



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

**Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Debra Sybell (608) 266-2112
December 10, 2019**

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

1:00 P.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-2)**
- B. Approval of Minutes of October 15, 2019 (3-5)**
- C. Introductions, Announcements and Recognition**
 - 1) New Members
 - a. Candace Coates, Licensed Clinical Social Work Member
 - b. Cynthia Brown, Professional Counselor Public Member
 - 2) Recognition
 - a. Gregory Winkler, Licensed Clinical Social Work Member
- D. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) Board Member – Term Expiration Date
- E. Administrative Rules Matters – Discussion and Consideration**
 - 1) Legislative Modification Request to CR 18-098 Relating to the Substance Use Disorder Specialty **(6-7)**
 - 2) MPSW 20 Relating to Professional Conduct **(8-15)**
 - 3) Pending or Possible Rulemaking Projects
- F. PUBLIC HEARING: Clearinghouse Rule 19-138 Relating to the Practice Requirement for Licensure as a Clinical Social Worker (16-25)**
 - 1) Review and Respond to Public Hearing Comments and Clearinghouse Report
- G. PUBLIC HEARING: Clearinghouse Rule 19-137, Relating to Examinations (26-38)**
 - 1) Review and Respond to Public Hearing Comments and Clearinghouse Report
- H. Discussion and Consideration of Items Added After Preparation of Agenda**

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

I. Public Comments

ADJOURNMENT

NEXT MEETING: JANUARY 28, 2020

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. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING, AND SOCIAL
WORK EXAMINING BOARD
MEETING MINUTES
OCTOBER 15, 2019**

PRESENT: Peter Fabian, Alice Hanson-Drew (*via Skype*), Kristin Koger, Kathleen Miller (*via Skype*), Tammy Scheidegger, Andrea Simon, Todd Tedrow (*via Skype*), Gregory Winkler, Lisa Yee

EXCUSED: Bridget Ellingboe, Elizabeth Krueger

STAFF: Debra Sybell, Executive Director; Jameson Whitney, Board Legal Counsel; Jon Derenne, Rules Coordinator; Kimberly Wood, Program Assistant Supervisor-Advanced; and other DSPS Staff

CALL TO ORDER

Kristin Koger, Chairperson, called the meeting to order at 11:04 a.m. A quorum was confirmed with nine (9) members present.

ADOPTION OF AGENDA

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

APPROVAL OF MINUTES OF JULY 23, 2019

Amendments to the Minutes:

- Page 1 of the Minutes: **CORRECT** the first sentence on the first page as outlined below:
 - “~~Bridget Ellingboe~~ **Kristin Koger**, Chairperson, called the meeting to order.”

MOTION: Tammy Scheidegger moved, seconded by Lisa Yee, to adopt the Minutes of July 23, 2019 as amended. Motion carried unanimously.

**PUBLIC HEARING: CLEARINGHOUSE RULE 19-116, RELATING TO
DISCRIMINATION BASED ON ARREST OR CONVICTION RECORD**

MOTION: Kathleen Miller moved, seconded by Andrea Simon, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule 19-116, relating to discrimination based on arrest or conviction record, for submission to the Governor’s Office and Legislature. Motion carried unanimously.

PUBLIC HEARING: CLEARINGHOUSE RULE 19-115, RELATING TO EDUCATION EQUIVALENT TO A DEGREE IN MARRIAGE AND FAMILY THERAPY FROM A PROGRAM ACCREDITED BY COAMFTE

MOTION: Tammy Scheidegger moved, seconded by Gregory Winkler, to accept all Clearinghouse comments for Clearinghouse Rule 19-115, relating to education equivalent to a degree in marriage and family therapy from a program accredited by COAMFTE. Motion carried unanimously.

MOTION: Peter Fabian moved, seconded by Lisa Yee, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule 19-115, relating to education equivalent to a degree in marriage and family therapy from a program accredited by COAMFTE, for submission to the Governor's Office and Legislature. Motion carried unanimously.

ADMINISTRATIVE RULES MATTERS

MPSW 3, Relating to the Practice Requirement for Licensure as a Clinical Social Worker

MOTION: Gregory Winkler moved, seconded by Andrea Simon, to approve the preliminary rule draft of MPSW 3, relating to the practice requirement for licensure as a clinical social worker, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

MPSW 1, 3, 5, Relating to Examinations

MOTION: Gregory Winkler moved, seconded by Tammy Scheidegger, to approve the preliminary rule draft of MPSW 1, 3, and 5, relating to examinations, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

MPSW 20, Relating to Unprofessional Conduct

MOTION: Gregory Winkler moved, seconded by Tammy Scheidegger, to authorize the Chairperson to approve the preliminary rule draft of MPSW 20, relating to unprofessional conduct, for posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

ASWB Exam Use Policy

MOTION: Gregory Winkler moved, seconded by Tammy Scheidegger, to delegate to the Social Worker Section the authority to discuss the ASWB exam use policy changes and possibly draft a waiver request for submission to the ASWB. The MPSW Examining Board Chairperson shall review any waiver request and, if approved, submit it on behalf of the Board. Motion carried unanimously.

