



**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 08-094)**

TO: Senator Jim Holperin, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 409 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DEPARTMENT OF REGULATION AND LICENSING is submitting in final draft form rules relating to examinations for substance abuse professionals.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

Thank you.

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 08-094
DEPARTMENT OF REGULATION : (s. 227.19 (3), Stats.)
AND LICENSING :**

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 estimates that this rule will require staff time in the Office of Legal Counsel and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$1,564 for the two divisions. The ongoing salary and fringe costs for the Office of Legal Counsel are estimated at \$563. The department finds that this rule has no significant fiscal effect on the private sector.

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

Currently, an applicant for a clinical substance abuse counselor credential must complete and pass the International Certification and Reciprocity Consortium's (IC&RC) written examination and case presentation method interview. As of June 1, 2008, the IC&RC discontinued the case presentation method interview and replaced it by adding a new section to its written examination. This proposed rule repeals the requirement that an applicant pass the IC&RC's case presentation method interview.

This proposed rule also amends the rule that requires an applicant for a clinical substance abuse counselor credential to pass the IC&RC's written examination. The amendment makes the current rule conform to a previously passed emergency rule that allowed the department to continue to administer the case presentation method interview until December 31, 2008. This rule allows applicants who passed the written examination before June 1, 2008, to qualify for a credential if they either retook the written examination after June 1, 2008, or successfully passed the case presentation method interview before January 1, 2009.

V. NOTICE OF PUBLIC HEARING AND PUBLIC COMMENTS:

A public hearing was held on November 11, 2008. There were no appearances at the public hearing and no written comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

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

RL 161.04 CR08-094 (Clinical substance abuse counselors exam) Report to Legislature 1-22-09

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 08-094)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to repeal RL 161.04 (3) (e); to amend RL 161.04 (3) (a); and to create a Note following RL 161.04 (3) (a), relating to examinations for substance abuse professionals.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 440.88, Stats.

Statutory authority:

Section 227.11 (2), Stats., and Subchapter VII of ch. 440, Stats.

Explanation of agency authority:

Subchapter VII of ch. 440, Stats., Substance Abuse Counselors, Clinical Supervisors, and Prevention Specialists, directs the department to write rules that establish minimum standards and qualifications for the certification of substance abuse professionals.

Related statute or rule:

Section 440.88 (3) (a), (b) and (c), Stats., and s. RL 161.04 (3) (e).

Plain language analysis:

Currently, an applicant for a clinical substance abuse counselor credential must complete and pass the International Certification and Reciprocity Consortium's (IC&RC) written examination and case presentation method interview. As of June 1, 2008, the IC&RC discontinued the case presentation method interview and replaced it by adding a new section to its written examination. This proposed rule repeals the requirement that an applicant pass the IC&RC's case presentation method interview.

This proposed rule also amends the rule that requires an applicant for a clinical substance abuse counselor credential to pass the IC&RC's written examination. The amendment makes the current rule conform to a previously passed emergency rule that allowed the department to continue to administer the case presentation method interview until December 31, 2008. This rule allows applicants who passed the written examination before June 1, 2008, to qualify for a credential if they either retook the written examination after June 1, 2008, or successfully passed the case presentation method interview before January 1, 2009.

SECTION 1 amends the rule to enable applicants who passed the written examination before June 1, 2008, to meet the requirement for the credential by either successfully retaking the IC&RC's written counselor examination after June 1, 2008, or by passing the case presentation method interview before December 31, 2008.

SECTION 2 creates a Note that relates to the updated written counselor examination.

SECTION 3 repeals the requirement that an applicant for a clinical substance abuse counselor credential pass the case presentation method interview. The case presentation method interview is not being offered after December 31, 2008.

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

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by this rule.

Comparison with rules in adjacent states:

Minnesota:

In Minnesota, although licensure is available through the state and certification through the Minnesota Certification Board (MCB – a private organization), state licensure is required for practice, with exemptions for other professional licenses. The certification offered by the MCB is not recognized by the state. The MCB offers certification based upon the standards of the IC&RC, which includes supervised practice requirements, specialized education and training in substance abuse counseling, and counselor examinations. Minnesota, in part to satisfy the standards of the licensure, will accept the certificates provided by the MCB as fulfilling their licensure requirements.

Licensure in Minnesota requires the following (before July 1, 2008): an associate degree or equivalent credit hours; 270 hours of substance abuse related education; completion of either the IC&RC Case Presentation Method Oral examination or 2,000 hours of supervised practice; passage of the NAADAC or IC&RC Counselor Examination. After July 1, 2008, Minnesota requires: a bachelor's degree including 18 semester credits or 270 clock hours of substance abuse related education; either the case presentation method, or a plan for 2000 hours of professional practice or proof of 2000 hours of professional practice; passage of the NAADAC or IC&RC counselor examination.

Minnesota will continue to use the IC&RC case presentation method after the IC&RC formally discontinues the use in certification standards. The IC&RC is formally requiring all jurisdictions that elect to use the CPM examination to sign an indemnity agreement allowing states to continue to offer the examination.

Michigan:

In Michigan, substance abuse counselor certification is voluntary; however, at the county level, certification is only driven by allocating funding to county-run treatment centers, which use certified substance abuse counselors. Substance abuse counselors are certified and regulated by the Michigan Certification Board, a private agency.

