

STATE OF WISCONSIN
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING
AND SOCIAL WORK EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : MARRIAGE AND FAMILY THERAPY,
MARRIAGE AND FAMILY THERAPY, : PROFESSIONAL COUNSELING AND
PROFESSIONAL COUNSELING AND : SOCIAL WORK EXAMINING BOARD
SOCIAL WORK EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 05-041)

ORDER

An order of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board to amend MPSW 3.11 (5), relating to expiration of a temporary credential issued by the Social Worker Section.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 457.14 (1) (a) to (d) and (2), Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 457.03 (3), Stats

Explanation of agency authority:

Currently, s. MPSW 3.11 provides that a temporary credential expires upon notification of having failed the required examination or 9 months after having been issued, whichever is earlier. This proposal would permit applicants to retake the failed examination without having to surrender their temporary certificate or license, thereby allowing them to remain in practice while they await the next examination opportunity. However, the temporary certificate or license would still expire 9 months from the date of its issuance.

Related statute or rule:

There are no related statutes or rules other than those listed above.

Plain language analysis:

The current rule provides that a temporary social worker credential will expire when the holder fails the required examination, or 9 months after having been issued, whichever is earlier. The person who fails the required examination must then return their credential to the social worker section. Furthermore, this temporary credential may not be renewed.

The proposed rule-making order would eliminate the expiration of the temporary credential upon the failure of the required examination and the requirement that the credential holder must then return the credential. The proposed change would allow the temporary credential holder to retake the required examination until they are able to pass the examination during the 9 month period of time. Therefore, the credential will only expire at the end of the 9 month period of the credential and may not be renewed.

The proposed rule change is good because it eliminates the loss of the temporary credential and streamlines the licensing process while maintaining the protection of the public. The protection is maintained because under either version of the rule – current or proposed – the credential holder could retake the examination; however, with the proposed change, the credential holder would still be able to practice while retaking the examination. Previously, at best the person could only practice case management; at worst they may be terminated due to the loss of the temporary credential. Furthermore, small business will not be affected.

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

No proposed or existing federal regulation intended to address a temporary credential for social workers.

Comparison with rules in adjacent states:

Illinois – Temporary licenses for social workers do not exist.

Iowa – Temporary licenses for social workers do not exist.

Michigan – Temporary licenses for social workers do not exist.

Minnesota – There is no rule relating to this area, only a statutory provision which permits a temporary license for a six month period.

Summary of factual data and analytical methodologies:

No study resulting in the collection of factual data was used in reference to this rule-making effort. The primary methodology for revising the rule is the board's ongoing analysis and determination that a rule change is necessary.

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

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The proposed rule will have no impact on the department's funds.

Effect on small business:

Pursuant to s. 227.114 (1), Stats., these proposed rules will have no significant economic impact on a substantial number of small businesses. The Department's Small Business Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708-8935. Telephone: (608) 266-0495. Email: pamela.haack@drl.state.wi.us.

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

Comments may be submitted to Pamela Haack, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935; email pamela.haack@drl.state.wi.us. Comments must be received on or before July 11, 2005 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MPSW 3.11 (5) is amended to read:

MPSW 3.11 (5) The temporary credential expires upon notification of ~~failure~~ successful completion of the examination or expiration of the 9 month period, whichever is earlier. ~~The temporary credential of an individual who fails the examination must be returned to the social worker section.~~ The temporary credential may not be renewed.

(END OF TEXT OF RULE)

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.), Wis. Stats.

Dated _____

Agency _____

Chairperson
Marriage and Family Therapy,
Professional Counseling and
Social Work Examining Board

MPSW 3.11(5) CR05-041 (Temporary credential) Final for Adoption 9-23-05