



Carol Roessler
STATE SENATOR

To: Members of the Senate Committee on Health, Children, Families, Aging and Long Term Care

From: Senator Carol Roessler, Chair

Date: April 15, 2004

Re: Clearinghouse Rule 04-021 relating to the definitions of client and psychological treatment, degree requirements, interim determination of degree requirements met, continuing education courses and professional conduct.

Psychology Examining Board

The proposed rules make minor changes to the present rules, move some statements to more natural places in the present rules, make explicit present policy, and make clarifications. Only minor substantive changes are made to present procedures. No significant fiscal effect on small businesses is anticipated.

If you would like the committee to hold a hearing on CR 04-012, please contact Jennifer Halbur in my office by **April 26, 2004**.

**STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 04-021
PSYCHOLOGY EXAMINING BOARD : (s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

The Department of Regulation and Licensing will incur \$500 in costs to print and distribute the rule change.

IV. STATEMENT EXPLAINING NEED:

The minor changes treated by the rules herein concern qualifications for licensure, the scope of professional practice, continuing education and professional conduct. The Psychology Examining Board may promulgate these rules under s. 455.08, Stats., "The examining board shall adopt such rules as are necessary under this chapter and shall, by rule, establish a reasonable code of ethics governing the professional conduct of psychologists..." Section 455.09, Stats., also charges the board with protecting the safety and welfare of the citizens from unprofessional conduct. Section 455.065, Stats. requires that the board promulgate rules for continuing education. The proposed rules make minor changes to the present rules, move some statements to more natural places in the present rules, make explicit present policy, and make clarifications. Only minor substantive changes are made to present procedures. No significant fiscal effect on small businesses is anticipated.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on March 17, 2004. No persons responded either at the hearing or subsequently in writing to the proposed order.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 1. has been addressed at Section 2 of the Analysis in the attached Proposed Order.

Comment 5. a. has been addressed at Section 3 of the Analysis in the attached Proposed Order.

Comment 5. b. has been addressed at Section 6 of the Analysis in the attached Proposed Order.

STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PSYCHOLOGY EXAMINING BOARD
PSYCHOLOGY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 04-021)

PROPOSED ORDER

An order of the Psychology Examining Board to repeal Psy 2.09 (5); to amend Psy 1.02 (3), 2.09 (1) (i), 4.02 (2) (intro.) and (c); and to create Psy 1.02 (9), and 5.01 (14) (d); relating to the definitions of client and psychological treatment, degree requirements, interim determination of degree requirements met, continuing education courses and professional conduct.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 455.08 and 455.09, Stats.

Statutes interpreted: Sections 455.065, 455.08 and 455.09, Stats.

The minor changes treated by the rules herein concern qualifications for licensure, the scope of professional practice, continuing education and professional conduct. The Psychology Examining Board may promulgate these rules under s. 455.08, Stats., "The examining board shall adopt such rules as are necessary under this chapter and shall, by rule, establish a reasonable code of ethics governing the professional conduct of psychologists..." Section 455.09, Stats., also charges the board with protecting the safety and welfare of the citizens from unprofessional conduct. Section 455.065, Stats. requires that the board promulgate rules for continuing education. The Federal Government is not directly involved regulating state licensed psychologists. Illinois, Iowa, Michigan and Minnesota have extensive rules concerning licensure requirements; Iowa and Minnesota have rules concerning scope of practice and professional conduct. The proposed rules make minor changes to the present rules, move some statements to more natural places in the present rules, make explicit present policy, and make clarifications. Only minor substantive changes are made to present procedures. No significant fiscal effect on small businesses is anticipated.

SECTION 1. removes a reference to students as clients of psychologists. The language was added to the rule recently but it caused unforeseen problems of

interpretation. The purpose of the removed language is now served by the creation of Psy 5.01 (14) in Section 6, which prohibits sexual contact, etc., with students.

SECTION 2. adds explicit language to the administrative rules an interpretation regarding hypnosis and the practice of psychology that has long been followed by the Examining Board. The minutes of the meeting of the Psychology Examining Board of October 18, 2001 state, "QUESTIONS RELATING TO PRACTICE OF HYPNOSIS FOR THERAPEUTIC PURPOSES: The Board reviewed legal counsel's reply to Marta Gore, Ph.D. The practice of hypnosis for therapeutic purposes is considered the practice of psychology in Wisconsin." The rule clarifies that the use of hypnosis for smoking cessation or weight control and other non-therapeutic purposes is not regulated, but that the use of hypnosis for therapeutic purposes is restricted to licensed psychologists.

SECTION 3. creates language to clarify the meaning of the phrase "full-time residence," and adds instruction concerning multi-cultural differences to the substantive content area of "individual differences." Various institutions allow on-line education with minimal face-to-face contact with faculty and students. The Psychology Examining Board believes residency requirements will lead to student and faculty interaction which is essential to an adequate education in psychology.

SECTION 4. removes a provision that the Examining Board will provide an interim determination to licensure candidates prior to completion of all requirements.

