment. In such cases, the exception will be time limited and based upon the minimum extension of time necessary to achieve full compliance. All exceptions shall be granted in accordance with Section 2060.303 of this Part.

77 Ill. Adm. Code § 2060.311 Staff Training Requirements. a) All organizations shall provide an initial employee orientation to all staff within the first seven days after employment that shall include, at a minimum, the following information:

1) An overview of all organization operations, including the specific duties assigned to the employee; emergencies and disaster drills; familiarization with existing staff backup and support; and all required training.

2) An overview of this Part for all staff.

3) Information on bloodborne pathogens and universal precautions (as those terms are defined in the regulations set forth in Section 2060.413 of this Part) and the importance of tuberculosis control and personal hygiene, the responsibilities of all staff with regard to infection control and an overview of the fundamentals of HIV, AIDS and tuberculosis control.

4) Information on HIV and AIDS relative to the etiology and transmission of HIV infection and associated risk behaviors, the symptomatology and clinical progression of HIV infection and AIDS and their relationship to substance abuse behavior, the purposes, uses and meaning of available testing and test results, relapse prevention and sensitivity to the issues of an HIV infected patient.

5) An overview of the principles of patient confidentiality, all related federal and state statutes and all record keeping requirements regarding confidential information.

b) Within the first six months after employment, any and all staff providing a DUI evaluation service shall attend one complete DUI Orientation training session offered or approved by the Department.

c) Within the first 12 months after employment, any and all staff providing a DUI risk education intervention service shall attend the first day of a DUI Orientation training session offered or approved by the Department.

d) In addition to mandatory training specified in subsections (b) and (c) of this Section, each DUI evaluator or Risk Education instructor shall obtain additional hours of substance abuse training annually consistent with the requirements of their professional staff credential.

77 Ill. Adm. Code § 2060.313 Personnel Requirements and Procedures. a) All professional staff:

1) shall be at least 18 years of age; and

2) cannot have been convicted of any felony or had any subsequent incarceration for at least two years prior to the date of employment.

b) Verification of the requirements specified in subsection a) above shall be documented on the Department's Schedule L at the time of employment and this form shall be maintained in the employee's personnel file. Prior to employment a copy of the Schedule L, along with a letter requesting an exception for employment, shall be sent to the Department relative to any person that indicates a felony conviction within the time period specified above.

c) In addition, any staff providing DUI evaluation or risk education services shall not have a suspension or revocation of driving privileges for an alcohol or drug related driving offense for at least two years prior to the date of employment.

d) Any staff providing clinical services to or any other supportive services for a child or adolescent who is receiving treatment at a facility, or is receiving child care at a facility, or is residing at a facility with a parent who is in treatment shall consent to a background check to determine whether they have been indicated as a perpetrator of child abuse or neglect in the Child Abuse and Neglect Tracking System (CANTS), maintained by the Department of Children and Family Services as authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5/11.1(15)]. The organization shall have a procedure that precludes hiring of indicated perpetrators based on the reasons set forth in 89 Ill. Adm. Code 385.30(a) and procedures wherein exceptions will be made consistent with 89 Ill. Adm. Code 385.30(e) and procedures for record keeping consistent with 89 Ill. Adm. Code 385.60.

e) The organization shall ensure that treatment services for special populations (gender, youth, criminal justice, HIV, etc.) are delivered by appropriate professional staff as clinical needs indicate.

f) The organization shall have written personnel procedures approved by the management or, if applicable, the board of directors. Such procedures shall apply to all full and part-time employees and shall include the process for:

- 1) recruiting, selecting, promoting and terminating staff;
- 2) verifying applicant or employee information;
- 3) protecting the privacy of personnel records;
- 4) performance appraisals, and review and update of job descriptions, for all positions in the organization;
- 5) disciplinary action, including suspension and termination;
- 6) employee grievances;
- 7) employment related accident or injury;
- 8) handling instances of suspected or confirmed patient/client abuse and/or neglect by staff, whether paid or volunteer;
- 9) handling instances of suspected or confirmed alcohol and other drug abuse by staff; and
- 10) documentation that the personnel procedures, and any changes in procedures, have been distributed to employees and are available on request.

g) The organization shall provide documentation that all personnel procedures have been reviewed and approved at least annually by the Authorized Organization Representative or, if applicable, the board of directors.

h) A personnel file shall be maintained for each employee that contains:

- 1) the employee's name, address, telephone number, social security number, emergency contact and telephone number;
- 2) resume and evidence of qualifications;
- 3) documentation of the Schedule L and any relevant background checks and/or exception request;
- 4) unless otherwise kept in a training file, documentation of required training and continuing education received while employed by the organization (as indicated by a certificate of completion or the title, date and location of the training and the signature of the staff member who attended the training);
- 5) a copy of any professional certification, current license and/or registration, and date of employment and/or termination from the organization;

6) a copy of the signed applicable professional code of ethics as referenced in Part 2060.309(e)(4) of this Part; and

7) documentation of annual review of the organization's policy and procedures manual by all staff during their first year of employment and, annually thereafter, any updated sections that pertain to each staff member.

i) Each personnel file shall be maintained for a period of five years from the date of employee termination.

77 Ill. Adm. Code § 2060.401 Levels of Care. Substance abuse treatment shall be offered in varying degrees of intensity based on the level of care in which the patient is placed and the subsequent treatment plan developed for that patient. The level of care provided shall be in accordance with that specified in the ASAM Patient Placement Criteria and with the following:

a) Level 0.5: Early Intervention. An organized service, delivered in a wide variety of settings, for individuals (adult or adolescent) who, for a known reason, are at risk of developing substance-related problems. Early intervention services are considered sub-clinical or pre-treatment and are designed to explore and address problems or risk factors that appear to be related to substance use and to assist the individual in recognizing the harmful consequences of inappropriate substance use. The length of such service varies according to the individual's ability to comprehend the information provided and to use that information to make behavior changes to avoid problems related to substance use or the appearance of new problems that require treatment at another level of care. Early intervention services are for individuals whose problems and risk factors appear to be related to substance use but do not appear to meet any diagnostic criteria for substance related disorders. Examples of individuals who might receive early intervention are at-risk individuals (i.e., family members of an individual who is in treatment or in need of treatment) or DUI offenders classified at a moderate risk level.

b) Level I: Outpatient. Non-residential substance abuse treatment consisting of face-to-face clinical services for adults or adolescents. The frequency and intensity of such treatment shall depend on patient need but shall be a planned regimen of regularly scheduled sessions that average less than nine hours per week.

c) Level II: Intensive Outpatient/Partial Hospitalization. Non-residential substance abuse treatment consisting of face-to-face clinical services for adults or adolescents. The frequency and intensity of such treatment shall depend on patient need but shall be a planned regimen of scheduled sessions for a minimum of nine hours per week.

d) Level III: Inpatient Subacute/Residential. Residential substance abuse treatment consisting of clinical services for adults or adolescents. The frequency and intensity of such treatment shall depend on patient need but shall, except in residential extended care as defined in this Part, include a planned regimen of clinical services for a minimum of 25 hours per week. Inpatient care, with the exception of residential extended care as defined in this Part, shall require staff that are on duty and awake, 24 hours a day, seven days per week. During any work period, if professional staff as defined in Section 2060.309(a) of this Part are not on duty, such staff shall be available on call for consultation relative to any aspect of patient care. Residential extended care shall require staff on duty 24 hours a day, seven days per week and that low intensity treatment services be offered at least five hours per week. Any staff providing clinical services

shall meet the requirements for professional staff as defined in Section 2060.309(a) of this part. Individuals who have been in residence for at least three months without relapse may be used to fulfill any remaining staff requirements.

e) Level IV: Medically Managed Intensive Inpatient. Inpatient subacute residential substance abuse treatment for patients whose acute bio/medical/emotional/behavioral problems are severe enough to require medical and nursing care services. Such services are for adults or adolescents and require 24 hours medically directed evaluation, care and treatment and that a physician see the patient daily.

