Clearinghouse Rule 17-080

STATE OF WISCONSIN
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL
COUNSELING AND SOCIAL WORK EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	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)

PROPOSED ORDER

An order of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board to repeal and recreate MPSW 1.08 relating to credential renewal and reinstatement procedures.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 440.08 (3) (b) and 457.20 (3) and (4), Stats.

Statutory authority: ss. 15.08 (5) (b) 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 profession to which it pertains and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the profession. [s. 15.08 (5) (b), Stats.]

The examining 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 examining 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 examining board. [s. 440.08 (3) (b), Stats.]

Related statute or rule: n/a

Plain language analysis:

Section 1 repeals the credential renewal procedure and creates clarity to a renewal and reinstatement process.

Renewal within 5 years requires an application, fee, including applicable late fee, and certification of completion of required continuing education.

Renewal after 5 years requires an application, fee, late fee and evidence of either an active credential in good standing in another state or completion within the preceding 2 years of 60 hours of approved continuing education, including 8 hours of professional ethics and boundaries.

Reinstatement applies to the person who has unmet disciplinary requirements but has not renewed his or her credential within 5 years or has a credential which has been surrendered or revoked. The person may apply for reinstatement by submitting evidence of completion of the renewal after 5 years requirements if the credential has not been active with the preceding 5 years, completion of any applicable disciplinary requirements and a showing of rehabilitation or change in circumstances which warrants reinstatement of the credential.

Summary of, and comparison with, existing or proposed federal regulation: None

Comparison with rules in adjacent states:

Illinois: In Illinois, a credential may be renewed within 5 years by payment of fees and proof of completion of continuing education. Renewal of a credential after 5 years requires payment of fees, proof of completion of continuing education and either evidence of active practice in another state or proof of passing of the examination during the time the license was lapsed.

Iowa: In Iowa a credential may be renewed within five years pay fees and verification of continuing education. After five years marriage and family therapists and mental health counselors may renew upon payment of fees and verification of 80 hours of continuing education. After five years social workers may renew upon payment of fees, verification of continuing education and passing of the ASWB examination within last five years at the appropriate credentialing level. Reinstatement of a credential after revocation, suspension or surrendered may not be made until one year after the order or surrender and application shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation, suspension or surrender no longer exists and it will be in the public interest for the license to be reinstated

Michigan: In Michigan, marriage and family therapists and professional counselors may renew their credentials within three years by payment of fees and after three years by payment of fees and proof of licensure in another state or pass the examination. Social workers may renew their credentials within three years by the submission fees and proof of completion of continuing education.

Minnesota: In Minnesota, marriage and family therapist may renew within 5 years by payment of fees and proof of completion of continuing education and after five years by payment of fees,

proof of continuing education and passing the exam. Marriage and family therapy revoke credentials may be restored for reasons the board considers sufficient. Professional counselors may renew within two years by payment of fee and continuing education and after two years by meeting current initial requirements. Social workers may renew within one year by payment of fees, proof of meeting continuing education and supervision requirements and after one year by meeting current initial requirements.

Summary of factual data and analytical methodologies:

The board reviewed their current rules, received input from stakeholders and determined the minimum requirements to renew or reinstate a credential to ensure public safety without being a burden to the credential holder.

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

The rule was posted for economic comments and none 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 Kirsten.Reader@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, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held on December 5, 2017 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MPSW 1.08 is repealed and recreated to read:

MPSW 1.08 Credential renewal and reinstatement procedures. (1) RENEWAL BY EXPIRATION DATE. A credential holder shall renew the credential by the expiration date by paying the renewal fee determined by the department under s. 440.03 (9) (a), Stats. and attesting to completion of the continuing education required under s. MPSW 19.02.
(2) RENEWAL WITHIN 5 YEARS. If the credential is renewed after the expiration date and within 5 years of the expiration, a credential holder shall renew the credential by paying the renewal fee determined by the department under s. 440.03 (9) (a), Stats., attesting to completion of the continuing education required under s. MPSW 19.02. and pay a late renewal fee.
(3) RENEWAL AFTER 5 YEARS. This subsection does not apply to credential holders who have unmet disciplinary requirements or whose credentials have been surrendered or revoked. A credential holder who has failed to renew a credential within 5 years after the renewal date holds an expired credential and may not reapply for the credential using the initial application process. A credential may be renewed after 5 years by complying with all of the following:

(a) Payment of the renewal fee determined by the department under s. 440.03 (9) (a) and the late renewal fee.

(b) Evidence of one of the following:

1. An active credential in good standing in another state.
2. Completion of 60 hours of approved continuing education, including 8 hours of professional ethics and boundaries, within the preceding 2 years.

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

(a) Evidence of completion of the requirements in sub. (3) if the credential has not been active within the last 5 years.

(b) Evidence of completion of disciplinary requirements, if applicable.

(c) Evidence of rehabilitation or change in circumstances, warranting reinstatement of the credential.

SECTION 2. 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)