



**VIRTUAL/TELECONFERENCE
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING, AND
SOCIAL WORK EXAMINING BOARD**

**Virtual, 4822 Madison Yards Way, Madison
Contact: Brad Wojciechowski (608) 266-2112
April 19, 2022**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

10:30 A.M.

**(OR IMMEDIATELY FOLLOWING THE PROFESSIONAL COUNSELOR
SECTION MEETING)**

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes of January 25, 2022 (4-7)

C. Reminders: Scheduling Concerns

D. Introductions, Announcements, and Recognition

- 1) Introduction of Marietta Luster, Government Social Worker Member (Succeeds: Krueger)
- 2) Recognition of Elizabeth Kruger, Government Social Worker Member (Resigned: 2/8/2022)

E. Administrative Matters – Discussion and Consideration

- 1) Department, Staff and Board Updates
- 2) Board Member – Term Expiration Date
 - a. Adell, Cynthia C. – 7/1/2023
 - b. Brown, Cynthia – 7/1/2023
 - c. Erickson, Terrance C. – 7/1/2025
 - d. Hansen, Shawna R. – 7/1/2022
 - e. Lee Yang, Sheng B. – 7/1/2023
 - f. Luster, Marietta S. – 7/1/2025
 - g. Marsh, Lindsey E. – 7/1/2024
 - h. Scheidegger, Tammy H. – 7/1/2020
 - i. Simon, Andrea L. – 7/1/2023
 - j. Stumbras, Patrick J. – 7/1/2025
 - k. Webster, Christopher J. – 7/1/2023

F. Board Chair Meeting and Options to Address Department Resources – Discussion and Consideration

G. Legislative and Policy Matters – Discussion and Consideration (8)

- 1) 2021 Wisconsin Act 121 – Funding for Free and Charitable Clinics and Defining Telehealth
- 2) 2021 Wisconsin Act 222 – Advanced Practice Social Workers and Independent Social Workers Treating Substance Use Disorder as a Specialty

H. Administrative Rule Matters – Discussion and Consideration

- 1) Adoption Order: CR 19-166 (MPSW 20) Relating to Unprofessional Conduct **(9-18)**
- 2) Pending or Possible Rulemaking Projects **(19)**
 - a. Possible Rule Project: Adding Definition of Telehealth Based on 2021 WI Act 121
 - b. Possible Rule Project: Implementing 2021 WI Act 222, Relating to APSW and ISW Treating Substance Use Disorder as a Specialty

I. COVID-19 – Discussion and Consideration

J. Section Reports – Discussion and Consideration

K. Discussion and Consideration of Items Added After Preparation of Agenda

- 1) Introductions, Announcements and Recognition
- 2) Administrative Matters
- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Administrative Rule Matters
- 10) Legislative and Policy Matters
- 11) Liaison Reports
- 12) Board Liaison Training and Appointment of Mentors
- 13) Informational Items
- 14) Division of Legal Services and Compliance (DLSC) Matters
- 15) Motions
- 16) Petitions
- 17) Appearances from Requests Received or Renewed
- 18) Speaking Engagements, Travel, or Public Relation Requests, and Reports

L. Public Comments

ADJOURNMENT

NEXT MEETING: JULY 19, 2022

**VIRTUAL/TELECONFERENCE
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING, AND
SOCIAL WORK EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison**

**Contact: Brad Wojciechowski (608) 266-2112
April 19, 2022**

**MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING, AND
SOCIAL WORK EXAMINING BOARD
2021 WISCONSIN PUBLIC RECORDS LAW FACILITATED TRAINING
10:45 A.M. OR IMMEDIATELY FOLLOWING THE FULL BOARD MEETING**

A quorum of the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board may be present; however, no board business will be conducted.

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED
WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer at 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING, AND
SOCIAL WORK EXAMINING BOARD
MEETING MINUTES
JANUARY 25, 2022**

PRESENT: Terrance Erickson, Shawna Hansen, Sheng Lee Yang, Lindsey Marsh, Tammy Scheidegger, Andrea Simon, Patrick Stumbras, Christopher Webster

EXCUSED: Cynthia Adell, Cynthia Brown, Elizabeth Krueger

STAFF: Brad Wojciechowski, Executive Director; Jameson Whitney, Legal Counsel; Sofia Anderson, Administrative Rules Coordinator; Katlin Schwartz, Bureau Assistant; Kimberly Wood, Program Assistant Supervisor-Adv. and other DSPS Staff

CALL TO ORDER

Lindsey Marsh, Chairperson, called the meeting to order at 10:32 a.m. A quorum was confirmed with eight (8) members present.