Michigan:

MICH. ADMIN. CODE R 325.14201 Establishment or maintenance and operation of program without license prohibited.

Rule 201. A person shall not establish or maintain and operate a substance abuse program unless licensed by the office in accordance with the act and these rules.

MCLS §. 330.3101

B Department of Public Health

1. All the authority, powers, duties, functions and responsibilities of the Licensing of Substance Abuse Programs and the Certification of Substance Abuse Workers in the Division of Program Standards, Evaluation and Data Services of the Center for Substance Abuse Services, including the authority, powers, duties, functions and responsibilities set forth in the relevant parts of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.6231 to 333.6251 of the Michigan Compiled Laws, are hereby transferred from the Department of Public Health to the Director of the Department of Commerce by a Type U transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

MCLS § 333.6231 Rules.

(1) With the assistance of the department, and after consultation with the commission and the committee, the office shall promulgate rules for the administration of this article and the licensing of substance abuse service programs. The rules shall include reasonable criteria for the protection and well-being of individuals receiving services and the rights of recipients of services and shall define financial information. Rules governing recipient rights shall be promulgated not later than 1 year after the effective date of this section.

(2) The rules shall apply to a public or private firm, association, organization, or group offering or purporting to offer specific substance abuse treatment and rehabilitation services or prevention services, and which receives or requests public funds, patient fees, third party payments, or funds through public subscription for the treatment, rehabilitation, or prevention of substance abuse.

(3) The rules shall not apply to an individual currently licensed by this state to provide medical, psychological, or social services. The licensee may voluntarily apply for a license to provide substance abuse treatment and rehabilitation services or prevention services. To receive state or federal funds for substance abuse treatment and

rehabilitation services or prevention services, a person shall obtain a license under this part.

Minnesota:

Minn. Stat. § 62J.52 Establishment of uniform billing forms.

(c) Services to be billed using the uniform billing form HCFA 1500 include physician services and supplies, durable medical equipment, noninstitutional ambulance services, independent ancillary services including occupational therapy, physical therapy, speech therapy and audiology, home infusion therapy, podiatry services, optometry services, mental health licensed professional services, substance abuse licensed professional services, nursing practitioner professional services, certified registered nurse anesthetists, chiropractors, physician assistants, laboratories, medical suppliers, and other health care providers such as day activity centers and freestanding ambulatory surgical centers.

Iowa:

“Counselor” means an individual who, by virtue of education, training or experience, provides treatment, which includes advice, opinion, or instruction to an individual or in a group setting to allow an opportunity for a person to explore the person’s problems related directly or indirectly to substance abuse or dependence.

641 IAC 155.1(125)

“Iowa board of substance abuse certification” means the professional certification board that certifies substance abuse counselors and prevention specialists in the state of Iowa.

641 IAC 155.1(125)

“Sole practitioner” means an individual incorporated under the laws of the state of Iowa, or an individual in private practice who is providing substance abuse treatment services independent from a program that is required to be licensed in accordance with Iowa Code section 125.13(1).

641 IAC 155.1(125)

i. Personnel providing screening, evaluations, assessments or treatment shall be certified through the Iowa board of substance abuse certification, or certified by an international certification and reciprocity consortium member board in the states of Illinois, Minnesota, Nebraska, Missouri, South Dakota, and Wisconsin; or be eligible for certification or have education, training, and experience in the substance abuse field.

641 IAC 155.21(8)(a)(15)(i.)

Summary of factual data and analytical methodologies:

The professions had previously been under the authority of the Department of Health and Family Services (under ch. HFS 75), who contracted the regulation and certification of substance abuse professionals to the Wisconsin Certification Board. The Legislative

Audit Bureau performed a limited review of the Wisconsin Certification Board and issued a report on May 11, 2005.

The rules proposed represent a re-codification of existing standards for certification developed by the Wisconsin Certification Board. The legislature, under 2005 Wisconsin Act 25 and later amended by 2005 Wisconsin Act 407, set the statutory requirements for the new levels of licensure and mandated that the Department of Regulation and Licensing draft language for certification and regulation of substance abuse professionals.

To assist in promulgation of the rules, the department has held regular meetings with the Substance Abuse Counselors Advisory Committee for recommendations and development of the draft rules. Subsequently, the department promulgated emergency rules effective December 15, 2006 which includes chs. RL 160 to 163 and chs. RL 166 to 168 (the department had promulgated chs. RL 164 and 165 as permanent rules on January 1, 2007). As the emergency rules were promulgated in December of 2006, the final permanent rules (below) are essentially a redraft of the emergency rules, with changes made for errors in the initial drafting, changes in timelines for effective dates of applicability and minor policy changes where prudent - again at the recommendation of the advisory committee.

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

The Department of Regulation and Licensing, based upon the advice of the advisory committee is proposing changes to the existing standards of certification and regulation of substance abuse professionals. The department, to minimize impact on the profession, and preserve the experiential pathway into the profession, has attempted to minimize drastic changes, and make changes only where the advice of the committee and the protection of the public are preserved.

These proposed rules will affect the existing 4,631 credential holders regulated by the department (Database count of in state active and inactive substance abuse credential holders, as of February 2007). These credential holders may operate at state departmental locations (e.g. Department of Corrections) as well as state certified AODA treatment clinics under ch. HFS 75 (DHFS). An unknown number of certificate holders are likely to be operating in public, not-for-profit private treatment centers and for-profit treatment centers.

There were significant “grandparenting” provisions within the statutes that will ensure that existing (active and renewal) certificate holders will not lose their certification upon transfer if they do not meet the requirements for the new certificate (e.g. higher educational requirements). The grandparenting provisions do not apply for new applicants after December 15, 2006. Those who applied (new applicants) after December 15, 2006 were under the jurisdiction of the department, and as such were to meet the requirements specified in our rules. Additionally, the department has instituted substantial grace periods for 12 month grace periods for supervision of substance abuse

counselors which would allow clinics one year's time for the supervisors to attain appropriate credentials required for supervision in their clinics.