LRB 4287, Relating to Continuing Education on Suicide Prevention

MOTION: Peter Fabian moved, seconded by Tammy Scheidegger, to authorize the Chairperson to work with Board Legal Counsel to draft a statement regarding the Board's position on Assembly Bill 526 and any Senate companion legislation, relating to continuing education on suicide prevention, and to authorize the Chairperson to approve the final language of the statement and sign on behalf of the Board. Motion carried unanimously.

ADJOURNMENT

MOTION: Gregory Winkler moved, seconded by Andrea Simon, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:52 p.m.

DRAFT

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Jon Derenne, Administrative Rules Coordinator		2) Date when request submitted: November 27, 2019 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Marriage and Family Therapy, Professional Counseling, and Social Worker Examining Board			
4) Meeting Date: December 10, 2019	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 1. Legislative modification request to CR 18-098 relating to the substance use disorder specialty. 2. MPSW 20 relating to professional conduct.	
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:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Jon Derenne</i>		November 27, 2019	
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.			



PATRICK SNYDER

STATE REPRESENTATIVE • 85th ASSEMBLY DISTRICT

TO: Marriage and Family Therapy, Professional Counseling and Social Work Examining Board
FROM: Representative Patrick Snyder, on behalf of the Committee on Children and Families
DATE: November 19th, 2019
RE: Clearinghouse Rule 18-098

Members of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board,

Thank you for considering the Committee on Children and Families' recent request for modifications to Clearinghouse Rule 18-098. Please see the following concerns and guidance.

Concern #1: The Committee has concerns that independent social workers are subject to higher training and education requirements to obtain the specialty as a substance abuse counselor, despite having more training and education under their social work license than an advanced practice social worker. According to Chapter MPSW 3, in order to become an independent social worker, one must first be an advanced practice social worker and obtain 3,000 hours of social work practice.

Suggestion #1: Please reduce the training requirements for independent social workers to recognize the training and education that independent social workers would have through obtaining their credential. One possible option would be to put them in the category with advanced practice social workers. Alternatively, they could be their own category with lesser requirements.

Concern #2: The Committee has concerns about the hours of education and supervised face-to-face substance use disorder treatment experience that is required for "Individuals Certified by the Board Other than as Advanced Practice Social Workers". The proposed rule requires 360 hours of education, compared to the previous rule, which required 180 hours. Additionally, the proposal requires 3,000 hours of face-to-face supervised contact, while previous requirements under MPSW 1.09 were 1,000 hours.

Suggestion #2: We would like to see this modified to be at or less than previous requirements under MPSW 1.09. This would better align with the intent of the legislation, which was to make substance abuse counselors more accessible by increasing the substance abuse counselor workforce.

As you decide whether and which modifications will be made, please feel free to reach out to my office with questions about these suggestions.

Sincerely,

A handwritten signature in black ink that reads "Patrick Snyder".

Representative Patrick Snyder
Chair, Committee on Children and Families
85th Assembly District

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

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

PROPOSED 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 “Upon 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.

Substantive changes include revising the chapter to prohibit discrimination on the basis of gender (as opposed to sex) and gender identity, and removes “color” as an unlawful basis of discrimination.

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. 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 codifies the duty of a credentialed person to cooperate with the section during investigations, and a duty for supervisors to ensure that subordinate employees are properly supervised.

Finally, the rule 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.

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.

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 prohibits practitioners from allowing their professional judgment to be controlled by another person or entity.

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, 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, 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. 148E250).

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:

This rule will be posted for 14 days for comments relating to the economic impact of the rule.

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:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the hearing scheduled for 11:00 AM on January 28, 2020 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MPSW 20.02 (intro.), (8) and (10) (c) 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, sex~~ gender, gender identity, religion, creed, national origin, ancestry, disability or sexual orientation by means of service provided or denied.

(10) (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.

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 (13c) and (13g) 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) is 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.

