




State of Wisconsin


LEGISLATIVE REFERENCE BUREAU


RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**


Date Transfer Requested: 02/02/2018 (Per: CMH)


Compile Draft - Appendix F **... Part II**


Appendix A  The 2017 drafting file for LRB-4937

Appendix B  The 2017 drafting file for LRB-4955

Appendix C  The 2017 drafting file for LRB-5006

Appendix D  The 2017 drafting file for LRB-5014

Appendix E  The 2017 drafting file for LRB-5017

Appendix F  The 2017 drafting file for LRB-5086

has been copied/added to the drafting file for

2017 LRB-5242



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5086 Dep 1
KP: [handwritten initials]
[handwritten initials]

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-NOTE

DUE: 12/20/2017

12:00 PM

INSERT (forthcoming)

Gen

1 AN ACT ...; relating to: certification for substance abuse counseling and
2 modifying and creating administrative rules related to substance abuse
3 counseling.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 440.043 of the statutes is created to read:
5 440.043 Behavioral health review committee. (1) The secretary shall
6 appoint an advisory committee under s. 440.042 to provide advice concerning
7 behavioral health. The advisory committee shall periodically review the
8 requirements for obtaining a credential under ch. 457 or s. 440.88 or for other
9 credentials related to behavioral health. The advisory committee shall accept
10 comments from the public as part of its review under this subsection.

1 (2) The committee established under sub. (1) may propose changes in statutes
2 and rules to the department.

3 SECTION 2. 440.88 (3) (a) (intro.) of the statutes is amended to read:

4 440.88 (3) (a) (intro.) Subject to pars. (b) and (c) and except as provided in sub.
5 (3m), the department shall promulgate rules that establish minimum standards and
6 qualifications for the certification of all of the following, including substance abuse
7 counselors and clinical supervisors described under s. HFS 75.02 (11) and (84), Wis.
8 Adm. Code, in effect on December 15, 2006, as defined by the department of health
9 services by rule:

History: 2005 a. 25; 2005 a. 96 s. 4m; 2005 a. 254 s. 37; 2005 a. 407; 2007 a. 20, 99; 2009 a. 42; s. 35.17 correction in (6).

10 Cross-reference: See also chs. SPS 160, 161, 162, 163, 164, 165, 166, 167, and 168, Wis. adm. code.

11 SECTION 3. 440.88 (3m) of the statutes is amended to read:

12 440.88 (3m) EXCEPTION. This section does not apply to a physician, as defined
13 in s. 448.01 (5), a clinical social worker, as defined in s. 457.01 (1r), or a licensed
14 psychologist, as defined in s. 455.01 (4), a marriage and family therapist, as defined
15 in s. 457.01 (3), or a professional counselor, as defined in s. 457.01 (7), who practices
16 as a substance abuse clinical supervisor or provides substance abuse counseling,
treatment, or prevention services within the scope of his or her licensure.

History: 2005 a. 25; 2005 a. 96 s. 4m; 2005 a. 254 s. 37; 2005 a. 407; 2007 a. 20, 99; 2009 a. 42; s. 35.17 correction in (6).

17 Cross-reference: See also chs. SPS 160, 161, 162, 163, 164, 165, 166, 167, and 168, Wis. adm. code.

18 SECTION 4. 440.88 (7) of the statutes is amended to read:

19 440.88 (7) RECIPROCAL CERTIFICATION. The department ~~may~~ shall, upon
20 application and payment of the required fee, issue certification as a substance abuse
21 counselor, clinical supervisor, or prevention specialist to an individual who holds a
similar unexpired certification issued to the individual by another state for which the

1 requirements for certification are of a standard that is not lower than that specified
2 in this subchapter.

History: 2005 a. 25; 2005 a. 96 s. 4m; 2005 a. 254 s. 37; 2005 a. 407; 2007 a. 20, 99; 2009 a. 42; s. 35.47 correction in (6).

Cross-reference: See also chs. SPS 160, 161, 162, 163, 164, 165, 166, 167, and 168, Wis. adm. code.

****NOTE: In accord with the instructions, this provision requires DSPS to grant a reciprocal certification to an applicant who holds a similar certification from another state having certification requirements that are not lower than Wisconsin's certification requirements.

3 SECTION 5. 457.02 (5) of the statutes is repealed.

4 SECTION 6. 457.02 (5m) of the statutes is repealed.

5 SECTION 7. 961.385 (2) (cm) 1. (intro.) of the statutes, as created by 2015
6 Wisconsin Act 266, is amended to read:

7 961.385 (2) (cm) 1. (intro.) A practitioner, pharmacist, registered nurse
8 licensed under s. 441.06, or substance abuse counselor, as defined in s. 440.88 (1) (b),
9 or an individual authorized under s. 457.02 (5m) to treat who treats, within the scope
10 of his or her credential, alcohol or substance dependency or abuse as a specialty, if
11 any of the following is applicable:

History: 2009 a. 362; 2011 a. 260 s. 81; 2013 a. 3, 20, 124, 199; 2015 a. 55 ss. 4477, 4737 to 4731k; Stats. 2015 s. 961.385; 2015 a. 195, 266, 267, 268; 2017 a. 59.

Cross-reference: See also ch. CSB 4, Wis. adm. code.

12 SECTION 8. 961.385 (2) (cm) 2. of the statutes, as created by 2015 Wisconsin Act
13 266, is amended to read:

14 961.385 (2) (cm) 2. A person who medically coordinates, directs, or supervises,
15 or establishes standard operating procedures for, a practitioner, pharmacist,
16 registered nurse, substance abuse counselor, or individual authorized under s.
17 457.02 (5m) to treat alcohol or substance dependency or abuse as a specialty to whom
18 records may be disclosed under subd. 1., if the person is evaluating the job
19 performance of the practitioner, pharmacist, registered nurse, substance abuse
20 counselor, or individual, or is performing quality assessment and improvement
21 activities, including outcomes evaluation or development of clinical guidelines, and

1 if the disclosure does not contain personally identifiable information, as defined in
2 s. 19.62 (5), of a patient and is limited to only those records about the practitioner,
3 pharmacist, registered nurse, substance abuse counselor, or individual the person
4 medically coordinates, directs, or supervises, or for whom the person establishes
5 standard operating procedures.