SECTION 5. removes the phrase "at the post-licensure level" from the section describing acceptable continuing education programs. The language was added to the rule recently but it proved to be unclear and misleading.

SECTION 6. creates a prohibition against sexual contact, sexual conduct, or other behavior which could reasonably be construed as seductive, romantic, harassing, or exploitative between psychologists and persons whom they are teaching, supervising or instructing.

TEXT OF RULE

SECTION 1. Psy 1.02 (3) is amended to read:

Psy 1.02 (3) "Client" means the individual, group, business, agency, school, organization, or association for whom the licensee of the board provides professional services for which the licensee is usually and customarily compensated. ~~When teaching services are provided, the term "client" includes students.~~ The term "client" includes the term and concept of "patient."

SECTION 2. Psy 1.02 (9) is created to read:

Psy 1.02 (9) "Psychological treatment" includes hypnosis used for therapeutic purposes other than smoking cessation or weight control.

SECTION 3. Psy 2.09 (1) (i) is amended to read:

Psy 2.09 (1) (i) The curriculum shall encompass a minimum of 3 academic years of full-time graduate study, at least one of which shall be in full-time residence at the site of the institution granting the degree. In addition to the instruction in scientific and professional ethics and standards, research design and methodology, statistics and psychometrics, the core program shall require each student to demonstrate competence in each of the following substantive content areas. This typically will be met by including a minimum of 3 or more graduate semester hours (5 or more graduate quarter hours) in each of these 4 substantive content areas: a) Biological bases of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology; b) Cognitive-affective bases of behavior: learning, thinking, motivation, emotion; c) Social bases of behavior: social psychology, group processes, organizational and systems theory; and d) Individual differences: personality theory, human development, abnormal psychology, multicultural differences. In addition, all professional education programs in psychology will include course requirements in specialty areas.

SECTION 4. Psy 2.09 (5) is repealed.

SECTION 5. Psy 4.02 (2) (intro.) and (c) are amended to read:

Psy 4.02 (2) (intro.) APPROVAL OF CONTINUING EDUCATION PROGRAMS. The board shall approve all of the following programs and courses if relevant to the professional practice of psychology ~~at the post-licensure level~~:

(c) Graduate level courses or continuing education courses relevant to the professional practice of psychology ~~at the post-licensure level~~ offered by accredited colleges and universities.

SECTION 6. Psy 5.01 (14) (d) is created to read:

Psy 5.01 (14) (d) A person to whom the licensee is providing teaching, supervisory or other instructional services.

...

(END OF TEXT OF RULE)

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.

Dated _____

Agency _____
Barbara Van Horne, Ph.D., Chairperson
Psychology Examining Board

FISCAL ESTIMATE

The Department of Regulation and Licensing will incur \$500 in costs to print and distribute this rule change.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Wis. Stats.

PSY CR04-021 (Minor changes) Draft TO CH 2-16-04.DOC



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Skiansky
Clearinghouse Director

Richard Sweet
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Terry C. Anderson
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Legislative Council Deputy Director

CLEARINGHOUSE RULE 04-021

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

1. Statutory Authority

The analysis prepared by the board states that the provision in the rule relating to hypnosis is being added to include language reflecting an interpretation that has "long been followed" by the board. It would be helpful to have some additional documentation of this to verify the assertion that the language is not a change in board policy. Also, the board could clarify whether the provision is intended to extend regulation of practices used by licensed psychologists or for restricting activities by persons who are not licensed to practice psychology.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. It is not clear why the board is requiring that a year of full-time residence for graduate study be "at the site of the institution" granting the degree. Is it intended to address a particular problem or issue that has arisen in regulating or assessing graduate studies? This could be clarified in the final rule by expanding upon the analysis prepared by the board.

b. The analysis of the rule refers to the creation of "a prohibition against sexual contact, etc." The applicable rule [s. Psy 5.01 (14)] prohibits engaging in sexual contact, sexual conduct, or any other behavior which could reasonably be construed as seductive. The analysis would be more informative and complete to use this reference rather than "etc."

**STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PSYCHOLOGY EXAMINING BOARD
PSYCHOLOGY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 04-021)**

TO: Alan J. Lasee
President of the Senate
Room 219 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the PSYCHOLOGY EXAMINING BOARD is submitting in final draft form rules relating to the definitions of client and psychological treatment, degree requirements, interim determination of degree requirements met, continuing education courses and professional conduct.



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

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Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 04-021

AN ORDER to repeal Psy 2.09 (5); to amend Psy 1.02 (3), 2.09 (1) (i) and 4.02 (2) (intro.) and (c); and to create Psy 1.02 (9) and 5.01 (14) (d), relating to the definitions of client and psychological treatment, degree requirements, interim determination of degree requirements met, continuing education courses, and professional conduct.

Submitted by DEPARTMENT OF REGULATION AND LICENSING

02-16-2004 RECEIVED BY LEGISLATIVE COUNCIL.

03-02-2004 REPORT SENT TO AGENCY.

RS:RW

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227:15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO