

Wisconsin Department of Safety and Professional Services
Division of Policy Development
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Scott Walker, Governor
Dave Ross, Secretary

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES
Room 121B, 1400 E. Washington Avenue, Madison
Contact: Katie Paff (608) 261-4472
December 1, 2014
10:00 A.M.

Public Hearing on Administrative Rule CR14-059 to repeal SPS 166.03 (4) and to amend SPS 160.01, 166.03 (1) and (2), and 166.07 (1) (intro.) and (a) relating to substance abuse professionals.

ALL HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed in conjunction with hearings are approximate and depend on the length of discussion and testimony. In order to confirm a hearing or to request a complete copy of rules relating to this hearing, please call the listed contact person. All hearings are held at 1400 East Washington Avenue; Madison Wisconsin, unless otherwise noted. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE :
DEPARTMENT OF SAFETY AND : NOTICE OF PUBLIC HEARING
PROFESSIONAL SERVICES :
: :
: :
: :

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in s. 227.11 (2) (a) and s. 440.88 (3) (a) and (b), Wis. Stats., and interpreting, s. 227.11 (2) (a), and s. 440.88, Wis. Stats., the Department of Safety and Professional Services will hold a public hearing at the time and place indicated below to consider an order to repeal SPS 166.03 (4) and to amend SPS 160.01, 166.03 (1), 166.03 (2), 166.07 (1) (intro.), and 166.07 (1) (a) relating to substance abuse professionals.

Hearing Date, Time and Location

Date:	December 1, 2014
Time:	10:00 a.m.
Location:	1400 East Washington Avenue Room 121B Madison, Wisconsin

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance. All submittals must be directed to Katie Paff, Program and Policy Analyst, at Kathleen.Paff@wisconsin.gov; or by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 227.11 (2) (a), s. 440.88

Statutory authority: s. 227.11 (2) (a), s. 440.88 (3) (a) and (b)

Explanation of agency authority:

s. 227.11 (2) (a), Wis. Stats. Rule-making authority is expressly conferred as follows: (a) Each 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, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

s. 440.88 (3) (a) and (b), Wis. Stats. Subject to pars. (b) and (c) and except as provided in sub. (3m), the department shall promulgate rules that establish minimum standards and qualifications for the certification of all of the following, including substance abuse counselors and clinical supervisors described under s. HFS 75.02 (11) and (84), Wis. Adm. Code, in effect on December 15, 2006: 1. Substance abuse counselors-in-training., 2. Substance abuse counselors., 3. Clinical substance abuse counselors., 4m. Clinical supervisors-in-training., 5. Intermediate clinical supervisors., 6. Independent clinical supervisors., 7. Prevention specialists-in-training., and 8. Prevention specialists. (b) Rules promulgated under par. (a) shall include standards based on demonstrated requisite competency, knowledge, skills, and attitudes of professional practice that are culturally competent and evidence-based.

Related statute or rule: s. 457.02 (5m)

Plain language analysis:

Current Department administrative rules require an individual seeking substance abuse counselor certification to attend a comprehensive program that has been pre-approved by the Department. The proposed rule modifies the comprehensive program approval requirements to allow for competency-based flexible option programs. Competency-based flexible option programs address workforce shortage issues by providing an academically rigorous but less time-consuming avenue for obtaining the substance abuse counselor education requirements that is appealing to working adults.

Specifically, the current rule limits the number of education hours in a comprehensive program that may be obtained through internet based coursework. Since the initial promulgation of these rules, significant technological advancements in internet-based coursework have made it essentially comparable to in-person coursework. The proposed rule eliminates the limitation on internet based coursework.

The current rule also requires an individual seeking approval of a comprehensive program to submit specific allocations of classroom hours toward each required content area for each course. In the proposed rule, an individual seeking approval of a program that is based on core competencies may allocate classroom hours toward each content area for each core competency.

Lastly, the proposed rule updates incorrect references to other code and statutes.

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

None

Comparison with rules in adjacent states:

Illinois:

All professional staff providing clinical services at organizations licensed to provide alcoholism and substance abuse treatment and intervention by the Department of Human Services must hold clinical certification as a Certified Alcohol and Drug Counselor from the Illinois Alcoholism and Other Drug Abuse Professional Certification Organization (IAODAPCA) or be a licensed professional counselor, licensed clinical professional counselor, a licensed physician, a licensed psychologist, or a licensed social worker or clinical social worker. All professional staff providing only clinical assessments, DUI evaluations or designated program intervention services shall meet one of the qualifications for staff providing clinical services or hold assessor certification as a Certified Assessment and Referral Specialist (CARS) from IAODAPCA. All staff providing DUI risk education services shall meet one of the qualifications for staff providing clinical services or hold Alcohol and Other Drug Abuse (AODA) certification from IAODAPCA. (77 Ill. Adm. Code 2060.309 Professional Staff Qualifications)

IAODAPCA does not pre-approve education courses for initial application. Acceptable sources of education include: college courses, seminars, conferences, in-services, and lectures (IAODAPCA AODA Counselor Model, page 8). IAODAPCA does not restrict online course credit hours.

Iowa:

Iowa Administrative Rules do not require the certification of substance abuse professionals.

Michigan:

Michigan Administrative Rules do not require the certification of substance abuse professionals.