Michigan no longer uses the IC&RC Case Presentation Method Oral Examination in certification procedures for their counselors.

Illinois:

Illinois mandates that licensed alcohol and drug abuse counselors are used in their state certified alcohol and drug abuse clinics. Under Illinois code: Title 77: Chapter 2060.309 part of the staffing requirements of their clinics require counselors to hold clinical certification as a Certified Alcohol and Drug Counselor issued by the Illinois Alcoholism and Other Drug Abuse Professional Certification Association (IAODAPCA).

IAODAPCA requirements are based off those of the IC&RC. The reciprocal level of the certified drug and alcohol counselor, which is analogous to Wisconsin's clinical substance abuse counselor, requires passage of the IC&RC case presentation method oral examination.

See: §20 ILCS 301/15-5, 77 Ill. Adm. Code 2060.20 et. seq.

Iowa:

The state of Iowa does not credential AODA or Substance Abuse Professionals, but does mandate the certification and use of those professions in their state certified alcohol and drug abuse clinics. Under Iowa administrative code: 641 IAC 155.21 (8) i., part of the staffing requirements of their clinics require that persons providing screening, evaluations, assessments or treatment shall be certified through the Iowa Board of Substance Abuse Certification, a private agency, or certified by an IC&RC member board in the states of Illinois, Minnesota, Nebraska, Missouri, South Dakota, and Wisconsin.

The Iowa Certification Board modeled their credentials from those requirements specified by the IC&RC. Iowa has advanced drug and alcohol counselor certification, which is analogous to our clinical substance abuse counselor certification, and which requires the passage of the IC&RC written counselor examination. The advanced level certification is not considered reciprocal and therefore they do not require the IC&RC

oral Case Presentation Method examination. For those Iowa counselors who wish to bring their credentials in line with IC&RC's reciprocity requirements, they were required to complete the written and oral portion of the IC&RC CPM examination.

See: §641 IAC chapter 155

Summary of factual data and analytical methodologies:

The Department of Regulation and Licensing is amending the requirement for successful completion of the oral examination as a precondition for certification as a clinical substance abuse counselor because of the change in certification requirements of the International Certification & Reciprocity Consortium (IC&RC). The standards for achieving clinical substance abuse counselor certification were set so that the requirements for the certification would be equivalent to the IC&RC certified alcohol and drug counselor and further, Wisconsin utilizes their examination in the process. Elimination of the oral examination and the change in the certification standards requires Wisconsin to amend rules of certification.

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

Small business should not be impacted as the examination requirements, and thusly associated costs to achieve certification, are effectively reduced by the elimination of the examination. The oral examination was costly to administer and was a barrier to entry to the field. To achieve certification, a counselor must still pass the written counselor examination, but no longer must complete the oral examination.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that this rule will require staff time in the Office of Legal Counsel and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$1,564 for the two divisions. The ongoing salary and fringe costs for the Office of Legal Counsel are estimated at \$563.

Effect on small business:

This rule will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling 608-266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0495; email at pamela.haack@drl.state.wi.us.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to pamela.haack@drl.state.wi.us. Comments must be received on or before November 14, 2008 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RL 161.04 (3) (a) is amended to read:

RL 161.04 (3) (a) Successful passage of the International Certification Reciprocity Consortium Alcohol and Other Drug Abuse written counselor certification examination taken on or after June 1, 2008. If the written examination was taken before June 1, 2008, an applicant shall have either successfully passed the International Certification Reciprocity Consortium case presentation method interview on or before December 31, 2008, or have successfully retaken the written counselor certification examination on or after June 1, 2008.

SECTION 2. A Note following RL 161.04 (3) (a) is created to read:

Note: Prior to June 1, 2008, to receive a clinical substance abuse counselor credential, an applicant had to pass a written counselor examination and a case presentation method oral interview (oral examination) authorized by the International Certification & Reciprocity Consortium (IC&RC). Effective June 1, 2008, the IC&RC withdrew its authorization for the oral examination and instead requires an applicant to complete an updated written counselor examination which includes a section to replace the oral examination. Pursuant to an agreement between the department and the IC&RC, applicants who took the written examination prior to June 1, 2008, were able to complete the oral examination until December 31, 2008.

SECTION 3. RL 161.04 (3) (e) is repealed.

(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 _____

Celia M. Jackson, Secretary
Department of Regulation and Licensing

RL 161.04 CR08-094 (Clinical substance abuse counselors exam) Draft to Leg 1-22-09



WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
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 08-094

AN ORDER to repeal RL 161.04 (3) (e); to amend RL 161.04 (3) (a); and to create RL 161.04 (3) (a) Note, relating to examinations for substance abuse professionals.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

09-29-2008 RECEIVED BY LEGISLATIVE COUNCIL.

10-24-2008 REPORT SENT TO AGENCY.

RS:WF

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



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 08-094

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

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

- a. In the rule preface discussion of Iowa law, it appears that the phrase “and which” should be inserted before the word “requires” in the second sentence of the second paragraph.
- b. In the second sentence of the rule preface summary of factual data and analytical methodologies, the first occurrence of the word “of” should be replaced by the word “to.”
- c. The phrase “on or” should be inserted in the following three places in s. RL 161.04 (3) (a): before both occurrences of “after June 1, 2008” and “before December 31, 2008.”