SECTION 8. MPSW 20.02 (20) and (23) are amended to read:

MPSW 20.02 (20) Failing to notify the board 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 9. 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 10. 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)

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Jon Derenne, Administrative Rules Coordinator		2) Date when request submitted: November 27, 2019 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Marriage and Family Therapy, Professional Counseling, and Social Worker Examining Board			
4) Meeting Date: December 10, 2019	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 1. Public Hearing on Clearinghouse Rule 19-138 relating to the practice requirement for licensure as a clinical social worker. -Review and respond to Clearinghouse Report and Public Hearing comments. 2. Public Hearing on Clearinghouse Rule 19-137 relating to examinations. -Review and respond to Clearinghouse Report and Public Hearing comments.	
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:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Jon Derenne</i>		November 27, 2019	
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 : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : MARRIAGE AND FAMILY THERAPY,
MARRIAGE AND FAMILY THERAPY, : PROFESSIONAL COUNSELING, AND
PROFESSIONAL COUNSELING, AND : SOCIAL WORK EXAMINING BOARD
SOCIAL WORK EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board to amend MPSW 3.09 (3) relating to the practice requirement for licensure as a clinical social worker.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 457.08 (4) (c) and (5), Stats.

Statutory authority: Sections 15.08 (5) (b), 457.03 (1) and (3), and 457.08 (5), Stats.

Explanation of agency authority:

“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.” [s. 15.08 (5) (b), Stats.]

“Upon the advice of the social worker section...promulgate rules establishing minimum standards for educational programs that must be completed for certification or licensure under this chapter and for supervised clinical training that must be completed for licensure as a clinical social worker...under this chapter and approve educational programs and supervised clinical training programs in accordance with those standards.” [s. 457.03 (1), Stats.]

“Upon the advice of the social worker section, promulgate rules establishing levels of social work practice for individuals with master's or doctoral degrees in social work, in addition to the levels of practice for which certificates are granted under s. 457.08 (2) and (3), and establishing appropriate educational, training, experience, examination, and continuing education requirements for certification and renewal of a certificate at each

level of practice established in rules promulgated under this subsection.” [s. 457.03 (3), Stats.]

“In its discretion, the examining board may establish a number of hours required for the diagnosis and treatment of individuals based on the applicable edition of the Diagnostic and Statistical Manual of Mental Disorders or its equivalent for purposes of sub. (4) (c). The number of hours required under this subsection may not exceed 600.” [s. 457.08 (5), Stats.]

Related statute or rule: None.

Plain language analysis:

This rule removes the requirement that an applicant for licensure as a clinical social worker must complete the required 3,000 hours of supervised practice in no less than 2 years. Further, the rule establishes the number of face-to-face hours required for diagnosis and treatment of individuals based upon the Diagnostic and Statistical Manual of Mental Disorders (DSM), or its equivalent, at 500 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:

The board held a preliminary hearing on statement of scope at its March 18, 2019 meeting. No comments were received.

Comparison with rules in adjacent states:

Illinois:

Applicants for licensure as a clinical social worker must complete 3,000 hours of satisfactory, supervised professional experience if they hold a master’s degree, and 2,000 hours of satisfactory, supervised professional experience if they hold a doctorate degree. Illinois does not specify that a portion of the required hours involve face-to-face client contact or DSM diagnosis and treatment of individuals. (Ill. Admin Code s. 1470.20)

Iowa:

Applicants for licensure as a licensed independent social worker, the Iowa equivalent to a clinical social worker, must complete at least 4,000 ours of supervised social work practice, which shall include psychosocial assessments, including evaluation of symptoms and behaviors and he effects of the environment on behavior, as well as diagnostic practice and treatment using the current edition of the DSM. The rules do not

specify how many hours must involve diagnostic practice and treatment. (Iowa Admin Code s. 645-280.6(154C))

Michigan:

Applicants for licensure as a clinical social worker must complete at least 4,000 hours of post-degree social work experience accrued over not less than 2 years. Qualifying experience must include one or more of the following activities: assessment, treatment, and intervention methods that utilize a specialized and formal interaction between a social worker and an individual, a couple, a family, or a group in which a professional relationship is established; advocating for care; protecting the vulnerable; providing forensic practice functions; increasing social well-being; providing education, and resources; providing psychotherapy; providing case management for complex and high-risk cases; serving on community committees; and, providing clinical supervision or direction of clinical programs. The rules do not specify how many hours must involve diagnostic practice and treatment. (Mich. Admin Code R338.2953)

Minnesota:

Applicants for licensure as a licensed independent clinical social worker must have accrued at least 4,000 hours of postgraduate clinical practice, including at least 1,800 hours of direct clinical client contact. There are no specific requirements as to how many hours must involve diagnostic practice and treatment. (Minn. Stats. 148E.115)

Summary of factual data and analytical methodologies:

In setting the required hours of DSM diagnosis and treatment at 500 hours and removing the requirement that the 3,000 supervised training hours be completed in no less than two years, the Board balanced the need for portability of the clinical social work credential across state lines, along with the need to ensure clinical social workers are competent to treat Wisconsin clients.