History: 2009 a. 362; 2011 a. 260 s. 81; 2013 a. 3, 20, 124, 199; 2015 a. 55 ss. 4477, 4737f to 4731k; Stats. 2015 s. 961.385; 2015 a. 195, 266, 267, 268; 2017 a. 59.

Cross-reference: See also ch. CSB 4, Wis. adm. code.

6 **SECTION 9.** DHS 75.02 (15) of the administrative code is amended to read:

7 DHS 75.02 (15) "Counseling" means the application of recognized theories,
8 principles, techniques and strategies to manage and facilitate the progress of diverse
9 patients toward mutually determined treatment goals and objectives using
10 culturally sensitive modalities as described in s. SPS 166.01 (3) 160.02 (10m) or s.
11 MPSW 2.01 (10).

12
inside
TSP/DHS

12 **SECTION 10.** MPSW 1.09 of the administrative code is repealed.

****NOTE: As requested by one of the attachments in the drafting instructions, this draft repeals s. MPSW 1.09, Wis. Adm. Code. The draft replaces the cross-references to s. MPSW 1.09 in the other attachment in the drafting instructions with cross-references to ch. 457.

13 **SECTION 11.** Chapter SPS 160 (title) of the administrative code is amended to
14 read:

Chapter SPS 160

APPLICABILITY AND DEFINITIONS

15
16
17 **SECTION 12.** SPS 160.015 of the administrative code is created to read:

18 **SPS 160.015 Applicability.** (1) Except as provided in sub. (2), no person may
19 represent himself or herself to the public as a substance abuse counselor, clinical
20 supervisor, or prevention specialist or a certified substance abuse counselor, clinical
21 supervisor, or prevention specialist or use in connection with his or her name a title
22 or description that conveys the impression that he or she is a substance abuse

1 counselor, clinical supervisor, or prevention specialist or a certified substance abuse
2 counselor, clinical supervisor, or prevention specialist unless he or she is so certified
3 under s. 440.88, Stats. ✓ ✓

4 (2) Chapters SPS 160 to 168 do not apply to any of the following: ✓

5 (a) A physician, as defined in s. 448.01 (5), Stats., who practices as a substance
6 abuse clinical supervisor or provides substance abuse counseling, treatment, or
7 prevention services within the scope of his or her licensure. ✓

8 (b) A clinical social worker, as defined in s. 457.01 (1r), Stats., who practices as
9 a substance abuse clinical supervisor or provides substance abuse counseling,
10 treatment, or prevention services within the scope of his or her licensure. ✓

11 (c) A licensed psychologist, as defined in s. 455.01 (4), Stats., who practices as
12 a substance abuse clinical supervisor or provides substance abuse counseling,
13 treatment, or prevention services within the scope of his or her licensure. ✓

14 (d) A person credentialed under ch. 457, Stats. ✓

****NOTE: Paragraph (d) of this rule may go beyond the rule-making authority
authorized under s. 440.88 (3m), even after the changes in this draft. Section 440.88 (3m),
as amended by the draft, provides an exception for physicians, clinical social workers,
licensed psychologists, marriage and family therapists, and professional counselors.
There are some credentials under ch. 457 that are not included in that list of exempt
professionals. If you would like to narrow the scope of par. (d) or expand the scope of s.
440.88 (3m), please let me know.

15 (e) The preparation of a patient for substance use disorder treatment by
16 referral, the treatment of a patient for substance use disorder until a referral for
17 substance use disorder treatment is completed, and the continuation of treatment
18 with the non-substance use disorder issues of a person, when performed by a mental
19 health provider practicing within the scope of his or her credential.

****NOTE: Paragraph (e) of this rule may go beyond the rule-making authority
authorized under s. 440.88. ✓

20 **SECTION 13.** SPS 160.02 (2m) of the administrative code is created to read:

SECTION 13

1 SPS 160.02 **(2m)** “Assessment training” means education on the
2 comprehensive process of collecting pertinent data about patients or patient systems
3 and their environment, and appraising the data as a basis for making decisions
4 regarding substance use disorder diagnosis and treatment or referral. The education
5 shall consist of culturally inclusive studies in understanding addiction,
6 psychopharmacology, recognition and differentiation of co-occurring medical and
7 psychological disorders, clinical evaluation, and treatment planning.

8 **SECTION 14.** SPS 160.02 (3) (g) of the administrative code is created to read:
9 SPS 160.02 **(3)** (g) Marriage and family therapy, as defined in s. 457.01 (5),
10 Stats.

11 **SECTION 15.** SPS 160.02 (3) (h) of the administrative code is created to read:
12 SPS 160.02 **(3)** (h) Professional counseling, as defined in s. 457.01 (6), Stats.

13 **SECTION 16.** SPS 160.02 (3m) of the administrative code is created to read:
14 SPS 160.02 **(3m)** “Case management” means education on culturally
15 appropriate administrative, clinical, and evaluative activities included in the
16 process of coordinating and prioritizing patient treatment goals and working with
17 the patient and significant others, as well as other services, agencies, and resources
18 to achieve those treatment goals. The education shall include studies in
19 implementing treatment plans including continuing assessment, the referral
20 process, service coordination, including for co-occurring medical and psychological
21 disorders, record management and documentation, and utilizing the written client
22 record to guide and monitor services to reach measurable goals and objectives.