Minnesota:

All individuals who use the title alcohol and drug counselor and all individuals who provide alcohol and drug counseling services to clients who reside in Minnesota must be licensed as an alcohol and drug counselor by the Minnesota Board of Behavioral Health and Therapy. Education requirements for licensure include: a bachelor's degree from an accredited school or educational program, 18 semester credits or 270 clock hours of

academic course work, and 80 clock hours of supervised alcohol and drug counseling practicum from an accredited school or education program. The course work and practicum do not have to be part of the bachelor's degree. The statutes further specify the specific topic areas of the course work. Examination requirements for licensure include passing the IC&RC AODA written examination (or an equivalent exam as determined by the Board) or passing a written exam as determined by the board and one of the following: (1) Completing a written case presentation and passing an oral examination, or (2) Completing 2,000 hours of post-degree supervised professional practice. (Minnesota Statutes 148F.025)

An accredited school or educational program is defined as “a school of alcohol and drug counseling, university, college, or other postsecondary education program that, at the time the student completes the program, is accredited by a regional accrediting association whose standards are substantially equivalent to those of the North Central Association of Colleges and Postsecondary Education Institutions or an accrediting association that evaluates schools of alcohol and drug counseling for inclusion of the education, practicum, and core function standards in this chapter.” (Minnesota Statutes 148F.01 subd. 3.)

Summary of factual data and analytical methodologies:

The data and methodology for developing these rule revisions consisted primarily of comparing comparing current requirements for the approval of substance abuse counselor comprehensive programs with the structure of competency-based, flexible option programs. Adjacent states' rules were also reviewed.

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

The rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary:

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 Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

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

Comments may be submitted to Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov. Comments must be received at or before the public hearing to be held on December 1, 2014 at 10:00 a.m. to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 160.01 is amended to read:

SPS 160.01 Authority. Chapters SPS 160 to 168 are adopted pursuant to s. 227.11 (2), Stats., and subch. ~~VH VIII~~ of ch. 440, Stats., ~~as created by 2005 Wisconsin Act 25, s. 337am, and amended by 2005 Wisconsin Act 407.~~

SECTION 2. SPS 166.03 (1) and (2) are amended to read:

SPS 166.03 (1) The following content areas and related hours are required as a ~~portion~~ of the educational requirements in s. SPS 161.04:

(2) The training shall be in a comprehensive program approved by the department under s. SPS ~~166.09~~ 166.07.

SECTION 3. SPS 166.03 (4) is repealed.

SECTION 4. SPS 166.07 (1) (intro.) and (1) (a) are amended to read:

SPS 166.07 (1) A provider of education programs shall submit an application for approval of a ~~360 hour~~ comprehensive program equivalent to 360 hours that meets the requirements of s. SPS 166.03 on a form provided by the department. The application shall include all of the following:

(a) A detailed outline of each course and one of the following: with specific 1. Specific allocations of classroom hours on toward each required topic, content area for each course. 2. For comprehensive programs based on core competencies, a detailed outline of each core competency, how each core competency will be measured, and classroom hour equivalencies toward each content area for each competency.

~~(d) an~~ An explanation of the integrated and identified program outcomes and how the program outcomes will be measured.

~~(e) and an~~ An explanation of how the comprehensive program meets all of the required content in s. SPS 166.03.

SECTION 5. 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)

COPIES OF RULE

Copies of this proposed rule are available upon request to Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708, by email at Kathleen.Paff@wisconsin.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

SPS 160, 166

3. Subject

Substance Abuse Professionals

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165(1)(g)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

Current Department administrative rules require that an individual seeking substance abuse counselor certification attend a comprehensive program that has been pre-approved by the Department. The proposed rule modifies the comprehensive program approval requirements to allow for competency-based flexible option programs. Competency-based flexible option programs address workforce shortage issues by providing an academically rigorous but less time-consuming avenue for obtaining the substance abuse counselor education requirements that is appealing to working adults.

10. 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.

This rule was posted for 14 days for economic impact comments and none were received.

11. Identify the local governmental units that participated in the development of this EIA.

None. This rule does not affect local government units.

12. 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 rule will not have an economic or fiscal impact on businesses, business sectors, public utility rate payers, local government units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

Competency-based flexible option programs address workforce shortage issues by providing an academically rigorous but less time-consuming avenue for obtaining the substance abuse counselor education requirements that is appealing to working adults. The alternative to implementing the rule would be to continue with the rules as currently written. These rules inhibit the approval of competency-based flexible option programs.

14. Long Range Implications of Implementing the Rule

In the long run, implementing this rule could allow more individuals to receive certification as substance abuse counselors meeting the state's growing demand for these professionals. As more individuals receive adequate treatment for substance abuse, Wisconsin could see a decrease in substance abuse rates.

15. Compare With Approaches Being Used by Federal Government

None

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

In Illinois, all professional staff providing clinical services at organizations licensed to provide alcoholism and substance abuse treatment and intervention by the Department of Human Services must hold clinical certification as a Certified Alcohol and Drug Counselor from the Illinois Alcoholism and Other Drug Abuse Professional Certification Organization (IAODAPCA) or be a licensed professional counselor, licensed clinical professional counselor, a licensed physician, a licensed psychologist, or a licensed social worker or clinical social worker.. (77 Ill. Adm. Code 2060.309 Professional Staff Qualifications) IAODAPCA does not pre-approve education courses for initial application. Acceptable sources of education include: college courses, seminars, conferences, in-services, and lectures (IAODAPCA AODA Counselor Model, page 8). IAODAPCA does not restrict online course credit hours.

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Iowa's and Michigan's statutes and administrative rules do not require the certification of substance abuse professionals.

17. Contact Name	18. Contact Phone Number
Kathleen Paff	(608) 261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.