




# 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 IV


**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/P1  
KP&TJD:kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1/PC

OUT TODAY,  
PLEASE

INSERT

Region

1 AN ACT *to repeal* 457.02 (5) and 457.02 (5m); *to amend* 440.88 (3) (a) (intro.),  
2 440.88 (3m), 440.88 (7), 961.385 (2) (cm) 1. (intro.) and 961.385 (2) (cm) 2.; and  
3 *to create* 440.043 of the statutes; **relating to:** certification for substance abuse  
4 counseling and modifying and creating administrative rules related to  
5 substance abuse counseling.

**Analysis by the Legislative Reference Bureau**

INS  
A

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:*

INS 7-6

6 SECTION 1. 440.043 of the statutes is created to read:

7 440.043 Behavioral health review committee. (1) The secretary shall  
8 appoint an advisory committee under s. 440.042 to provide advice concerning  
9 behavioral health. The advisory committee shall periodically review the

1 requirements for obtaining a credential under ch. 457 or s. 440.88 or for other  
2 credentials related to behavioral health. The advisory committee shall accept  
3 comments from the public as part of its review under this subsection.

4 (3) <sup>advisory</sup> (2) The committee established under sub. (1) may propose changes in statutes  
5 and rules to the department.

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

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

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

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

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

21 440.88 (7) RECIPROCAL CERTIFICATION. The department ~~may~~ shall, upon  
22 application and payment of the required fee, issue certification as a substance abuse  
23 counselor, clinical supervisor, or prevention specialist to an individual who holds a  
24 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.

\*\*\*\*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:

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  
22 if the disclosure does not contain personally identifiable information, as defined in  
23 s. 19.62 (5), of a patient and is limited to only those records about the practitioner,

1 pharmacist, registered nurse, substance abuse counselor, or individual the person  
2 medically coordinates, directs, or supervises, or for whom the person establishes  
3 standard operating procedures.

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

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

10 **SECTION 10.** DHS 75.02 (84) (d) of the administrative code is amended to read:

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

13 **SECTION 11.** DHS 75.03 (4) (e) of the administrative code is amended to read:

14 DHS 75.03 (4) (e) ~~All Any~~ Any staff who ~~provide~~ provides clinical supervision shall  
15 ~~fulfill the requirements established, as defined in s. SPS 160.02 (6) and,~~ shall hold  
16 ~~a certificate from DSPS as required~~ be a clinical supervisor, as defined in s. SPS  
17 160.02 (7), except for a physician knowledgeable in addiction treatment, licensed  
18 psychologist with a knowledge of psychopharmacology and addiction treatment, or  
19 professional possessing ~~the s. MPSW 1.09 subspecialty~~ a credential under ch. 457,  
20 Stats.

21 **SECTION 12.** DHS 75.10 (5) (a) of the administrative code is renumbered DHS  
22 75.10 (5).

23 **SECTION 13.** DHS 75.10 (5) (b) of the administrative code is repealed.

24 **SECTION 14.** DHS 75.11 (5) (a) of the administrative code is renumbered DHS  
25 75.11 (5).

- 1           **SECTION 15.** DHS 75.11 (5) (b) of the administrative code is repealed.
- 2           **SECTION 16.** DHS 75.12 (5) (a) of the administrative code is renumbered DHS
- 3           75.12 (5).
- 4           **SECTION 17.** DHS 75.12 (5) (b) of the administrative code is repealed.
- 5           **SECTION 18.** DHS 75.13 (4) (a) of the administrative code is renumbered DHS
- 6           75.13 (4).
- 7           **SECTION 19.** DHS 75.13 (4) (b) of the administrative code is repealed.
- 8           **SECTION 20.** DHS 75.14 (5) (a) of the administrative code is renumbered DHS
- 9           75.14 (5).
- 10          **SECTION 21.** DHS 75.14 (5) (b) of the administrative code is repealed.
- 11          **SECTION 22.** DHS 75.15 (4) (e) of the administrative code is repealed.
- 12          **SECTION 23.** 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 24.** Chapter SPS 160 (title) of the administrative code is amended to  
14          read:

**Chapter SPS 160**

**APPLICABILITY AND DEFINITIONS**

17          **SECTION 25.** 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  
23          counselor, clinical supervisor, or prevention specialist or a certified substance abuse

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

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

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

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

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

INS 6-72 ↑

13 (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.