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 on the Department’s website to solicit comments on potential economic impact. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are 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:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the hearing scheduled for 1:00 PM on December 10, 2019 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MPSW 3.09 (3) is amended to read:

MPSW 3.09 (3) Except as provided in sub. (3m), an affidavit that the applicant, after receiving a master's or doctoral degree and after receiving certification as an advanced practice social worker or an independent social worker, has completed at least 3,000 hours of clinical social work practice ~~in no less than 2 years~~, including at least 1,000 hours of face-to-face client contact, ~~and including~~ At least 500 hours of the required 1,000 hours of face-to-face client contact must involve DSM diagnosis and treatment of individuals.; All hours must be accumulated under the supervision of a supervisor approved by the social worker section. Pre-licensed supervised practice shall meet the criteria under s. MPSW 4.01.

SECTION 2. 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)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) MPSW 3	
4. Subject Practice requirement for licensure as a clinical social worker.	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule This rule project establishes the required minimum hours of the 1,000 face-to-face client contact hours which must include diagnosis and treatment of individuals based on the Diagnostic and Statistical Manual of Mental Disorders (DSM) that a licensed clinical social worker must complete as part of their required post graduate clinical practice. The rule project also brings the code into alignment with the statute by removing the requirement that the 3,000 clinical practice hours must be completed within two years.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services's website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefits of implementing the rule are that clinical social work applicants and stakeholders will have greater clarity as to how many of the required 1,000 face-to-face client contact hours must include diagnosis and treatment of individuals based on the DSM. It will also give applicants greater flexibility in terms of the time available for completing their 3,000 clinical practice hours. The alternative of implementing the rule is that the rules will not provide applicants with a minimum number of face-to-face client contact hours that must involve diagnosis and treatment of individuals based on the DSM. Further, if the rule is not implemented, applicants will be unnecessarily constrained in the time period they	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

have to complete their 3,000 clinical practice hours.

16. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule are that clinical social workers will have clarity as to how many of their 1,000 face-to-face client contact hours must include diagnosis and treatment of individuals based on the DSM, and will not be limited to a two year period in which to complete their 3,000 clinical practice hours.

17. Compare With Approaches Being Used by Federal Government

The federal government does not set requirements for social worker licensure.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

Applicants for licensure as a clinical social worker must complete 3,000 hours of satisfactory, supervised professional experience if they hold a master's degree, and 2,000 hours of satisfactory, supervised professional experience if they hold a doctorate degree. Illinois does not specify that a portion of the required hours involve face-to-face client contact or DSM diagnosis and treatment of individuals. (Ill. Admin Code s. 1470.20)

Iowa:

Applicants for licensure as a licensed independent social worker, the Iowa equivalent to a clinical social worker, must complete at least 4,000 ours of supervised social work practice, which shall include psychosocial assessments, including evaluation of symptoms and behaviors and he effects of the environment on behavior, as well as diagnostic practice and treatment using the current edition of the DSM. The rules do not specify how many hours must involve diagnostic practice and treatment. (Iowa Admin Code s. 645-280.6(154C))

Michigan:

Applicants for licensure as a clinical social worker must complete at least 4,000 hours of post-degree social work experience accrued over not less than 2 years. Qualifying experience must include one or more of the following activities: assessment, treatment, and intervention methods that utilize a specialized and formal interaction between a social worker and an individual, a couple, a family, or a group in which a professional relationship is established; advocating for care; protecting the vulnerable; providing forensic practice functions; increasing social well-being; providing education, and resources; providing psychotherapy; providing case management for complex and high-risk cases; serving on community committees; and, providing clinical supervision or direction of clinical programs. The rules do not specify how many hours must involve diagnostic practice and treatment. (Mich. Admin Code R338.2953)

Minnesota:

Applicants for licensure as a licensed independent clinical social worker must have accrued at least 4,000 hours of postgraduate clinical practice, including at least 1,800 hours of direct clinical client contact. There are no specific requirements as to how many hours must involve diagnostic practice and treatment. (Minn. Stats. 148E.115)

19. Contact Name

Jon Derenne, Administrative Rules Coordinator

20. Contact Phone Number

(608) 266-0955

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 19-138

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

a. In the analysis for the proposed rule, either in the explanation of the authority under s. 457.08 (5), Stats., or in the plain language summary, the board could cite the enactment of 2017 Wisconsin Act 356, which created that provision to expressly authorize the board to require that an applicant’s hours of face-to-face client contact include training based on the Diagnostic and Statistical Manual of Mental Disorders (DSM) or its equivalent. To further explain the context, the citation could note that the provision was enacted following an objection by the Joint Committee for Review of Administrative Rules to the proposed repeal of DSM training that had been included in CHR 14-057.

