



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5242/P1
TD/MD/TK/KP/EW:all

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 457.02 (5) and 457.02 (5m); *to renumber and amend* 448.665
2 and 449.06 (2m); *to amend* 118.01 (2) (d) 6., 118.01 (2) (d) 7., 440.88 (3) (a)
3 (intro.), 440.88 (3m), 440.88 (7), 441.16 (3) (d), 447.056 (1) (intro.), 448.07 (1) (d),
4 961.385 (2) (cm) 1. (intro.) and 961.385 (2) (cm) 2.; and *to create* 20.435 (5) (eg),
5 49.45 (29z), 118.01 (2) (d) 2. d., 146.643, 440.043, 441.19, 447.02 (2) (k), 448.038,
6 448.13 (1) (a) 3., 448.13 (4), 448.20 (3) (c), 448.40 (2) (ck), 448.40 (2) (cm),
7 448.665 (1) (b) and 449.06 (2m) (b) of the statutes; **relating to:** continuing
8 education in prescribing controlled substances for certain health care
9 practitioners; maintenance and detoxification treatment provided by physician
10 assistants and advanced practice nurse prescribers; requiring school boards to
11 provide instruction about drug abuse awareness and prevention; a grant for
12 graduate training of psychiatric nurses; training materials for social services
13 workers handling substance abuse-related cases; substance abuse counseling

1 and modifying and creating administrative rules related to substance abuse
2 counseling; granting rule-making authority; and making appropriations.

Analysis by the Legislative Reference Bureau

Continuing education

This bill requires a physician, physician assistant, advanced practice nurse prescriber, podiatrist, dentist, or optometrist who is authorized to prescribe controlled substances, when renewing his or her license issued by the applicable credentialing board, to submit proof of completion of continuing education requirements promulgated by rule of the board regarding best practices in prescribing controlled substances.

Buprenorphine combination products; federal waivers

Under current federal law, the federal Drug Enforcement Administration (DEA) registers health care practitioners to dispense controlled substances, and practitioners who dispense narcotic drugs to individuals for addiction treatment must additionally obtain a separate DEA registration for that purpose. However, qualifying health care practitioners may, subject to certain requirements and limitations, obtain a waiver from the requirement to obtain a separate DEA registration to dispense those drugs for addiction treatment. Health care practitioners eligible to obtain and practice under such a waiver include qualifying physicians and, until October 1, 2021, qualifying physician assistants and nurse practitioners. In order to qualify for a waiver, a nurse practitioner or physician assistant must be supervised by, or work in collaboration with, a qualifying physician, if the nurse practitioner or physician assistant is required by state law to act in collaboration with or under the supervision of a physician.

Under rules promulgated by the state Medical Examining Board, the practice of a physician assistant must be under the supervision of one or more physicians, and under rules promulgated by the state Board of Nursing, advanced practice nurse prescribers must work in a collaborative relationship with a physician.

This bill provides that, with respect to the ability of an advanced practice nurse prescriber or physician assistant to obtain and practice under a waiver, a physician who satisfies any of the criteria specified in federal law to be eligible to obtain a waiver is considered eligible to serve as a qualifying physician for purposes of the collaboration or supervision requirement under federal law, regardless of whether the physician himself or herself holds a waiver.

The bill prohibits the Department of Health Services from requiring prior authorization for or another limitation on prescribing and dispensing of buprenorphine combination products to a Medical Assistance recipient, who is not pregnant, by a health care provider who possesses a valid waiver, if the prior authorization or other limitation is not required under the federal law.

Substance abuse counseling

This bill makes the following changes regarding substance abuse counseling:

1. Allows marriage and family therapists and professional counselors to represent themselves to the public as substance abuse counselors, clinical supervisors, or prevention specialists without holding a certification for that purpose granted by the Department of Safety and Professional Services.

2. Requires DSPS to grant a certification as a substance abuse counselor, clinical supervisor, or prevention specialist to an individual who holds a similar unexpired certification granted by another state that has requirements for certification that are not lower than this state's certification requirements.

3. Requires the secretary of DSPS to appoint an advisory behavioral health review committee to semiannually review the requirements for obtaining certain substance abuse counseling certifications; for obtaining credentials granted by the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board; and for obtaining other credentials related to behavioral health. Under the bill, the advisory committee is required to accept public comments related to its review and may propose changes in statutes and administrative rules to DSPS.

4. Allows a person certified as a social worker, advanced practice social worker, or independent social worker, within the scope of his or her credential, to treat substance use disorder as a specialty. In order to treat substance use disorder as a specialty, current law requires a person holding one of those certifications to satisfy additional criteria related to education and amount of supervised practice, and to complete continuing education every two years, or to obtain a substance abuse counselor, clinical supervisor, or prevention specialist certification from DSPS.

5. Specifies the contents required in an application for certification as a substance abuse counselor, clinical substance abuse counselor, intermediate or independent clinical supervisor, prevention specialist, substance abuse counselor-in-training, clinical supervisor-in-training, or prevention specialist-in-training.

6. Adds various actions to the scope of unprofessional conduct for which DSPS may discipline a substance abuse counselor or other related professional.

7. Specifies the requirements that a person with an expired substance abuse counselor or other related certification must satisfy to renew or reinstate an expired, surrendered, or revoked certification.

8. Specifies the contents required in an application to be approved by DSPS to provide education that satisfies the educational requirements for a substance abuse counselor or other related certification.

9. Specifies the continuing education requirements that a substance abuse counselor, clinical substance abuse counselor, prevention specialist, or clinical supervisor is required to satisfy in order to renew his or her certification.

Drug abuse awareness and prevention instruction

This bill requires each school board to incorporate drug abuse awareness and prevention in its health instructional program. Current law requires school boards to provide instruction about the effects of controlled substances and alcohol on the human system, but a school board may not require a pupil to receive that instruction if the pupil's parent or guardian files a written objection. Current law also requires school boards to provide instruction to pupils on the relationship between highway

safety and controlled substances and the relationship between youth suicide and controlled substances. This bill specifies that the references to controlled substances in these requirements include prescription drugs included in the Uniform Controlled Substances Act.