23 **SECTION 17.** SPS 160.02 (6) of the administrative code is amended to read:

24 SPS 160.02 **(6)** “Clinical supervision” means a specific and definitive process
25 of oversight of a counselor’s professional development in the didactic, experiential

1 and application of the transdisciplinary foundations, and practice dimensions
2 including core functions. Supervision takes place in intermittent in person contact
3 between a clinical supervisor and treatment staff provided on or off the site of a
4 service to ensure that each patient has an individualized treatment plan and is
5 receiving quality care. A primary purpose of clinical supervision is to ensure skill
6 development evidenced in quality patient care.

7 SECTION 18. SPS 160.02 (9) of the administrative code is repealed.

8 SECTION 19. SPS 160.02 (10) of the administrative code is repealed.

9 SECTION 20. SPS 160.02 (10m) of the administrative code is created to read:

10 SPS 160.02 (10m) "Counseling" means education which includes the study of
11 fundamental theories, principles, and techniques of substance use disorder
12 counseling to facilitate the progress of diverse patients toward mutually determined
13 treatment goals and objectives using culturally sensitive modalities. Counseling
14 education shall include studies of understanding addiction, recognized treatment
15 theory and practice, the recovery process, effective strategies for meeting the
16 counseling needs of diverse patients, crisis management skills, and treatment of
17 co-occurring medical and psychological disorders.

18 SECTION 21. SPS 160.02 (14) of the administrative code is repealed.

19 SECTION 22. SPS 160.02 (16) of the administrative code is repealed.

20 SECTION 23. SPS 160.02 (19m) of the administrative code is created to read:

21 SPS 160.02 (19m) "Patient education" means education about the process of
22 providing patients, groups, families, couples, significant others, and communities
23 with information on risks related to substance use, the processes of dependence
24 including signs, symptoms, and behavior patterns, and available resources for
25 prevention, treatment, and recovery in culturally relevant ways. The education

SECTION 23

1 shall include studies in understanding addiction including addiction to nicotine, the
2 classification and basic pharmacology of drugs, basic physiology and the effects of
3 drug use on the human body and patient, learning styles and teaching methods,
4 delivery of educational programs, health and behavior problems related to substance
5 use including transmission of HIV/AIDS, tuberculosis, sexually transmitted
6 infections, and other infectious diseases, and basic life skills such as stress
7 management, communication, and assertiveness.

****NOTE: The suggested language in the drafting instructions contained a definition of the term "education." Based on other provisions in the suggested language, it appears that a more appropriate name for the term is "patient education," because that term is used in the substantive provisions of the suggested language. If that is not the intent, please let me know.

8 **SECTION 24.** SPS 160.02 (22) of the administrative code is repealed.

9 **SECTION 25.** SPS 160.02 (24m) of the administrative code is created to read:

10 SPS 160.02 (24m) "Professional responsibility" means education which *that*
11 addresses standards of conduct or professional behavior expectations for counselors,
12 supervisors, and prevention workers. Professional behavior areas to be studied shall
13 include, at a minimum, legal issues specific to substance use disorder professional
14 practice, patient welfare as a primary concern, in responsibility for professional
15 competence and professional development, participation in ongoing supervision and
16 consultation, counselor values and self-care, relationships with other professionals
17 and institutions, and the establishment of limits and boundaries in the patient
18 relationship. This education shall also address the impact of specific cultural, ethnic,
19 and racial influences and expectations.

20 **SECTION 26.** SPS 160.02 (28) of the administrative code is amended to read:

1 SPS 160.02 (28) "Substance use disorder" means the existence of a diagnosis
2 of "~~substance dependence~~" or "~~substance abuse~~" "substance use disorder" listed in
3 the most current edition of DSM.

4 **SECTION 27.** SPS 160.02 (29) of the administrative code is repealed.

 ****NOTE: This section of the draft repeals s. SPS 160.02 (29), which provides a
definition of the term "transdisciplinary foundations." That term is used in s. SPS 160.02
(6), of the draft. If you would like the draft to retain the definition of "transdisciplinary
foundations" in s. SPS 160.02 (29), please let me know.

5 **SECTION 28.** SPS 160.03 of the administrative code is amended to read:

6 **SPS 160.03 Use of title.** A person may use the title "addiction counselor,"
7 "substance abuse counselor," "alcohol and drug counselor," "substance use disorder
8 counselor" or "chemical dependency counselor" only if he or she is certified as a
9 substance abuse counselor, or as a clinical substance abuse counselor under s.
10 440.88, Stats., or as allowed under the provisions of s. 457.02 (5m), Stats if he or she
11 is granted a psychotherapy credential by the department and is knowledgeable in
12 treatment of substance use disorder.

 ****NOTE: The draft does not define the term "psychotherapy credential." If you
would like the draft to define "psychotherapy credential," or alternatively, if you would
like to cross-reference specific chapters under which those credentials are granted, such
as chs. 455 and 457, please let me know.

13 **SECTION 29.** Chapter SPS 161 of the administrative code is repealed and
14 recreated to read:

Chapter SPS 161

REQUIREMENTS FOR CERTIFICATION

17 **SPS 161.01 Substance abuse counselor-in-training application.** An
18 applicant for certification as a substance abuse counselor-in-training shall submit
19 all of the following:

- 20 (1) An application form.