b. In s. MPSW 3.09 (3), the underscored period that is shown after the word “contact” should be moved to be shown after the phrase “and including”. Also, the period after the word “individuals” should be shown with underscoring and should be moved to follow the stricken comma.

c. When the rule goes into effect, is it possible that the board would have pending applications whose affidavits would not include information on the applicant’s compliance with the specific number of hours of DSM training the applicant has completed? If so, how will those applicants be affected? For example, would the applicants be asked to revise and resubmit the affidavits? Or should an initial applicability provision be added to the proposed rule to specify that the revised rule applies to new applications submitted on or after the effective date? If it is anticipated that there could be pending applications that would not meet the requirements of the

proposed rule on the date it goes into effect, the board should specify how those applications will be handled. [For an example of an initial applicability clause, see s. 1.02 (3m), Manual.]

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

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

PROPOSED ORDER

An order of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board to repeal MPSW 1.05 (5), 1.06, and 1.07; and to amend MPSW 1.05 (3), (6) and (7), 3.01 (3), 3.05 (3), 3.07 (4), 3.09 (4), 3.11 and 5.01 relating to examinations.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 457.03 (1m) and (3), Stats.

Statutory authority: Sections 15.08 (5) (b), and 457.03 (1m) and (3), Stats.

Explanation of agency authority:

15.08 (5) (b) Each examining board shall 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.

457.03 (1m) Upon the advice of the social worker section, marriage and family therapist section, and professional counselor section, and consistent with s. 457.16, promulgate rules establishing examination requirements for certification and licensure under this chapter.

457.03 (3) Upon the advice of the social worker section, promulgate rules establishing levels of social work practice for individuals with master's or doctoral degrees in social work, in addition to the levels of practice for which certificates are granted under s. 457.08 (2) and (3), and establishing appropriate educational, training, experience, examination, and continuing education requirements for certification and renewal of a certificate at each level of practice established in rules promulgated under this subsection.

Related statute or rule: None.

Plain language analysis:

The rule project clarifies that there are two separate examinations required for licensure under the chapter, one which tests whether or not the applicant is competent in their area of practice, and another which tests the applicant's knowledge of Wisconsin statutes and rules related to their practice area. Currently, the rules refer to the examinations as two parts of the same examination, when they are actually two separate examinations.

The rule project also removes several obsolete provisions. The rules currently exempt an applicant from taking the Wisconsin statutes and rules examination if they have passed the examination as part of an application for another social worker credential within the last five years. The rule project removes the five year requirement.

The rule project also repeals obsolete provisions relating to examination review and claims of examination error, as well as a provision allowing the Board to deny the release of grades or issuance of a credential if the board determines that the applicant violated rules of conduct or otherwise acted dishonestly.

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: N/A

Comparison with rules in adjacent states:**Illinois:**

Illinois requires applicants for licensure as a marriage and family therapist to pass the Association of Marital & Family Therapy Regulatory Boards (AMFTRB) national examination (Ill. Admin. Code s. 1283.40). Social work applicants are required to pass the Association of Social Work Boards (ASWB) masters examination for a licensed social workers, and the clinical examination for clinical social workers. (Ill. Admin. Code s. 1470.70). For licensure as a professional counselor, an applicant may pass either the National Counselor Examination (NCE) or the Certified Rehabilitation Counselor Examination (CRCC) (Ill. Admin. Code s. 1375.60). Licensure as a clinical professional counselor requires passage of the NCE in addition to the National Clinical Mental Health Counseling Examination (NCMHCE) (Ill. Admin. Code s. 1375.150 (a)).

There is not a state statute specific examination. Nor do the social work, marriage and family therapy, nor professional counselor rules contain procedures for the review of examination or claims of examination error, nor a provision relating to the denial of the release of grades or issuance of a credential if the board determines that the applicant violated the rules of conduct or otherwise acted dishonestly.

Iowa: Iowa requires an applicant for licensure as a marital and family therapist to pass the AMFTRB examination in marital and family therapy (IAC 31.3 (1) (a)). Applicants for licensure as mental health counselor are required to pass either the NCE or the NCMHCE (IAC 31.3 (1) (b)). Applicants for a social work license must pass the ASWB examination at the level commensurate with their credential (IAC 280.4 (1)). For example, a bachelor level social worker must pass the basic level examination, a master level social worker must pass the intermediate level examination, and an independent level social worker must pass the clinical level examination (Id.).

There is not a state statute specific examination. Nor do the social work, marriage and family therapy, nor professional counselor rules contain procedures for the review of examination or claims of examination error, nor a provision relating to the denial of the release of grades or issuance of a credential if the board determines that the applicant violated the rules of conduct or otherwise acted dishonestly.

