

Notice of Hearing

The Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board announces that it will hold a public hearing on a permanent rule for MPSW 1 to 20, relating to Counseling Compact at the time and place shown below.

Hearing Information

Date: July 16, 2025

Time: 11:30 AM

Location: Information concerning the location of the hearing will be available at:
<https://dsps.wi.gov/Pages/BoardsCouncils/MPSW/Meetings.aspx>

Appearances at the Hearing and Submittal of Written Comments

The rule may be reviewed, and comments made at
https://docs.legis.wisconsin.gov/code/scope_statements/comment

Comments may be submitted to Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison Wisconsin 53708-8366 or by email to DSPSAdminRules@wisconsin.gov

Comments must be received at or before the hearing to be included in the record of rule-making proceedings.

Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).

Agency Small Business Regulatory Coordinator

The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by phone at (608) 266-2112.

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

| | | |
|------------------------------|---|------------------------------|
| IN THE MATTER OF RULE-MAKING | : | 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 11.01 (title), 11.04 (intro), 20.02 (intro), and 20.02 (2) and (4); and **to create** MPSW 10.01 (1g), (1h), (3), (5m), 11.05, and 11.06; relating to counseling compact.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Subchapter II of chapter 457, Stats.

Statutory authority:

Sections 15.08 (5) (b) and 227.11 (2) (a).

Explanation of agency authority:

Section 15.08 (5) (b), Stats., states that an 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 227.11 (2) (a), Stats., states that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

Related statute or rule:

Ch. PT 1.

Plain language analysis:

The Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board conducted a comprehensive evaluation of its rules to implement the Counseling Compact established by 2023 Wisconsin Act 55 to ensure clarity and consistency with applicable Wisconsin statutes. The following updates were made:

- Created definitions of “counseling compact”, “privilege to practice” and “single state license”.
- Identify the requirements for obtaining a license based upon the privilege to practice and also the requirements to obtain a privilege to practice.
- Amended the unprofessional conduct requirements in MPSW 20 to also apply to those practicing in Wisconsin under a privilege to practice.

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 Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board held a preliminary hearing on the scope statement for this rule at its July 16, 2024 meeting. No comments were received.

Comparison with rules in adjacent states:

Illinois

Illinois is not a member state of the Counseling Compact yet, though in 2024 they introduced legislation to become part of the Compact.

Iowa

Iowa is a member of the Counseling Compact and has incorporated the rules of the Counseling Compact Commission by reference in their Administrative Code. [481 IAC 891.4 (147)] The full extent of the provisions for privilege to practice and license based on a privilege to practice are contained in section 147H.1 of the Iowa Statutes.

Michigan

Michigan is not a member state of the Counseling Compact.

Minnesota

Minnesota is a member state of the Counseling Compact. The provisions regarding privilege to practice and licensed based on privilege to practice are stated in chapter 148B section 148B.75 of the Minnesota Statutes.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing chapters MPSW 1 to 20 and implementing 2023 Wisconsin Act 55 to ensure that the code is compliant with statutory changes and with current standards of practice. No additional factual data or analytical methodologies were used to develop the proposed rules.

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

The rule draft was posted on the department's website for 14 days to solicit economic impact comments from local governments and small businesses. 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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4463; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Sofia Anderson, 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 beginning of the public hearing scheduled for July 16, 2025, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MPSW 10.01 (1g) and (1h) are created to read:

MPSW 10.01 (1g) “Counseling compact” has the meaning given in s. 457.01 (1t), Stats.

MPSW 10.01 (1h) “Counseling compact commission” has the meaning given in s. 457.50 (2) (e), Stats.

SECTION 2. MPSW 10.01 (3) is created to read:

MPSW 10.01 (3) “Privilege to practice” has the meaning given in s. 457.50 (2) (s), Stats.

SECTION 3. MPSW 10.01 (5m) is created to read:

MPSW 10.01 (5m) “Single state license” has the meaning given in s. 457.50 (2) (w), Stats.

SECTION 4. MPSW 11.01 (title) is amended to read:

MPSW 11.01 Application for licensure single-state license as a professional counselor.

SECTION 5. MPSW 11.04 (intro) is amended to read:

MPSW 11.04 Reciprocal license. Except as provided in s. MPSW 11.045, 11.05, and 11.06, the professional counselor section shall grant a license as a professional counselor to an applicant who pays the fee required by s. 440.05 (2), Stats., and provides evidence of all of the following:

SECTION 6. MPSW 11.05 and 11.06 are created to read:

MPSW 11.05 Privilege to practice. An individual licensed in a member state of the counseling compact wishing to practice in Wisconsin shall hold a Wisconsin privilege to practice issued by the counseling compact commission, or any successor organization. An applicant seeking a privilege to practice in Wisconsin shall complete the application process established by the counseling compact commission, including payment of the fee established by the department under s. 457.51(2).

Note: Instructions on how to obtain the privilege to practice can be found at the counseling compact commission’s website at <http://counselingcompact.gov>

MPSW 11.06 License based upon privilege to practice. A professional counselor licensed in a state part of the counseling compact applying for licensure in this state shall submit evidence of all of the following:

- (1) A valid privilege to practice pursuant to MPSW 11.05.
- (2) A completed application and the fee specified in s. 440.05 (1), Stats.

Note: Instructions for applications can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.

