



**Carol Roessler**  
STATE SENATOR

February 20, 2004

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

From: Senator Carol Roessler, Chair

Re: Clearinghouse Rule 03-058 relating to the National Counselor Mental Health Certification Examination.

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CR 03-058 has been referred to the Senate Committee on Health, Children, Families, Aging and Long Term Care Committee. This proposed rule-making order requires that a Professional Counselor who wishes to practice psychotherapy independently pass the National Counselor Mental Health Certification Examination (NCMHCE). Under new law effective November 1, 2002, licensed professional counselors may practice psychotherapy independently. In order to ensure that they are qualified to practice independently, the Professional Counselor Section wishes to require all new applicants for licensure to pass the national clinical examination, the NCMHCE.

If you would like the Committee to hold a hearing on CR 03-058, please contact Jennifer Halbur in my office at 266-5300 by Wednesday March 3, 2004.

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

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<b>IN THE MATTER OF RULE-MAKING</b>	<b>:</b>	<b>PROPOSED ORDER OF THE</b>
<b>PROCEEDINGS BEFORE THE</b>	<b>:</b>	<b>MARRIAGE AND FAMILY THERAPY</b>
<b>MARRIAGE AND FAMILY THERAPY,</b>	<b>:</b>	<b>PROFESSIONAL COUNSELING AND</b>
<b>PROFESSIONAL COUNSELING AND</b>	<b>:</b>	<b>SOCIAL WORKER EXAMINING</b>
<b>SOCIAL WORKER EXAMINING</b>	<b>:</b>	<b>BOARD</b>
<b>BOARD</b>	<b>:</b>	
<b>: ADOPTING RULES</b>	<b>:</b>	<b>(CLEARINGHOUSE RULE 03-058)</b>

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

PLEASE TAKE NOTICE that the MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING AND SOCIAL WORKER EXAMINING BOARD is submitting in final draft form rules relating to the National Counselor Mental Health Certification Examination.

If you have any questions concerning the final draft form or desire additional information, please contact Joel Garb at 261-2385.

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

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**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE  
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 03-058  
PSYCHOLOGY EXAMINING BOARD : (s. 227.19 (3), Stats.)**

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**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:**

Under the 2001 Act 80 effective November 1, 2002, licensed professional counselors may practice psychotherapy independently. In order to insure that professional counselors are qualified to practice psychotherapy, the Professional Counselor Section wishes to require all new applicants for licensure to pass the National Counselor Mental Health Certification Examination. This examination tests an individual's abilities in the clinical practice of mental health counseling including DSM diagnosis, planning and treatment. Without this change, there will be less certainty that professional counselors are qualified to practice psychotherapy. The requirement will ensure greater protection of the public.

**V. NOTICE OF PUBLIC HEARING:**

A public hearing was held on December 3, 2003. No persons responded either at the hearing or subsequently in writing to the proposed order.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

Comments 2. The recommendation to define the acronym "DSM" is adopted, however the definition is placed in chapter MPSW 10 with other professional counselor definitions.

Comment 4. The recommendations to clarify the first sentence of the plain language analysis and the statutes interpreted have been adopted.

Comment 5. a. The recommendation has been adopted.

Comment 5. b. The Professional Counselor Section does intend to retain the “no less than two year” requirement and does intend that persons who hold doctorate degrees also comply with the 3000 hours post-master’s degree requirement.

## **VII. OTHER CHANGES MADE IN THE RULE**

Since the proposed rule was first submitted to the rules clearinghouse MPSW 13.01 (2) (b) has been clarified to indicate that a licensed professional counselor must complete 6 semester credits or 9 quarter credits of post-bachelor’s education in psychotherapy.

PSY 5 CR03-079 (Sexual misconduct) Leg report 2-2-04.doc

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

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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 WORKER EXAMINING  
SOCIAL WORKER EXAMINING BOARD: BOARD ADOPTING RULES  
: (CLEARINGHOUSE RULE 03-058)

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PROPOSED ORDER

An order of the Marriage and Family Therapy, Professional Counseling and Social Worker Examining Board to amend MPSW 13.01 (1), (2) (intro.) and (a) to (c); and to create MPSW 10.01 (1m) and (3m), and 13.01 (3), relating to the National Counselor Mental Health Certification Examination.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 457.03 (1), Wis. Stats.

Statutes interpreted: ss. 457.03 and 457.035, Wis. Stats.

This proposed rule-making order requires that a Professional Counselor who wishes to practice psychotherapy independently pass the National Counselor Mental Health Certification Examination (NCMHCE). Under new law effective November 1, 2002, licensed professional counselors may practice psychotherapy independently. In order to ensure that they are qualified to practice psychotherapy independently, the Professional Counselor Section wishes to require all new applicants for licensure to pass the national clinical examination, the NCMHCE. Without this change, there will be less certainty that professional counselors are qualified to practice psychotherapy, and requiring passage of the NCMHCE will ensure greater protection of the public.

SECTION 1. creates a definition of "DSM," and a definition of "psychotherapy" by incorporating the statutory meaning in s. 457.01 (8m) and further specifying that the term concerns DSM diagnosis and treatment of persons with DSM diagnoses.

SECTION 2. indicates the requirements under which professional counselors may engage in psychotherapy after January 1, 2007. These requirements include passing the National Counselor Mental Health Certification Examination, completing post bachelor education in psychotherapy modalities, and completion of post-master's supervised practice including DSM diagnosis and treatment.

