

**STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
PSYCHOLOGY EXAMINING BOARD : CR 23-064**

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 Board is updating its Administrative Code chapters to bring them into alignment with 2021 Wisconsin Act 131, which establishes Wisconsin as a member of the Psychology Interjurisdictional Compact or PSYPACT. In order to bring the chapters into compliance, the Board is adding definitions of “E.Passport”, “IPC or Interjurisdictional Practice Certificate”, and “telepsychology”; creating a provision that applicants seeking initial licensure as a psychologist or interim psychologist will need to be fingerprinted; and establishing the requirements to hold an active IPC for temporary practice and an E.Passport to practice telepsychology.

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 January 17, 2024. A public comment was received from Dr. Bruce Erdmann from the Wisconsin Psychological Association (WPA). Dr Erdmann expressed his concern about the titling of the project because it states Psy 1 to 6, and the Administrative Code does not have a chapter 6. He also stated that WPA is in support of the changes. The Board clarified that initially they were considering creating a new chapter (Psy 6) to contain the PSYPACT provisions. However, after discussing the drafting of the rule, the Board decided that the creation of a new chapter was not needed and amended the current chapters as necessary.

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

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 October 27, 2023
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Psy 1 to 6	
4. Subject Implementation of Psychology Licensure 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 <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" 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) <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)	
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 Board is updating its Administrative Code chapters to bring them into alignment with 2021 Wisconsin Act 131, which establishes Wisconsin as a member of the Psychology Interjurisdictional Compact or PSYPACT. In order to bring the chapters into compliance, the Board is adding definitions of "E.Passport", "IPC or Interjurisdictional Practice Certificate", and "telepsychology"; creating a provision that applicants seeking initial licensure as a psychologist or interim psychologist will need to be fingerprinted; and establishing the requirements to hold an active IPC for temporary practice and an E.Passport to practice telepsychology.	
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. N/A	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. N/A	
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 \$12,900 in one-time costs and \$21,400 in annual costs for staffing and an indeterminate IT impact to implement the rule. The proposed rule aligns 2021 Wisconsin Act 131 with current industry, regulatory, and academic practices. The estimated one-time staffing need for .2 limited term employees (LTE) is for staff training, forms and sites updates, rule promulgation, statutory provision review, and contract management for compact administration. The estimated annual staffing need for .2 full time employee (FTE) is for legal investigations, processing of records requests, license monitoring, screening and prosecution of cases, and application review. The one-time estimated costs cannot be absorbed in the currently appropriated agency budget.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

.The benefits of implementing the rule are to implement the statutory changes from 2021 Wisconsin Act 131, which establishes Wisconsin as a member of the Psychology Interjurisdictional Compact or PSYPACT, and to update the Psychology Administrative Code to comply with the statutory changes. 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 psychologists 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 the regulation and licensure of psychologists in Wisconsin.

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 has been a participating state in the Psychology Interjurisdictional Compact (PSYPACT) since the law became effective on July 1, 2020. The requirements are established in chapter 45 ILCS 195 and address the compact privileges for temporary practice and telepsychology.

Iowa:

Iowa is not a participating state in the Psychology Interjurisdictional Compact (PSYPACT).

Michigan:

Michigan has been a participating state in the Psychology Interjurisdictional Compact (PSYPACT) since the law became effective on March 29, 2023. The requirements are established in chapter 333 MCL 16190 and address the compact privileges for temporary practice and telepsychology.

Minnesota:

Minnesota has been a participating state in the Psychology Interjurisdictional Compact (PSYPACT) since the law became effective on May 26, 2021. The requirements are established in chapter 148.9051 of the Minnesota Statutes and address the compact privileges for temporary practice and telepsychology.

19. Contact Name	20. Contact Phone Number
Sofia Anderson	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
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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 23-064)

PROPOSED ORDER

An order of the Psychology Examining Board to **repeal** Psy 2.14 (1) and 2.14 (2m); to **amend** Psy 1.01, and 5.02 (title) and (1); and to **create** Psy 1.02 (3m), (5r), (6L), (12), 2.01 (9), 2.012 (1) (g), 2.013 (6), 2.15, and 2.16, relating to implementation of the Psychology Licensure Compact.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 455.50, Stats.

Statutory authority:

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats. provides “[e]ach 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.”

Section 227.11 (2) (a), Stats. provides “[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:

Section 455.50, Stats.