ADOPTION OF AGENDA

MOTION: Tammy Scheidegger moved, seconded by Terrance Erickson, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF OCTOBER 12, 2021

MOTION: Sheng Lee Yang moved, seconded by Andrea Simon, to approve the Minutes of October 12, 2021 as published. Motion carried unanimously.

INTRODUCTIONS, ANNOUNCEMENTS, RECOGNITION

Recognition: Kathleen Miller, Professional Counselor Section Member (Resigned 12/15/2021)

MOTION: Tammy Scheidegger moved, seconded by Andrea Simon, to recognize and thank Kathleen Miller for her service to the Professional Counselor Section, the MPSW Examining Board, and the State of Wisconsin. Motion carried unanimously.

Recognition: Nancy F. Unzueta Saiz, Social Worker Member (Resigned 10/13/2021)

MOTION: Sheng Lee Yang moved, seconded by Tammy Scheidegger, to recognize and thank Nancy Unzueta Saiz for her service to the Social Worker Section, the MPSW Examining Board, and the State of Wisconsin. Motion carried unanimously.

**10:30 AM PUBLIC HEARING: CLEARINGHOUSE RULE 21-094 (MPSW 11),
RELATING TO PROFESSIONAL COUNSELING TRAINING LICENSES**

Review Public Hearing Comments and Respond to Clearinghouse Report

MOTION: Tammy Scheidegger moved, seconded by Andrea Simon, to accept all Clearinghouse comments for Clearinghouse Rule CR 21-094 (MPSW 11), relating to Professional Counselor Training licenses. Motion carried unanimously.

MOTION: Andrea Simon moved, seconded by Tammy Scheidegger, to authorize the Chairperson (or other member) to approve the Legislative Report and Draft for Clearinghouse Rule CR 21-094 (MPSW 11), relating to Professional Counselor Training licenses for submission to the Governor's Office and Legislature. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Election of Officers

Chairperson

NOMINATION: Lindsey Marsh nominated Tammy Scheidegger for the Office of Chairperson. Tammy Scheidegger accepted the nomination.

Brad Wojciechowski, Executive Director, called for nominations three (3) times.

Tammy Scheidegger was elected as Chairperson by unanimous voice vote.

Vice Chairperson

NOMINATION: Lindsey Marsh nominated Sheng Lee Yang for the Office of Vice Chairperson. Sheng Lee Yang accepted the nomination.

Brad Wojciechowski, Executive Director, called for nominations three (3) times.

Sheng Lee Yang was elected as Vice Chairperson by unanimous voice vote.

Secretary

NOMINATION: Andrea Simon nominated Lindsey Marsh for the Office of Secretary. Lindsey Marsh accepted the nomination.

Brad Wojciechowski, Executive Director, called for nominations three (3) times.

Lindsey Marsh was elected as Secretary by unanimous voice vote.

ELECTION RESULTS	
Chairperson	Tammy Scheidegger
Vice Chairperson	Sheng Lee Yang
Secretary	Lindsey Marsh

Appointment of Liaisons and Alternates

LIAISON APPOINTMENTS	
Substance Abuse Disorder Specialty Liaison	Patrick Stumbras <i>Alternate: Lindsey Marsh</i>

Delegation of Authorities

Document Signature Delegations

MOTION: Lindsey Marsh moved, seconded by Andrea Simon, to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

MOTION: Lindsey Marsh moved, seconded by Sheng Lee Yang, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director or DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Andrea Simon moved, seconded by Christopher Webster, that in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

Substance Abuse Disorder Specialty Liaison(s) Delegation

MOTION: Sheng Lee Yang moved, seconded by Andrea Simon, to delegate authority to the Substance Abuse Disorder Specialty Liaison(s) to address all issues pertaining to specialty designations. Motion carried unanimously.