The department is proposing changes as follows:

Educational Standards:

- The proposed rules require a minimum of an associate's degree in a behavior science to qualify for the clinical level counselor, and by requirement, qualification for supervisory certification. This is an increase in educational requirements; however, an underlying degree is often a standard for professional requirements. This may prevent existing non-clinical substance abuse counselors from accessing higher levels of credentials until they achieve the underlying degree; however, the advisory committee has recommended that for protection of the public, a minimum of an associate's degree in a related behavioral science should be instituted.
- The proposed rules reduce the required level of continuing education from 48 hours in the biennium to 40 for both substance abuse counselors and clinical substance abuse counselors. This is a reduction for applicable credential holders.
- * The proposed rules eliminate the existing system of pre-certification education and training from multiple and separate sources, including Wisconsin Certification Board accredited programs, endorsed trainings, seminars and home study (etc.), and require that the core training for the effective treatment of substance use disorder treatment be obtained from comprehensive and cohesive programs.

Note* The changes to the educational structure may be the primary area effecting the practice of small business. As per above, companies that self reportedly operate as a small business do sell home study programs and trainings to the Wisconsin substance abuse professional education market. One such business, Laban's Trainings of Pennsylvania (<http://www.last-homestudy.com> 3 employees, unknown earnings), sells home study programs to the AODA counselor community nationwide. They were an endorsed trainer of the WCB, prior to the transference of AODA regulation from the WCB to the DRL, and home study programs such as theirs could be counted for over 200 hours of the 360 hours of training required. The remainder was required to come from association sponsored workshops, seminars and school-based coursework. Under the new rules, program providers like Laban's still have access to the certificate holders through the offering of continuing education programs required for recertification. For substance abuse counselors, that means 40 hours of continuing education is required in the biennium (a reduction from 48 hours to 40). In addition, Laban's and other home study providers may still access the market held by "comprehensive program providers" because the rules are written to restrict individuals from assembling their own education from untracked or uncoordinated sources, however, the rules allow those program providers to assemble the comprehensive program of 360 hours that they provide to their students. This may include a local provider which could source a 3rd party such as Laban's to supplement the coursework requirement.

Practice Restrictions. The proposed rules contain scope of practice and restrictions which include:

- Restrictions on the practice of substance abuse counselors-in-training: This credential does not assure competency; therefore, a clinical supervisor will be required to authorize the in-training counselor to provide functions when adequately trained.
- The supervision of in-training counselors may not be done by clinical supervisors-in-training.
- Clinical supervisors will be legally and ethically responsible for the practice of their supervisees, shall have the authority and responsibility to provide emergency consultation, interrupt/stop unsafe practice and to terminate the supervised relationship if necessary.
- New definitions of who may provide supervision or qualify as a clinical supervisor: Supervision may only be provided by those with exemptions under the statutes (psychologists, psychiatrists, clinical substance abuse supervisors, or ch. 457, Stats., credential holders who have obtained a clinical supervision certification via their specialty AODA certification under s. MPSW 1.09).

These changes may affect small business; however, where standards were increased, the department is proposing grace periods for these requirements. Additionally, these changes were seen as necessary to achieve the minimal competency required for safe practice and protection of the public.

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 Divisions of Management Services, Professional Credentialing, Office of Legal Counsel and Office of Examinations. The one-time salary and fringe costs in the Division of Professional Credentialing, Office of Legal Counsel and Office of Examinations are estimates at \$22,900. The on-going salary, fringe, supplies and services costs in the Division of Professional Credentialing, Division of Board Services and the Office of Examinations are estimated at \$77,300.

Effect on small business:

These proposed rules will have no significant economic impact on 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 53708-8935. Telephone: (608) 266-0495. Email: 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, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us. Comments must be received on or before June 1, 2007 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapters RL 160, 161, 162, 163, 166, 167 and 168 are created to read:

Chapter RL 160

DEFINITIONS

RL 160.01 Authority. Chapters RL 160 to 168 are adopted pursuant to s. 227.11 (2), Stats., and subch. VII of ch. 440, Stats., as created by 2005 Wisconsin Act 25, s. 337am.

RL 160.02 Definitions. In chs. RL 160 to 168:

(1) "Accredited" means accredited by an accrediting agency recognized by the U.S. Department of Education.

(2) "Assessment" means the process and procedures by which a counselor or service identifies and evaluates an individual's strengths, weaknesses, problems and needs in order to develop a treatment plan for the individual.

(3) "Behavioral science field" means any of the following:

(a) Health science.

- (b) Psychology.
- (c) Sociology.
- (d) Criminal justice.
- (e) Social work.
- (f) A field approved by the department.

(4) “CEH” means continuing education hour.

(5) “Clinical substance abuse counselor” means an individual who holds a clinical substance abuse counselor certificate granted by the department. The certificate of “clinical substance abuse counselor” is granted to those counselors who have attained the highest training and education standards consistent with the International Certification Reciprocity Consortium reciprocity standards.

(6) “Clinical supervision” means a specific and definitive process of oversight of a counselor’s professional development in the didactic, experiential and application of the transdisciplinary foundations, and practice dimensions including core functions. Supervision takes place in intermittent in person contact between a clinical supervisor and treatment staff provided on or off the site of a service to ensure that each patient has an individualized treatment plan and is receiving quality care. Methods for supervision may include, but are not limited to, auditing of patient files, case review and discussion of active cases, direct observation of treatment, video or audio review and observation of the counselor’s professional interaction with patients and staff. The goals of “clinical supervision” are to provide the opportunity to develop competency in the transdisciplinary foundations, practice dimensions and core functions, provide a context for professional growth and development and ensure a continuance of quality patient care. A primary purpose of “clinical supervision” is to ensure skill development evidenced in quality patient care.

(7) “Clinical supervisor” means an individual who holds a clinical supervisor-in-training certificate, an intermediate clinical supervisor certificate or an independent clinical supervisor certificate granted by the department.

(8) “Clinical supervisor-in-training” means an individual who holds a clinical supervisor-in-training certificate granted by the department.

(9) “Comprehensive program” means a program that is coordinated by a single entity that provides directly, or provides access to, educational programs with integrated and identified program outcomes that fulfill the requirements in s. RL 166.03 in a preplanned and guided educational progression that enables a student to meet the requirements while building on information already learned.

(10) “Core functions” means those tasks which a substance abuse counselor performs encompassing the following areas:

- (a) Screening.
- (b) Intake.
- (c) Orientation.
- (d) Assessment.
- (e) Treatment planning.
- (f) Counseling.
- (g) Case management.
- (h) Crisis intervention.
- (i) Client education.
- (j) Referral.
- (k) Reports and record keeping.

(L) Consultation with other professionals regarding patient treatment and services.

(11) “Credential” means a certificate or license granted by the department.

(12) “Department” means the department of regulation and licensing.

(13) “DSM” means the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(14) “GED” means a general education development certification.

(15) “Hour” for purposes of the educational requirement means a period of education consisting of no less than 50 minutes.

(16) “HSED” means a high school equivalency diploma.

(17) “Independent clinical supervisor” means an individual who holds an independent clinical supervisor certificate granted by the department.

(18) “Intermediate clinical supervisor” means an individual who holds an intermediate clinical supervisor certificate granted by the department.

(19) “Patient” means an individual who has completed the screening, placement and intake process and is receiving substance use disorder treatment services.

(20) “Practice dimensions” means the 8 counselor practice dimensions used to effectively treat substance use disorders. They are:

- (a) Clinical evaluation.
- (b) Treatment planning.
- (c) Referral.
- (d) Service coordination.
- (e) Counseling.
- (f) Patient, family and community education.
- (g) Documentation.
- (h) Professional and ethical responsibilities.

(21) “Prevention” means a pro-active process of promoting supportive institutions, neighborhoods and communities that foster an environment conducive to the health and well being of individuals and families. Prevention may be targeted to specific populations or the larger community by any of the following:

- (a) Promoting knowledge, attitudes, skills, values and relationships conducive to the health and well being of individuals and families.
- (b) Promoting personal competence, significance and empowerment.
- (c) Promoting responsibility, judgment, communication and conflict resolution.
- (d) Promoting cultural competency and sensitivity to differences.
- (e) Promoting community-wide asset building initiatives.

(f) Promoting healthy support systems in families, schools, workplaces and communities.

(g) Promoting healthy lifestyles and resistance to physical and psychological illness or psychological injury.

(h) Involving citizens in creating cultural changes related to health and wellness.

(i) Counteracting harmful circumstances such as substance use, health and safety hazards, isolation, violence, economic hardship and inadequate housing, childcare, transportation, education or social services.

(22) "Prevention domains" means the areas of knowledge essential to the validity of the prevention process and include the following:

(a) Domain 1, planning and evaluation.

(b) Domain 2, education and skill development.

(c) Domain 3, community organization.

(d) Domain 4, public and organizational policy.

(e) Domain 5, professional growth and responsibility.

(23) "Prevention specialist" means an individual who holds a prevention specialist certificate granted by the department.

(24) "Prevention specialist-in training" means an individual who holds a prevention specialist-in-training certificate granted by the department.

(25) "Substance" means a psychoactive agent or chemical which principally affects the central nervous system and alters mood or behavior.

(26) "Substance abuse counselor" means an individual who holds a substance abuse counselor certificate granted by the department.

(27) "Substance abuse counselor-in-training" means an individual who holds a substance abuse counselor-in-training certificate granted by the department.

(28) "Substance use disorder" means the existence of a diagnosis of "substance dependence" or "substance abuse" listed in the most current edition of "DSM."

(29) “Transdisciplinary foundations” means that set of competencies that underlie the work of all addictions professionals. These foundations include:

- (a) Understanding addiction.
- (b) Treatment knowledge.
- (c) Application to practice.
- (d) Professional readiness.
- (e) Disabilities.

RL 160.03 Applicability. (1) A person may only use the title “addiction counselor,” “substance abuse counselor,” “alcohol and drug counselor,” “substance use disorder counselor” or “chemical dependency counselor” only if he or she is certified as a substance abuse counselor, or as a clinical substance abuse counselor under s. 440.88, Stats., or as allowed under the provisions of s. 457.02 (5m), Stats.

(2) A person credentialed by the department who treats alcohol or substance dependency or abuse in a clinic certified under ch. HFS 75, shall be a substance abuse counselor-in-training, a substance abuse counselor or clinical substance abuse counselor as defined in this chapter, or possess the specialty certification under s. MPSW 1.09.

(3) All persons employed in positions providing substance use disorder treatment shall be certified under the provisions of ch. RL 161 or under s. MPSW 1.09.

(4) Chapters RL 160 to 168 do not apply to any of the following:

(a) A physician, as defined in s. 448.01 (5), Stats., who practices as a substance abuse clinical supervisor, or provides substance use disorder counseling, treatment, or prevention services within the scope of his or her license.

(b) A licensed clinical social worker, as defined in s. 457.01 (1r), Stats., a licensed professional counselor as defined in s. 457.01 (7), Stats., or a licensed marriage and family therapist as defined in s. 457.01 (3), Stats., who provides substance use disorder counseling, treatment, or prevention services within the scope of his or her credential.

(c) A licensed psychologist, as defined in s. 455.01 (4), Stats., who practices as a substance abuse clinical supervisor, or provides substance use disorder counseling, treatment, or prevention services within the scope of his or her license.

(5) Until January 1, 2011, a licensed clinical social worker as defined in s. 457.01 (1r), Stats., who worked as a clinical supervisor as defined in s. HFS 75.02 (11)

(d), in a ch. HFS 75 clinic prior to (effective date of the rule), may act as a clinical supervisor and provide clinical supervision under chs. RL 160 to 168.

Chapter RL 161

REQUIREMENTS FOR CERTIFICATION

RL 161.01 General requirements for certification. The department shall not grant any certificate under this chapter unless the applicant does all of the following:

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

Note: Applications are available on request from the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or from the department's website at: <http://drl.wi.gov>.

(2) Pays the fee specified in s. 440.05 (1), Stats.

(3) Meets the qualifications established by the department for the credential sought.

(4) For applicants who have a pending criminal charge or have been convicted of a crime, as defined in s. 939.12, Stats., submits all information necessary for the department to determine whether the circumstances of the pending criminal charge or conviction are substantially related to the duties of the credentialed activity.

RL 161.02 Applications. (1) An application for certification is incomplete until all materials requested are received by the department, in English or accompanied by a certified English translation.

(2) The application shall include all of the following:

(a) *Substance abuse counselor-in-training.* To be authorized to assist in or treat alcohol or substance use disorders as a substance abuse counselor-in-training, the applicant shall submit evidence satisfactory to the department that all of the following have been met:

1. That the applicant has a high school diploma, an HSED or GED.

2. Successful passage of an ethics, boundaries and jurisprudence examination developed or approved by the department.

3. Successful completion of 100 hours of specialized education in the transdisciplinary foundations in compliance with s. RL 166.02.

4. Current employment, a written offer of employment or an agreement authorizing volunteer hours at an agency providing substance use disorder treatment. An organized educational field experience program from an accredited school fulfills this requirement. The applicant's clinical supervisor shall review the education submitted pursuant to subd. 3. above, and attest that the education submitted by the applicant fulfills the requirements of s. RL 166.02.

(b) *Substance abuse counselor.* 1. To be authorized to treat substance dependence or abuse as a substance abuse counselor, the applicant shall submit evidence satisfactory to the department of all of the following:

a. Successful passage of the International Certification Reciprocity Consortium Alcohol and Other Drug Abuse written counselor examination.

b. That the applicant has a high school diploma, an HSED or GED.

c. Completion of 4,000 hours of work experience performing the 8 practice dimensions, supervised by an individual defined in s. RL 162.02 (1), within 5 years immediately preceding the date of application. Experience in excess of 40 hours per week or 2,000 hours per year may not be accepted. The 4,000 hours shall include all of the following:

i. Two thousand hours in performing the 8 practice dimensions with patients who have a primary substance use disorder diagnosis.

ii. One thousand hours in substance use disorder counseling with at least 500 hours in a one-on-one individual modality setting.

iii. A minimum of 200 hours of counseling during the 12 month period immediately preceding the date of application, of which 100 hours shall have been completed using an individual modality setting.

d. i. As specified in s. RL 166.03, attendance and completion of 360 hours of approved specialized education in substance use disorder counseling within a comprehensive program covering the transdisciplinary foundations and practice dimensions or a degree program approved by the department in a field with an addiction emphasis or concentration.

ii. An applicant who previously held a certificate from the Wisconsin certification board and can provide documentation of accumulation of 100 or more hours of approved specialized education as of March 1, 2007, may submit proof of completion of the balance of the 360 hours specified in s. RL 166.03, from sources other than a comprehensive program.

e. Successful passage of an ethics, boundaries and jurisprudence examination developed or approved by the department.

