

**STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
PSYCHOLOGY EXAMINING BOARD : CR 19-117**

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 purpose of the rule is to bring the rule in compliance with 2017 Act 59 by removing the random continuing education audit and replacing with an audit for continuing education compliance only if a complaint is made against the credential holder. In addition, the purpose is to update the renewal and reinstatement of license requirements to create clarity.

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

The Psychology Examining Board held a public hearing on October 2, 2019. No one testified or submitted written comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

The recommendations suggested in the Clearinghouse Report have been accepted in whole.

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

There is no economic impact on small businesses.

STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PSYCHOLOGY EXAMINING BOARD
PSYCHOLOGY EXAMINING : ADOPTING RULES
BOARD : (CLEARINGHOUSE RULE 19-117)

PROPOSED ORDER

An order of the Psychology Examining Board to repeal Psy 4.06; to amend Psy 4.05 (2); and to create Psy 4.017, relating to continuing education audits, and the renewal and reinstatement of licenses.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 440.035 (2) and 440.08 (3) (b), Stats.

Statutory authority: ss. 15.08 (5) (b), 440.035 (2), and 440.08 (3) (b), Stats.

Explanation of agency authority:

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. [s. 15.08 (5) (b), Stats.]

Except as otherwise permitted in chs. 440 to 480, an examining board or affiliated credentialing board attached to the department or an examining board may require a credential holder to submit proof of the continuing education programs or courses that he or she has completed only if a complaint is made against the credential holder. [s. 440.035 (2), Stats.]

The department or the interested examining board or affiliated credentialing board, as appropriate, may promulgate rules requiring the holder of a credential who fails to renew the credential within 5 years after its renewal date to complete requirements in order to restore the credential, in addition to the applicable requirements for renewal established under chs. 440 to 480, that the department, examining board or affiliated credentialing board determines are necessary to protect the public health, safety or welfare. The rules may not require the holder to complete educational requirements or pass examinations that are more extensive than the educational or examination requirements that must be completed in order to obtain an initial credential from the department, the examining board or the affiliated credentialing board. [s. 440.08 (3) (b), Stats.]

Related statute or rule: Psy 4

Plain language analysis:

The proposed revisions remove the authority for random audits of continuing education, in compliance with s. 440.035, Stats. The current Psy 4.05(2) provides for random continuing education audits and this proposed revision is made in order to conform to s. 440.035 (2), Stats. as that particular statute permits investigation of continuing education compliance only upon complaint against a credential holder.

Additionally, the rule provides the procedure for late renewal and reinstatement for those licensees who are renewing an expired license, in compliance with s. 440.08 (3) (b), Stats.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

The Illinois Department of Financial and Professional Regulation licenses clinical psychologists, prescribing psychologists, prescribing psychologists controlled substance, and prescribing psychologists clinical rotation program. Random audits of continuing education are performed. Additionally, Illinois offers “restoration” of an inactive license requiring verification of active practice is another jurisdiction, one year in an approved education program, six months in a supervised experience, or passing the examination.

Iowa:

The Iowa Board of Psychology is in the Bureau of Professional Licensure in the Department of Public Health. Random audits of continuing education are performed each renewal cycle. Additionally, Iowa offers “reactivation” of an inactive license, requiring an application, fee, verification of competence through a current license in another jurisdiction, and evidence of having completed 40 hours of continuing education, or, if the license has been inactive for more than five years, evidence of having completed 80 hours of continuing education.

Michigan:

The Michigan Board of Psychology is in the Department of Licensing and Regulatory Affairs. Continuing education is required for renewal starting in September 2019, and the department may audit licensees. Additionally, Michigan offers “relicensure.” If a license expired less than three years ago, the licensee is required to complete 30 hours of continuing education. If it has been more than three years, complete 30 hours of continuing education and provide evidence of a current license in another jurisdiction or, if no current license, complete the examination.