ADJOURNMENT

MOTION: Sheng Lee Yang moved, seconded by Terrance Erickson, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:43 a.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Brad Wojciechowski, Executive Director		2) Date when request submitted: 04/11/2022 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: MPSW Examining Board			
4) Meeting Date: 04/19/2022	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Policy Matters – Discussion and Consideration	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable:	
10) Describe the issue and action that should be addressed: 1. 2021 WI Act 121 2. 2021 WI Act 222			
11) Authorization			
		04/11/2022	
Signature of person making this request		Date	
Supervisor (Only required for post agenda deadline items)		Date	
Executive Director signature (Indicates approval for post agenda deadline items)		Date	
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the Agenda Items folders. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Sofia Anderson, Administrative Rules Coordinator		2) Date when request submitted: 04/14/2022 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board			
4) Meeting Date: April 19, 2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Adoption Order: CR 19-166 (MPSW 20) Relating to Unprofessional Conduct 2. Pending or Possible Rulemaking Projects. a. Possible rule project: Adding definition of telehealth based on 2021 WI Act 121. b. Possible rule project: Implementing 2021 WI Act 222 relating to APSW and ISW treating substance use disorder as a specialty.	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Attachments: <ul style="list-style-type: none"> • MPSW Rule Projects chart • MPSW 20 Adoption Order Copies of Board rule projects can be found here: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx			
11) Authorization			
		04/14/2022	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)			
Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	MARRIAGE AND FAMILY THERAPY,
MARRIAGE AND FAMILY THERAPY,	:	PROFESSIONAL COUNSELING, AND
PROFESSIONAL COUNSELING, AND	:	SOCIAL WORK EXAMINING BOARD
SOCIAL WORK EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 19-166)

ORDER

An order of the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board to amend MPSW 20.02 (intro.), (8), (10) (c), (12), (13), (14), (18), (20), and (23); to repeal and recreate MPSW 20.02 (11) and (16); and to create MPSW 20.02 (13g), (13r), (24), (25), (26), (27), (28), (29), (30), and (31) relating to unprofessional conduct.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 457.03 (2), Stats.

Statutory authority: Sections 15.08 (5) (b) and 457.03 (2), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., states that each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 457.03 (2), Stats., states that the board shall “[u]pon the advice of the social work section, marriage and family therapist section, and professional counselor section, promulgate rules establishing a code of ethics to govern the professional conduct of certificate holders and licensees...”

Related statute or rule: None.

Plain language analysis:

This rule project revises ch. MPSW 20 to update the rules of professional conduct for marriage and family therapists, professional counselors, and social workers to bring them

into line with current professional standards, and revises existing provisions for conciseness and clarity.

Changes include revising the chapter to prohibit discrimination in the provision of services on the basis of gender and gender identity, ethnicity, and biological sex.

The rule also expands upon what shall be considered inappropriate sexual behavior with a client, and imposes a ban on any romantic relationship with a client, regardless of the amount of time elapsed since the clinical relationship has terminated. The rule creates a provision forbidding a credentialed person from taking unfair advantage of any professional relationship, or exploiting clients, supervisees, or students. The rule also prohibits practitioners from employing or promoting any intervention or method that has the purpose of attempting to change a person's sexual orientation or gender identity. Further, the rule prohibits the development of any personal relationship with a client, or former client, within two years of the termination of the clinical relationship, if that relationship might impact the credentialed person's objectivity.

The rule also provides a duty to notify the appropriate section within 48 hours of a criminal conviction, a duty to comply with mandatory child abuse reporting requirements under state law, and requires that credential holders obtain written informed consent from a client or the client's legal representative prior to taping, recording, or filming clinical sessions. Additionally, the rule codifies the duty of a credentialed person to cooperate with the section during investigations.

Finally, the rule creates a duty for supervisors to ensure that subordinate employees are properly supervised. Under the revised rule, supervisors would also be prohibited from unreasonably withholding documentation of an applicant's clinical training hours.

Summary of, and comparison with, existing or proposed federal regulation: None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: None.

Comparison with rules in adjacent states:

Illinois: Illinois law does not prohibit sexual contact with former clients beyond two years after the termination of treatment for social workers and marriage and family therapists, and five years for professional counselors. Although Illinois law does not explicitly prohibit practitioners from employing or promoting any intervention or method that has the purpose of attempting to change a person's sexual orientation or gender identity, Illinois prohibits practitioners from engaging in any action that diminishes the civil or legal rights of clients, or results in the sexual exploitation of clients.