- 1 (2) A fee as determined by the department under s. 440.05, Stats. ✓
- 2 (3) Evidence of successful passage of the jurisprudence examination.
- 3 (4) Evidence of completion of 100 hours of substance use disorder specialized
4 education through a postsecondary institution, department-approved continuing
5 education, or department-approved education program. The 100 hours shall be in
6 all of the following:
- 7 (a) ^{Five} 15 hours in assessment training.
- 8 (b) 15 hours in counseling.
- 9 (c) ^{ten} 10 hours in case management.
- 10 (d) 15 hours in patient education.
- 11 (e) ^{Twenty} 20 hours in professional responsibility.
- 12 (f) ^{Twenty-five} 25 hours in electives in any of the subjects in pars. (a) to (e). ✓ ✓
- 13 (5) Evidence of current employment, a written offer of employment, internship,
14 practicum, or an agreement authorizing volunteer hours at an agency providing
15 substance use disorder treatment.
- 16 (6) For applicants who have a pending criminal charge or have been convicted
17 of a crime, all related information necessary for the department to determine
18 whether the circumstances of the pending criminal charge or conviction are
19 substantially related to the practice of substance abuse counseling.
- 20 **SPS 161.02 Substance abuse counselor application.** (1) Except as
21 provided in sub. (2), an applicant for certification as a substance abuse counselor
22 shall submit all of the following:
- 23 (a) An application form. ✓
- 24 (b) A fee as determined by the department under s. 440.05, Stats.

1 (c) Evidence of successful passage of the jurisprudence examination unless the
2 applicant has previously passed the examination in the process of obtaining a
3 substance abuse counselor-in-training credential.

4 (d) Evidence of completion of 360 hours of substance use disorder specialized
5 education through a postsecondary institution or a department-approved education
6 program. The 360 hours shall be in all of the following:

- 7 1. 60 hours in assessment training.
- 8 2. 60 hours in counseling.
- 9 3. 60 hours in case management.
- 10 4. 60 hours in patient education.
- 11 5. 60 hours in professional responsibility.
- 12 6. 6 hours in boundaries and ethics. ✓ ✓
- 13 7. 54 hours in electives in any of the subjects in subs. 1. to 6.

14 (e) Evidence of successful passage of the National Association for Alcoholism
15 and Drug Abuse Counselors' NCAC I exam.

16 (f) Evidence of completion of 3,000 hours of work experience performing the
17 practice dimensions supervised by an individual under ch. SPS 162 within the 5
18 years immediately preceding the date of application. The 3,000 hours shall include
19 all of the following:

- 20 1. 1,000 hours in providing substance use disorder counseling with a minimum
21 of 500 hours in a one-on-one individual modality setting.
- 22 2. 200 hours of providing counseling during the 12-month period immediately
23 preceding the date of application of which 100 hours shall have been completed using
24 an individual modality setting.

1 (g) For applicants who have a pending criminal charge or have been convicted
2 of a crime, all related information necessary for the department to determine
3 whether the circumstances of the pending criminal charge or conviction are
4 substantially related to the practice of substance abuse counseling.

5 (2) An applicant for certification as a substance abuse counselor who is
6 credentialed by the marriage and family therapy, professional counseling, and social
7 work examining board at the bachelor's level or higher shall submit evidence
8 satisfactory to the department of the applicant's current credential under ch. 457,
9 Stats.

10 **SPS 161.03 Clinical substance abuse counselor application.** (1) Except
11 as provided in sub. (2), an applicant for certification as a clinical substance abuse
12 counselor shall submit all of the following:

13 (a) An application form.

14 (b) A fee as determined by the department under s. 440.05, Stats.

15 (c) Evidence of successful passage of the jurisprudence examination unless the
16 applicant has previously passed the examination in the process of obtaining a
17 substance abuse counselor-in-training or substance abuse counselor credential.

18 (d) Evidence of one of the following:

19 1. Holding a substance abuse counselor credential.

20 2. Completion of 360 hours of substance use disorder specialized education
21 through a postsecondary institution or department-approved education program.

22 The 360 hours shall be in all of the following:

23 *out* a. 60 hours in assessment training.

24 *sl* b. 60 hours in counseling.

25 c. 60 hours in case management.

- 1 *st* d. 60 hours in patient education.
- 2 e. 60 hours in professional responsibility.
- 3 f. 6 hours in boundaries and ethics.
- 4 *ee* g. 54 hours in electives in any of the subjects in subds. 2. a. to 2. f.

5 *(f)* Evidence of an associate's degree or higher in a behavioral science field from
6 an accredited university or college.

7 *(g)* Evidence of successful passage of the National Association for Alcoholism
8 and Drug Abuse Counselors' NCAC I exam.

9 *(h)* Evidence of completion of 5,000 hours of work experience performing the
10 practice dimensions, supervised by an individual under ch. SPS 162 within the 5
11 years immediately preceding the date of application. The 5,000 hours may include
12 any work experience hours obtained as a requirement of the substance abuse
13 counselor credential.

14 *(i)* For applicants who have a pending criminal charge or have been convicted
15 of a crime, all related information necessary for the department to determine
16 whether the circumstances of the pending criminal charge or conviction are
17 substantially related to the practice of substance abuse counseling.

18 (2) An applicant for certification as a clinical substance abuse counselor who
19 is credentialed by the marriage and family therapy, professional counseling, and
20 social work examining board at the master's level *or* higher shall submit evidence
21 satisfactory to the department of the applicant's current credential under ch. 457,
22 Stats.

23 **SPS 161.04 Clinical supervisor-in-training application.** An applicant
24 for certification as a clinical supervisor-in-training shall submit all of the following:

- 25 (1) An application form.

- 1 (2) A fee as determined by the department under s. 440.05, Stats.
- 2 (3) Evidence of current employment, a written offer of employment, or an
- 3 agreement authorizing volunteer hours as a clinical supervisor of counselors
- 4 providing substance use disorder treatment services who are certified under s.
- 5 440.88, Stats., or under ch. 457, Stats.

- 6 (4) Evidence of one of the following:
- 7 (a) Holding an active clinical substance abuse counselor credential.
- 8 (b) Holding an active credential under ch. 457, Stats., at the master's level or
- 9 higher.