2. To be authorized to treat alcohol or substance dependence or abuse as a substance abuse counselor, a person credentialed by the marriage and family therapy, professional counseling and social work examining board shall submit evidence satisfactory to the department of fulfilling the requirements of s. MPSW 1.09.

(c) *Clinical substance abuse counselor.* To be authorized to treat substance use disorders as a clinical substance abuse counselor, the applicant shall submit evidence satisfactory to the department of all of the following:

1. Successful passage of the International Certification Reciprocity Consortium Alcohol and Other Drug Abuse written counselor certification examination.

2. Completion of 7,000 hours of patient counseling experience performing the 8 practice dimensions as a substance abuse counselor, supervised by an individual defined in s. RL 162.02 (1), within 5 years immediately preceding the date of application. The 7,000 hours shall include 2,000 hours in direct, in person substance use disorder patient counseling. Experience in excess of 40 hours per week or 2,000 hours per year may not be accepted.

3. As specified in s. RL 166.03, attendance and completion of 360 hours of approved specialized education in substance use disorder counseling within a comprehensive program covering the transdisciplinary foundations and practice or attendance and completion of 360 hours of approved specialized education in substance use disorder counseling within a degree program approved by the department in a field with an addiction emphasis or concentration in clinical counseling.

4. An applicant who previously held a certificate from the Wisconsin certification board and can provide documentation of accumulation of 100 or more hours of approved specialized education as of March 1, 2007, may submit proof of completion of the balance of the 360 hours from sources other than a comprehensive program.

5. Completion and passage of the International Certification Reciprocity Consortium case presentation method interview.

6. Successful passage of an ethics, boundaries and jurisprudence examination developed or approved by the department.

7. Graduation from an accredited school with an associate's, bachelor's, master's or a doctoral degree in a behavioral science field.

(d) *Clinical supervisor-in-training.* To be authorized to practice clinical supervision as a clinical supervisor-in-training, the applicant shall submit evidence satisfactory to the department of all of the following:

1. Current employment, a written offer of employment or an agreement authorizing volunteer hours at an agency providing substance use disorder treatment service as a clinical supervisor of counselors certified under this chapter or under s. MPSW 1.09.

2. Successful passage of an ethics, boundaries and jurisprudence examination developed or approved by the department.

3. Current certification as one of the following:

a. A clinical substance abuse counselor.

b. A professional counselor, marriage and family therapist or social worker holding a credential under ch. 457, Stats., at the master's level or higher with the specialty authorization of s. MPSW 1.09.

4. Completion of 2,000 hours of patient counseling experience performing the 8 practice dimensions as a clinical substance abuse counselor, supervised by an individual defined in s. RL 162.02 (1), within 5 years immediately preceding the date of application. The 2,000 hours shall include 200 hours in direct, in person substance use disorder patient counseling. Experience in excess of 40 hours per week or 2,000 hours per year shall be accepted.

(e) *Intermediate clinical supervisor.* To be authorized to practice clinical supervision as an intermediate clinical supervisor, the applicant shall submit evidence satisfactory to the department of all of the following:

1. Current certification as one of the following:

a. A clinical substance abuse counselor.

b. A professional counselor, marriage and family therapist or social worker holding a credential under ch. 457, Stats., at the master's level or higher with the specialty authorization of s. MPSW 1.09.

2. Verification of one year clinical supervisory experience as the supervisor of counselors certified under this chapter or under s. MPSW 1.09. Clinical supervisory experience obtained after December 15, 2009, shall be supervised by an intermediate clinical supervisor, an independent clinical supervisor, a physician, or a psychologist who practices as a substance abuse clinical supervisor within the scope of

his or her license. This year shall include the provision of 200 contact hours of in person clinical supervision.

3. Verification of 30 hours of classroom training in clinical supervision. This shall include a minimum of 6 hours of training in each of the following domains:

- a. Assessment or evaluation.
- b. Counselor development.
- c. Management or administration.
- d. Professional responsibility.

4. Completion of 2,000 hours of patient counseling experience performing the 8 practice dimensions as a clinical substance abuse counselor, supervised by an individual defined in s. RL 162.02 (1), within 5 years immediately preceding the date of application. The 2,000 hours shall include 200 hours in direct, in person substance use disorder patient counseling. Experience in excess of 40 hours per week or 2,000 hours per year may not be accepted.

a. Experience in excess of 40 hours per week or 2,000 hours per year may not be accepted.

b. The hours referred to in this section shall include 200 hours in direct, in person substance use disorder patient counseling.

5. Successful passage of the International Certification Reciprocity Consortium written clinical supervisor certification examination.

6. Successful passage of an ethics, boundaries and jurisprudence examination developed or approved by the department.

(f) *Independent clinical supervisor.* To be authorized to practice clinical supervision as an independent clinical supervisor, the applicant shall submit evidence satisfactory to the department of all of the following:

1. Successful passage of an ethics, boundaries and jurisprudence examination developed or approved by the department.

2. Holds a current certificate listed in par. (e) 4. a. or b. with verification of 10,000 hours of counseling experience within a period of no less than 5 years. This experience shall include at least completion of 2,000 hours of patient counseling experience performing the 8 practice dimensions as a clinical substance abuse counselor, supervised by an individual defined in s. RL 162.02 (1), within 5 years

immediately preceding the date of application. The 2,000 hours shall include 200 hours in direct, in person substance use disorder patient counseling. Experience in excess of 40 hours per week or 2,000 hours per year may not be accepted.

a. A clinical substance abuse counselor.

b. A professional counselor, marriage and family therapist or social worker holding a credential under ch. 457, Stats., at the master's level or higher with the specialty authorization of s. MPSW 1.09.

3. Verification of 2 years clinical supervisory experience as the supervisor of counselors certified under this chapter. Clinical supervisory experience obtained after December 15, 2009, shall be supervised by an intermediate clinical supervisor, an independent clinical supervisor, a physician, or a psychologist who practices as a substance abuse clinical supervisor within the scope of his or her license. These 2 years shall include the provision of 200 contact hours of in person clinical supervision.

4. Verification of 30 hours of classroom training in clinical supervision. This shall include a minimum of 6 hours of training in each of the following domains:

a. Assessment or evaluation.

b. Counselor development.

c. Management or administration.

d. Professional responsibility.

5. Successful passage of the International Certification Reciprocity Consortium written clinical supervisor certification examination.

(g) *Prevention specialist-in-training.* To be authorized to practice as a prevention specialist-in-training, the applicant shall submit evidence satisfactory to the department of all of the following:

1. That the applicant has a high school diploma, an HSED or GED.

2. Completion of 40 hours of education and training covering the 5 prevention domain areas. At least 5 hours shall be in ethics.