Graduate psychiatric nursing program grants

This bill requires DHS to award a grant in each fiscal year to an institution of higher education for its graduate program for students studying to be psychiatric mental health nurse practitioners. To receive a grant, the graduate program must commit to doing certain activities as specified in the bill.

Training resources for social services workers

This bill provides \$50,000 of funding to the Department of Children and Families to develop and maintain online training resources for social services workers who deal with substance abuse-related cases.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

		2017-18		2018-19
20.435 Health services, department of				
(5) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES				
(eg) Graduate psychiatric nursing				
program grants	GPR	A	-0-	250,000

7 **SECTION 2.** 20.435 (5) (eg) of the statutes is created to read:
8 20.435 (5) (eg) *Graduate psychiatric nursing program grants*. The amounts in
9 the schedule for awarding a grant for a graduate program in psychiatric mental
10 health nursing under s. 146.643.

11 **SECTION 3.** 49.45 (29z) of the statutes is created to read:

1 49.45 **(29z)** OPIOID TREATMENT AUTHORIZATION. The department may not require
2 prior authorization for or other limitation on prescribing and dispensing of
3 buprenorphine combination products to a recipient, who is not pregnant, under the
4 Medical Assistance program under this subchapter by a health care provider who
5 possesses a valid waiver under 21 USC 823, if the prior authorization or other
6 limitation is not required by 21 USC 823.

7 **SECTION 4.** 118.01 (2) (d) 2. d. of the statutes is created to read:

8 118.01 **(2)** (d) 2. d. Awareness about drug abuse, including prescription drug
9 abuse, and prevention.

10 **SECTION 5.** 118.01 (2) (d) 6. of the statutes is amended to read:

11 118.01 **(2)** (d) 6. Knowledge of the prevention of accidents and promotion of
12 safety on the public highways, including instruction on the relationship between
13 highway safety and the use of alcohol and controlled substances, including
14 prescription drugs, under ch. 961.

15 **SECTION 6.** 118.01 (2) (d) 7. of the statutes is amended to read:

16 118.01 **(2)** (d) 7. The skills needed to make sound decisions, knowledge of the
17 conditions which may cause and the signs of suicidal tendencies, knowledge of the
18 relationship between youth suicide and the use of alcohol and controlled substances,
19 including prescription drugs, under ch. 961 and knowledge of the available
20 community youth suicide prevention and intervention services. Instruction shall be
21 designed to help prevent suicides by pupils by promoting the positive emotional
22 development of pupils.

23 **SECTION 7.** 146.643 of the statutes is created to read:

24 **146.643 Grants to support graduate psychiatric nursing programs.**

25 From the appropriation under s. 20.435 (5) (eg), the department shall distribute a

1 grant of \$250,000 in each fiscal year to an institution of higher education for its
2 graduate program in psychiatric mental health nursing. To receive a grant under this
3 section the graduate program shall commit to doing all of the following:

4 (1) Expanding the number of students studying to be board eligible psychiatric
5 mental health nurse practitioners.

6 (2) For students benefitting from the grant moneys under this section,
7 requiring the students to commit to passing applicable board certification and to
8 practicing in this state for at least 2 years after graduation from the program.

9 (3) Expanding the instructional capacity available to teach psychiatric mental
10 health nursing.

11 (4) Providing fellowships for psychiatric mental health nursing students to
12 participate in clinical rotations in rural communities or areas with shortages of
13 mental health professionals in this state.

14 **SECTION 8.** 440.043 of the statutes is created to read:

15 **440.043 Behavioral health review committee.** (1) The secretary shall
16 appoint an advisory committee under s. 440.042 to provide advice concerning
17 behavioral health. The advisory committee shall semiannually conduct a review of
18 the requirements for obtaining a credential under s. 440.88 or ch. 457 or for other
19 credentials related to behavioral health.

20 (2) The advisory committee shall accept comments from the public related to
21 its review under sub. (1). Before conducting a review under sub. (1), the department
22 shall publish a class 1 notice under ch. 985 and shall publish notice on its Internet
23 site announcing the opportunity for public comment.

24 (3) The advisory committee established under sub. (1) may propose changes in
25 statutes and rules to the department.

1 **SECTION 9.** 440.88 (3) (a) (intro.) of the statutes is amended to read:

2 440.88 **(3)** (a) (intro.) Subject to pars. (b) and (c) and except as provided in sub.
3 (3m), the department shall promulgate rules that establish minimum standards and
4 qualifications for the certification of all of the following, including substance abuse
5 counselors and clinical supervisors ~~described under s. HFS 75.02 (11) and (84), Wis.~~
6 ~~Adm. Code, in effect on December 15, 2006, as defined by the department of health~~
7 services by rule:

8 **SECTION 10.** 440.88 (3m) of the statutes is amended to read:

9 440.88 **(3m)** EXCEPTION. This section does not apply to a physician, as defined
10 in s. 448.01 (5), a clinical social worker, as defined in s. 457.01 (1r), ~~or~~ a licensed
11 psychologist, as defined in s. 455.01 (4), a marriage and family therapist, as defined
12 in s. 457.01 (3), or a professional counselor, as defined in s. 457.01 (7), who practices
13 as a substance abuse clinical supervisor or provides substance abuse counseling,
14 treatment, or prevention services within the scope of his or her licensure.

15 **SECTION 11.** 440.88 (7) of the statutes is amended to read:

16 440.88 **(7)** RECIPROCAL CERTIFICATION. The department ~~may~~ shall, upon
17 application and payment of the required fee, issue certification as a substance abuse
18 counselor, clinical supervisor, or prevention specialist to an individual who holds a
19 similar unexpired certification issued to the individual by another state for which the
20 requirements for certification are of a standard that is not lower than that specified
21 in this subchapter.

