

STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PSYCHOLOGY EXAMINING BOARD
PSYCHOLOGY EXAMINING : ADOPTING RULES
BOARD : (CLEARINGHOUSE RULE 19-117)

PROPOSED ORDER

An order of the Psychology Examining Board to repeal Psy 4.06; to amend Psy 4.05 (2); and to create Psy 4.017, relating to continuing education audits, and the renewal and reinstatement of licenses.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 440.035 (2) and 440.08 (3) (b), Stats.

Statutory authority: ss. 15.08 (5) (b), 440.035 (2), and 440.08 (3) (b), Stats.

Explanation of agency authority:

Each examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession. [s. 15.08 (5) (b), Stats.]

Except as otherwise permitted in chs. 440 to 480, an examining board or affiliated credentialing board attached to the department or an examining board may require a credential holder to submit proof of the continuing education programs or courses that he or she has completed only if a complaint is made against the credential holder. [s. 440.035 (2), Stats.]

The department or the interested examining board or affiliated credentialing board, as appropriate, may promulgate rules requiring the holder of a credential who fails to renew the credential within 5 years after its renewal date to complete requirements in order to restore the credential, in addition to the applicable requirements for renewal established under chs. 440 to 480, that the department, examining board or affiliated credentialing board determines are necessary to protect the public health, safety or welfare. The rules may not require the holder to complete educational requirements or pass examinations that are more extensive than the educational or examination requirements that must be completed in order to obtain an initial credential from the department, the examining board or the affiliated credentialing board. [s. 440.08 (3) (b), Stats.]

Related statute or rule: Psy 4

Plain language analysis:

The proposed revisions remove the authority for random audits of continuing education, in compliance with s. 440.035, Stats. The current Psy 4.05(2) provides for random continuing education audits and this proposed revision is made in order to conform to s. 440.035 (2), Stats. as that particular statute permits investigation of continuing education compliance only upon complaint against a credential holder.

Additionally, the rule provides the procedure for late renewal and reinstatement for those licensees who are renewing an expired license, in compliance with s. 440.08 (3) (b), Stats.

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

None.

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

The Illinois Department of Financial and Professional Regulation licenses clinical psychologists, prescribing psychologists, prescribing psychologists controlled substance, and prescribing psychologists clinical rotation program. Random audits of continuing education are performed. Additionally, Illinois offers “restoration” of an inactive license requiring verification of active practice in another jurisdiction, one year in an approved education program, six months in a supervised experience, or passing the examination.

Iowa:

The Iowa Board of Psychology is in the Bureau of Professional Licensure in the Department of Public Health. Random audits of continuing education are performed each renewal cycle. Additionally, Iowa offers “reactivation” of an inactive license, requiring an application, fee, verification of competence through a current license in another jurisdiction, and evidence of having completed 40 hours of continuing education, or, if the license has been inactive for more than five years, evidence of having completed 80 hours of continuing education.

Michigan:

The Michigan Board of Psychology is in the Department of Licensing and Regulatory Affairs. Continuing education is required for renewal starting in September 2019, and the department may audit licensees. Additionally, Michigan offers “relicensure.” If a license expired less than three years ago, the licensee is required to complete 30 hours of continuing education. If it has been more than three years, complete 30 hours of continuing education and provide evidence of a current license in another jurisdiction or, if no current license, complete the examination.

Minnesota:

The Minnesota Board of Psychology is a stand-alone agency. Random audits of continuing education are performed each month. Additionally, the Board offers “relicensure” after a voluntary or board termination if the licensee has not practiced without a license and complied with the requirements for examination and licensure in effect at the time of application for relicensure.

Summary of factual data and analytical methodologies:

The Board reviewed the current code and made revisions to reflect current statutory language and professional practice.

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

This rule was posted on website for economic comments and none were received. This rule does not have an impact on small businesses.

Fiscal Estimate and Economic Impact Analysis: 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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. Psy 4.017 is created to read:

- Psy 4.017 Late Renewal and Reinstatement.** (1) GENERAL. A person renewing an expired license may not reapply for a license using the initial application process.
- (2) RENEWAL WITHIN 5 YEARS. A person renewing the license within 5 years shall do all of the following:
- (a) Pay the renewal fee as determined by the department under s. 440.03 (9) (a), Stats., and any applicable late renewal fee.
 - (b) Certify the completion of 30 hours of continuing education during the last biennium.
- (3) RENEWAL AFTER 5 YEARS. This subsection does not apply to license holders who have unmet disciplinary requirements. A person renewing the license after 5 years shall do all of the following:

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

(b) Evidence of one of the following:

1. An active credential in good standing in another state.
2. Completion of 80 hours of approved continuing education, including 12 hours of ethics, risk management, or jurisprudence, within the preceding 2 years.

(4) REINSTATEMENT. A person who has unmet disciplinary requirements and failed to renew the license within 5 years or whose license has been surrendered or revoked may apply to have the license reinstated in accordance with all of the following:

- (a) Evidence of completion of the requirements in sub. (3) if the license has not been active within 5 years.
- (b) Evidence of completion of the disciplinary requirements, if applicable.
- (c) Evidence of rehabilitation or change in circumstances warranting reinstatement.

SECTION 2. Psy 4.05 (2) is amended to read:

Psy 4.05 (2) ~~The board may conduct a random audit of licensees on a biennial basis for compliance with continuing education requirements.~~ The board may conduct an audit for compliance with continuing education requirements on any licensee who has ~~come under investigation by the board for alleged misconduct~~ a complaint made against the licensee.

SECTION 3. Psy 4.06 is repealed.

SECTION 4. 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 Psychology Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Chair
Psychology Examining Board