



**VIRTUAL/TELECONFERENCE
PSYCHOLOGY EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Brad Wojciechowski (608) 266-2112
July 8, 2021**

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 record of the actions of the Board.

AGENDA

2:00 P.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1)

B. Administrative Rule Matters – Discussion and Consideration

- 1) CR 21-003 (Psy 2), Relating to Discrimination Based on Arrest or Conviction Record
(2-7)

C. Public Comments

ADJOURNMENT

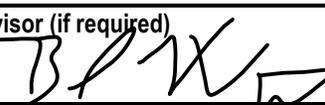
NEXT DATE: JULY 14, 2021

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, 608-266-2112, or the Meeting Staff at 608-266-5439.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Brad Wojciechowski		2) Date When Request Submitted: July 6, 2021 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Psychology Examining Board			
4) Meeting Date: July 8, 2021	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Admin Rule Matters – CR 21-003 (Psy 2), Relating to Discrimination Based on Arrest or Conviction Record	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Line Item meeting to discuss, approve, and to grant authority to the Chair to sign the final draft of CR21-003.			
11) Authorization			
 Signature of person making this request		07-01-2021 Date	
Supervisor (if required)  Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date 07-01-2021	
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
PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PSYCHOLOGY EXAMINING BOARD
PSYCHOLOGY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 21-003)

PROPOSED ORDER

An order of the Psychology Examining Board to repeal and recreate Psy 2.01 (8) relating to discrimination based on arrest or conviction record.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 111.321, 111.322, 111.335 and 455.04 (1) (b), Stats.

Statutory authority: Section 15.08 (5) (b), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats.: 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.

Related statute or rule: None.

Plain language analysis:

2017 Wisconsin Act 278 enacted statutory changes to ch. 111, Stats., prohibiting a licensing agency from refusing to license an individual, or suspending a license, on the basis of a substantially related pending criminal charge, unless the charge is for one of certain specified crimes against a child or life and bodily security, or a violent crime against a child.

This rule project revises Psy 2 pertaining to applications in order to clarify that applicants are required to submit documentation of their conviction record, and are only required to submit documentation of a pending charge if it is substantially related to the practice and it involves a crime against a child or life and bodily security, or a violent crime against a child, as defined in s. 111.335, Stats.

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:

A preliminary hearing on scope for SS 006-19, revising Psy 2, was held at the July 24, 2019 meeting of the Psychology Examining Board. No comments were received.

Comparison with rules in adjacent states:

Illinois: Illinois law allows the Department of Financial Regulation, which regulates psychologists, to: "...refuse to issue, refuse to renew, suspend, or revoke any license, or may place on probation, reprimand, or take other disciplinary or non-disciplinary action deemed appropriate by the Department, including the imposition of fines not to exceed \$10,000 for each violation" where a licensee or applicant has been convicted of, or entered a nolo contendere or guilty plea, any felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice of the profession (225 ILCS 15/15 (1)).

Iowa: Iowa licensed psychologists may be disciplined, including revocation or suspension of a license, if they are convicted of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred (645 IA Admin Code s. 242.2).

Michigan: A Michigan psychologist license can be denied, suspended, revoked, or limited if the psychologist exhibits a lack of good moral character, or has been convicted of the following (MCLS s. 333.16221):

“(v) Conviction of a misdemeanor punishable by imprisonment for a maximum term of 2 years; conviction of a misdemeanor involving the illegal delivery, possession, or use of a controlled substance; or conviction of any felony other than a felony listed or described in another subparagraph of this subdivision. A certified copy of the court record is conclusive evidence of the conviction.

(vi) Lack of good moral character.

(vii) Conviction of a criminal offense under section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g. A certified copy of the court record is conclusive evidence of the conviction.

(viii) Conviction of a violation of section 492a of the Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy of the court record is conclusive evidence of the conviction.

(ix) Conviction of a misdemeanor or felony involving fraud in obtaining or attempting to obtain fees related to the practice of a health profession. A certified copy of the court record is conclusive evidence of the conviction.

(x) Final adverse administrative action by a licensure, registration, disciplinary, or certification board involving the holder of, or an applicant for, a license or registration regulated by another state or a territory of the United States, by the United States military, by the federal government, or by another country. A certified copy of the record of the board is conclusive evidence of the final action.

(xi) Conviction of a misdemeanor that is reasonably related to or that adversely affects the licensee's or registrant's ability to practice in a safe and competent manner. A certified copy of the court record is conclusive evidence of the conviction.

(xii) Conviction of a violation of section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430. A certified copy of the court record is conclusive evidence of the conviction.

(xiii) Conviction of a criminal offense under section 83, 84, 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.84, 750.316, 750.317, 750.321, 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the court record is conclusive evidence of the conviction.

(xiv) Conviction of a violation of section 136 or 136a of the Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A certified copy of the court record is conclusive evidence of the conviction.”

Minnesota:

Under the Minnesota Psychology Board's rules of conduct, licensed psychologists must not violate any law in which the facts giving rise to the violation involve the practice of psychology. Violations of the rules of conduct can result in disciplinary action including denial of licensure. (Minn. Admin Rules s. 7200.4500 and 7200.5500).

Summary of factual data and analytical methodologies:

The Psychology Examining Board reviewed and seeks to revise its rules to bring them into compliance with the statutory changes enacted by 2017 Wisconsin Act 278.

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 input on possible economic impact. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon its completion.

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:

Kevyn Radcliffe, 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 608-266-0717; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Kevyn Radcliffe, 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 public hearing on March 31, 2021 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Psy 2.01 (8) is repealed and recreated to read

Psy 2.01 (8) Documentation necessary for the Board to determine, subject to ss. 111.321, 111.322, and 111.335, Stats., whether any of the following apply:

(a) The applicant has a pending charge for an exempt offense as defined in s. 111.335 (1m) (b), Stats. or a violent crime against a child, as defined in s. 111.335 (1m) (d), Stats., which is substantially related to the practice of a psychologist.

(b) The applicant has been convicted of a crime substantially related to the practice of a psychologist.

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)

This Proposed Order of the Psychology Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chairperson
Psychology Examining Board