(h) *Prevention specialist.* To be authorized to practice as a prevention specialist, the applicant shall submit evidence satisfactory to the department of all of the following:

1. That the applicant has a high school diploma, an HSED or GED.

2. Successful passage of an ethics, boundaries and jurisprudence examination developed or approved by the department.

3. Completion of 240 hours of education and training covering the 5 prevention domain areas. Fifty hours of this training shall be specific to alcohol, tobacco or other substance abuse. At least 6 hours shall be in ethics.

4. Verification of 2,000 hours of work experience as a prevention specialist-in-training with a minimum of 100 hours of the experience in each prevention domain area.

5. Successful passage of the International Certification Reciprocity Consortium written prevention specialist certification examination.

6. Verification of a 120 hour practicum in the prevention domain areas with no less than 10 hours in any prevention domain area.

RL 161.03 Educational equivalencies - substance abuse counselor and intermediate clinical supervisor. For the purposes of s. RL 161.02 (2) (b) and (e), above, successful completion of education resulting in a degree in a behavioral science field with an addiction emphasis or a concentration in clinical counseling from an accredited school shall be used to satisfy, in part, the experience requirement. The possession of the following levels of the degrees may be exchanged for experience at the following rate:

(1) An associate degree equals 500 hours of supervised experience.

(2) A bachelor degree equals 1,000 hours of supervised experience.

(3) A master or doctoral degree equals 2,000 hours of supervised experience.

RL 161.04 Educational equivalencies - clinical substance abuse counselor and independent clinical supervisor. For the purposes of s. RL 161.02 (2) (c) and (f), above, successful completion of education resulting in a degree in a behavioral science field with an addiction emphasis or concentration in clinical counseling from an accredited school shall be used to satisfy, in part, the experience requirement. The possession of the following levels of the degrees shall be exchanged for experience at the following rate:

(1) An associate degree equals 1,000 hours of supervised experience.

(2) A bachelor degree equals 2,000 hours of supervised experience.

(3) A master or doctoral degree equals 4,000 hours of supervised experience.

RL 161.05 Work experience restrictions. (1) All experience other than educational equivalencies shall be in the areas of the practice dimensions with a patient who has a primary substance use disorder diagnosis under appropriate clinical supervision.

(2) Experience beyond 40 hours per week and 2,000 hours per calendar year may not be counted.

RL 161.06 Display of credential. The credential or certificate of biennial certification shall be displayed in a prominent place at the location where services are provided by each person while certified by the department.

RL 161.07 Certification by reciprocity. (1) Applicants who hold a credential substantially similar to a clinical substance abuse counselor who are credentialed in another state or territory that is a member of the International Certification Reciprocity Consortium shall:

(a) Meet the requirements of ss. RL 161.01 and 161.02 (2) (c) 1., 5 and 6.

(b) Provide verification of the applicant's eligibility for reciprocity by the International Certification Reciprocity Consortium.

(c) Provide verification of the applicant's credentials in all states or countries in which the applicant has ever held a credential.

(2) Applicants who hold a credential substantially similar to an independent clinical supervisor issued by another state or territory that is a member of the International Certification Reciprocity Consortium shall:

(a) Meet the requirements of ss. RL 161.01 and 161.02 (2) (f) 1. and 5.

(b) Provide verification of the applicant's eligibility for reciprocity by the International Certification Reciprocity Consortium.

(c) Provide verification of the applicant's credentials in all states and countries in which the applicant has held a credential.

(3) Applicants who hold a credential substantially similar to a prevention specialist issued by another state or territory that is a member of the International Certification Reciprocity Consortium shall:

(a) Meet the requirements of ss. RL 161.01 and 161.02 (2) (h) 2. and 5.

(b) Provide verification of the applicant's eligibility for reciprocity by the International Certification Reciprocity Consortium.

(c) Provide verification of the applicant's credentials in all states and countries in which the applicant has held a credential.

Chapter RL 162

SUPERVISED PRACTICE

RL 162.01 Scope of practice. (1) Clinical supervisors shall exercise supervisory responsibility over substance abuse counselors in regard to all activities including, but not limited to, counselor development, counselor skill assessment and performance evaluation, staff management and administration, and professional responsibility. A clinical supervisor shall provide a minimum of:

(a) Two hours of clinical supervision for every 40 hours of work performed by a substance abuse counselor-in-training.

(b) Two hours of clinical supervision for every 40 hours of counseling provided by a substance abuse counselor.

(c) One hour of clinical supervision for every 40 hours of counseling provided by a clinical substance abuse counselor.

(d) The clinical supervisor and the supervisee shall meet in person a minimum of once each calendar month, notwithstanding the provisions of pars. (a), (b) and (c).

(2) Clinical supervisors shall exercise supervisory responsibility over clinical supervisors-in-training in regard to all activities. A clinical supervisor shall provide a minimum of one hour of clinical supervision for every 40 hours of work performed by a clinical supervisor-in-training.

RL 162.02 Restrictions. (1) Except as provided in subs. (2) and (6), clinical supervision may be provided by a clinical supervisor-in-training, an intermediate or independent clinical supervisor or a physician knowledgeable in addiction treatment, or psychologist knowledgeable in psychopharmacology and addiction treatment.

(2) Beginning June 1, 2008, a credential holder acquiring supervised experience as a substance abuse counselor-in-training may not practice under the supervision of an individual holding a certificate as a clinical supervisor-in-training.

(3) The clinical supervision requirement shall include in person individual or group sessions consisting of no more than 6 supervisees per group. The clinical supervision requirement may be averaged out over a period no longer than one month.

(4) The supervisor shall not permit a supervisee to engage in any practice that the supervisee is not competent to perform. The supervisor shall not permit a supervisee to engage in any practice that the supervisor cannot competently supervise.

(5) All supervisors shall be legally and ethically responsible for the supervised activities of the substance use disorder professional supervisee. Supervisors shall be available or make appropriate provision for emergency consultation and intervention. Supervisors shall be able to interrupt or stop the supervisee from practicing in given cases, or recommend to the supervisee's employer that the employer interrupt or stop the supervisee from practicing in given cases, and to terminate the supervised relationship, if necessary.

(6) Until January 1, 2011, a licensed clinical social worker as defined in s. 457.01 (1r), Stats., who worked as a clinical supervisor as defined in s. HFS 75.02 (11) (d), in a ch. HFS 75 clinic prior to (effective date of the rule), may act as a clinical supervisor and provide clinical supervision under chs. RL 160 to 168.

RL 162.03 Prohibited practice. (1) Clinical supervisors may not permit students, employees, or supervisees to perform or hold themselves out as competent to perform professional services beyond their training, level of experience, competence or credential.

(2) Clinical supervisors may not disclose supervisee confidences, except:

(a) As mandated by law.

(b) To prevent a clear and immediate danger to a person or persons.

(c) In educational or training settings where there are multiple supervisors, and then only to other professional colleagues who share responsibility for training of the supervisee.

