

STATE OF WISCONSIN
PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : PSYCHOLOGY EXAMINING BOARD
PSYCHOLOGY EXAMINING : ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 152 – 20, was approved by the Governor on December 4, 2020, published in Register 780A1 on December 7, 2020, and approved by the Psychology Examining Board on December 18, 2020.

This emergency rule was approved by the Governor on December 23, 2020.

ORDER

An order of the Psychology Examining Board to amend Psy 4.017 (2) (b), relating to the renewal and reinstatement of licenses.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Psychology Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The Psychology Board has concluded that preservation of health, safety, or welfare necessitates placing a rule into effect prior to the time it could be effective if the agency were to comply with rule making procedures. The emergency rule is required to correct a drafting error in CR 19-117 reducing the number of continuing education hours for late licensure renewal from 40 hours to 30 hours. The intent of the Psychology Board was to maintain the current 40 hour continuing education requirement whether the licensee renews at the proper time or if they renew late. CR 19-117 will go into effect on January 1, 2021. The result if this emergency rule does not go into effect is that those licensees who report on time will be penalized by having to report 10 continuing education hours more than those who are tardy. This will create an inequity in the rule and confusion among licensees. Pursuant to s. 440.08 (2) (a) 64., Stats., the next license renewal date for psychologists is October 1, 2021.

ANALYSIS

Statutes interpreted: ss. 440.035 (2) and 440.08 (3) (b), Stats.

Statutory authority: ss. 15.08 (5) (b) and 440.08 (3) (b), Stats.

Explanation of agency authority:

Each 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. [s. 15.08 (5) (b), Stats.]

The department or the interested examining board or affiliated credentialing board, as appropriate, may promulgate rules requiring the holder of a credential who fails to renew the credential within 5 years after its renewal date to complete requirements to restore the credential, in addition to the applicable requirements for renewal established under chs. 440 to 480, that the department, examining board or affiliated credentialing board determines are necessary to protect the public health, safety, or welfare. The rules may not require the holder to complete educational requirements or pass examinations that are more extensive than the educational or examination requirements that must be completed to obtain an initial credential from the department, the examining board or the affiliated credentialing board. [s. 440.08 (3) (b), Stats.]

Related statute or rule: Psy 4

Plain language analysis:

The objective of the emergency and permanent rule is to correct a drafting error in Psy 4 in CR 19-117, relating to renewal and reinstatement of licenses. CR 19-117 erroneously reduces the number of continuing education hours for late licensure renewal from 40 hours to 30 hours. The result is that licensees who renew their licenses late must report only 30 continuing education credits. Those who renew at the proper time must report 40 continuing education hours. The proposed rule will correct the error and restore equity between those who renew in a timely fashion and those who renew late.

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

None.

Comparison with rules in adjacent states:

Illinois:

The Illinois Department of Financial and Professional Regulation licenses clinical psychologists, prescribing psychologists, prescribing psychologists controlled substance, and prescribing psychologists clinical rotation program. Random audits of continuing education are performed. Additionally, Illinois offers “restoration” of an inactive license requiring verification of active practice is another jurisdiction, one year in an approved education program, six months in a supervised experience, or passing the examination.

Iowa:

The Iowa Board of Psychology is in the Bureau of Professional Licensure in the Department of Public Health. Random audits of continuing education are performed each renewal cycle. Additionally, Iowa offers “reactivation” of an inactive license, requiring an application, fee, verification of competence through a current license in another jurisdiction, and evidence of having completed 40 hours of continuing education, or, if the license has been inactive for more than five years, evidence of having completed 80 hours of continuing education.

Michigan:

The Michigan Board of Psychology is in the Department of Licensing and Regulatory Affairs. Continuing education is required for renewal starting in September 2019, and the department may audit licensees. Additionally, Michigan offers “relicensure.” If a license expired less than three years ago, the licensee is required to complete 40 hours of continuing education. If it has been more than three years, complete 40 hours of continuing education and provide evidence of a current license in another jurisdiction or, if no current license, complete the examination.

Minnesota:

The Minnesota Board of Psychology is a stand-alone agency. Random audits of continuing education are performed each month. Additionally, the Board offers “relicensure” after a voluntary or board termination if the licensee has not practiced without a license and complied with the requirements for examination and licensure in effect at the time of application for relicensure.

Summary of factual data and analytical methodologies:

The Board reviewed CR 19-117 finding that it erroneously reduces the number of continuing education hours for late licensure renewal from 40 hours to 30 hours.

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

None. Any effect on small business would have been reflected under CR 19-117.

Fiscal Estimate:

None. Any economic impact would have been reflected under CR 19-117.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Kevyn Radcliffe, 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 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Kevyn Radcliffe, 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 submitted by the date and time at which the public hearing on these emergency rules is conducted. Information as to the place, date, and time of the public hearing will be published on the Legislature's website and in the Wisconsin Administrative Register.

TEXT OF RULE

SECTION 1. Psy 4.017 (2) (b) is amended to read:

Psy 4.017 (2) (b) Certify the completion of ~~30~~ 40 hours of continuing education during the last biennium.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect upon publication in the official state newspaper, pursuant to s. 227.22 (2) (c), Stats.

(END OF TEXT OF RULE)

Authorized Signature

Date