SECTION 3. indicates that a professional counselor who does not wish to practice psychotherapy need not fulfill the requirements indicated in Section 2.

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TEXT OF RULE

SECTION 1. MPSW 10.01 (1m) and (3m) are created to read:

MPSW 10.01 (1m) "DSM" refers to the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.

(3m) "Psychotherapy" has the meaning given in s. 457.01 (8m), Stats. Specifically, psychotherapy involves diagnosing DSM conditions and treating persons with DSM diagnoses.

SECTION 2. MPSW 13.01 (1), (2) (intro.) and (a) to (c) are amended to read:

MPSW 13.01 (1) ~~A~~ After January 1, 2007, a licensed professional counselor may engage without supervision in psychotherapy or psychotherapeutic counseling only if he or she is qualified to do so by education, training ~~or~~ and experience.

(2) (intro.) ~~Qualification~~ A licensed professional counselor shall demonstrate qualification to engage without supervision in psychotherapy or psychotherapeutic counseling may be demonstrated by the following by submitting evidence of all of the following to the department for section approval:

(a) ~~Successful completion of the national counselor mental health certification examination~~ National Counselor Mental Health Certification Examination (NCMHCE);

(b) ~~At least 180 contact hours~~ 6 semester credits or 9 quarter credits of postgraduate training post-bachelor's education in psychotherapy modalities; and

(c) An affidavit by a supervisor qualified and authorized to practice psychotherapy that the individual has completed at least 3,000 hours of post-master's supervised clinical professional counselor practice in not less than 2 years, including at least 1,000 hours of face-to-face client contact and including DSM diagnosis and treatment of individuals.

SECTION 3. MPSW 13.01 (3) is created to read:

MPSW 13.01 (3) The definition of "professional counseling" in s. 457.01 (6), Stats., extends to the provision of psychotherapy services. A licensed professional counselor who does not practice psychotherapy and who limits his or her practice to "the application of mental health, psychological or human development principles, through

cognitive, affective, behavioral or systemic intervention strategies, that address wellness, personal growth, or career development” is not required to satisfy the requirements in sub. (2).

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(END OF TEXT)  
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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.), Wis. Stats.

Dated \_\_\_\_\_ Agency \_\_\_\_\_

Chairperson  
Marriage and Family Therapy,  
Professional Counseling and Social  
Worker Examining Board

FISCAL ESTIMATE

The Department of Regulation and Licensing will incur \$500 in costs to print and distribute the rule change. The Department will incur slight indeterminate costs to check applications for the required qualifications.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Wis. Stat.



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council 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 03-058

AN ORDER to amend MPSW 13.01 (1), (2) (intro.) and (a) to (c); and to create MPSW 13.01 (3) and (4), relating to the National Counselor Mental Health Certification Examination.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

06-16-2003 RECEIVED BY LEGISLATIVE COUNCIL.

07-14-2003 REPORT SENT TO AGENCY.

RNS:MO



**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



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 03-058

#### 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.]**

#### 2. Form, Style and Placement in Administrative Code

In s. MPSW 13.01 (2) (c) and (3), the acronym "DSM" does not appear to be defined in the rule or statute, and should be defined if it is to be used. In general, acronyms or other abbreviations should be used only to improve readability. [See s. 1.01 (8), Manual.] The acronym could be defined in s. MPSW 1.02.

#### 4. Adequacy of References to Related Statutes, Rules and Forms

The first sentence of the analysis states: "This proposed rule-making order requires that applicants for licensure as a Professional Counselor pass the National Counselor Mental Health Certification Examination (NCMHCE)." However, this appears incorrect, because the rule governing the examination required for licensure as a professional counselor is s. MPSW 11.02 and the proposed rule amends s. MPSW 13.01. The latter provision, amended by the proposed rule, governs whether individuals who are already licensed as a professional counselor may engage without supervision in psychotherapy or psychotherapeutic counseling. In addition, it appears that the reference under "Statutes interpreted" to s. 457.12, Stats., is incorrect for the same reason.

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

a. In s. MPSW 13.01 (2) (intro.), the passive phrase "shall be demonstrated by evidence of all of the following, submitted to the department" should be expressed using the active voice. For example: "A licensed professional counselor shall demonstrate qualification to engage

without supervision in psychotherapy or psychotherapeutic counseling by submitting evidence of all of the following to the department for section approval:”. [See s. 1.01 (1), Manual.]

b. Under s. 457.12 (3), Stats., the Professional Counselor Section is required to grant a professional counselor license to any individual who, among other things, *either* engaged in the equivalent of at least 3,000 hours of professional counseling practice after receiving a master’s degree in professional counseling or its equivalent [s. 457.12 (3) (a), Stats.], *or* “[r]eceived a doctorate degree in professional counseling or its equivalent, and, either during or after the doctorate degree program or its equivalent, engaged in the equivalent of at least 1,000 hours of full-time professional counseling practice....” [s. 457.12 (3) (b), Stats.]

This raises two questions about the rule’s requirement of 3,000 hours of post-master’s practice in two years. Since 2001 Wisconsin Act 80 eliminated the two-year requirement and replaced it with a 3,000-hour requirement, should the two-year requirement also be eliminated in s. MPSW 13.01 (2) (c) or is its retention in that rule intentional? Also, will persons who have a doctorate degree in professional counseling be required to satisfy the 3,000-hour requirement in order to practice psychotherapy without supervision or will the 1,000 hours required for licensure be sufficient?