14 (e) The preparation of a patient for substance use disorder treatment by  
15 referral, the treatment of a patient for substance use disorder until a referral for  
16 substance use disorder treatment is completed, and the continuation of treatment  
17 with the nonsubstance use disorder issues of a person, when performed by a mental  
18 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.

19 SECTION 26. SPS 160.02 (2m) of the administrative code is created to read:

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 27. 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 28. 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 29. 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 30. 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 31.** SPS 160.02 (9) of the administrative code is repealed.

8 **SECTION 32.** SPS 160.02 (10) of the administrative code is repealed.

9 **SECTION 33.** SPS 160.02 (10m) of the administrative code is created to read:

10 SPS 160.02 (10m) "Counseling" means education that 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 34.** SPS 160.02 (14) of the administrative code is repealed.

19 **SECTION 35.** SPS 160.02 (16) of the administrative code is repealed.

20 **SECTION 36.** 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

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 37.** SPS 160.02 (22) of the administrative code is repealed.

9 **SECTION 38.** SPS 160.02 (24m) of the administrative code is created to read:

10 SPS 160.02 (24m) "Professional responsibility" means education 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, 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 39.** SPS 160.02 (28) of the administrative code is amended to read:



- 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) Fifteen hours in assessment training.
- 8           (b) Fifteen hours in counseling.
- 9           (c) Ten hours in case management.
- 10          (d) Fifteen hours in patient education.
- 11          (e) Twenty hours in professional responsibility.
- 12          (f) Twenty-five 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. Sixty hours in assessment training.
- 8 2. Sixty hours in counseling.
- 9 3. Sixty hours in case management.
- 10 4. Sixty hours in patient education.
- 11 5. Sixty hours in professional responsibility.
- 12 6. Six hours in boundaries and ethics.
- 13 7. Fifty-four hours in electives in any of the subjects in subds. 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. One thousand hours in providing substance use disorder counseling with a  
21 minimum of 500 hours in a one-on-one individual modality setting.
- 22 2. Two hundred hours of providing counseling during the 12-month period  
23 immediately preceding the date of application of which 100 hours shall have been  
24 completed using 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 a. Sixty hours in assessment training.

24 b. Sixty hours in counseling.

25 c. Sixty hours in case management.

1 d. Sixty hours in patient education.

2 e. Sixty hours in professional responsibility.

3 f. Six hours in boundaries and ethics.

4 g. Fifty-four hours in electives in any of the subjects in subds. 2. a. to f.

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

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

9 (g) 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 (h) 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  
21 under 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           (c) Holding an American Association for Marriage and Family Therapy  
6 supervisor certification.

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

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

12           (1) An application form.

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

14           (3) Evidence of successful completion of 40 hours of approved education,  
15 including 5 hours specific to ethics, in the following content areas:

16           (a) Planning and evaluation.

17           (b) Prevention education and service delivery.

18           (c) Communication.

19           (d) Community organization.

20           (e) Public policy and environmental change.

21           (f) Professional growth and responsibility.

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

24           (1) An application form.

25           (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.
- 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 43.** 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 44.** SPS 163.01 of the administrative code is repealed.

2           **SECTION 45.** 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 46.** SPS 163.02 (2) of the administrative code is repealed.

12           **SECTION 47.** SPS 163.02 (3) of the administrative code is repealed.