22 **SECTION 12.** 441.16 (3) (d) of the statutes is amended to read:

23 441.16 **(3)** (d) Establishing procedures for maintaining a certificate to issue
24 prescription orders, including requirements for continuing education and a
25 requirement to complete the nursing workforce survey and submit the fee required

1 under s. 441.01 (7). The requirements established by the board under this paragraph
2 shall include continuing education requirements regarding best practices in
3 prescribing controlled substances, as defined in s. 961.01 (4), for any advanced
4 practice nurse who is authorized to dispense controlled substances under 21 USC
5 821 to 831, and the board shall specify a minimum number of hours of such
6 instruction that must be completed in each 2-year period.

7 **SECTION 13.** 441.19 of the statutes is created to read:

8 **441.19 Maintenance and detoxification treatment under federal**
9 **waiver.** (1) In this section, “waiver” means a waiver issued by the federal
10 department of health and human services under 21 USC 823 (g) (2) (A).

11 (2) With respect to the ability of an advanced practice nurse who is certified to
12 issue prescription orders to obtain and practice under a waiver, a physician who
13 meets any of the conditions specified in 21 USC 823 (g) (2) (G) (ii) shall be considered
14 eligible to serve as a qualifying physician for purposes of the requirement under 21
15 USC 823 (g) (2) (G) (iv) (III), regardless of whether the physician himself or herself
16 holds a waiver.

17 **SECTION 14.** 447.02 (2) (k) of the statutes is created to read:

18 447.02 (2) (k) Continuing education requirements for dentists under s. 447.056
19 regarding best practices in prescribing controlled substances, as defined in s. 961.01
20 (4). The board shall specify a minimum number of hours of such instruction that
21 must be completed in each 2-year period. Continuing education requirements
22 established in the rules promulgated under this paragraph shall apply only with
23 respect to a dentist who is authorized to dispense controlled substances under 21
24 USC 821 to 831.

25 **SECTION 15.** 447.056 (1) (intro.) of the statutes is amended to read:

1 447.056 (1) (intro.) Except as provided in subs. (2) to (4), a person is not eligible
2 for renewal of a license to practice dentistry, other than a permit issued under s.
3 447.02 (3), unless the person has taught, attended, or otherwise completed, during
4 the 2-year period immediately preceding the renewal date specified under s. 440.08
5 (2) (a), 30 credit hours of continuing education related to the practice of dentistry or
6 the practice of medicine, including not less than 25 credit hours of instruction in
7 clinical dentistry or clinical medicine and including the credit hours of instruction
8 regarding best practices in prescribing controlled substances that are required by
9 the board in rules promulgated under s. 447.02 (2) (k). Not more than 4 of the 30
10 hours may be from teaching. Continuing education does not satisfy the requirements
11 under this subsection unless the continuing education is one of the following:

12 **SECTION 16.** 448.038 of the statutes is created to read:

13 **448.038 Maintenance and detoxification treatment under federal**
14 **waiver.** (1) In this section, “waiver” means a waiver issued by the federal
15 department of health and human services under 21 USC 823 (g) (2) (A).

16 (2) With respect to the ability of a physician assistant to obtain and practice
17 under a waiver, a physician who meets any of the conditions specified in 21 USC 823
18 (g) (2) (G) (ii) shall be considered eligible to serve as a qualifying physician for
19 purposes of the requirement under 21 USC 823 (g) (2) (G) (iv) (III), regardless of
20 whether the physician himself or herself holds a waiver.

21 **SECTION 17.** 448.07 (1) (d) of the statutes, as affected by 2013 Wisconsin Act
22 240, is amended to read:

23 448.07 (1) (d) No registration may be permitted by the secretary of the board
24 in the case of any physician, physician assistant, or perfusionist who has failed to
25 meet the requirements of s. 448.13 or any person whose license or certificate has been

1 suspended or revoked and the registration of any such person shall be deemed
2 automatically annulled upon receipt by the secretary of the board of a verified report
3 of such suspension or revocation, subject to the person's right of appeal. A person
4 whose license or certificate has been suspended or revoked and subsequently
5 restored shall be registered by the board upon tendering a verified report of such
6 restoration of the license or certificate, together with an application for registration
7 and the registration fee.

8 **SECTION 18.** 448.13 (1) (a) 3. of the statutes is created to read:

9 448.13 (1) (a) 3. If the physician is authorized to dispense controlled substances
10 under 21 USC 821 to 831, continuing education programs regarding best practices
11 in prescribing controlled substances, as defined in s. 961.01 (4).

12 **SECTION 19.** 448.13 (4) of the statutes is created to read:

13 448.13 (4) Each person who is licensed as a physician assistant and who is
14 authorized to dispense controlled substances under 21 USC 821 to 831 shall, in each
15 2nd year at the time of application for a certificate of registration under s. 448.07,
16 submit proof of completion of continuing education requirements promulgated by
17 rule by the board regarding best practices in prescribing controlled substances, as
18 defined in s. 961.01 (4).

19 **SECTION 20.** 448.20 (3) (c) of the statutes is created to read:

20 448.20 (3) (c) Promulgating the rules establishing continuing education
21 requirements under s. 448.40 (2) (cm).

22 **SECTION 21.** 448.40 (2) (ck) of the statutes is created to read:

23 448.40 (2) (ck) Establishing continuing education requirements under s.
24 448.13 (1) (a) 3. regarding best practices in prescribing controlled substances, as
25 defined in s. 961.01 (4), for renewal of a license to practice medicine and surgery by

1 a physician authorized to dispense controlled substances under 21 USC 821 to 831.
2 The board shall specify a minimum number of hours of such instruction that must
3 be completed in each 2-year period.