10 **SPS 161.05 Intermediate clinical supervisor or independent clinical**
11 **supervisor application.** An applicant for certification as an intermediate clinical
12 supervisor or independent clinical supervisor shall submit all of the following:

- 13 (1) An application form.
- 14 (2) A fee as determined by the department under s. 440.05, Stats.
- 15 (3) Evidence of holding an active credential of one of the following:
- 16 (a) Clinical substance abuse counselor.
- 17 (b) A credential under ch. 457, Stats., at the master's level or higher.
- 18 (4) Evidence of 2 years of clinical supervisory experience as a
- 19 supervisor-in-training or intermediate supervisor within the last 5 years as the
- 20 supervisor of counselors certified under s. 440.88, Stats., or having a credential under
- 21 ch. 457, Stats.

- 22 (5) Evidence of one of the following:
- 23 (a) Holding an intermediate clinical supervisor credential.
- 24 (b) Successful completion of 30 hours of education in clinical supervision,
- 25 including a minimum of 6 hours of training in each of the following:

- 1 1. Assessment and evaluation.
- 2 2. Counselor development.
- 3 3. Management and administration.
- 4 4. Professional responsibility.

5 *5/27*

(c) Holding an American Association for Marriage and Family Therapy supervisor certification.

(6) Evidence of successful passage of the National Association of Alcoholism Counselors and Trainers' NCSE exam.

SPS 161.06 Prevention specialist-in-training application. An applicant for certification as a prevention specialist-in-training shall submit all of the following:

- (1) An application form. ✓
- (2) A fee as determined by the department under s. 440.05, Stats.
- (3) Evidence of successful completion of 40 hours of approved education, including 5 hours specific to ethics, in the following content areas:
 - (a) Planning and evaluation.
 - (b) Prevention education and service delivery.
 - (c) Communication.
 - (d) Community organization.
 - (e) Public policy and environmental change.
 - (f) Professional growth and responsibility.

SPS 161.07 Prevention specialist application. An applicant for certification as a prevention specialist shall submit all of the following:

- (1) An application form. ✓
- (2) A fee as determined by the department under s. 440.05, Stats.

1 (3) Evidence of successful passage of the jurisprudence examination.

2 (4) Evidence of successful completion of 120 hours of approved education,
3 including 50 hours specific to alcohol, tobacco, and other substance abuse and 6 hours
4 specific to ethics, in the following content areas:

5 (a) Planning and evaluation.

6 (b) Prevention education and service delivery.

7 (c) Communication.

8 (d) Community organization.

9 (e) Public policy and environmental change.

10 (f) Professional growth and responsibility.

11 **SPS 161.08 Reciprocity.** An applicant holding a current credential in good
12 standing as a substance abuse counselor, clinical supervisor, or prevention specialist
13 or its equivalent in another state or U.S. territory with requirements for the
14 credential that are not lower than specified in this chapter shall submit all of the
15 following:

16 (1) An application form. y

17 (2) A fee as determined by the department under s. 440.05, Stats. ✓

18 (3) For applicants who have a pending criminal charge or have been convicted
19 of a crime, all related information necessary for the department to determine
20 whether the circumstances of the pending criminal charge or conviction are
21 substantially related to the practice of substance abuse counseling.

22 (4) For applicants who have had disciplinary or adverse action taken on their
23 substance abuse counselor, clinical supervisor, or prevention specialist credential or
24 its equivalent, all related information necessary for the department to determine

1 whether the circumstances of the disciplinary action or adverse action warrant
2 denial of the application.

3 (5) Evidence of successful passage of jurisprudence examination.

4 **SECTION 30.** Chapter SPS 162 of the administrative code is repealed and
5 recreated to read:

6 **Chapter SPS 162**

7 **SUPERVISED PRACTICE**

8 **SPS 162.01 Supervised practice requirement.** An applicant under s. SPS
9 161.02 (1), 161.03 (1), or 161.05 shall complete a period of supervised practice.
10 Supervision may be exercised by a person regardless of whether the person is an
11 employment supervisor.

12 **SPS 162.02 Substance abuse counselor supervised practice. (1)**
13 **SUPERVISOR QUALIFICATIONS.** Supervision of the supervised practice may be exercised
14 by any of the following:

- 15 (a) A clinical supervisor-in-training.
16 (b) An intermediate clinical supervisor.
17 (c) An independent clinical supervisor.
18 (d) A physician knowledgeable in addiction treatment.
19 (e) A psychologist knowledgeable in psychopharmacology and addiction
20 treatment.

21 **(2) SUPERVISION REQUIREMENTS.** (a) A supervisor shall provide 2 hours of clinical
22 supervision for every 40 hours of work performed by any of the following:

- 23 1. A substance abuse counselor-in-training.
24 2. An applicant for a substance abuse counselor.

1 3. An applicant for clinical substance abuse counselor unless the applicant
2 holds a substance abuse counselor credential.

3 (b) A supervisor shall provide one hour of clinical supervision for every 40 hours
4 of work performed by a substance abuse counselor obtaining supervised experience
5 for a clinical substance abuse counselor certification.

6 (c) A supervisor shall provide one in-person meeting or visual electronic
7 conferencing each month. This meeting may fulfill part of the requirements in par.
8 (a) or (b).

9 (d) The clinical supervision hourly requirement may be averaged out over a
10 period no longer than one month.

11 **(3) GROUP SUPERVISION.** Group supervision shall meet all of the following:

12 (a) The group shall consist of no more than 8 supervisees for every one person
13 providing supervision.

14 (b) Each person receiving supervision as part of the group session receives one
15 hour credit for each hour that the group meets for supervision, but may not credit any
16 time which is primarily social activity with the group or supervisor as part of a
17 supervision session.

18 **(4) METHODS.** Methods for supervision may include any of the following:

19 (a) Direct observation of treatment.

20 (b) Auditing patient files.

21 (c) Case review and discussion of active cases.

22 (d) Video or audio review.

23 (e) Observation of the supervisee's professional interaction with patients and
24 staff.

1 (5) SUPERVISOR RESPONSIBILITIES. The supervisor's responsibilities include all
2 of the following:

3 (a) Exercising supervisory responsibility in regards to all activities including
4 counselor development, counselor skill assessment, performance evaluation, and
5 professional responsibility.