Michigan: Applicants for licensure as a marriage and family therapist must pass the AMFTRB marital and family therapy examination (R. 338.7205 (d)). Bachelor's level social workers must pass the ASWB bachelor's examination (R. 338.2941 (1) (c)), master's level social workers must pass either the ASWB advanced generalist examination or clinical examination (R. 338.2951 (1) (b) and 338.2953 (b)). Licensure as a professional counselor requires passage of either the NCE or CRCC examination (R. 338.1752 (3) (b)).

There is not a state statute specific examination. Nor do the social work, marriage and family therapy, nor professional counselor rules contain procedures for the review of examination or claims of examination error, nor a provision relating to the denial of the release of grades or issuance of a credential if the board determines that the applicant violated the rules of conduct or otherwise acted dishonestly.

Minnesota: Licensure as a marriage and family therapist in Minnesota requires passage of both the AMFTRB marital and family therapy examination as well as a state oral examination testing knowledge of state laws, ethics, and professional responsibilities (Minn. Admin. Code 5300.0130 (1) (F)). Licensure as a professional counselor is set by state statute, and requires passage of the NCE or an equivalent national examination as determined by the board, and ethical, oral, and situational examinations if prescribed by the board (Minn. Stats. 148B.53 (1) (a) 5.). It does not appear that the board has approved additional examinations or prescribed additional testing by rule.

Licensure as a licensed social worker requires passage of the ASWB bachelor's examination (Minn. Stats. 148E.055 (2) (a) 2.), passage of the master's examination administered by the ASWB for licensure as a licensed graduate social worker (Minn. Stats. 148E.055 (3) (a) 2.), passage of the advanced generalist ASWB examination for licensure as an independent social worker (Minn. Stats. 148E.055 (4) (a) 3.), and passage of the ASWB clinical examination for licensure as a clinical social worker (Minn. Stats. 148E.055 (5) (a) 4.).

There is not a state statute specific examination for professional counselors and social workers. Neither the social work, marriage and family therapy, nor professional counselor rules nor statutes contain procedures for the review of examination or claims of examination error, nor a provision relating to the denial of the release of grades or issuance of a credential if the board determines that the applicant violated the rules of conduct or otherwise acted dishonestly.

Summary of factual data and analytical methodologies:

The Board reviewed its rules with the purpose of updating its processes and procedures. This rule removes obsolete provisions and clarifies and streamlines examination provisions which impact all the professions credentialed by the Board.

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

The rule was posted on the department’s website for 14 days to solicit input on possible economic impact. 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:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the hearing scheduled for 1:00 PM on December 10, 2019 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MPSW 1.05 (3) is amended to read:

MPSW 1.05 (3) The social work examination process consists of a ~~2 part examination~~² examinations. ~~Part I is an~~^{One} examination ~~pertaining~~^{tests} entry level competency in the practice area for which the credential is sought, to the profession; part II ~~The other examination is an examination on~~ tests knowledge of the provisions of the Wisconsin Statutes and Administrative Code that pertain to the practice area~~profession~~. ~~Parts I and II of the examination administered under this chapter test entry level competency in the practice area for which the credential is sought. Parts I and II of the examination seek to determine that an applicant's knowledge is sufficient to protect public health, safety and welfare.~~

SECTION 2. MPSW 1.05 (5) is repealed.

SECTION 3. MPSW 1.05 (6) and (7) are amended to read:

MPSW 1.05 (6) Applicants shall pass each ~~part of the~~ examination. An applicant who fails ~~either part I or part II of the~~ an examination shall retake that ~~part of the~~ examination. The passing grade on each ~~part of the~~ examination is determined by the board to represent competence sufficient to protect the public health, safety and welfare. The board may adopt the recommended passing score of the examination provider for ~~part I of the examination~~ testing entry level competency.

(7) An applicant for certification as a social worker, advanced practice social worker, or independent social worker or for licensure as a clinical social worker, need not take the examination testing provisions of the Wisconsin Statutes and Administrative Code that pertain to the profession if ~~within the 5 years preceding the date of application,~~ the applicant took and passed ~~part II~~ the state statute and administrative code examination in the process of applying for and receiving another social worker credential from the section.

SECTION 4. MPSW 1.06 and 1.07 are repealed.

SECTION 5. MPSW 3.01 (3) is amended to read:

MPSW 3.01 (3) Verification of successful completion of the ~~examination~~ required examinations.

SECTION 6. MPSW 3.05 (3) is amended to read:

MPSW 3.05 (3) Verification of successful completion of the ~~examination~~ required examinations.

SECTION 7. MPSW 3.07 (4) is amended to read:

MPSW 3.07 (4) Verification of successful completion of the ~~examination approved by the section~~ required examinations, or verification that the applicant has obtained certification of the Academy of Certified Social Workers (ACSW) of the National Association of Social Workers.