4 **SECTION 22.** 448.40 (2) (cm) of the statutes is created to read:

5 448.40 (2) (cm) Establishing continuing education requirements under s.
6 448.13 (4) regarding best practices in prescribing controlled substances, as defined
7 in s. 961.01 (4), for renewal of a physician assistant license by a physician assistant
8 authorized to dispense controlled substances under 21 USC 821 to 831. The board
9 shall specify a minimum number of hours of such instruction that must be completed
10 in each 2-year period. In promulgating rules under this paragraph, the board shall
11 consult with the council on physician assistants.

12 **SECTION 23.** 448.665 of the statutes is renumbered 448.665 (1) (intro.) and
13 amended to read:

14 448.665 (1) (intro.) The affiliated credentialing board shall promulgate rules
15 establishing requirements and procedures for licensees to complete continuing
16 education programs or courses of study in order to qualify for renewal of a license
17 granted under this subchapter. The rules promulgated under this section shall
18 require do all of the following:

19 (a) Require a licensee to complete at least 30 hours of continuing education
20 programs or courses of study within each 2-year period immediately preceding the
21 renewal date specified under s. 440.08 (2) (a).

22 (2) The affiliated credentialing board may waive all or part of ~~these~~ the
23 requirements for the completion of continuing education programs or courses of
24 study under sub. (1) if the affiliated credentialing board determines that prolonged

1 illness, disability, or other exceptional circumstances have prevented a licensee from
2 completing the requirements.

3 **SECTION 24.** 448.665 (1) (b) of the statutes is created to read:

4 448.665 (1) (b) Establish requirements for a licensee who is authorized to
5 dispense controlled substances under 21 USC 821 to 831 to complete continuing
6 education programs regarding best practices in prescribing controlled substances, as
7 defined in s. 961.01 (4). The affiliated credentialing board shall specify a minimum
8 number of hours of such instruction that must be completed in each 2-year period.

9 **SECTION 25.** 449.06 (2m) of the statutes is renumbered 449.06 (2m) (intro.) and
10 amended to read:

11 449.06 (2m) (intro.) The examining board shall promulgate rules requiring a
12 person who is issued a license to practice optometry to complete, during the 2-year
13 period immediately preceding the renewal date specified in s. 440.08 (2) (a), not less
14 than 30 hours of continuing education. The rules shall include requirements all of
15 the following:

16 (a) Requirements that apply only to optometrists who are allowed to use topical
17 ocular diagnostic pharmaceutical agents under s. 449.17 or who are allowed to use
18 therapeutic pharmaceutical agents or remove foreign bodies from an eye or from an
19 appendage to the eye under s. 449.18.

20 **SECTION 26.** 449.06 (2m) (b) of the statutes is created to read:

21 449.06 (2m) (b) Requirements for optometrists who are authorized to dispense
22 controlled substances under 21 USC 821 to 831 to complete continuing education
23 programs regarding best practices in prescribing controlled substances, as defined
24 in s. 961.01 (4). The examining board shall specify a minimum number of hours of
25 such instruction that must be completed in each 2-year period.

1 **SECTION 27.** 457.02 (5) of the statutes is repealed.

2 **SECTION 28.** 457.02 (5m) of the statutes is repealed.

3 **SECTION 29.** 961.385 (2) (cm) 1. (intro.) of the statutes, as created by 2015
4 Wisconsin Act 266, is amended to read:

5 961.385 (2) (cm) 1. (intro.) A practitioner, pharmacist, registered nurse
6 licensed under s. 441.06, or substance abuse counselor, as defined in s. 440.88 (1) (b),
7 or an individual authorized under s. 457.02 (5m) to treat who treats, within the scope
8 of his or her credential, alcohol or substance dependency or abuse as a specialty, if
9 any of the following is applicable:

10 **SECTION 30.** 961.385 (2) (cm) 2. of the statutes, as created by 2015 Wisconsin
11 Act 266, is amended to read:

12 961.385 (2) (cm) 2. A person who medically coordinates, directs, or supervises,
13 or establishes standard operating procedures for, a practitioner, pharmacist,
14 registered nurse, substance abuse counselor, or individual ~~authorized under s.~~
15 ~~457.02 (5m) to treat alcohol or substance dependency or abuse as a specialty to whom~~
16 records may be disclosed under subd. 1., if the person is evaluating the job
17 performance of the practitioner, pharmacist, registered nurse, substance abuse
18 counselor, or individual, or is performing quality assessment and improvement
19 activities, including outcomes evaluation or development of clinical guidelines, and
20 if the disclosure does not contain personally identifiable information, as defined in
21 s. 19.62 (5), of a patient and is limited to only those records about the practitioner,
22 pharmacist, registered nurse, substance abuse counselor, or individual the person
23 medically coordinates, directs, or supervises, or for whom the person establishes
24 standard operating procedures.

25 **SECTION 31.** DHS 75.02 (15) of the administrative code is amended to read:

SECTION 31

1 DHS 75.02 (15) "Counseling" means the application of recognized theories,
2 principles, techniques and strategies to manage and facilitate the progress of diverse
3 patients toward mutually determined treatment goals and objectives using
4 culturally sensitive modalities as described in s. SPS ~~166.01 (3)~~ 160.02 (10m) or s.
5 MPSW 2.01 (10).

6 **SECTION 32.** DHS 75.02 (84) (d) of the administrative code is amended to read:

7 DHS 75.02 (84) (d) ~~A s. MPSW 1.09 specialty~~ An individual who holds a
8 credential under ch. 457, Stats., granted by DSPS.

9 **SECTION 33.** DHS 75.03 (4) (e) of the administrative code is amended to read:

10 DHS 75.03 (4) (e) ~~All~~ Any staff who ~~provide~~ provides clinical supervision ~~shall~~
11 ~~fulfill the requirements established, as defined~~ in s. SPS 160.02 (6) ~~and,~~ shall hold
12 ~~a certificate from DSPS as required~~ be a clinical supervisor, as defined in s. SPS
13 160.02 (7), except for a physician knowledgeable in addiction treatment, licensed
14 psychologist with a knowledge of psychopharmacology and addiction treatment, or
15 professional possessing the s. MPSW 1.09 ~~subspecialty~~ a credential under ch. 457,
16 Stats.