6 (b) Providing the opportunity to develop competency in substance abuse
7 disorder counseling and contexts for professional growth and development, and
8 ensuring a continuance of quality patient care.

9 (c) Permitting the supervisee to engage only in practice that the supervisee is
10 competent to perform.

11 (d) Permitting the supervisee to engage only in practice that the supervisor can
12 competently perform.

13 (e) Being legally and ethically responsible for the supervised activities of the
14 supervisee.

15 (f) Being available or making appropriate provision for emergency consultation
16 and intervention.

17 (g) Being able to interrupt or stop the supervisee from practicing in given cases
18 or recommend to the supervisee's employer that the employer interrupt or stop the
19 supervisee from practicing in given cases.

20 (h) Terminating the supervised relationship.

21 **SPS 162.03 Clinical supervisory practice. (1) SUPERVISOR QUALIFICATIONS.**
22 Supervision of the clinical supervisory practice may be exercised by any of the
23 following:

24 (a) An intermediate clinical supervisor.

25 (b) An independent clinical supervisor.

1 (c) A physician who practices as a substance abuse clinical supervisor within
2 the scope of his or her license.

3 (d) A psychologist who practices as a substance abuse clinical supervisor within
4 the scope of his or her license.

5 (2) SUPERVISION REQUIREMENTS. (a) A supervisor shall provide one hour of
6 supervision for every 40 hours of clinical supervisory practice performed by any of
7 the following:

8 1. A clinical supervisor-in-training.

9 2. An intermediate supervisor.

10 (b) A supervisor shall provide one in-person meeting or visual electronic
11 conferencing each calendar month. This meeting may fulfill part of the requirements
12 in par. (a).

13 (c) The supervision hourly requirement may be averaged out over a period no
14 longer than one month.

15 (3) SUPERVISOR RESPONSIBILITIES. The supervisor's responsibilities include all
16 of the following:

17 (a) Exercising supervisory responsibility in regards to all clinical supervisory
18 activities.

19 (b) Providing the opportunity to develop competency in supervising substance
20 abuse counselors.

21 (c) Being legally and ethically responsible for the supervised activities of the
22 supervisee.

23 (d) Being available or making appropriate provision for emergency
24 consultation and intervention.

25 (e) Terminating the supervised relationship.

1 **SECTION 31.** SPS 163.01 of the administrative code is repealed.

2 **SECTION 32.** SPS 163.02 (1) of the administrative code is renumbered SPS
3 163.02 and amended to read:

4 **SPS 163.02 Substance abuse counselor-in-training; limited scope of**
5 **practice.** The granting of a substance abuse counselor-in-training certificate does
6 not denote or assure competency to provide substance use disorder counseling. A
7 substance abuse counselor-in-training may provide services in any of the core
8 functions, ~~except counseling,~~ if authorized and documented by the clinical
9 supervisor. ~~A clinical supervisor may only authorize a substance abuse~~
10 ~~counselor-in-training to provide counseling in accordance with sub. (2).~~

11 **SECTION 33.** SPS 163.02 (2) of the administrative code is repealed.

12 **SECTION 34.** SPS 163.02 (3) of the administrative code is repealed.

13 **SECTION 35.** SPS 164.01 (2) (fm) of the administrative code is created to read:
14 SPS 164.01 (2) (fm) Allowing students or supervisees to perform services for
15 which the substance abuse professional is not qualified by education, training, or
16 experience to perform.

17 **SECTION 36.** SPS 164.01 (2) (j) of the administrative code is amended to read:
18 SPS 164.01 (2) (j) Discriminating in practice on the basis of age, race, color, sex,
19 religion, creed, national origin, ancestry, disability, gender identity, or sexual
20 orientation.

21 **SECTION 37.** SPS 164.01 (2) (k) of the administrative code is amended to read:
22 SPS 164.01 (2) (k) Revealing to other personnel not engaged in the care of a
23 patient or to members of the public information which concerns a patient's identity
24 or condition unless release of the information is authorized by the patient or required

1 or authorized by law. This provision shall not be construed to prevent a credential
2 holder from cooperating with the department in the investigation of complaints.

3 **SECTION 38.** SPS 164.01 (2) (x) of the administrative code is amended to read:

4 SPS 164.01 (2) (x) Failing to report to the department or to institutional
5 supervisory personnel any violation of the rules of this chapter by a substance abuse
6 professional.

7 **SECTION 39.** SPS 164.01 (2) (y) of the administrative code is created to read:

8 SPS 164.01 (2) (y) Disclosing supervisee confidences, except as follows:

- 9 1. As mandated by law.
- 10 2. To prevent a clear and immediate danger to a person.
- 11 3. In educational or training settings where there are multiple supervisors who
12 share responsibility for training of the supervisee.

13 **SECTION 40.** Chapter SPS 165 of the administrative code is repealed and
14 recreated to read:

15 Chapter SPS 165

16 RENEWAL AND REINSTATEMENT

17 **SPS 165.01 Late renewal. (1) GENERAL.** A person with an expired credential
18 under s. 440.88, Stats., may not reapply for a credential using the initial application
19 process.

20 **(2) RENEWAL WITHIN 5 YEARS.** A person renewing a credential under s. 440.88,
21 Stats., within 5 years after its expiration shall do all of the following:

22 (a) Pay the renewal fee as determined by the department under s. 440.03 (9)
23 (a), Stats., and any applicable late renewal fee.

24 (b) Certify the completion of continuing education under ch. SPS 168 during
25 the 2-year period preceding the last renewal date.

1 **SPS 166.01 Approval of substance abuse counselor education.** (1) An
2 application to be a department-approved education program shall include all of the
3 following:

4 (a) A detailed outline of each course, or for core competency programs a detailed
5 outline of each core competency and how the competency will be measured.

