

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

IN THE MATTER OF RULE-MAKING	:	PROPOSED 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 25-040)

PROPOSED ORDER

An order of the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board **to amend** MPSW 11.01 (title), 11.04 (intro), 20.02 (intro), (2), and (4); and **to create** MPSW 10.01 (1g), (1h), (3), (5m), 11.05, and 11.06; relating to counseling compact.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 457.12 and Subchapter II of chapter 457, Stats.

Statutory authority:

Sections 15.08 (5) (b) and 227.11 (2) (a).

Explanation of agency authority:

Section 15.08 (5) (b), Stats., states that an examining board “[s]hall 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., states that “[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:

Chapter MPSW 1.

Plain language analysis:

The Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board conducted a comprehensive evaluation of its rules to implement the Counseling Compact established by 2023 Wisconsin Act 55 to ensure clarity and consistency with applicable Wisconsin statutes. The following updates were made:

- Created definitions of “counseling compact”, “privilege to practice” and “single state license”.
- Identified the requirements for obtaining a license based upon the privilege to practice and the requirements to obtain a privilege to practice.
- Amended the unprofessional conduct requirements in MPSW 20 to also apply to those practicing in Wisconsin under a privilege to practice.

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

None.

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:

The Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board held a preliminary hearing on the scope statement for this rule at its July 16, 2024, meeting. No comments were received.

Comparison with rules in adjacent states:

Illinois

Illinois is not a member state of the Counseling Compact yet, though in 2024 they introduced legislation to become part of the Compact.

Iowa

Iowa is a member of the Counseling Compact and has incorporated the rules of the Counseling Compact Commission by reference in their Administrative Code. [481 IAC 891.4 (147)] The full extent of the provisions for privilege to practice and license based on a privilege to practice are contained in section 147H.1 of the Iowa Statutes.

Michigan

Michigan is not a member state of the Counseling Compact.

Minnesota

Minnesota is a member state of the Counseling Compact. The provisions regarding privilege to practice and licensed based on privilege to practice are stated in chapter 148B section 148B.75 of the Minnesota Statutes.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing chapters PT 1, MPSW 1 to 20, and implementing 2023 Wisconsin Act 55 to ensure that the code is compliant with statutory changes and with current standards of practice. No additional factual data or analytical methodologies were used to develop the proposed rules.

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

The rule draft was posted on the department's website for 14 days to solicit economic impact comments from local governments and small businesses. 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) 266-2112.

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; telephone 608-261-4463; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. MPSW 10.01 (1g) and (1h) are created to read:

MPSW 10.01 (1g) "Counseling compact" has the meaning given in s. 457.01 (1t), Stats.

MPSW 10.01 (1h) "Counseling compact commission" has the meaning given in s. 457.50 (2) (e), Stats.

SECTION 2. MPSW 10.01 (3) is created to read:

MPSW 10.01 (3) “Privilege to practice” has the meaning given in s. 457.50 (2) (s), Stats.

SECTION 3. MPSW 10.01 (5m) is created to read:

MPSW 10.01 (5m) “Single state license” has the meaning given in s. 457.50 (2) (w), Stats.

SECTION 4. MPSW 11.01 (title) is amended to read:

MPSW 11.01 Application for licensure single-state license as a professional counselor.

SECTION 5. MPSW 11.04 (intro) is amended to read:

MPSW 11.04 Reciprocal license. Except as provided in s. MPSW 11.045, 11.05, and 11.06, the professional counselor section shall grant a license as a professional counselor to an applicant who pays the fee required by s. 440.05 (2), Stats., and provides evidence of all of the following:

SECTION 6. MPSW 11.05 and 11.06 are created to read:

MPSW 11.05 Privilege to practice. An individual licensed in a member state of the counseling compact wishing to practice in Wisconsin shall hold a Wisconsin privilege to practice issued by the counseling compact commission, or any successor organization. An applicant seeking a privilege to practice in Wisconsin shall complete the application process established by the counseling compact commission, including payment of the fee established by the department under s. 457.51 (2), Stats.

Note: Instructions on how to obtain the privilege to practice can be found at the counseling compact commission’s website at <http://counselingcompact.gov>

MPSW 11.06 License based upon privilege to practice. A professional counselor licensed in a state that is a member of the counseling compact applying for licensure in this state shall submit evidence of all of the following:

- (1) A valid privilege to practice pursuant to s. MPSW 11.05.
- (2) A completed application and the fee specified in s. 440.05 (1), Stats.

Note: Instructions for applications can be found on the department of safety and professional services’ website at <http://dsps.wi.gov>.

- (3) An attestation that Wisconsin is the applicant’s primary state of residence.
- (4) A federal bureau of investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the counseling compact commission as specified in s. 457.50 (5) (b) 2.a., Stats.

SECTION 7. MPSW 20.02 (intro) is amended to read:

MPSW 20.02 Unprofessional conduct. Unprofessional conduct related to the practice under a privilege to practice or a credential issued under ch. 457, Stats., includes engaging in, attempting to engage in, or aiding or abetting the following conduct:

SECTION 8. MPSW 20.02 (2) and (4) are amended to read:

MPSW 20.02 (2) Violating a law of any jurisdiction, the circumstances of which substantially relate to the practice under the credential or privilege to practice.

MPSW 20.02 (4) Using fraud or deception in the application for a credential or privilege to practice.

SECTION 9. 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 Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chairperson

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