17 **SECTION 34.** MPSW 1.09 of the administrative code is repealed.

18 **SECTION 35.** Chapter SPS 160 (title) of the administrative code is amended to
19 read:

20 **Chapter SPS 160**

21 **APPLICABILITY AND DEFINITIONS**

22 **SECTION 36.** SPS 160.015 of the administrative code is created to read:

23 **SPS 160.015 Applicability. (1)** Except as provided in sub. (2), no person may
24 represent himself or herself to the public as a substance abuse counselor, clinical
25 supervisor, or prevention specialist or a certified substance abuse counselor, clinical

1 supervisor, or prevention specialist or use in connection with his or her name a title
2 or description that conveys the impression that he or she is a substance abuse
3 counselor, clinical supervisor, or prevention specialist or a certified substance abuse
4 counselor, clinical supervisor, or prevention specialist unless he or she is so certified
5 under s. 440.88, Stats.

6 **(2)** Chapters SPS 160 to 168 do not apply to any of the following:

7 (a) A physician, as defined in s. 448.01 (5), Stats., who practices as a substance
8 abuse clinical supervisor or provides substance abuse counseling, treatment, or
9 prevention services within the scope of his or her licensure.

10 (b) A clinical social worker, as defined in s. 457.01 (1r), Stats., who practices as
11 a substance abuse clinical supervisor or provides substance abuse counseling,
12 treatment, or prevention services within the scope of his or her licensure.

13 (c) A licensed psychologist, as defined in s. 455.01 (4), Stats., who practices as
14 a substance abuse clinical supervisor or provides substance abuse counseling,
15 treatment, or prevention services within the scope of his or her licensure.

16 (d) A marriage and family therapist, as defined in s. 457.01 (3), or a professional
17 counselor, as defined in s. 457.01 (7), who practices as a substance abuse clinical
18 supervisor or provides substance abuse counseling, treatment, or prevention
19 services within the scope of his or her licensure.

20 (e) The preparation of a patient for substance use disorder treatment by
21 referral, the treatment of a patient for substance use disorder until a referral for
22 substance use disorder treatment is completed, and the continuation of treatment
23 with the nonsubstance use disorder issues of a person, when performed by a mental
24 health provider practicing within the scope of his or her credential.

1 ***-5086/P3.15*SECTION 37.** SPS 160.02 (2m) of the administrative code is
2 created to read:

3 SPS 160.02 (2m) “Assessment training” means education on the
4 comprehensive process of collecting pertinent data about patients or patient systems
5 and their environment, and appraising the data as a basis for making decisions
6 regarding substance use disorder diagnosis and treatment or referral. The education
7 shall consist of culturally inclusive studies in understanding addiction,
8 psychopharmacology, recognition and differentiation of co-occurring medical and
9 psychological disorders, clinical evaluation, and treatment planning.

10 **SECTION 38.** SPS 160.02 (3) (g) of the administrative code is created to read:

11 SPS 160.02 (3) (g) Marriage and family therapy, as defined in s. 457.01 (5),
12 Stats.

13 **SECTION 39.** SPS 160.02 (3) (h) of the administrative code is created to read:

14 SPS 160.02 (3) (h) Professional counseling, as defined in s. 457.01 (6), Stats.

15 **SECTION 40.** SPS 160.02 (3m) of the administrative code is created to read:

16 SPS 160.02 (3m) “Case management” means education on culturally
17 appropriate administrative, clinical, and evaluative activities included in the
18 process of coordinating and prioritizing patient treatment goals and working with
19 the patient and significant others, as well as other services, agencies, and resources
20 to achieve those treatment goals. The education shall include studies in
21 implementing treatment plans including continuing assessment, the referral
22 process, service coordination, including for co-occurring medical and psychological
23 disorders, record management and documentation, and utilizing the written client
24 record to guide and monitor services to reach measurable goals and objectives.

25 **SECTION 41.** SPS 160.02 (6) of the administrative code is amended to read:

1 SPS 160.02 (6) “Clinical supervision” means a specific and definitive process
2 of oversight of a counselor’s professional development in the didactic, experiential
3 and application of the transdisciplinary foundations, and practice dimensions
4 including core functions. Supervision takes place in intermittent in person contact
5 between a clinical supervisor and treatment staff provided on or off the site of a
6 service to ensure that each patient has an individualized treatment plan and is
7 receiving quality care. A primary purpose of “clinical supervision” is to ensure skill
8 development evidenced in quality patient care.

9 **SECTION 42.** SPS 160.02 (9) of the administrative code is repealed.

10 **SECTION 43.** SPS 160.02 (10) of the administrative code is repealed.

11 **SECTION 44.** SPS 160.02 (10m) of the administrative code is created to read:

12 SPS 160.02 (10m) “Counseling training” means education that includes the
13 study of fundamental theories, principles, and techniques of substance use disorder
14 counseling to facilitate the progress of diverse patients toward mutually determined
15 treatment goals and objectives using culturally sensitive modalities. Counseling
16 education shall include studies of understanding addiction, recognized treatment
17 theory and practice, the recovery process, effective strategies for meeting the
18 counseling needs of diverse patients, crisis management skills, and awareness of
19 co-occurring medical and psychological disorders.

20 **SECTION 45.** SPS 160.02 (14) of the administrative code is repealed.

21 **SECTION 46.** SPS 160.02 (16) of the administrative code is repealed.