- (3) An attestation that Wisconsin is the applicant's primary state of residence.
- (4) A federal bureau of investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the counseling compact commission as specified in s. 457.50 (5) (b) 2.a., Stats.

SECTION 7. MPSW 20.02 (intro) is amended to read:

MPSW 20.02 Unprofessional conduct. Unprofessional conduct related to the practice under a privilege to practice or a credential issued under ch. 457, Stats., includes engaging in, attempting to engage in, or aiding or abetting the following conduct:

SECTION 8. MPSW 20.02 (2) and (4) are amended to read:

MPSW 20.02 (2) Violating a law of any jurisdiction, the circumstances of which substantially relate to the practice under the credential or privilege to practice.

MPSW 20.02 (4) Using fraud or deception in the application for a credential or privilege to practice.

SECTION 9. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

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 April 28, 2025 | | | | | | | | |
| 3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) MPSW 1 to 20 | | | | | | | | | |
| 4. Subject Counseling Compact | | | | | | | | | |
| 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 s.20.165(1)(g) | | | | | | | | |
| 7. Fiscal Effect of Implementing the Rule <table style="width: 100%;"><tr><td><input type="checkbox"/> No Fiscal Effect</td><td><input type="checkbox"/> Increase Existing Revenues</td><td><input checked="" type="checkbox"/> Increase Costs</td><td><input type="checkbox"/> Decrease Costs</td></tr><tr><td><input type="checkbox"/> Indeterminate</td><td><input type="checkbox"/> Decrease Existing Revenues</td><td colspan="2"><input type="checkbox"/> Could Absorb Within Agency's Budget</td></tr></table> | | <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 type="checkbox"/> Could Absorb Within Agency's Budget | |
| <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 type="checkbox"/> Could Absorb Within Agency's Budget | | | | | | | |
| 8. The Rule Will Impact the Following (Check All That Apply) <table style="width: 100%;"><tr><td><input type="checkbox"/> State's Economy</td><td><input type="checkbox"/> Specific Businesses/Sectors</td></tr><tr><td><input checked="" type="checkbox"/> Local Government Units</td><td><input type="checkbox"/> Public Utility Rate Payers</td></tr><tr><td colspan="2"><input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</td></tr></table> | | <input type="checkbox"/> State's Economy | <input type="checkbox"/> Specific Businesses/Sectors | <input checked="" type="checkbox"/> Local Government Units | <input type="checkbox"/> Public Utility Rate Payers | <input type="checkbox"/> Small Businesses (if checked, complete Attachment A) | | | |
| <input type="checkbox"/> State's Economy | <input type="checkbox"/> Specific Businesses/Sectors | | | | | | | | |
| <input checked="" 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). \$N/A | | | | | | | | | |
| 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 The Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board conducted a comprehensive evaluation of its rules to implement the Counseling Compact established by 2023 Wisconsin Act 55 to ensure clarity and consistency with applicable Wisconsin statutes. The following updates were made: <ul style="list-style-type: none">• Created definitions of "counseling compact", "privilege to practice" and "single state license".• Identify the requirements for obtaining a license based upon the privilege to practice and also the requirements to obtain a privilege to practice.• Amended the unprofessional conduct requirements in MPSW 20 to also apply to those practicing in Wisconsin under a privilege to practice. | | | | | | | | | |
| 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 rule draft was posted on the department's website for 14 days to solicit economic impact comments from local governments and small businesses. No comments were received. | | | | | | | | | |
| 13. Identify the Local Governmental Units that Participated in the Development of this EIA. None | | | | | | | | | |
| 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) DSPS estimates a total of \$29,255.00 in one-time and \$72,200.00 in ongoing staffing costs to implement the rule. The estimated need for 0.7 limited term employee (LTE) is for rule promulgation, legal review, internal review and consultation, training and updating systems and forms. The estimated annual staffing need for a 0.9 full time employee (FTE) is for reviewing and processing compact applications and background checks, answering inquiries or escalations. The one-time and annual estimated costs cannot be absorbed in the currently appropriated agency budget. | | | | | | | | | |

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit of implementing the rule is to implement the statutory changes from 2023 Wisconsin Act 55, which establishes Wisconsin as a member of the Counseling Compact. An alternative would be to not revise the code to reflect these new requirements, which would create confusion and a lack of clarity for stakeholders as to what is required of professional counselors and the board as it relates to the new statutory requirements.

16. Long Range Implications of Implementing the Rule

The long range implications of implementing this rule is clear requirements for practicing professional counseling in Wisconsin under the Counseling Compact.

17. Compare With Approaches Being Used by Federal Government

N/A

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

Illinois

Illinois is not a member state of the Counseling Compact yet, though in 2024 they introduced legislation to become part of the Compact.

Iowa

Iowa is a member of the Counseling Compact and has incorporated the rules of the Counseling Compact Commission by reference in their Administrative Code. [481 IAC 891.4 (147)] The full extent of the provisions for privilege to practice and license based on a privilege to practice are contained in section 147H.1 of the Iowa Statutes.

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Michigan is not a member state of the Counseling Compact.

Minnesota

Minnesota is a member state of the Counseling Compact. The provisions regarding privilege to practice and licensed based on privilege to practice are stated in chapter 148B section 148B.75 of the Minnesota Statutes.

19. Contact Name

Sofia Anderson

20. Contact Phone Number

608-261-4463

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
