
IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : ORDER ADOPTING
DEPARTMENT OF REGULATION : EMERGENCY RULES
AND LICENSING :

An order of the Department of Regulation and Licensing to repeal RL 161.04 (3) (e); to renumber and amend RL 161.04 (3) (a) 1.; and to create RL 161.04 (3) (a) 2. and a Note following RL 161.04 (3) (a) 2., relating to examinations for substance abuse professionals.

ANALYSIS

Statutes interpreted:

Section 440.88, Stats.

Statutory authority:

Section 227.11 (2), Stats., and Subchapter VII of ch. 440, Stats.

Explanation of agency authority:

Subchapter VII of ch. 440, Stats., Substance Abuse Counselors, Clinical Supervisors, and Prevention Specialists, directs the department to write rules that establish minimum standards and qualifications for the certification of substance abuse professionals.

Related statute or rule:

Section 440.88 (3) (a), (b) and (c), Stats., and s. RL 161.04 (3) (e).

Plain language analysis:

Currently, an applicant for a clinical substance abuse counselor credential must complete and pass the International Certification and Reciprocity Consortium's (IC&RC) written examination and case presentation method interview. As of June 1, 2008, the IC&RC will discontinue using the case presentation method interview and will replace it by adding a new section to its written examination. This emergency rule repeals the requirement that an applicant pass the IC&RC's case presentation method interview for applicants who take the IC&RC written examination after June 1, 2008.

This rule also creates a provision that would allow applicants for the clinical substance abuse credential, who took the IC&RC written examination before June 1, 2008, to pass either the new IC&RC written examination or the case presentation method interview until December 31, 2008. This rule will help applicants who took the written examination before June 1, 2008, qualify for a clinical substance abuse counselor credential. It gives them the choice of using the old examination system or the new. Beginning December 31, 2008, all applicants will have to pass the IC&RC's new written examination to receive a clinical substance abuse counselor credential.

SECTION 1 renumbers a provision.

SECTION 2 creates a pathway for certain applicants for a clinical substance counselor credential to meet a requirement under the law currently in effect that is being repealed by this rule.

SECTION 3 repeals a requirement for a clinical substance abuse counselor credential that is no longer being provided after June 1, 2008.

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:

Minnesota:

In Minnesota, although licensure is available through the state and certification through the Minnesota Certification Board (MCB – a private organization), state licensure is required for practice, with exemptions for other professional licenses. The certification offered by the MCB is not recognized by the state. The MCB offers certification based upon the

standards of the IC&RC, which includes supervised practice requirements, specialized education and training in substance abuse counseling, and counselor examinations. Minnesota, in part to satisfy the standards of the licensure, will accept the certificates provided by the MCB as fulfilling their licensure requirements.

Licensure in Minnesota requires the following (before July 1, 2008): an associate degree or equivalent credit hours; 270 hours of substance abuse related education; completion of either the IC&RC Case Presentation Method Oral examination or 2,000 hours of supervised practice; passage of the NAADAC or IC&RC Counselor Examination. After July 1, 2008, Minnesota requires: a bachelor's degree including 18 semester credits or 270 clock hours of substance abuse related education; either the case presentation method, or a plan for 2000 hours of professional practice or proof of 2000 hours of professional practice; passage of the NAADAC or IC&RC counselor examination.

Minnesota will continue to use the IC&RC case presentation method after the IC&RC formally discontinues the use in certification standards. The IC&RC is formally requiring all jurisdictions that elect to use the CPM examination to sign an indemnity agreement allowing states to continue to offer the examination.

Michigan:

In Michigan, substance abuse counselor certification is voluntary; however, at the county level, certification is only driven by allocating funding to county-run treatment centers, which use certified substance abuse counselors. Substance abuse counselors are certified and regulated by the Michigan Certification Board, a private agency.

Michigan no longer uses the IC&RC Case Presentation Method Oral Examination in certification procedures for their counselors.

Illinois:

Illinois mandates that licensed alcohol and drug abuse counselors are used in their state certified alcohol and drug abuse clinics. Under Illinois code: Title 77: Chapter 2060.309 part of the staffing requirements of their clinics require counselors to hold clinical certification as a Certified Alcohol and Drug Counselor issued by the Illinois Alcoholism and Other Drug Abuse Professional Certification Association (IAODAPCA).

IAODAPCA requirements are based off those of the IC&RC. The reciprocal level of the certified drug and alcohol counselor, which is analogous to Wisconsin's clinical substance abuse counselor, requires passage of the IC&RC case presentation method oral examination.