Illinois prohibits discrimination on the basis of gender rather than sex, and does not mention “color” as a forbidden grounds of discrimination. Illinois additionally prohibits discrimination based on “choice of lifestyle.”

Illinois law further requires practitioners to provide adequate supervision to subordinates, and requires practitioners to seek supervision or other assistance when necessary.

Illinois does not expressly provide for a duty to comply with Board investigations, inform the Board of any criminal convictions, or not to aid or abet unlicensed practice.

(Ill. Admin Code ss. 1283.100, 1470.96, and 1375.225).

Iowa: Social worker professional standards for conduct are determined and administered by the Iowa Board of Social Work. Rules allow for the discipline of a practitioner who negligently delegates duties or supervision of employees. The rules do not appear to expressly restrict sexual contact with a client or past client, prohibit discrimination, prohibit employing or promoting any intervention or method that has the purpose of attempting to change a person’s sexual orientation or gender identity, or require notice to the board after conviction of a crime, although there is a provision requiring social workers to conform to the minimal standard of acceptable and prevailing practice within the state. (IAC s. 645.283.2).

The Iowa Board of Behavioral Science regulates professional counselors and marriage and family therapists. The rules require notification of a criminal conviction and cooperation with the Board. The rules also require the licensee not to aid or abet unlawful practice. Further, a licensee may not engage in sexual contact with a current client, or a former client for 5 years, or indefinitely, if the client has a history of any physical, emotional, or sexual abuse, or has been diagnosed with any form of psychosis or personality disorder, or if the client is likely to continue to need therapy for a chronic condition. Although the Board’s rules do not expressly prohibit discrimination based on traditionally unlawful grounds, the rules do prohibit unethical conduct generally. (IAC s. 645.33.2).

Michigan: Michigan statute provides a list of provisions, the violation of which would result in penalties to a person credentialed under the Michigan Occupational Code, including social workers, professional counselors, and marriage and family therapists:

- (a) Practices fraud or deceit in obtaining a license or registration.
- (b) Practices fraud, deceit, or dishonesty in practicing an occupation.
- (c) Violates a rule of conduct of an occupation.
- (d) Demonstrates a lack of good moral character.
- (e) Commits an act of gross negligence in practicing an occupation.
- (f) Practices false advertising.
- (g) Commits an act which demonstrates incompetence.
- (h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.

- (i) Fails to comply with a subpoena issued under this act.
- (j) Fails to respond to a citation as required by section 555.
- (k) Violates or fails to comply with a final order issued by a board, including a stipulation, settlement agreement, or a citation.
- (l) Aids or abets another person in the unlicensed practice of an occupation.

(MCL s. 339.604).

Additionally, professional counseling and marriage and family therapist licensees are prohibited by rule from performing any acts, tasks, or functions within the practice of their occupation unless trained to perform the task, act, or function in question. (MCL s. 333.18511, 333.18105).

Minnesota: Minnesota's social work statute prohibits discrimination on the same grounds as Wisconsin, except they have not removed "color" as an unlawful basis. (Minn. Stats. 148E.215). Although the professional counselor administrative rules do not expressly prohibit discrimination on the traditionally unlawful grounds or prohibit employing or promoting any intervention or method that has the purpose of attempting to change a person's sexual orientation or gender identity, there is a provision requiring professional counselors to conform to minimum standards of acceptable and prevailing practice. (Minn. Admin R. 2150.7600).

Personal relationships between social workers, professional counselors, and marriage and family therapists and clients are prohibited if it would create a risk of client harm or of impairing a credential holder's objectivity or judgment. Personal relationships with former clients are prohibited if a reasonable and prudent social worker would conclude that either the former client or social worker is emotionally dependent on the other. Minnesota also prohibits sexual contact with a client, and sexual contact with a former client for at least two years after the conclusion of the professional relationship. Sexual contact with a former client is never allowed if the social worker engaged in diagnosing, counseling, or treating a client with a mental, emotional, or behavioral disorder; unless the social worker can demonstrate that they have not intentionally or unintentionally coerced, exploited, deceived, or manipulated the client, has not suggested to the client that sexual conduct is consistent with or part of the former client's treatment, and neither the client nor the social worker are emotionally dependent on each other. (See Minn. Stats. 148E.220, Minn. Admin R. 2150.7540).

