

**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 19-138
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:

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 600 hours.

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. The following people either testified at the hearing, or submitted written comments:

Mark Herstand, representing the National Association of Social Workers – Wisconsin Chapter
Michael P. Wallace
Jerrold B. Rousseau
Charles Zastrow

The Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board summarizes the comments received either by hearing testimony or by written submission as follows:

The NASW of WI is opposed to Clearinghouse Rule 19-138 setting the required DSM treatment and diagnosis hours at 500, and recommends increasing it to 600 to ensure clinical social workers practicing in Wisconsin have adequate training to provide quality care to clients and to ensure the safety of all Wisconsin residents. The association does not believe 600 hours as opposed to 500 would be an impediment to mobility for out of state license holders.

Michael P. Wallace, Jerrold B. Rousseau, and Charles Zastrow either submitted written comments or provided oral testimony expressing the same viewpoint of the NASW of WI on their own behalf.

The Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board explains modifications to its rule-making proposal prompted by public comments as follows:

The Board changed the required hours of DSM treatment and diagnosis from 500 to 600 in response to the public comments 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 19-138)

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.

2017 Wisconsin Act 356 amended s. 457, Stats. to clarify that the MPSW board has the authority to require up to 600 of the 1,000 face-to-face client contact hours include DSM diagnosis and treatment.

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 600 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 hours of supervised social work practice, which shall include psychosocial assessments, including evaluation of

symptoms and behaviors and the 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 600 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 600 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. Initial Applicability. This rule first applies to license applications that are submitted three months after the effective date of this rule.

SECTION 3. 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 Kushn Kogur 
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 3</p>	
<p>4. Subject Practice requirement for licensure as a clinical social worker.</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 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.</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 this 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 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</p>	

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)

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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
-