22 **SECTION 47.** SPS 160.02 (19m) of the administrative code is created to read:

23 SPS 160.02 (19m) “Patient education” means education about the process of
24 providing patients, groups, families, couples, significant others, and communities
25 with information on risks related to substance use, the processes of dependence

1 including signs, symptoms, and behavior patterns, and available resources for
2 prevention, treatment, and recovery in culturally relevant ways. The education
3 shall include studies in understanding addiction including addiction to nicotine, the
4 classification and basic pharmacology of drugs, basic physiology and the effects of
5 drug use on the human body and patient, learning styles and teaching methods,
6 delivery of educational programs, health and behavior problems related to substance
7 use including transmission of HIV/AIDS, tuberculosis, sexually transmitted
8 infections, and other infectious diseases, and basic life skills such as stress
9 management, communication, and assertiveness.

10 **SECTION 48.** SPS 160.02 (22) of the administrative code is repealed.

11 **SECTION 49.** SPS 160.02 (24m) of the administrative code is created to read:

12 SPS 160.02 **(24m)** “Professional responsibility” means education that
13 addresses standards of conduct or professional behavior expectations for counselors,
14 supervisors, and prevention workers. Professional behavior areas to be studied shall
15 include, at a minimum, legal issues specific to substance use disorder professional
16 practice, patient welfare as a primary concern, responsibility for professional
17 competence and professional development, participation in ongoing supervision and
18 consultation, counselor values and self-care, relationships with other professionals
19 and institutions, and the establishment of limits and boundaries in the patient
20 relationship. This education shall also address the impact of specific cultural, ethnic,
21 and racial influences and expectations.

22 **SECTION 50.** SPS 160.02 (28) of the administrative code is amended to read:

23 SPS 160.02 **(28)** “Substance use disorder” means the existence of a diagnosis
24 of ~~“substance dependence” or “substance abuse”~~ “substance use disorder” listed in
25 the most current edition of DSM.

1 (d) Fifteen hours in patient education.

2 (e) Twenty hours in professional responsibility.

3 (f) Twenty-five hours in electives in any of the subjects in pars. (a) to (e).

4 **(5)** Evidence of current employment, a written offer of employment, internship,
5 practicum, or an agreement authorizing volunteer hours at an agency providing
6 substance use disorder treatment.

7 **(6)** For applicants who have a pending criminal charge or have been convicted
8 of a crime, all related information necessary for the department to determine
9 whether the circumstances of the pending criminal charge or conviction are
10 substantially related to the practice of substance abuse counseling.

11 **SPS 161.02 Substance abuse counselor application.** (1) Except as
12 provided in sub. (2), an applicant for certification as a substance abuse counselor
13 shall submit all of the following:

14 (a) An application form.

15 (b) A fee as determined by the department under s. 440.05, Stats.

16 (c) Evidence of successful passage of the jurisprudence examination unless the
17 applicant has previously passed the examination in the process of obtaining a
18 substance abuse counselor-in-training credential.

19 (d) Evidence of completion of 360 hours of substance use disorder specialized
20 education through a postsecondary institution or a department-approved education
21 program. The 360 hours shall be in all of the following:

22 1. Sixty hours in assessment training.

23 2. Sixty hours in counseling training.

24 3. Sixty hours in case management.

25 4. Sixty hours in patient education.

1 5. Sixty hours in professional responsibility.

2 6. Six hours in boundaries and ethics.

3 7. Fifty-four hours in electives in any of the subjects in subds. 1. to 6.

4 (e) Evidence of successful passage of the National Association for Alcoholism
5 and Drug Abuse Counselors' NCAC I exam.

6 (f) Evidence of completion of 3,000 hours of work experience performing the
7 practice dimensions supervised by an individual under ch. SPS 162 within the 5
8 years immediately preceding the date of application. The 3,000 hours shall include
9 all of the following:

10 1. One thousand hours in providing substance use disorder counseling with a
11 minimum of 500 hours in a one-on-one individual modality setting.

12 2. Two hundred hours of providing counseling during the 12-month period
13 immediately preceding the date of application of which 100 hours shall have been
14 completed using an individual modality setting.

15 (g) For applicants who have a pending criminal charge or have been convicted
16 of a crime, all related information necessary for the department to determine
17 whether the circumstances of the pending criminal charge or conviction are
18 substantially related to the practice of substance abuse counseling.

19 **(2)** An applicant for certification as a substance abuse counselor who is
20 credentialed by the marriage and family therapy, professional counseling, and social
21 work examining board at the bachelor's level or higher shall submit evidence
22 satisfactory to the department of the applicant's current credential under ch. 457,
23 Stats.

1 **SPS 161.03 Clinical substance abuse counselor application.** (1) Except
2 as provided in sub. (2), an applicant for certification as a clinical substance abuse
3 counselor shall submit all of the following:

4 (a) An application form.

5 (b) A fee as determined by the department under s. 440.05, Stats.

6 (c) Evidence of successful passage of the jurisprudence examination unless the
7 applicant has previously passed the examination in the process of obtaining a
8 substance abuse counselor-in-training or substance abuse counselor credential.

9 (d) Evidence of one of the following:

10 1. Holding a substance abuse counselor credential.

11 2. Completion of 360 hours of substance use disorder specialized education
12 through a postsecondary institution or department-approved education program.

13 The 360 hours shall be in all of the following:

14 a. Sixty hours in assessment training.

15 b. Sixty hours in counseling training.

16 c. Sixty hours in case management.

17 d. Sixty hours in patient education.

18 e. Sixty hours in professional responsibility.

19 f. Six hours in boundaries and ethics.

20 g. Fifty-four hours in electives in any of the subjects in subds. 2. a. to f.

21 (e) Evidence of an associate's degree or higher in a behavioral science field from
22 an accredited university or college.

23 (f) Evidence of successful passage of the National Association for Alcoholism
24 and Drug Abuse Counselors' NCAC I exam.

