

Clearinghouse Rule 06-055

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 06-)

PROPOSED ORDER

An order of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board to repeal s. MPSW 13.01, relating to psychotherapeutic counseling by professional counselors.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 457.035, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 457.03 (1), Stats.

Explanation of agency authority:

Under s. 457.035, Wis. Stats., the Professional Counselor Section may promulgate rules regarding psychotherapy. The section did so and is now seeking to repeal its previously promulgated rule because it has determined that it is unnecessary. Currently, licensed professional counselors are able to practice independently, without supervision. If the existing provision is implemented, it will require certain practitioners to obtain supervision or will require them to meet additional requirements.

Related statute or rule:

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

Plain language analysis:

Currently, the independent practice of psychotherapy is within the scope of practice for licensed professional counselors. Repeal of the rule would preserve existing policy. Unless repealed, s. MPSW 13.01 will become effective and require professional counselors to work under supervision if they are providing psychotherapy but have not completed the requirements for independent practice.

Because there have not been complaints under the status quo, the Professional Counselor Section believes that the implementation of this provision is unnecessary and will in no way harm the public. Additionally, if implemented, an undue burden will be placed on licensees as they would be required to take an additional examination, and provide evidence of their clinical practice and academic coursework.

SECTION 1 repeals s. MPSW 13.01 thereby eliminating the requirements for professional counselors who provide psychotherapy.

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

There is no applicable existing federal regulation.

Comparison with rules in adjacent states:

Illinois:

Illinois has two statutory levels of licensure for professional counselors, including both licensed professional counselors and clinical professional counselors.

Iowa:

Iowa does not license professional counselors as a profession, but instead issues licenses to Mental Health Counselors and Marriage and Family Therapists. In Iowa, there is only one level of licensure and no separate clinical level.

Michigan:

Michigan appears to have two levels of licensure, including a limited professional counselor license available to individuals with a bachelor's degree and 5 years experience and a professional counselor license. However, the professional counselor license does not have a clinical component or level.

Minnesota:

Minnesota issues licenses to professional counselors, but does not have a clinical level credential.

Summary of factual data and analytical methodologies:

The section is proposing to amend its rules based on the professional experience of its members. There is no factual analysis available to support or oppose this proposal.

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

The proposed rule change, if enacted on or before January 1, 2007, will have no effect on existing small business. The rule change repeals an administrative rule with an initial effective date of January 1, 2007, thereby preserving the status quo.

After January 1, 2007, s. MPSW 13.01 (the existing rule) will become effective, limiting the scope of practice of existing licensees unless they apply for a certification through the Department of Regulation and Licensing. This proposed rule change, if enacted after January, 2007, will eliminate the need for an additional certification, and in the section's opinion, relieve an undue burden on professional counselors who may wish to practice independently.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Fiscal estimate:

The department finds that the proposed rule will have no significant fiscal impact.

Anticipated costs incurred by private sector:

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

Effect on small business:

These proposed rules will have no significant 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 larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, 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, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935. Email pamela.haack@drl.state.wi.us. Comments must be received on or before August 1, 2006, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MPSW 13.01 is repealed.

(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 13.01 CR06- (Psychotherapeutic counseling-PC) Draft to CH 5-24-06