Plain language analysis:

The Board is updating its Administrative Code chapters to bring them into alignment with 2021 Wisconsin Act 131, which establishes Wisconsin as a member of the Psychology Interjurisdictional Compact or PSYPACT. In order to bring the chapters into compliance, the Board is adding definitions of “E.Passport”, “IPC or Interjurisdictional Practice Certificate”, and “telepsychology”; creating a provision that applicants seeking initial licensure as a psychologist or interim psychologist will need to be fingerprinted; and establishing the requirements to hold an active IPC for temporary practice and an E.Passport to practice telepsychology.

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

N/A

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 has been a participating state in the Psychology Interjurisdictional Compact (PSYPACT) since the law became effective in 2020. The requirements are established in chapter 45 ILCS 195 and address the compact privileges for temporary practice and telepsychology.

Iowa:

Iowa is not a participating state in the Psychology Interjurisdictional Compact (PSYPACT).

Michigan:

Michigan has been a participating state in the Psychology Interjurisdictional Compact (PSYPACT) since the law became effective on March 29, 2023. The requirements are established in chapter 333 MCL 16190 and address the compact privileges for temporary practice and telepsychology.

Minnesota:

Minnesota has been a participating state in the Psychology Interjurisdictional Compact (PSYPACT) since the law became effective on May 26, 2021. The requirements are established in chapter 148.9051 of the Minnesota Statutes and address the compact privileges for temporary practice and telepsychology.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of Psy 1, 2, and 5, as changed by 2021 Wisconsin Act 131. The Board provided input and feedback to determine any changes or updates needed in addition to those enacted by Act 131.

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. 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; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. Psy 1.01 is amended to read:

Psy 1.01 Authority. The rules in chs. Psy 1 to 5 are adopted pursuant to authority of ss. 15.08 (5) (b), 227.11 (2), 455.045 (3), 455.065 (1), 455.065 (5), ~~and~~ 455.09 (1) (g), 455.50 (4), and 455.50 (5), Stats.

SECTION 2. Psy 1.02 (3m), (5r), (6L), and (12) are created to read:

(3m) "Day" has the meaning given in s. 455.03 (1) (a), Stats.

(5r) "E.Passport" has the meaning given in s. 455.50 (2) (g), Stats.

(6L) "Interjurisdictional practice certificate (IPC)" has the meaning given in s. 455.50 (2) (im), Stats.

(12) "Telepsychology" has the meaning given in s. 455.50 (2) (nm), Stats.

SECTION 3. Psy 2.01 (9) is created to read:

(9) Fingerprint or other biometric-based information for the purpose of obtaining an applicant's criminal history information from the federal bureau of investigation and the Wisconsin department of justice in a manner directed by the department.

SECTION 4. Psy 2.012 (1) (g) is created to read:

(g) Fingerprint or other biometric-based information for the purpose of obtaining an applicant's criminal history information from the federal bureau of investigation and the Wisconsin department of justice in a manner directed by the department.

SECTION 5. Psy 2.013 (6) is created to read:

(6) Fingerprint or other biometric-based information for the purpose of obtaining an applicant's criminal history information from the federal bureau of investigation and the Wisconsin department of justice in a manner directed by the department.

SECTION 6. Psy 2.14 (1) is repealed.

SECTION 7. Psy 2.14 (2m) is repealed.

SECTION 8. Psy 2.15 is created to read:

Psy 2.15 Temporary authorization to practice. A psychologist intending to practice in this state under a temporary authorization to practice as defined in s. 455.50 (2) (o), Stats., and is licensed in another compact state or territory of the United States must hold an active IPC as established in s. 455.03 (2), Stats.

SECTION 9. Psy 2.16 is created to read:

Psy 2.16 Authority to practice interjurisdictional telepsychology. A psychologist intending to practice telepsychology in this state and is licensed in another compact state or territory of the United States must hold an active E.Passport as established in s. 455.03 (3), Stats.

SECTION 10. Psy 5.02 (title) and (1) are amended to read:

Psy 5.02 Telehealth and telepsychology.

(1) The standards of practice and professional conduct under this chapter apply to a licensee regardless of whether health care service is provided in person or by telehealth, or by telepsychology.

SECTION 11. 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. 23. 2024

A handwritten signature in blue ink, which appears to read "Daniel A. Schmidt", written over a horizontal line.

Chairperson
Psychology Examining Board