1 (g) Evidence of completion of 5,000 hours of work experience performing the
2 practice dimensions, supervised by an individual under ch. SPS 162 within the 5
3 years immediately preceding the date of application. The 5,000 hours may include
4 any work experience hours obtained as a requirement of the substance abuse
5 counselor credential.

6 (h) For applicants who have a pending criminal charge or have been convicted
7 of a crime, all related information necessary for the department to determine
8 whether the circumstances of the pending criminal charge or conviction are
9 substantially related to the practice of substance abuse counseling.

10 (2) An applicant for certification as a clinical substance abuse counselor who
11 is credentialed by the marriage and family therapy, professional counseling, and
12 social work examining board at the master's level or higher shall submit evidence
13 satisfactory to the department of the applicant's current credential under ch. 457,
14 Stats.

15 **SPS 161.04 Clinical supervisor-in-training application.** An applicant
16 for certification as a clinical supervisor-in-training shall submit all of the following:

17 (1) An application form.

18 (2) A fee as determined by the department under s. 440.05, Stats.

19 (3) Evidence of current employment, a written offer of employment, or an
20 agreement authorizing volunteer hours as a clinical supervisor of counselors
21 providing substance use disorder treatment services who are certified under s.
22 440.88, Stats., or under ch. 457, Stats.

23 (4) Evidence of one of the following:

24 (a) Holding an active clinical substance abuse counselor credential.

1 (b) Holding an active credential under ch. 457, Stats., at the master's level or
2 higher.

3 **SPS 161.05 Intermediate clinical supervisor or independent clinical**
4 **supervisor application.** An applicant for certification as an intermediate clinical
5 supervisor or independent clinical supervisor shall submit all of the following:

6 (1) An application form.

7 (2) A fee as determined by the department under s. 440.05, Stats.

8 (3) Evidence of holding an active credential of one of the following:

9 (a) Clinical substance abuse counselor.

10 (b) A credential under ch. 457, Stats., at the master's level or higher.

11 (4) Evidence of 2 years of clinical supervisory experience as a
12 supervisor-in-training or intermediate supervisor within the last 5 years as the
13 supervisor of counselors certified under s. 440.88, Stats., or having a credential
14 under ch. 457, Stats.

15 (5) Evidence of one of the following:

16 (a) Holding an intermediate clinical supervisor credential.

17 (b) Successful completion of 30 hours of education in clinical supervision,
18 including a minimum of 6 hours of training in each of the following:

19 1. Assessment and evaluation.

20 2. Counselor development.

21 3. Management and administration.

22 4. Professional responsibility.

23 (c) Holding an American Association for Marriage and Family Therapy
24 supervisor certification.

1 **(6)** Evidence of successful passage of the National Association of Alcoholism
2 Counselors and Trainers' NCSE exam.

3 **SPS 161.06 Prevention specialist-in-training application.** An applicant
4 for certification as a prevention specialist-in-training shall submit all of the
5 following:

6 **(1)** An application form.

7 **(2)** A fee as determined by the department under s. 440.05, Stats.

8 **(3)** Evidence of successful completion of 40 hours of approved education,
9 including 5 hours specific to ethics, in the following content areas:

10 (a) Planning and evaluation.

11 (b) Prevention education and service delivery.

12 (c) Communication.

13 (d) Community organization.

14 (e) Public policy and environmental change.

15 (f) Professional growth and responsibility.

16 **SPS 161.07 Prevention specialist application.** An applicant for
17 certification as a prevention specialist shall submit all of the following:

18 **(1)** An application form.

19 **(2)** A fee as determined by the department under s. 440.05, Stats.

20 **(3)** Evidence of successful passage of the jurisprudence examination.

21 **(4)** Evidence of successful completion of 120 hours of approved education,
22 including 50 hours specific to alcohol, tobacco, and other substance abuse and 6 hours
23 specific to ethics, in the following content areas:

24 (a) Planning and evaluation.

25 (b) Prevention education and service delivery.

- 1 (c) Communication.
- 2 (d) Community organization.
- 3 (e) Public policy and environmental change.
- 4 (f) Professional growth and responsibility.

5 **SPS 161.08 Reciprocity.** An applicant holding a current credential in good
6 standing as a substance abuse counselor, clinical supervisor, or prevention specialist
7 or its equivalent in another state or U.S. territory with requirements for the
8 credential that are not lower than specified in this chapter shall submit all of the
9 following:

10 (1) An application form.

11 (2) A fee as determined by the department under s. 440.05, Stats.

12 (3) For applicants who have a pending criminal charge or have been convicted
13 of a crime, all related information necessary for the department to determine
14 whether the circumstances of the pending criminal charge or conviction are
15 substantially related to the practice of substance abuse counseling.

16 (4) For applicants who have had disciplinary or adverse action taken on their
17 substance abuse counselor, clinical supervisor, or prevention specialist credential or
18 its equivalent, all related information necessary for the department to determine
19 whether the circumstances of the disciplinary action or adverse action warrant
20 denial of the application.

21 (5) Evidence of successful passage of jurisprudence examination.

22 **SECTION 54.** SPS 163.01 of the administrative code is repealed.

23 **SECTION 55.** SPS 163.02 (1) of the administrative code is renumbered SPS
24 163.02 and amended to read:

1 **SPS 163.02 Substance abuse counselor-in-training; limited scope of**
2 **practice.** The granting of a substance abuse counselor-in-training certificate does
3 not denote or assure competency to provide substance use disorder counseling. A
4 substance abuse counselor-in-training may provide services in any of the core
5 functions, ~~except counseling,~~ if authorized and documented by the clinical
6 supervisor. ~~A clinical supervisor may only authorize a substance abuse~~
7 ~~counselor-in-training to provide counseling in accordance with sub. (2).~~

8 **SECTION 56.** SPS 163.02 (2) of the administrative code is repealed.

9 **SECTION 57.** SPS 163.02 (3) of the administrative code is repealed.