13           **SECTION 48.** 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 49.** 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 50.** 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 51.** 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 52.** 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 53.** 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 (3) RENEWAL AFTER 5 YEARS. This subsection does not apply to a credential holder  
2 who has unsatisfied disciplinary requirements. A person renewing a credential  
3 under s. 440.88, Stats., after 5 years of its expiration shall do all of the following:

4 (a) Pay the renewal fee as determined by the department under s. 440.03 (9)  
5 (a), Stats., and the late renewal fee.

6 (b) Provide evidence of one of the following:

7 1. Holding a substantially equivalent credential in another state.

8 2. Completion of 60 hours of continuing education in the last 2 years, including  
9 6 hours on ethics and boundaries and 6 hours of psychopharmacology.

10 **SPS 165.02 Reinstatement.** A credential holder who has unsatisfied  
11 disciplinary requirements and has not renewed a credential under s. 440.88, Stats.,  
12 within 5 years of its expiration or whose credential under s. 440.88, Stats., has been  
13 surrendered or revoked may apply for the credential to be reinstated by submitting  
14 all of the following:

15 (1) Evidence of completion of the requirements in sub.(3) if the credential has  
16 not been active within the past 5 years.

\*\*\*\*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.

17 (2) Evidence of completion of disciplinary requirements, if applicable.

18 (3) Evidence of rehabilitation or change in circumstances warranting  
19 reinstatement.

20 **SECTION 54.** Chapter SPS 166 of the administrative code is repealed and  
21 recreated to read:

22 **Chapter SPS 166**  
23 **EDUCATION APPROVAL**

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 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 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 in-service training and development programs that 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 56. Initial applicability.**

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

22           **SECTION 57. Effective dates.** This act takes effect on the day after publication,  
23 except as follows:





2017-2018 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-5086/P1ins  
KP...

1

INS A

*the secretary of*

This bill makes the following changes regarding substance abuse counseling:

1. The bill allows marriage and family therapists and professional counselors to represent themselves to the public as substance abuse counselors, clinical supervisors, or prevention specialists without holding a certification for that purpose granted by the Department of Safety and Professional Services.

2. The bill also requires DSPS to grant a certification as a substance abuse counselor, clinical supervisor, or prevention specialist to an individual who holds a similar unexpired certification granted by another state that has requirements for certification that are not lower than this state's certification requirements.

3. The bill also requires DSPS to appoint an advisory behavioral health review committee to semiannually review the requirements for obtaining certain substance abuse counseling certifications; for obtaining credentials granted by the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board; and for obtaining other credentials related to behavioral health. Under the bill, the advisory committee is required to accept public comments related to its review and may propose changes in statutes and administrative rules to DSPS.

4. The bill also allows a person certified as a social worker, advanced practice social worker, or independent social worker (to, within the scope of his or her credential, treat substance use disorder as a specialty. In order to treat substance use disorder as a specialty, current law requires a person holding one of those certifications to satisfy additional criteria related to education and amount of supervised practice, and to complete continuing education every two years, or to obtain a substance abuse counselor, clinical supervisor, or prevention specialist certification from DSPS.

5. The bill also specifies the contents required in an application for certification as a substance abuse counselor, clinical substance abuse counselor, intermediate or independent clinical supervisor, prevention specialist, substance abuse counselor-in-training, clinical supervisor-in-training, or prevention specialist-in-training.

6. The bill also specifies the amount of practice that substance abuse counselors, clinical substance abuse counselors, intermediate supervisors, substance abuse counselors-in-training, and clinical supervisors-in-training are required to perform under supervision; the types of persons who may supervise that practice; and the permissible methods of exercising supervision.

7. The bill also adds various actions to the scope of unprofessional conduct for which DSPS may discipline a substance abuse counselor or other related professional.

8. The bill also specifies the requirements that a person with an expired substance abuse counselor or other related certification must satisfy to renew or reinstate an expired, surrendered, or revoked certification.

9. The bill also specifies the contents required in an application to be approved by DSPS to provide education that satisfies the educational requirements for a substance abuse counselor or other related certification.

