

Report From Agency

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF SAFETY AND
: PROFESSIONAL SERVICES
DEPARTMENT OF SAFETY AND : ADOPTING RULES
PROFESSIONAL SERVICES : CLEARINGHOUSE RULE 14-059

PROPOSED ORDER

An order of the Department of Safety and Professional Services to repeal SPS 166.03 (4); to renumber and amend SPS 166.07 (1) (a); to amend SPS 160.01, 166.03 (1) (intro.), 166.03 (2), 166.07 (1) (intro.); and to create SPS 166.07 (1) (a) 2. relating to substance abuse professionals.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 227.11 (2) (a), s. 440.88

Statutory authority: s. 227.11 (2) (a), s. 440.88 (3) (a) and (b)

Explanation of agency authority:

s. 227.11 (2) (a), Wis. Stats. Rule-making authority is expressly conferred as follows: (a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

s. 440.88 (3) (a) and (b), Wis. Stats. Subject to pars. (b) and (c) and except as provided in sub. (3m), the department shall promulgate rules that establish minimum standards and qualifications for the certification of all of the following, including substance abuse counselors and clinical supervisors described under s. HFS 75.02 (11) and (84), Wis. Adm. Code, in effect on December 15, 2006: 1. Substance abuse counselors-in-training., 2. Substance abuse counselors., 3. Clinical substance abuse counselors., 4m. Clinical supervisors-in-training., 5. Intermediate clinical supervisors., 6. Independent clinical supervisors., 7. Prevention specialists-in-training., and 8. Prevention specialists. (b) Rules promulgated under par. (a) shall include standards based on demonstrated requisite competency, knowledge, skills, and attitudes of professional practice that are culturally competent and evidence-based.

Related statute or rule: s. 440.88 (3) (c), s. 457.02 (5m)

Plain language analysis:

Current Department administrative rules require an individual seeking substance abuse counselor certification to attend a comprehensive program that has been pre-approved by the Department. The proposed rule modifies the comprehensive program approval requirements to allow for competency-based flexible option programs. Competency-based flexible option programs address workforce shortage issues by providing an academically rigorous but less time-consuming avenue for obtaining the substance abuse counselor education requirements that is appealing to working adults.

Specifically, the current rule limits the number of education hours in a comprehensive program that may be obtained through internet based coursework. Since the initial promulgation of these rules, significant technological advancements in internet-based coursework have made it essentially comparable to in-person coursework. The proposed rule eliminates the limitation on internet based coursework.

The current rule also requires an individual seeking approval of a comprehensive program to submit specific allocations of classroom hours toward each required content area for each course. In the proposed rule, an individual seeking approval of a program that is based on core competencies may allocate classroom hours toward each content area for each core competency.

Lastly, the proposed rule updates incorrect references to other code and statutes.

The Substance Abuse Counselor Certification Review Committee met on September 30, 2014. The Committee reviewed the proposed rule and passed a motion to recommend the approval of the preliminary rule draft.

Summary of, and comparison with, existing or proposed federal regulation:

None

Comparison with rules in adjacent states:**Illinois:**

All professional staff providing clinical services at organizations licensed to provide alcoholism and substance abuse treatment and intervention by the Department of Human Services must hold clinical certification as a Certified Alcohol and Drug Counselor from the Illinois Alcoholism and Other Drug Abuse Professional Certification Organization (IAODAPCA) or be a licensed professional counselor, licensed clinical professional counselor, a licensed physician, a licensed psychologist, or a licensed social worker or clinical social worker. All professional staff providing only clinical assessments, DUI evaluations or designated program intervention services shall meet one of the qualifications for staff providing clinical services or hold assessor certification as a

Certified Assessment and Referral Specialist (CARS) from IAODAPCA. All staff providing DUI risk education services shall meet one of the qualifications for staff providing clinical services or hold Alcohol and Other Drug Abuse (AODA) certification from IAODAPCA. (77 Ill. Adm. Code 2060.309 Professional Staff Qualifications)

IAODAPCA does not pre-approve education courses for initial application. Acceptable sources of education include: college courses, seminars, conferences, in-services, and lectures (IAODAPCA AODA Counselor Model, page 8). IAODAPCA does not restrict online course credit hours.