Minnesota requires social workers to report criminal convictions to the Board within 90 days. Social workers also have a duty under Minnesota law to comply with state reporting requirements relating to duty to warn, maltreatment of minors, and maltreatment of vulnerable adults. (Minn. Stats. 148E.240). Social workers are also obligated to fully cooperate with board investigations. (Minn. Stats. 148E.250).

Finally, social workers have an affirmative duty to seek supervision or consult when appropriate or necessary for competent practice, and an affirmative duty not to delegate

tasks that a supervisor reasonably should know the individual is not competent to perform. (Minn. Stats. 148E.200).

Summary of factual data and analytical methodologies:

The Marriage and Family Therapy, Professional Counseling and Social Work Examining Board performed a comprehensive review of chapter MPSW 20. There had not been a comprehensive review of this code chapter since 2002. This rule project reflects the Board’s efforts to revise the chapter for clarity, remove obsolete provisions, and ensure the chapter is current with professional standards and practices.

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

The rule was posted for 14 days to solicit comments relating to the economic impact of the rule. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an 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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. MPSW 20.02 (intro.), (8) and (10) are amended to read:

MPSW 20.02 Unprofessional conduct related to the practice under a credential issued under ch. 457, Stats., includes, ~~but is not limited to,~~ engaging in, attempting to engage in, or aiding or abetting the following conduct:

(8) Discriminating on the basis of age, race, color, biological sex, gender, gender identity, religion, creed, national origin, ancestry, ethnicity, disability or sexual orientation by means of service provided or denied.

- (10) Revealing facts, data, information, records or communication received from a client in a professional capacity, except in any of the following circumstances:
- (a) With the informed consent of the client or the client's authorized representative;
 - (b) With notification to the client prior to the time the information was elicited of the use and distribution of the information;
 - (c) If necessary to prevent injury to the client or another person, or to report suspected abuse or neglect of a child, or threatened abuse or neglect of a child, including mandatory reports under state or federal law.
 - (d) Pursuant to a lawful order of a court of law;
 - (e) Use of case history material for teaching, therapeutic or research purposes, or in textbooks or other literature, provided that proper precautions are taken to conceal the identity of the client;
 - (f) When required pursuant to federal or state statute.

SECTION 2. MPSW 20.02 (11) is repealed and recreated to read:

MPSW 20.02 (11) Engaging in sexual contact, sexual conduct, or any other behavior which could reasonably be construed as seductive, romantic, harassing, or exploitative, with:

- (a) A client.
- (b) A former client, regardless of the amount of time that has passed since the termination of professional services.
- (c) A person to whom the credentialed person is providing teaching, supervisory, or other instructional services.

SECTION 3. MPSW 20.02 (12) and (13) are amended to read:

MPSW 20.02 (12) Failing to ~~provide~~obtain the informed consent of the client or client's authorized representative prior to providing treatment ~~a description of what may be expected in the way of tests, consultation, reports, fees, billing, therapeutic regimen or schedule.~~

(13) Failing to avoid dual relationships ~~or relationships~~ that may impair the credentialed person's objectivity or create a conflict of interest. Dual relationships prohibited to credentialed persons include the credentialed person treating the credentialed person's employers, employees, supervisors, supervisees, close friends or relatives, and any other person with whom the credentialed person shares any important continuing relationship.

SECTION 4. MPSW 20.02 (13g) and (13r) are created to read:

MPSW 20.02 (13g) Developing a personal relationship with a former client that would impact the credentialed person's objectivity. This restriction shall apply for two years following the termination of the credential holder-client relationship.

(13r) Taking unfair advantage of any professional relationship, or exploiting clients, students, or supervisees.

SECTION 5. MPSW 20.02 (14) is amended to read:

MPSW 20.02 (14) Failing to conduct an assessment, evaluation, or diagnosis as a basis for treatment-consultation.

SECTION 6. MPSW 20.02 (16) is repealed and recreated to read:

MPSW 20.02 (16) In the conduct of research, failing to obtain the informed consent of a study participant, failing to protect participants from physical or mental discomfort, harm or danger, or failing to detect and remove any undesirable consequences to the participants resulting from research procedures.

