

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		2. Date August 26, 2019	
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) MPSW 3, 11, and 16			
4. Subject Discrimination based on arrest or conviction record.			
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		6. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)	
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget			
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)			
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0			
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
11. Policy Problem Addressed by the Rule 2017 Wisconsin Act 278 enacted statutory changes to ch. 111, Stats., prohibiting a licensing agency from refusing to license an individual, or suspending a license, on the basis of a substantially related pending criminal charge, unless the charge is for one of certain specified crimes against a child or life and bodily security, or a violent crime against a child. This rule project revises the MPSW code pertaining to applications in order to clarify that applicants are required to submit documentation of their conviction record, and are only required to submit documentation of a pending charge if it is substantially related and it involves a crime against a child or life and bodily security, or a violent crime against a child, as defined in s. 111.335, Stats.			
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.			
13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local government units participated in the development of the EIA.			
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.			
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule			

The benefit of this rule is to bring the MPSW code into compliance with state law as it relates to discrimination on the basis of conviction or arrest record. Failure to implement the rule may result in the MPSW code being considered out of compliance with state statute.

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16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is that the MPSW Board's licensure requirements related to conviction or arrest record will be in compliance with state law.

17. Compare With Approaches Being Used by Federal Government

The federal government does not license marriage and family therapists, social workers, or professional counselors.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Marriage and family therapists, social workers, and professional counselors are regulated by the Illinois Department of Financial and Professional Regulation.

The rules of professional conduct for marriage and family therapists provide that a therapist convicted of any crime, or who engages in conduct which could lead to a conviction, related to the therapists qualifications or professional responsibilities may be subject to disciplinary action. (s. 1283.100 Professional Conduct).

The rules of professional conduct for social workers provide that the division may revoke, refuse to issue, or renew a license or take other disciplinary action if a social worker providing services or supervising services commits any dishonest, corrupt, or fraudulent act that is substantially related to the social worker's functions or duties. (s. 1470.96 Unethical, Unauthorized, and Unprofessional Conduct).

The Department of Financial and Professional Regulation code does not provide for disciplinary action against professional counselors who face charges or have a conviction record.

Iowa: The Board of Behavioral Science within the Iowa Department of Public Health regulates marital and family therapists and mental health counselors. Marital and family therapists and mental health counselors may be disciplined if convicted of a crime related to the profession, or a crime that would affect the ability to practice within the profession (Iowa Administrative Code s. 645.33.2). There is no provision in the rules to discipline a licensee who merely has a pending charge.

The Board of Social Work within the Iowa Department of Public Health regulates social workers. Social workers may be disciplined if convicted of a crime related to the profession, or a crime that would affect the ability to practice within the profession (Iowa Administrative Code s. 645.283.2). There is no provision in the rules to discipline a licensee who merely has a pending charge.

Michigan: The Michigan Department of Licensing and Regulatory Affairs regulates marriage and family therapists, professional counselors, and social workers. Individuals licensed under the Michigan Public Health Code (including marriage and family therapists, professional counselors, and social workers) must be "of good moral character." (MCL 333.16174 (1) (b)). The agency may consider a judgment of guilt in a criminal prosecution or a judgment in a civil action in determining whether an individual is of good moral character. The individual can provide evidence showing that they are of good moral character to rebut a previous criminal or civil judgment (MCL 338.42).

Minnesota: The Minnesota Marriage and Family Therapy Board regulates marriage and family therapists. The board may suspend, revoke, condition, limit, qualify, or restrict a license if the individual is convicted of a crime that renders the person unfit to practice marriage and family therapy. These crimes are enumerated in 5300.0330 Sup. 2 of the Minnesota Administrative Rules.

The Minnesota Board of Behavioral Health and Therapy regulates professional counselors. A professional counselor may not violate any law in which the facts giving rise to the violation involve the practice of professional counseling.

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The Minnesota Board of Social Work regulates social workers. The Board's rules have all been repealed and codified into statute. Section 148E.210 of the Minnesota Statutes provides that the board may take action against a social worker who "engages in acts or conduct adversely affecting the applicant or licensee's current ability or fitness to engage in social work practice, whether or not the acts or conduct occurred while engaged in the practice of social work."

19. Contact Name

Sharon Henes

20. Contact Phone Number

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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements

Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes No