10. The bill also specifies the continuing education requirements that a substance abuse counselor, clinical substance abuse counselor, prevention specialist, or clinical supervisor is required to satisfy in order to renew his or her certification.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

END INS A

INS 1-6

**440.043 Behavioral health review committee.** (1) The secretary shall appoint an advisory committee under s. 440.042 to provide advice concerning behavioral health. The advisory committee shall semiannually conduct a review of the requirements for obtaining a credential under ch. 457 or s. 440.88 or for other credentials related to behavioral health.

(2) The advisory committee shall accept comments from the public related to its review under sub.(1). Before conducting a review under sub. (1), the department shall publish a class 1 notice under ch. 985 and shall publish notice on its Internet site announcing the opportunity for public comment.

END INS 1-6

INS 6-12

(d) A marriage and family therapist, as defined in s. 457.01 (3), or a professional counselor, as defined in s. 457.01 (7), who practices as a substance abuse clinical supervisor or provides substance abuse counseling, treatment, or prevention services within the scope of his or her licensure.

END INS 6-12

INS 10-5

1           **SPS 160.03 Use of title.** ~~A~~ <sup>✓</sup> Except as consistent with s. SPS 160.015 (2), a  
2 person may use the title "addiction counselor," "substance abuse counselor," "alcohol  
3 and drug counselor," "substance use disorder counselor" or "chemical dependency  
4 counselor" only if he or she is certified as a substance abuse counselor, or as a clinical  
5 substance abuse counselor under s. 440.88, Stats<sup>plain</sup>, or as allowed under the provisions  
6 of ~~s. 457.02 (5m), Stats.~~

7           END INS 10-5

**Paczuski, Konrad**

---

**From:** Borgerding, Chris  
**Sent:** Tuesday, January 09, 2018 3:56 PM  
**To:** Paczuski, Konrad  
**Subject:** LRB-5086/P2

Hi Konrad,

Rep. Nygren would like to make a few changes to this bill draft.

Here are the two items we would like removed (these are from someone we have been working with, I have copied his response below, I hope this is useful).

Please let me know if you have any questions!

1. "Included in its definition of "counseling" is a statement that counseling education shall include "treatment of co-occurring medical and psychological disorders" - see SECTION 8, SPS 160.02(11m). This seems to be leaning in the direction of broadening the scope of "counseling" to include what would typically be "psychotherapy," which requires licensure under WI statutes 448, 455, and 457. To be honest, the whole paragraph is a bit confusing in that it seems to be addressing education rather than counseling."

2. "My biggest concern with these rule revisions is the repeal of the ongoing supervision requirement for those with the SAC certification, requiring supervision only during the application stage - see SECTION 15. This would be a grossly negligent practice given the vast majority of those with the SAC are not trained or licensed to assess, diagnose, or treat co-occurring mental health disorders. Given the significant number of individuals with co-occurring mental health disorders, substance abuse counselors should not be credentialed to engage in the independent practice of substance counseling unless they are dual-credentialed as a licensed psychotherapist. Substance use disorder is an official DSM diagnosis. Allowing SACs to be credentialed to engage in the independent practice of treating one DSM disorder is no different than credentialing other unlicensed mental health providers to engage in the independent practice of treating bipolar disorder, OCD, major depression, or any other complex mental health disorder as long as they have a certification for that particular disorder. Of all the things that should be repealed in SPS 160-168, chapter 162 is not one of them."

We would like to drop these bills sometime next week, so if we could get this back sooner rather than later I would really appreciate that!

Thanks so much!

Chris

---

**From:** Borgerding, Chris  
**Sent:** Wednesday, January 03, 2018 2:53 PM  
**To:** Paczuski, Konrad <Konrad.Paczuski@legis.wisconsin.gov>  
**Subject:** RE: bill draft



Additional instructions 1/10:

Replace "treatment of co-occurring medical and psychological disorders" with "awareness of co-occurring medical and psychological disorders" on p. 9, l. 12-13

-KP