



JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR STEVE NASS AND REPRESENTATIVE ADAM NEYLON

Ch. MPSW 20

Report to the Legislature

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The Joint Committee for Review of Administrative Rules

Produced pursuant to 227.26 (2) (g), Stats.

On November 7, 2022 the Wisconsin Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board (MPSW), filed a permanent rule updating ch. MPSW 20, rules of professional conduct for marriage and family therapists, professional counselors, and social workers.

Description of Problem

The Joint Committee for Review of Administrative Rules (JCRAR) held a public hearing and a executive session on ch. MPSW 20, relating to unprofessional conduct, on January 12, 2023, at the request of Representative Adam Neylon to review concerns related to updated rules relating to professional conduct in ch. MPSW 20.

Arguments In Favor of Suspension

- *The code capriciously restricts practitioners' free speech rights.*
- *The code goes beyond the rulemaking authority granted to the examining board by the legislature and makes policy decisions which the legislature did not authorize it to make.*

Arguments Against Suspension

- *The Board did not attend the hearing to review the rule with JCRAR Members. The MPSW Board argues the rule are best practices within the profession and it is an update of the profession's code of conduct.*

Action by Joint Committee for Review of Administrative Rules

On January 12, 2023, the Joint Committee for Review of Administrative Rules held an executive session on ch. MPSW 20. The committee passed the following motion on a 6-4 vote, suspending MPSW 20.02 (25) (YES: Neylon, Petersen, Spiros, Nass, Stroebel, Bradley; NO: Conley, Baldeh, Roys, Larson):

Moved, that the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26 (2) (d), Stats., suspend s. MPSW 20.02 (25), an administrative rule of the Marriage and Family Therapy, Professional Counseling, and Social Worker Examining Board that specifies certain conduct as unprofessional in relation to practice under a credential issued under ch. 457, Stats., on the grounds that the provision is arbitrary and capricious and fails to comply with legislative intent.

On January 12, 2023, the Joint Committee for Review of Administrative Rules voted 6-4 (YES: Neylon, Petersen, Spiros, Nass, Stroebel, Bradley; NO: Conley, Baldeh, Roys, Larson) to introduce LRB 1122 and LRB 0977, which support the suspension of MPSW 20.02 (25) by the joint committee. The bills were introduced as Senate Bill 4 and Assembly Bill 3 in the 2022-23 legislative session.

Passage of one of these bills in support of the JCRAR suspension would permanently suspend MPSW Examining Board's ability to promulgate the suspended provisions in administrative code.