See: §20 ILCS 301/15-5, 77 Ill. Adm. Code 2060.20 et. seq.

Iowa:

The state of Iowa does not credential AODA or Substance Abuse Professionals, but does mandate the certification and use of those professions in their state certified alcohol and drug abuse clinics. Under Iowa administrative code: 641 IAC 155.21 (8) i., part of the staffing requirements of their clinics require that persons providing screening, evaluations, assessments or treatment shall be certified through the Iowa Board of Substance Abuse Certification, a private agency, or certified by an IC&RC member board in the states of Illinois, Minnesota, Nebraska, Missouri, South Dakota, and Wisconsin.

The Iowa Certification Board modeled their credentials from those requirements specified by the IC&RC. Iowa has advanced drug and alcohol counselor certification, which is analogous to our clinical substance abuse counselor certification, requires the passage of the IC&RC written counselor examination. The advanced level certification is not considered reciprocal and therefore they do not require the IC&RC oral Case Presentation Method examination. For those Iowa counselors who wish to bring their credentials in line with IC&RC's reciprocity requirements, they were required to complete the written and oral portion of the IC&RC CPM examination.

See: §641 IAC chapter 155

Summary of factual data and analytical methodologies:

the Department of Regulation and Licensing is amending the requirement for successful completion of the oral examination as a precondition for certification as a clinical substance abuse counselor because of the change in certification requirements of the International Certification & Reciprocity Consortium (IC&RC). The standards for achieving clinical substance abuse counselor certification were set so that the requirements for the certification would be equivalent of the IC&RC certified alcohol and drug counselor and further, Wisconsin utilizes their examination in the process. Elimination of the oral examination and the change in the certification standards requires Wisconsin to amend rules of certification.

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

Small business should not be impacted as the examination requirements, and thusly associated costs to achieve certification, are effectively reduced by the elimination of the examination. The oral examination was costly to administer

and was a barrier to entry to the field. To achieve certification, a counselor must still pass the written counselor examination, but no longer must complete the oral examination.

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

Anticipated costs incurred by private sector:

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

Fiscal estimate:

The department estimates that this rule will require staff time in the Office of Legal Counsel and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$1,557.

Effect on small business:

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

Agency contact person:

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

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

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to pamela.haack@drl.state.wi.us. Comments must be received on or before July 7, 2008 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RL 161.04 (3) (a) is renumbered RL 161.04 (3) (a) 1. and is amended to read:

RL 161.04 (3) (a) 1. Successful passage of the International Certification and Reciprocity Consortium Alcohol and Other Drug Abuse written counselor certification examination-; or,

SECTION 2. RL 161.04 (3) (a) 2. and a Note following RL 161.04 (3) (a) 2. are created to read:

RL 161.04 (3) (a) 2. Until December 31, 2008, an applicant who passed the International Certification and Reciprocity Consortium Alcohol and Other Drug Abuse written counselor certification examination before June 1, 2008, successful passage of either the International Certification and Reciprocity Consortium’s written counselor certification examination or the case presentation method interview provided by the department.

Note: Prior to June 1, 2008, to receive a clinical substance abuse counselor credential, an applicant had to pass a written counselor examination and a case presentation method oral interview (oral examination) authorized by the International Certification & Reciprocity Consortium (IC&RC). Effective June 1, 2008, the IC&RC withdrew its authorization for the oral examination and instead requires an applicant to complete their updated written counselor examination which includes a section to replace the oral examination. Pursuant to an agreement with the IC&RC, the department will continue to offer the oral examination for applicants who took the written examination prior to June 1, 2008. Until December 31, 2008, those applicants have the choice of passing either the IC&RC’s updated written counselor examination or the oral examination provided by the department.

SECTION 3. RL 161.04 (3) (e) is repealed.

FINDING OF EMERGENCY

The department has made a finding of emergency. The current rules require an applicant for a clinical substance abuse counselor credential to pass an oral examination. The company that produced that examination is not giving that examination after June 1, 2008. This emergency rule creates a time period for a transition to enable a category of applicants to get a clinical substance abuse counselor credential. Persons holding a clinical substance abuse counselor credential can apply for a supervisory credential. There is a strong need for more supervisors in this field because services can only be provided under supervision. This rule will enable more applicants to receive a supervisor credential and is therefore necessary to maintain the health, safety and welfare of the public.