(3) Beginning June 1, 2008, a clinical supervisor-in-training shall not supervise a credential holder acquiring supervised experience as a substance abuse counselor

Chapter RL 163

SCOPE OF PRACTICE

RL 163.01 Employment restrictions. A person credentialed under s. 457, Stats., or by the department as a substance abuse counselor-in-training, a substance abuse counselor or clinical substance abuse counselor may treat substance use disorders, only if he or she is qualified to do so by education, training and experience and is certified under s. 440.75, Stats., or s. MPSW 1.09. In order to treat persons with a DSM diagnosis of a substance use disorder, to treat the substance use disorder issues of a person with a dual diagnosis, to advertise as a substance abuse counselor, as a substance use disorder specialist, or to be employed in a position identified as a substance use disorder specialist, to be employed in a position within a program that is identified as a substance use disorder treatment program, a person shall be certified as a substance abuse counselor-in-training, a substance abuse counselor or a clinical substance abuse counselor.

RL 163.02 Exceptions. The preparation of a patient for substance use disorder treatment by referral, treatment of a patient for substance use disorder until a referral for substance use disorder treatment is completed, and the continuation of treatment with the non-substance use disorder issues of a person are not restricted by this chapter.

RL 163.03 Substance abuse counselor-in-training; limited scope of practice.

(1) The granting of a substance abuse counselor-in-training certificate does not denote or assure competency to provide substance use disorder counseling. A substance abuse counselor-in-training may provide services in any of the core functions, except counseling, if authorized by the clinical supervisor. A clinical supervisor may only authorize a substance abuse counselor-in-training to provide counseling in accordance with sub. (2).

(2) (a) Except as provided in par. (b), the practice of substance use disorder counseling by a substance abuse counselor-in-training may be authorized by the individual's clinical supervisor after the substance abuse counselor-in-training has completed 300 hours of supervised training or supervised work experience in the core functions.

(b) A substance abuse counselor-in-training who transferred from a previous credential issued by the Wisconsin certification board, may practice substance use disorder counseling after providing proof to his or her clinical supervisor that within the previous 5 years he or she completed a total of 100 hours of specialized education in the content areas listed in s. RL 166.03.

(3) Notwithstanding subs. (1) and (2), a substance abuse counselor-in-training who transferred from a previous credential issued by the Wisconsin certification board may continue to practice under the terms of their Wisconsin certification board credential until March 1, 2007. Beginning March 1, 2007, a clinical supervisor may only authorize a substance abuse counselor-in-training to provide counseling after receiving

proof from the substance abuse counselor-in-training that within the previous 5 years he or she completed 100 hours of specialized education in any combination of the performance domains listed in s. RL 166.03.

Chapter RL 166

EDUCATION APPROVAL

RL 166.01 Definitions. As used in ss. RL 166.02 and 166.03:

(1) “Assessment” means education on the comprehensive process of collecting pertinent data about patient or patient systems and their environment and appraising the data as a basis for making decisions regarding substance use disorder diagnosis and treatment or referral. The education shall consist of culturally inclusive studies in understanding addiction, psychopharmacology, recognition and differentiation of co-occurring medical and psychological disorders, clinical evaluation and treatment planning.

(2) “Case management” means education on culturally appropriate administrative, clinical, and evaluative activities included in the process of coordinating and prioritizing patient treatment goals and working with the patient and significant others, as well as other services, agencies and resources to achieve those treatment goals. The education shall include studies in implementing treatment plans including continuing assessment, the referral process, service coordination, including for co-occurring medical and psychological disorders, record management and documentation and utilizing the written client record to guide and monitor services to reach measurable goals and objectives.

(3) “Counseling” means education which includes the study of fundamental theories, principles and techniques of substance use disorder counseling to facilitate the progress of diverse patients toward mutually determined treatment goals and objectives using culturally sensitive modalities. Counseling education shall include studies of understanding addiction, recognized treatment theory and practice, the recovery process, effective strategies for meeting the counseling needs of diverse patients, crisis management skills, and treatment of co-occurring medical and psychological disorders.

(4) “Education” means education about the process of providing patients, groups, families, couples, significant others, and communities with information on risks related to substance use, the processes of dependence including signs, symptoms and behavior patterns, and available resources for prevention, treatment, and recovery in culturally relevant ways. The education shall include studies in understanding addiction, including addiction to nicotine, the classification and basic pharmacology of drugs, basic physiology and the effects of drug use on the human body and patient, learning styles and teaching methods, delivery of educational programs, health and behavior problems related to substance use including transmission and prevention of HIV/AIDS,

tuberculosis, sexually transmitted infections, and other infectious diseases, and basic life skills such as stress management, communication, and assertiveness.

(5) “Professional responsibility” means education which addresses standards of conduct or professional behavior expectations for counselors, supervisors and prevention workers. Professional behavior areas to be studied shall include, at a minimum, legal issues specific to substance use disorder professional practice, patient welfare as a primary concern, responsibility for professional competence and professional development, participation in ongoing supervision and consultation, counselor values and self-care, relationships with other professionals and institutions and the establishment of limits and boundaries in the patient relationship. This education shall also address the impact of specific cultural, ethnic and racial influences and expectations.

RL 166.02 Substance abuse counselor-in-training core curriculum. (1) The following content areas and related hours for entry training for substance abuse counselor-in-training students are required.

CONTENT AREA	HOURS
Assessment	15
Counseling	15
Case Management	10
Education	15
Professional Responsibility	20
Electives within the performance domains listed above	25
Total	100

(2) The training hours shall be in seminars, courses or other presentations that meet the criteria in s. RL 166.04 or 166.05.

(3) All of the content areas shall be infused with information and application to practice that is responsive to the characteristics of individual, group, family, and couple clients and significant others seeking substance use disorder treatment, including, but not limited to, age, gender, ability, disability, developmental level, sexual orientation, health status, ethnicity, culture, and social issues.

RL 166.03 Substance abuse counselor education requirements. (1) The following content areas and related hours are required as a portion of the educational requirements in s. RL 161.02:

CONTENT AREA	HOURS
Assessment	60
Counseling	60
Case Management	60
Education	60
Professional Responsibility	60
Electives within the performance domains listed above	60

Total	360
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(2) The training shall be in a comprehensive program approved by the department.

(3) All of the content areas shall be infused with information and application to practice that is responsive to the characteristics of individual, group, family, and couple clients and significant others seeking substance use disorder treatment, including, but not limited to, age, gender, ability, disability, developmental level, sexual orientation, health status, ethnicity, culture, and social issues.

(4) No more than 180 of the 360 hours and no more than 30 of the 60 hours for any content area, may be completed through internet based coursework.

RL 166.04 Approval of pre-certification education programs for substance abuse counselors. (1) A provider of education programs shall submit an application for approval of a 360 hour comprehensive program on a form provided by the department. The application shall include:

(a) A detailed outline of each course with specific allocations of classroom hours on each required topic, an explanation of the integrated and identified program outcomes and how the program outcomes will be measured and an explanation of how the comprehensive program meets all of the required content in s. RL 166.03.

(b) Method of instruction used, such as classroom or distance education.

(c) Instructor qualifications.

(2) Providers of distance education shall insure instructor availability to students at reasonable times by reasonable means, reasonable oversight of student identity and reasonable opportunity for student self evaluation of mastery.

(3) Instructors shall be knowledgeable in the subject and shall meet one of the following:

(a) Be an instructor of substance use disorder related courses in an accredited institution.