6 (b) For each course or core competency, indicate the allocation of hours or
7 competency hour equivalencies for the following content areas:

8 1. Assessment training.

9 2. Counseling.

10 3. Case management.

11 4. Patient education.

12 5. Professional responsibility.

13 6. Boundaries and ethics.

14 (c) Evidence that each instructor satisfies one of the following:

15 1. The instructor holds one of the following credentials in good standing:

16 a. Substance abuse counselor.

17 b. Clinical substance abuse counselor.

18 c. A credential under ch. 457, Stats.

19 2. The instructor is a physician with knowledge and experience related to
20 substance use disorder counseling.

21 3. The instructor is a psychologist with knowledge and experience related to
22 substance use disorder counseling.

23 4. The instructor is an instructor of substance use disorder related courses at
24 an accredited institution.

1 (2) An instructor whose credential has been limited, suspended, or revoked
2 may not instruct in an approved program while the disciplinary action is in effect.

3 (3) An approved program shall inform the department in advance of any major
4 change in a course or instructor qualifications.

5 (4) An approval of a program remains in effect for 5 years. After 5 years, the
6 program shall resubmit a new application to become an approved educational
7 program.

8 (5) An approved program shall provide a certificate of completion or transcript
9 to each student and shall retain student records for at least 7 years after a student
10 has completed the program.

11 **SPS 166.02 Approved prevention specialist education.** The department
12 shall accept prevention specialist training provided, sponsored, or approved by any
13 of the following:

****NOTE: Should the provision above use "accept" or "approve?"

14 (1) An accredited college or university.

15 (2) The Wisconsin Association of Alcohol and Drug Abuse.

16 (3) The National Association of Alcohol and Drug Abuse Counselors.

17 (4) The Wisconsin Clearinghouse for Prevention Resources.

18 (5) The Federal Center for Substance Abuse Prevention.

19 (6) The National Center for the Application of Prevention Technologies or its
20 regional centers.

21 (7) The federal department of health and human services, or its agencies,
22 institutes, administrations, or centers.

23 (8) The White House Office of National Drug Control Policy.

24 (9) The department of health services.

1 (10) The department of public instruction.

2 SECTION 42. Chapter SPS 168 of the administrative code is repealed and
3 recreated to read:

4 Chapter SPS 168

5 CONTINUING EDUCATION

6 SPS 168.01 Continuing education requirements. (1) Unless granted a
7 postponement or waiver of the continuing education requirements under s. SPS
8 168.03, a substance abuse counselor or prevention specialist shall complete 30
9 continuing education credit hours in approved continuing education programs
10 during each 2-year credential period and shall certify on the renewal application
11 that all required continuing education was completed.

12 (2) A minimum of 4 continuing education credit hours of the required 30 credit
13 hours shall be in the area of professional ethics and boundaries.

14 (3) A credential holder who also holds an active credential granted under ch.
15 457, Stats., may satisfy the continuing education requirements by meeting the
16 continuing education requirements under s. 457.22, Stats.

17 (4) A clinical supervisor shall complete 4 hours of continuing education each
18 2-year credential period related to the supervision of substance abuse counselors.
19 The 4 hours completed under this subsection may count toward the continuing
20 education required for renewal of a clinical substance abuse counselor certification.

21 (5) A new credential holder is not required to satisfy continuing education
22 requirements during the time between initial credentialing and commencement of
23 a full 2-year credential period.

24 (6) Continuing education credit hours shall apply only to the 2-year credential
25 period during which the credit hours are completed. If a credential holder fails to

1 satisfy the continuing education requirements during a 2-year credential period,
2 any additional continuing education credit hours completed on or after the renewal
3 date to satisfy the requirement of the preceding period will not apply to the period
4 during which they are earned.

5 **SPS 168.02 Approved continuing education.** (1) A continuing education
6 program is approved if it is relevant to the practice of substance abuse counseling and
7 any of the following *apply: we applies*

8 (a) The program is approved, sponsored, provided, endorsed, or authorized by
9 any of the following:

- 10 1. The National Association of Alcohol and Drug Abuse Counseling or one of
11 its affiliated divisions.
- 12 2. The International Certification & Reciprocity Consortium. ✓
- 13 3. The American Association for Marriage and Family Therapy or one of its
14 affiliated divisions.
- 15 4. The Wisconsin Association for Marriage and Family Therapy.
- 16 5. The National Rehabilitation Counseling Association.
- 17 6. The American Rehabilitation Counseling Association.
- 18 7. The Wisconsin Rehabilitation Counseling Association.
- 19 8. The National Board for Certified Counselors.
- 20 9. The Commission on Rehabilitation Counselor Certification.
- 21 10. The Association of Social Work Boards.
- 22 11. The National Association of Social Workers or one of its affiliated chapters.
- 23 12. The Association of Baccalaureate Program Directors.
- 24 13. The Council on Social Work Education.

1 (b) The program or course is offered by a training program accredited by the
2 Commission on Accreditation for Marriage and Family Therapy Education.

3 (c) The program is approved, sponsored, or co-sponsored by a presenter
4 approved by the Committee for the Approval of Continuing Education Sponsors of
5 the American Psychological Association.

6 (d) The program or course is offered by an accredited college or university. A
7 credential holder shall receive 15 continuing education credit hours for completing
8 a semester course approved under this paragraph.

9 (e) The program is an employee sponsored inservice training and development
10 program. No more than 15 continuing education credit hours earned through
11 employee sponsored inservice training and development programs ^{that} ~~which~~ are not
12 approved under par. (a), (b), (c), or (d) may count toward satisfying continuing
13 education requirements.