SECTION 7. MPSW 20.02 (18), (20) and (23) are amended to read:

MPSW 20.02 (18) Failing to maintain adequate records relating to services provided to a client in the course of a professional relationship. ~~A credential holder providing clinical services to a client shall maintain records documenting an assessment, a diagnosis, a treatment plan, progress notes, and a discharge summary. All clinical records shall be prepared in a timely fashion. Absent exceptional circumstances, clinical records shall be prepared not more than one week following client contact, and a discharge summary shall be prepared promptly following closure of the client's case.~~ Clinical records shall be maintained for at least 7 years after the last service provided, unless otherwise provided by state or federal law.

(20) Failing to notify the board within 30 days that a ~~license, certificate or registration~~ credential ~~for permitting~~ the practice of any profession previously issued to the credential holder has been revoked, suspended, limited, ~~or~~ denied, surrendered under investigation, or subject to any other disciplinary action by the authorities of any jurisdiction.

(23) Having a ~~license, registration, or certificate~~ credential permitting the practice or use of a title related to ~~of~~ marriage and family therapy, professional counseling, or social work revoked, suspended, limited, denied, surrendered under investigation, or, or ~~authorizing the use of the title "marriage and family therapist," "professional counselor," "social worker", or similar terms, subject to discipline~~ revoked, suspended, limited, or subjected to any other discipline, by any other jurisdiction.

SECTION 8. MPSW 20.02 (24), (25), (26), (27), (28), (29), (30), and (31) are created to read:

(24) Failing to notify the appropriate section in writing within 48 hours after the entry of a judgment of conviction for a felony or misdemeanor against the credentialed person, including the date, place, and nature of the conviction or finding. Notice shall include a copy of the judgment of conviction and a copy of the complaint or other information which describes the nature of the crime in order that the section may determine whether

the circumstances of the crime of which the credential holder was convicted are substantially related to the credential holder's practice.

(25) Employing or promoting any intervention or method that has the purpose of attempting to change a person's sexual orientation or gender identity, including attempting to change behaviors or expressions of self or to reduce sexual or romantic attractions or feelings toward individuals of the same gender. This does not include counseling that assists a client who is seeking to undergo a gender transition or who is in the process of undergoing a gender transition, or counseling that provides a client with acceptance, support, understanding, or that facilitates a client's coping, social support, and identity exploration or development. Nor does it include counseling in the form of sexual orientation-neutral or gender identity-neutral interventions provided for the purpose of preventing or addressing unlawful conduct or unsafe sexual practices, so long as the counseling is not provided for the purpose of attempting to change the client's sexual orientation or gender identity.

(26) Knowingly aiding, assisting, or advising in the unlawful practice of marriage and family therapy, professional counseling, or social work.

(27) Failing to comply with mandatory child abuse reporting requirements under state or federal law.

(28) Failing to obtain written, informed consent from the client or client's legal representative prior to the use of electronic taping, recording, or filming procedures, unless the electronic taping, recording, or filming is necessary as part of a legal investigation or proceedings.

(29) Failing to exercise an adequate degree of supervision over subordinates.

(30) Refusing to cooperate in a timely manner with the section's investigation of a complaint lodged against a credentialed person. Credentialed persons taking longer than 30 days to respond shall have the burden of demonstrating that they have acted in a timely manner.

(31) Withholding documentation, or approval for submission, of a supervisee's clinical experience hours required to obtain a credential.

SECTION 9. EFFECTIVE DATE. 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.

(END OF TEXT OF RULE)

Dated _____

Agency _____

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

MPSW Examining Board
Rule Projects (updated 04/14/2022)

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
CR 21-094	002-21	07/04/2023	MPSW 11	PC Training licenses	Legislative Review	Once Legislature's jurisdiction ends, if there are no objections, we can move forward with the Adoption Order.
CR 21-053	114-20	02/24/2023	MPSW 3, 11, and 17	Reciprocal credentials service members	Legislative Review	Once Legislature's jurisdiction ends, if there are no objections, we can move forward with the Adoption Order.
CR 19-166	060-18	11/29/2020	MPSW 20	Unprofessional Conduct	Adoption Order ready to be presented at the April meeting.	Once Adoption Order is approved, it will be submitted for publication in the Administrative Register.