SECTION 8. MPSW 3.09 (4) is amended to read:

MPSW 3.09 (4) Verification of successful completion of the ~~examination approved by the section~~ required examinations, or verification that the applicant has obtained certification of the Academy of Certified Social Workers (ACSW) of the National Association of Social Workers.

SECTION 9. MPSW 3.11 is amended to read:

MPSW 3.11 (1) The social worker section may issue a temporary certificate permitting the use of the title “social worker” to an individual who pays the fee under s. 440.05 (6), Stats., and who meets all the qualifications for the social worker certificate except for passing the required ~~examination~~ examinations.

(2) The social worker section may issue a temporary certificate permitting the use of the title “advanced practice social worker” to an individual who pays the fee under s. 440.05 (6), Stats., and who meets all the qualifications for the advanced practice social worker certificate except for passing the required ~~examination~~ examinations.

(3) The social worker section may issue a temporary certificate permitting the use of the title “independent social worker” to an individual who pays the fee under s. 440.05 (6), Stats., and who meets all the qualifications for the independent social worker certificate except for passing the required ~~examination~~ examinations.

(4) The social worker section may issue a temporary license permitting the practice of clinical social work and the use of the title “clinical social worker” to an individual who pays the fee under s. 440.05 (6), Stats., and who meets all the qualifications for the clinical social worker license except for passing the required ~~examination~~ examinations.

(5) The temporary credential expires upon notification of successful completion of the ~~examination~~ required examinations or expiration of the 9 month period, whichever is earlier. The temporary credential may be renewed once.

SECTION 10. MPSW 5.01 is amended to read:

MPSW 5.01 (1) An applicant for certification as a social worker, advanced practice social worker, or independent social worker or for licensure as a clinical social worker shall pass all ~~parts of the examination~~ examinations required by the social worker section, unless the applicant is exempt from the examination requirement.

(2) An applicant for certification as a social worker shall successfully complete the ~~examination consisting of the~~ Wisconsin statutes and rules examination and an examination approved by the section. Both ~~parts of the examination~~ examinations may be taken prior to completion of the required degree.

(3) An applicant for certification as an advanced practice social worker shall successfully complete the ~~examination consisting of the~~ Wisconsin statutes and rules examination and an examination approved by the section. Both ~~parts of the examination~~ examinations may be taken prior to completion of the required degree.

(4) An applicant for certification as an independent social worker shall successfully complete the ~~examination consisting of the~~ Wisconsin statutes and rules examination and an examination approved by the section. Both ~~parts of the examination~~ examinations may be taken prior to completion of the required period of supervised practice.

(5) An applicant for licensure as a clinical social worker shall successfully complete the ~~examination consisting of the~~ Wisconsin statutes and rules examination and an examination approved by the section. Both ~~parts of the examination~~ examinations may be taken prior to completion of the required period of supervised practice.

SECTION 11. 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)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) MPSW 1, 3, and 5	
4. Subject Examinations	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule This rule project amends the MPSW code to reflect that social work credential applicants take two separate examinations, a national examination to test competency, and a state statutes and codes examination. Currently the rules refer to these separate examinations as two parts of the same examination. This may result in confusion to applicants and other stakeholders. The rule project also will remove obsolete references to examination review and claims of examination error.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services's website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of the EIA.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule Implementing this rule will provide clarity to applicants and stakeholders as to the examination process, as well as bring the code into conformity with current practice. Failure to implement this rule will result in a continued lack of clarity for stakeholders and applicants.	
16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is that the examination process for credential holders will be more clear for applicants.	

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17. Compare With Approaches Being Used by Federal Government

The federal government does not issue credentials or set examination procedures for marriage and family therapists, professional counselors, or social workers

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

Illinois requires applicants for licensure as a marriage and family therapist to pass the Association of Marital & Family Therapy Regulatory Boards (AMFTRB) national examination (Ill. Admin. Code s. 1283.40). Social work applicants are required to pass the Association of Social Work Boards (ASWB) masters examination for a licensed social workers, and the clinical examination for clinical social workers. (Ill. Admin. Code s. 1470.70). For licensure as a professional counselor, an applicant may pass either the National Counselor Examination (NCE) or the Certified Rehabilitation Counselor Examination (CRCC) (Ill. Admin. Code s. 1375.60). Licensure as a clinical professional counselor requires passage of the NCE in addition to the National Clinical Mental Health Counseling Examination (NCMHCE) (Ill. Admin. Code s. 1375.150 (a)).

There is not a state statute specific examination. Nor do the social work, marriage and family therapy, nor professional counselor rules contain procedures for the review of examination or claims of examination error, nor a provision relating to the denial of the release of grades or issuance of a credential if the board determines that the applicant violated the rules of conduct or otherwise acted dishonestly.