(b) Be a current certificate holder as a substance abuse counselor, clinical substance abuse counselor, clinical supervisor-in-training, intermediate clinical supervisor or independent clinical supervisor.

(c) Be a credential holder in a related field such as a physician, social worker, marriage and family therapist, professional counselor or psychologist, with knowledge and experience related to substance use disorder counseling.

(d) Be a person who in the judgment of the department is qualified by experience or education or both to supervise a course of study.

(4) An instructor whose credential has been limited, suspended or revoked may not instruct in approved programs while the disciplinary action is in effect.

(5) The department shall approve education programs that are not part of a degree in an accredited institution for a period of 2 years. The education provider shall resubmit the program for approval every 2 years.

(6) The department shall approve education programs that are part of a degree in an accredited institution for a period of 5 years. The education provider shall resubmit the program for approval every 5 years.

(7) Education providers shall have an effective method of tracking student attendance and of assessing mastery of content.

(8) Education providers shall provide certificates of completion to students and retain a student's records for 7 years after a student has completed the program.

(9) Once the department approves a program, the provider is required to inform the department in advance of any major changes in courses or instructor qualifications and receive reapproval.

RL 166.05 Approval of continuing education programs. (1) The department does not pre-approve continuing education programs. The department may accept for continuing education credit, programs consisting of relevant subject matter taught by qualified presenters. The acceptability of a continuing education program depends on the subject matter of the program rather than the program's title. To qualify as a continuing education program used to satisfy the requirements of this chapter a program shall meet all of the following minimum requirements:

(a) The program subject matter includes core curriculum education in one or more of the following areas:

1. Substance use disorder counseling, prevention, clinical practice, knowledge and skills.
2. A field or subject area allied with and relevant to the clinical practice of substance use disorder counseling including work toward an academic degree.
3. Substance use disorder counseling practice ethics.

4. Professional boundaries.
5. Administration.
6. Advanced counseling theory and techniques.
7. Family issues.
8. Mental health issues.
9. Substance use disorders studies.

(b) The program sponsor agrees to provide a responsible person to monitor and verify the attendance of each registered student at the program, and the program sponsor agrees to keep the records of attendance for 3 years from the date of the program and to furnish each participant with evidence of having attended the program.

(c) The program sponsor shall not assign or delegate its responsibilities to monitor or record attendance, provide evidence of attendance, compare course content with subject matter content required under par. (a), or to provide information on instructors or other aspects of the program unless the assignment or delegation is specifically identified in the course material and approved by the department.

(d) The program sponsor has reviewed and validated the program's content to insure its compliance with par. (a).

(e) The program offers significant professional educational benefit for participants.

(f) The instructor is qualified to present the course.

(g) The program shall contain a reasonable security procedure to assure that the student enrolled is the actual participant.

(2) The department shall approve all of the following programs and courses if relevant to the professional practice of substance use disorder counseling, clinical supervision or prevention work and they meet the requirements of sub. (1):

(a) Undergraduate or graduate level courses or continuing education courses relevant to the professional practice of substance use disorder counseling, clinical supervision or prevention work offered by an accredited college or university, a local or national professional substance use disorder association, or other professional mental health or medical health related organizations.

(b) Programs or continuing education courses that are sponsored by one of the entities mentioned in par. (a).

RL 166.06 Format. A continuing education program may take any of the following forms, with credit for relevant subject matter granted as follows:

(1) Formal presentations of relevant professional material at seminars, workshops, programs or institutes, which may include formal presentation and directed discussion of videotaped material: 1 CEH per hour of continuing education for attendees, 2 CEHs per hour of continuing education for presenters, but no additional CEHs may be granted for subsequent presentations of the same material.

(2) University, college or vocational technical adult education courses, which may include formal presentation and directed discussion of videotaped instruction: 10 CEHs per semester credit or 6.6 CEHs per quarter credit for students, 20 CEHs per semester hour or 13.2 CEHs per quarter hour for instructors, but no additional CEHs may be granted for subsequent presentations of the same material.

(3) Educational sessions at state and national conferences: 1 CEH per hour of continuing education for students; 2 CEHs per hour of continuing education for presenters, but no additional CEHs may be granted for subsequent presentations of the same material.

(4) Internet learning courses offered by an accredited college or university.

(5) Self-study courses approved by accredited college or university schools, local or national professional or mental health related organizations, 1 CEH per credit completed, but self-study courses may not be used to satisfy the ethics requirement.

RL 166.07 Recordkeeping. (1) Every credential holder shall retain original documents showing attendance at programs and completion of self-developed programs for at least 4 years from the time that credit is claimed for the continuing education program. At the request of the department, credential holders shall deliver their documents to the department.

(2) The provider of the continuing education course agrees to monitor attendance and furnish a certificate of attendance to each participant. The certificate shall identify the educational components listed in s. RL 166.02 or 166.03 that were covered by the course or seminar and the total hours for each component.

Chapter RL 167

PROFESSIONAL LIABILITY INSURANCE

RL 167.01 Insurance requirement. (1) Except as provided in sub. (2), a person certified under s. 440.88, Stats., shall not practice substance use disorder counseling unless he or she has in effect professional liability insurance in the amount of at least \$1,000,000 for each occurrence and \$3,000,000 for all occurrences in one year.

(2) Subsection (1) does not apply to a person practicing substance use disorder counseling as an employee of a federal, state, or local governmental agency, if the practice is part of the duties for which he or she is employed and is solely within the confines of or under the jurisdiction of the agency by which he or she is employed.

Chapter RL 168

CONTINUING EDUCATION

RL 168.01 Continuing education. (1) **REQUIREMENTS FOR CONTINUING EDUCATION.** (a) Unless granted a postponement or waiver under s. RL 165.01 (9), every credential holder shall complete at least the number of hours of board-approved continuing education as listed in s. RL 165.01 in each biennial registration period.

(b) Continuing education hours may apply only to the registration period in which the hours are acquired. If a credential has been allowed to lapse, the department may grant permission to apply continuing education hours acquired after lapse of a credential to a previous biennial period of licensure during which required continuing education was not acquired. In no case may continuing education hours be applied to more than one biennial period.

(c) To meet the continuing education requirement, a credential holder shall submit to the department a certificate of attendance upon the department's request.

(d) Unless granted a postponement or waiver under s. RL 165.01 (9), a credential holder who fails to meet the continuing education requirements by the renewal deadline shall cease and desist from practice.

(e) During the time between initial credentialing and commencement of a full 2-year credential period new credential holders shall not be required to meet continuing education requirements.

(f) Applicants from other states applying under s. RL 161.07, shall submit proof of completion of at least 40 hours of approved continuing education within 2 years prior to application.

(2) **CLINICAL SUPERVISION EDUCATION.** Applicants seeking renewal of a certificate for clinical supervisor-in-training, intermediate clinical supervisor and independent clinical supervisor shall attend at least 6 hours of continuing education

per biennium in the area of clinical supervision in addition to the appropriate number of hours of continuing education for the certificate of clinical substance abuse counselor.

(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 _____

Celia M. Jackson, Secretary
Department of Regulation and Licensing

Chs RL 160-168 CR07- (Substance abuse professionals)Draft to CH 3-27-07