14 (2)(a) A person may earn continuing education credit hours for engaging in any
15 of the following activities, if the activity is relevant to the practice of substance abuse
16 counseling:

17 1. Presenting professional material. One continuing education credit hour is
18 earned under this subdivision for each hour of a continuing education presentation,
19 except that 15 credit hours are earned for presenting a semester-long educational
20 course. No continuing education credit hours are earned by a person for repeating
21 a presentation for which the person has previously earned continuing education. A
22 person who presents for any of the following may earn continuing education credit
23 hours under this subdivision:

24 a. A seminar, workshop, program, or institution that is approved under sub. (1).

25 b. A university, college, or vocational technical adult education course.

1 2. Developing professional material. One continuing education credit hour is
2 earned under this subdivision for each hour spent developing continuing education
3 professional material.

4 3. Authoring a published textbook or professional resource book. Fifteen
5 continuing education credit hours are earned for authoring a book under this
6 subdivision.

7 4. Authoring a professional journal article or a chapter published in a textbook
8 or professional resource book. Eight continuing education credit hours are earned
9 for authoring an article or chapter under this subdivision.

10 (b) A person may earn up to 15 continuing education credit hours that count
11 toward satisfying continuing education requirements by completing continuing
12 education that is approved under par. (a).

13 **SPS 168.03 Postponement or waiver.** A holder of a credential under s.
14 440.88, Stats., may apply to the department for a postponement or waiver of the
15 requirements under this chapter on grounds of prolonged illness, disability, or other
16 grounds constituting extreme hardship. The department shall consider each
17 application individually on its merits.

18 **SECTION 43. Initial applicability.**

19 (1) The treatment of chapters SPS 161, SPS 165, and SPS 166 of the
20 ^{Wisconsin} administrative ^{Code} rules first applies to an application received by the department of
21 safety and professional services on the effective date of this subsection.

22 **SECTION 44. Effective dates.** This act takes effect on the day after publication,
23 except as follows:

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-5086/P1dn

KP:

gf

Date

Representative Nygren:

This draft includes the changes to the administrative code suggested in the drafting instructions with only minor technical changes. Please carefully review the draft to make sure the language accomplishes your intent.

Thank you.

Konrad Paczuski
Legislative Attorney
(608) 261-5414
Konrad.Paczuski@legis.wisconsin.gov

2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-5086/P1insTD
TJD:...

1 INSERT TJD DHS

2 SECTION 1. DHS 75.02 (84) (d) of the administrative code is amended to read:

3 DHS 75.02 (84) (d) ~~A s. MPSW 1.09 specialty~~ An individual who holds a
4 credential under ch. 457, Stats., granted by DSPS.

5 SECTION 2. DHS 75.03 (4) (e) of the administrative code is amended to read:

6 DHS 75.03 (4) (e) All Any staff who ~~provide~~ provides clinical supervision shall
7 ~~fulfill the requirements established, as defined in s. SPS 160.02 (6) and, shall hold~~
8 ~~a certificate from DSPS as required be a clinical supervisor, as defined in s. SPS~~
9 160.02 (7), except for a physician knowledgeable in addiction treatment, licensed
10 psychologist with a knowledge of psychopharmacology and addiction treatment, or
11 professional possessing the ~~s. MPSW 1.09 subspecialty~~ a credential under ch. 457,
12 Stats.

13 SECTION 3. DHS 75.10 (5) (a) of the administrative code is renumbered DHS
14 75.10 (5).

15 SECTION 4. DHS 75.10 (5) (b) of the administrative code is repealed.

16 SECTION 5. DHS 75.11 (5) (a) of the administrative code is renumbered DHS
17 75.11 (5).

18 SECTION 6. DHS 75.11 (5) (b) of the administrative code is repealed.

19 SECTION 7. DHS 75.12 (5) (a) of the administrative code is renumbered DHS
20 75.12 (5).

21 SECTION 8. DHS 75.12 (5) (b) of the administrative code is repealed.

22 SECTION 9. DHS 75.13 (4) (a) of the administrative code is renumbered DHS
23 75.13 (4).

1 **SECTION 10.** DHS 75.13 (4) (b) of the administrative code is repealed.

2 **SECTION 11.** DHS 75.14 (5) (a) of the administrative code is renumbered **NEW**

3 **RULE SECTION.** ^{DHS} 75.14 (5)

4 **SECTION 12.** DHS 75.14 (5) (b) of the administrative code is repealed.

5 **SECTION 13.** DHS 75.15 (4) (e) of the administrative code is repealed.

6 **END INSERT TJD DHS .**

**2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-5086/P1insKP
KP...

1 INS 23-16

****NOTE: In the suggested language of the drafting instructions, the provision above cross-referenced sub. (3). This draft changes that cross-reference to s. SPS 165.01 (3) because cross-referencing sub. (3) is redundant and therefore appears to be a mistake. If the cross-reference should indeed be to sub. (3), please let me know.

2 END INS 23-16

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-5086/P1dn
KP:kjf

December 20, 2017

Representative Nygren:

This draft includes the changes to the administrative code suggested in the drafting instructions with only minor technical changes. Please carefully review the draft to make sure the language accomplishes your intent.

Thank you.

Konrad Paczuski
Legislative Attorney
(608) 261-5414
Konrad.Paczuski@legis.wisconsin.gov

Paczuski, Konrad

From: Borgerding, Chris
Sent: Thursday, December 21, 2017 12:55 PM
To: Paczuski, Konrad <Konrad.Paczuski@legis.wisconsin.gov>
Subject: LRB-5086/P1

Good afternoon Konrad,

This looks very good, just a few comments in the attached document as notes on the draft. Most of the comments just respond to yours notes, but there are a few substantive comments.

Let me know how I can help! Really appreciate the quick turnaround on this.

Chris Borgerding
Office of State Representative John Nygren
Co-Chair, Joint Committee on Finance
89th Assembly District
309 East, State Capitol
608.266.2343

Additional Instructions 12/29:

- Require the advisory behavioral health review committee to conduct its review biannually
- Require the department to publish a class 1 notice under ch. 985 and publish a notice on its Internet site announcing the opportunity for public comment on the review

-KP