Iowa: Iowa requires an applicant for licensure as a marital and family therapist to pass the AMFTRB examination in marital and family therapy (IAC 31.3 (1) (a)). Applicants for licensure as mental health counselor are required to pass either the NCE or the NCMHCE) (IAC 31.3 (1) (b)). Applicants for a social work license must pass the ASWB examination at the level commensurate with their credential (IAC 280.4 (1)). For example, a bachelor level social worker must pass the basic level examination, a master level social worker must pass the intermediate level examination, and an independent level social worker must pass the clinical level examination (Id.).

There is not a state statute specific examination. Nor do the social work, marriage and family therapy, nor professional counselor rules contain procedures for the review of examination or claims of examination error, nor a provision relating to the denial of the release of grades or issuance of a credential if the board determines that the applicant violated the rules of conduct or otherwise acted dishonestly.

Michigan: Applicants for licensure as a marriage and family therapist must pass the AMFTRB marital and family therapy examination (R. 338.7205 (d)). Bachelor's level social workers must pass the ASWB bachelor's examination (R. 338.2941 (1) (c)), master's level social workers must pass either the ASWB advanced generalist examination or clinical examination (R. 338.2951 (1) (b) and 338.2953 (b)). Licensure as a professional counselor requires passage of either the NCE or CRCC examination (R. 338.1752 (3) (b)).

There is not a state statute specific examination. Nor do the social work, marriage and family therapy, nor professional counselor rules contain procedures for the review of examination or claims of examination error, nor a provision relating to the denial of the release of grades or issuance of a credential if the board determines that the applicant violated the rules of conduct or otherwise acted dishonestly.

Minnesota: Licensure as a marriage and family therapist in Minnesota requires passage of both the AMFTRB marital and family therapy examination as well as a state oral examination testing knowledge of state laws, ethics, and professional responsibilities (Minn. Admin. Code 5300.0130 (1) (F)). Licensure as a professional counselor is set by state statute, and requires passage of the NCE or an equivalent national examination as determined by the board, and

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ethical, oral, and situational examinations if prescribed by the board (Minn. Stats. 148B.53 (1) (a) 5.). It does not appear that the board has approved additional examinations or prescribed additional testing by rule.

Licensure as a licensed social worker requires passage of the ASWB bachelor's examination (Minn. Stats. 148E.055 (2) (a) 2.), passage of the master's examination administered by the ASWB for licensure as a licensed graduate social worker (Minn. Stats. 148E.055 (3) (a) 2.), passage of the advanced generalist ASWB examination for licensure as an independent social worker (Minn. Stats. 148E.055 (4) (a) 3.), and passage of the ASWB clinical examination for licensure as a clinical social worker (Minn. Stats. 148E.055 (5) (a) 4.).

There is not a state statute specific examination for professional counselors and social workers. Neither the social work, marriage and family therapy, nor professional counselor rules nor statutes contain procedures for the review of examination or claims of examination error, nor a provision relating to the denial of the release of grades or issuance of a credential if the board determines that the applicant violated the rules of conduct or otherwise acted dishonestly.

19. Contact Name Jon Derenne, Administrative Rules Coordinator	20. Contact Phone Number (608) 266-0955
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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)
 Yes No



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 19-137

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

a. The board should add s. 457.08 (1) (c), (2) (c), (3) (d), and (4) (d), Stats., to the list of statutes interpreted, since those are the statutes that require applicants to pass one or more exams approved by the board. The board should also consider adding a summary of 2017 Wisconsin Act 357, which was enacted following the Joint Committee for Review of Administrative Rules’ objection to a proposed rule repeal, for the express purpose of ensuring the board’s authority to continue to require more than one exam.

b. The plain language analysis states the rule clarifies that there are two exams required for licensure under the chapter but, as proposed, s. MPSW 1.05 (1) states that the **social work** exam process consists of two exams. Does the board intend to require two exams for all of the license types it issues? As proposed, the requirement would not apply to marriage and family therapists or professional counselors, even though that is expressly authorized under Act 357’s changes to s. 457.10 (4), Stats. To add clarity, the board should consider:

- (1) Specifying in s. MPSW 1.05 (3) which license types are required to complete the two exams (social workers, advanced practice social workers, etc.). The rule summary’s plain language analysis should also be reviewed for consistency.
- (2) Amending the title to s. MPSW 1.05, if the board does not intend for the substance of the rule to apply to “Examination provisions for all sections.”.

c. The board should review the proposed rule's amended text in its entirety to ensure that all material intended to be removed from the code is indicated with stricken-through text and all material intended to be added is shown as underscored text. [s. 1.06 (1), Manual.]