

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

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE :
MARRIAGE AND FAMILY THERAPY, : REPORT TO THE LEGISLATURE
PROFESSIONAL COUNSELING, AND : CR 19-137
SOCIAL WORK EXAMINING BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The rule project clarifies that there are two separate examinations required for licensure as a social worker, 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 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.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board held a public hearing on December 10, 2019. No public comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A

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 19-137)

PROPOSED ORDER

An order of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board to repeal MPSW 1.05 (3), (5), and (7), 1.06, 1.07, and 5.01 (2), (3), (4) and (5); and to amend MPSW 1.05 (6), 3.01 (3), 3.05 (3), 3.07 (4), 3.09 (4), and 3.11; to repeal and recreate MPSW 5.01 (1); and to create MPSW 5.01 (6), (7), and (8) relating to examinations.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 457.03 (1m) and (3), and 457.08 (1) (c), (2) (c), (3) (d), and (4) (d), Stats.

2017 Wisconsin Act 357 amended s. 457, Stats. to clarify that the MPSW board has the authority to require more than one exam of applicants.

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 as a social worker, 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 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) master's 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) and (5) are repealed.

SECTION 2. MPSW 1.05 (6) is 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.~~

SECTION 3. MPSW 1.05 (7), 1.06 and 1.07 are repealed.

SECTION 4. MPSW 3.01 (3) is amended to read:

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

SECTION 5. MPSW 3.05 (3) is amended to read:

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

SECTION 6. 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 7. 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 is a board certified diplomat (BCD) of the American Board of Examiners in clinical social work

SECTION 8. 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 9. MPSW 5.01 (1) is repealed and recreated to read:

MPSW 5.01 Examination. (1) The social worker, advanced practice social worker, independent social worker, and clinical social worker examination process consists of 2 examinations. One examination tests entry level competency in the practice area for which the credential is sought. The other examination tests knowledge of the provisions of the Wisconsin Statutes and Administrative Code that pertain to the relevant practice area. Applicants shall pass each examination.

SECTION 10. MPSW 5.01 (2), (3), (4) and (5) are repealed.

SECTION 11. MPSW 5.01 (6), (7), and (8) are created to read:

MPSW 5.01 (6) Both of the required examinations for certification as a social worker, or advanced practice social worker, may be taken prior to the completion of the required degree.

(7) Both of the required examinations for certification as an independent social worker, and for licensure as a clinical social worker, may be taken prior to completion of the required period of supervised practice.

(8) 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 the applicant took and passed the state statute and administrative code examination in the process of applying for and receiving another social worker credential from the section.

SECTION 12. 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 Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board is approved for submission to the Governor and Legislature.

Dated 12-18-19

Agency Kristin Koger ^(dov)
Chair

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

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) MPSW 1, 3, and 5</p>	
<p>4. Subject Examinations</p>	
<p>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</p>	<p>6. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)</p>
<p>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</p>	
<p>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)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>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</p>	
<p>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.</p>	
<p>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.</p>	
<p>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.</p>	
<p>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.</p>	
<p>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.</p>	
<p>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.</p>	

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

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)).

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

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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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
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