Iowa:

Iowa Administrative Rules do not require the certification of substance abuse professionals.

Michigan:

Michigan Administrative Rules do not require the certification of substance abuse professionals.

Minnesota:

All individuals who use the title alcohol and drug counselor and all individuals who provide alcohol and drug counseling services to clients who reside in Minnesota must be licensed as an alcohol and drug counselor by the Minnesota Board of Behavioral Health and Therapy. Education requirements for licensure include: a bachelor's degree from an accredited school or educational program, 18 semester credits or 270 clock hours of academic course work, and 80 clock hours of supervised alcohol and drug counseling practicum from an accredited school or education program. The course work and practicum do not have to be part of the bachelor's degree. The statutes further specify the specific topic areas of the course work. Examination requirements for licensure include passing the IC&RC AODA written examination (or an equivalent exam as determined by the Board) or passing a written exam as determined by the board and one of the following: (1) Completing a written case presentation and passing an oral examination, or (2) Completing 2,000 hours of post-degree supervised professional practice. (Minnesota Statutes 148F.025)

An accredited school or educational program is defined as "a school of alcohol and drug counseling, university, college, or other postsecondary education program that, at the time the student completes the program, is accredited by a regional accrediting association whose standards are substantially equivalent to those of the North Central Association of Colleges and Postsecondary Education Institutions or an accrediting association that evaluates schools of alcohol and drug counseling for inclusion of the education, practicum, and core function standards in this chapter." (Minnesota Statutes 148F.01 subd. 3.)

Summary of factual data and analytical methodologies:

The data and methodology for developing these rule revisions consisted primarily of comparing current requirements for the approval of substance abuse counselor comprehensive programs with the structure of competency-based, flexible option programs. The Substance Abuse Counselor Certification Review Committee met on September 30, 2014. The Committee reviewed the proposed rule and passed a motion to recommend the approval of the preliminary rule draft. Adjacent states' rules were also reviewed.

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

The rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

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

Comments may be submitted to Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov. Comments must be received at or before the public hearing to be held on December 1, 2014 at 10:00 a.m. to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 160.01 is amended to read:

SPS 160.01 Authority. Chapters SPS 160 to 168 are adopted pursuant to s. 227.11 (2), Stats., and subch. ~~VII~~ VIII of ch. 440, Stats., ~~as created by 2005 Wisconsin Act 25, s. 337am, and amended by 2005 Wisconsin Act 407.~~

SECTION 2. SPS 166.03 (1) (intro.) and (2) are amended to read:

SPS 166.03 (1) The following content areas and related hours ~~are required as a portion of the educational requirements in s. SPS 161.04~~ constitute the educational requirements of SPS 161.04 (2) (a) 4. and (3) (c):

(2) The training shall be in a comprehensive program approved by the department under s. SPS ~~166.09~~ 166.07.

SECTION 3. SPS 166.03 (4) is repealed.

SECTION 4. SPS 166.07 (1) (intro.) is amended to read:

SPS 166.07 (1) A provider of education programs shall submit an application for approval of a ~~360-hour~~ comprehensive program equivalent to 360 hours that meets the requirements of s. SPS 166.03 on a form provided by the department. The application shall include all of the following:

SECTION 5. SPS 166.07 (1) (a) is renumbered SPS 166.07 (1) (a) (intro.) and amended to read:

SPS 166.07 (1) (a) A detailed outline of each course and one of the following: ~~with specific~~ 1. Specific allocations of classroom hours ~~on~~ toward each ~~required topic,~~ content area for each course.

(d) ~~an~~ An explanation of the integrated and identified program outcomes and how the program outcomes will be measured.

(e) ~~and an~~ An explanation of how the comprehensive program meets all of the required content in s. SPS 166.03.

SECTION 6. SPS 166.07 (1) (a) 2. is created to read:

SPS 166.07 (1) (a) 2. For comprehensive programs based on core competencies, a detailed outline of each core competency, how each core competency will be measured, and classroom hour equivalencies toward each content area for each competency.

SECTION 7. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Department of Safety and Professional Services is approved for submission to the Governor and the Legislature.

Dated _____

Agency _____

Dave Ross, Secretary
Department of Safety and
Professional Services