

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 23-034)

PROPOSED ORDER

An order of the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board to repeal MPSW 1.09 (2); and to amend MPSW 1.09 (4) (d); relating to substance use disorder practice for Advanced Practice Social Workers and Independent Social Workers.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 457.03 (1), and 457.02 (5) and (5m).

Statutory authority:

Sections 15.08 (5) (b), 440.88 (3m), 457.02 (5m). and 457.03 (1), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats. provides that each board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains.

Section 440.88 (3m), Stats., states that certification as a substance abuse counselor, clinical supervisor, and prevention specialist “does not apply to a physician, as defined in s. 448.01 (5), a clinical social worker, as defined in s. 457.01 (1r), an independent social worker, as defined in s. 457.01 (2g), an advanced practice social worker, as defined in s. 457.01 (1c), a psychologist licensed under s. 455.04 (1) or (2), a marriage and family therapist, as defined in s. 457.01 (3), or a professional counselor, as defined in s. 457.01 (7), who practices as a substance abuse clinical supervisor or provides substance abuse counseling, treatment, or prevention services within the scope of his or her credential.”

Section 457.02 (5m), Stats., states that MPSW 1 does not “[a]uthorize any individual who is certified under s. 457.08 (1), 457.09 (1), or 457.14 (1) (a) to (c) to treat substance use

disorder as a specialty unless the individual is a certified substance abuse counselor, clinical supervisor, or prevention specialist under s. 440.88, or unless the individual satisfies educational and supervised training requirements established in rules promulgated by the examining board.”

Section 457.03 (1), Stats. provides the board with authority to promulgate rules establishing minimum standards for educational programs and supervised clinical training that must be completed to obtain licensure as a professional counselor.

Related statute or rule:

Ch. SPS 160 and s. 440.88, Stats.

Plain language analysis:

2021 Wisconsin Act 222 authorizes individuals certified as independent social workers and advanced practice social workers to treat substance use disorder without having to apply for a specialty and satisfy additional educational and supervised training requirements.

This rule project repeals the subsection in chapter MPSW 1, which requires advanced practice social workers and independent social workers to apply for a substance use disorder specialty. The project also amends who can supervise social workers licensees or social worker certificate holders if they are pursuing a substance use disorder specialty.

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 statement of scope for this rule at its October 18, 2022, meeting. No comments were received.

Comparison with rules in adjacent states:

Illinois:

Illinois does not have requirements for a social worker to obtain specified education or training to specialize in substance use disorder treatment.

Iowa:

Iowa does not have requirements for a social worker to obtain specified education or training to specialize in substance use disorder treatment.

Michigan:

Michigan does not have requirements for a social worker to obtain specified education or training to specialize in substance use disorder treatment.

Minnesota:

Minnesota does not have requirements for a social worker to obtain specified education or training to specialize in substance use disorder treatment.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing chapter MPSW 1 and implementing 2021 Wisconsin Act 222 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 effect on small business 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 1.09 (2) is repealed.

SECTION 2. MPSW 1.09 (4) (d) is amended to read:

MPSW 1.09 (4) (d) A licensed clinical social worker, certified advanced practice social worker, or certified independent social worker.

SECTION 3. 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