

STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD

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

PROPOSED ORDER

An order of the Psychology Examining Board to **repeal** Psy 2.14 (1) and 2.14 (2m); to **amend** Psy 1.01, and 5.02 (title) and (1); and to **create** Psy 1.02 (3m), (5r), (6e), (12), 2.01 (9), 2.012 (1) (g), 2.013 (6), 2.15, and 2.16, relating to implementation of the Psychology Licensure Compact.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 455.50, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), and 440.09 (5), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats. provides “[e]ach 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.”

Section 227.11 (2) (a), Stats. provides “[e]ach 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.”

Related statute or rule:

Section 455.50, Stats.

Plain language analysis:

The Board is updating its Administrative Code chapters to bring them into alignment with 2021 Wisconsin Act 131, which establishes Wisconsin as a member of the Psychology Interjurisdictional Compact or PSYPACT. In order to bring the chapters into compliance, the Board is adding definitions of “E.Passport”, “IPC or Interjurisdictional Practice Certificate”, and “telepsychology”; creating a provision that applicants seeking initial licensure as a psychologist or interim psychologist will need to be fingerprinted; and establishing the requirements to hold an active IPC for temporary practice and an E.Passport to practice telepsychology.

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

N/A

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

N/A

Comparison with rules in adjacent states:

Illinois:

Illinois has been a participating state in the Psychology Interjurisdictional Compact (PSYPACT) since the law became effective in 2020. The requirements are established in chapter 45 ILCS 195 and address the compact privileges for temporary practice and telepsychology.

Iowa:

Iowa is not a participating state in the Psychology Interjurisdictional Compact (PSYPACT).

Michigan:

Michigan has been a participating state in the Psychology Interjurisdictional Compact (PSYPACT) since the law became effective on March 29, 2023. The requirements are established in chapter 333 MCL 16190 and address the compact privileges for temporary practice and telepsychology.

Minnesota:

Minnesota has been a participating state in the Psychology Interjurisdictional Compact (PSYPACT) since the law became effective on May 26, 2021. The requirements are established in chapter 148.9051 of the Minnesota Statutes and address the compact privileges for temporary practice and telepsychology.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of Psy 1, 2, and 5, as changed by 2021 Wisconsin Act 131. The Board provided input and feedback to determine any changes or updates needed in addition to those enacted by Act 131.

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

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

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:

Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before TBD to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Psy 1.01 is amended to read:

Psy 1.01 Authority. The rules in chs. Psy 1 to 5 are adopted pursuant to authority of ss. 15.08 (5) (b), 227.11 (2), 455.045 (3), 455.065 (1), 455.065 (5), ~~and~~ 455.09 (1) (g), 455.50 (4), and 455.50 (5), Stats.

SECTION 2. Psy 1.02 (3m), (5r), (6e), and (12) are created to read:

(3m) "Day" is defined in s. 455.03 (1) (a), Stats.

(5r) "E.Passport" is defined under s. 455.50 (2) (g), Stats.

(6e) “IPC” means Interjurisdictional Practice Certificate and is defined under s. 455.50 (2) (im), Stats.

(12) “Telepsychology” is defined under s. 455.50 (2) (nm), Stats.

SECTION 3. Psy 2.01 (9) is created to read:

(9) Fingerprint or other biometric-based information for the purpose of obtaining an applicant's criminal history information from the federal bureau of investigation and the Wisconsin department of justice in a manner directed by the department.

SECTION 4. Psy 2.012 (1) (g) is created to read:

(g) Fingerprint or other biometric-based information for the purpose of obtaining an applicant's criminal history information from the federal bureau of investigation and the Wisconsin department of justice in a manner directed by the department.

SECTION 5. Psy 2.013 (6) is created to read:

(6) Fingerprint or other biometric-based information for the purpose of obtaining an applicant's criminal history information from the federal bureau of investigation and the Wisconsin department of justice in a manner directed by the department.

SECTION 6. Psy 2.14 (1) is repealed.

SECTION 7. Psy 2.14 (2m) is repealed.

SECTION 8. Psy 2.15 is created to read:

Psy 2.15 Temporary authorization to practice. A psychologist intending to practice in this state under a temporary authorization to practice as defined in s. 455.50 (2) (o), Stats., and is licensed in another compact state or territory of the United States must hold an active IPC as established in s. 455.03 (2), Stats.

SECTION 9. Psy 2.16 is created to read:

Psy 2.16 Authority to practice interjurisdictional telepsychology. A psychologist intending to practice telepsychology in this state and is licensed in another compact state or territory of the United States must hold an active E.Passport as established in s. 455.03 (3), Stats.

SECTION 10. Psy 5.02 (title) and (1) are amended to read:

Psy 5.02 Telehealth and telepsychology.

(1) The standards of practice and professional conduct under this chapter apply to a licensee regardless of whether health care service is provided in person or by telehealth, or by telepsychology.

SECTION 11. 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)