Minnesota:

The Minnesota Board of Psychology is a stand-alone agency. Random audits of continuing education are performed each month. Additionally, the Board offers “relicensure” after a voluntary or board termination if the licensee has not practiced without a license and complied with the requirements for examination and licensure in effect at the time of application for relicensure.

Summary of factual data and analytical methodologies:

The Board reviewed the current code and made revisions to reflect current statutory language and professional practice.

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

This rule was posted on website for economic comments and none were received. This rule does not have an impact on small businesses.

Fiscal Estimate and Economic Impact Analysis: 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.Herehth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, 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 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. Psy 4.017 is created to read:

- Psy 4.017 Late Renewal and Reinstatement. (1) GENERAL.** A person renewing an expired license may not reapply for a license using the initial application process.
- (2) RENEWAL WITHIN 5 YEARS.** A person renewing the license within 5 years shall do all of the following:
- (a) Pay the renewal fee as determined by the department under s. 440.03 (9) (a), Stats., and any applicable late renewal fee.
 - (b) Certify the completion of 30 hours of continuing education during the last biennium.
- (3) RENEWAL AFTER 5 YEARS.** This subsection does not apply to license holders who have unmet disciplinary requirements. A person renewing the license after 5 years shall do all of the following:

(a) Pay the renewal fee as determined by the department under s. 440.03 (9) (a), Stats., and the renewal late fee.

(b) Evidence of one of the following:

1. An active credential in good standing in another state.
2. Completion of 80 hours of approved continuing education, including 12 hours of ethics, risk management, or jurisprudence, within the preceding 2 years.

(4) REINSTATEMENT. A person who has unmet disciplinary requirements and failed to renew the license within 5 years or whose license has been surrendered or revoked may apply to have the license reinstated in accordance with all of the following:

- (a) Evidence of completion of the requirements in sub. (3) if the license has not been active within 5 years.
- (b) Evidence of completion of the disciplinary requirements, if applicable.
- (c) Evidence of rehabilitation or change in circumstances warranting reinstatement.

SECTION 2. Psy 4.05 (2) is amended to read:

Psy 4.05 (2) ~~The board may conduct a random audit of licensees on a biennial basis for compliance with continuing education requirements.~~ The board may conduct an audit for compliance with continuing education requirements on any licensee who has ~~come under investigation by the board for alleged misconduct~~ a complaint made against the licensee.

SECTION 3. Psy 4.06 is repealed.

SECTION 4. 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 1-9-2020


Chair
Psychology 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 26 August 2019</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Psy 4</p>	
<p>4. Subject Continuing education audits, and renewal and reinstatement of licenses</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). \$0.00</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 The proposed rule conforms the rule to 2017 Act 59 and clarifies the requirements for renewal and reinstatement of a license.</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. This rule was posted for economic impact comments and none were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None. There is no impact on local governmental units.</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 rule will not have an economic or fiscal 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 benefit to the proposed rule to is to have clear requirements for renewal and reinstatement of licenses and to be in compliance with statutes.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implications is less confusion regarding how a licensee renews or reinstates a license. In addition, the continuing education audit provision will be statutory compliant.</p>	
<p>17. Compare With Approaches Being Used by Federal Government None</p>	
<p>18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota) Illinois, Iowa and Minnesota conduct random audits of continuing education and Michigan authorizes audits of continuing education.</p>	

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

In Illinois, an inactive license may be restored by verification of active practice in another jurisdiction, completion of a one year education program, six months in a supervised experience, or passing an examination.

In Iowa, an inactive license may be reactivated by verification of practice in another jurisdiction and 40 hours of continuing education, or if inactive more than 5 years, completion of 80 hours of continuing education.

In Michigan, if the license has been expired less than 3 years, the licensee is required to complete 30 hours of continuing education. If the license has been expired more than 3 years, the licensee is required to provide evidence of a current license in another jurisdiction or pass an examination.

In Minnesota, if the licensee is required to complete the requirements for examination and licensure in effect at the time of application for relicensure.

19. Contact Name Sharon Henes	20. Contact Phone Number (608) 261.2377
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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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