10 **SECTION 58.** SPS 164.01 (2) (fm) of the administrative code is created to read:

11 SPS 164.01 (2) (fm) Allowing students or supervisees to perform services for
12 which the substance abuse professional is not qualified by education, training, or
13 experience to perform.

14 **SECTION 59.** SPS 164.01 (2) (j) of the administrative code is amended to read:

15 SPS 164.01 (2) (j) Discriminating in practice on the basis of age, race, color, sex,
16 religion, creed, national origin, ancestry, disability, gender identity, or sexual
17 orientation.

18 **SECTION 60.** SPS 164.01 (2) (k) of the administrative code is amended to read:

19 SPS 164.01 (2) (k) Revealing to other personnel not engaged in the care of a
20 patient or to members of the public information which concerns a patient's identity
21 or condition unless release of the information is authorized by the patient or required
22 or authorized by law. This provision shall not be construed to prevent a credential
23 holder from cooperating with the department in the investigation of complaints.

24 **SECTION 61.** SPS 164.01 (2) (x) of the administrative code is amended to read:

1 (a) Pay the renewal fee as determined by the department under s. 440.03 (9)

2 (a), Stats., and the late renewal fee.

3 (b) Provide evidence of one of the following:

4 1. Holding a substantially equivalent credential in another state.

5 2. Completion of 60 hours of continuing education in the last 2 years, including
6 6 hours on ethics and boundaries and 6 hours of psychopharmacology.

7 **SPS 165.02 Reinstatement.** A credential holder who has unsatisfied
8 disciplinary requirements and has not renewed a credential under s. 440.88, Stats.,
9 within 5 years of its expiration or whose credential under s. 440.88, Stats., has been
10 surrendered or revoked may apply for the credential to be reinstated by submitting
11 all of the following:

12 (1) Evidence of completion of the requirements in s. SPS 165.01 (3) if the
13 credential has not been active within the past 5 years.

14 (2) Evidence of completion of disciplinary requirements, if applicable.

15 (3) Evidence of rehabilitation or change in circumstances warranting
16 reinstatement.

17 **SECTION 64.** Chapter SPS 166 of the administrative code is repealed and
18 recreated to read:

19 **Chapter SPS 166**

20 **EDUCATION APPROVAL**

21 **SPS 166.01 Approval of substance abuse counselor education.** (1) An
22 application to be a department-approved education program shall include all of the
23 following:

24 (a) A detailed outline of each course, or for core competency programs a detailed
25 outline of each core competency and how the competency will be measured.

1 (b) For each course or core competency, indicate the allocation of hours or
2 competency hour equivalencies for the following content areas:

3 1. Assessment training.

4 2. Counseling training.

5 3. Case management.

6 4. Patient education.

7 5. Professional responsibility.

8 6. Boundaries and ethics.

9 (c) Evidence that each instructor satisfies one of the following:

10 1. The instructor holds one of the following credentials in good standing:

11 a. Substance abuse counselor.

12 b. Clinical substance abuse counselor.

13 c. A credential under ch. 457, Stats.

14 2. The instructor is a physician with knowledge and experience related to
15 substance use disorder counseling.

16 3. The instructor is a psychologist with knowledge and experience related to
17 substance use disorder counseling.

18 4. The instructor is an instructor of substance use disorder related courses at
19 an accredited institution.

20 **(2)** An instructor whose credential has been limited, suspended, or revoked
21 may not instruct in an approved program while the disciplinary action is in effect.

22 **(3)** An approved program shall inform the department in advance of any major
23 change in a course or instructor qualifications.

1 **SPS 168.01 Continuing education requirements.** (1) Unless granted a
2 postponement or waiver of the continuing education requirements under s. SPS
3 168.03, a substance abuse counselor or prevention specialist shall complete 30
4 continuing education credit hours in approved continuing education programs
5 during each 2-year credential period and shall certify on the renewal application
6 that all required continuing education was completed.

7 (2) A minimum of 4 continuing education credit hours of the required 30 credit
8 hours shall be in the area of professional ethics and boundaries.

9 (3) A credential holder who also holds an active credential granted under ch.
10 457, Stats., may satisfy the continuing education requirements by meeting the
11 continuing education requirements under s. 457.22, Stats.

12 (4) A clinical supervisor shall complete 4 hours of continuing education each
13 2-year credential period related to the supervision of substance abuse counselors.
14 The 4 hours completed under this subsection may count toward the continuing
15 education required for renewal of a clinical substance abuse counselor certification.

16 (5) A new credential holder is not required to satisfy continuing education
17 requirements during the time between initial credentialing and commencement of
18 a full 2-year credential period.

19 (6) Continuing education credit hours shall apply only to the 2-year credential
20 period during which the credit hours are completed. If a credential holder fails to
21 satisfy the continuing education requirements during a 2-year credential period,
22 any additional continuing education credit hours completed on or after the renewal
23 date to satisfy the requirement of the preceding period will not apply to the period
24 during which they are earned.

1 **SPS 168.02 Approved continuing education. (1)** A continuing education
2 program is approved if it is relevant to the practice of substance abuse counseling and
3 any of the following applies:

4 (a) The program is approved, sponsored, provided, endorsed, or authorized by
5 any of the following:

6 1. The National Association of Alcohol and Drug Abuse Counseling or one of
7 its affiliated divisions.

8 2. The International Certification & Reciprocity Consortium.

9 3. The American Association for Marriage and Family Therapy or one of its
10 affiliated divisions.

11 4. The Wisconsin Association for Marriage and Family Therapy.

12 5. The National Rehabilitation Counseling Association.

13 6. The American Rehabilitation Counseling Association.

14 7. The Wisconsin Rehabilitation Counseling Association.

15 8. The National Board for Certified Counselors.

16 9. The Commission on Rehabilitation Counselor Certification.

17 10. The Association of Social Work Boards.

18 11. The National Association of Social Workers or one of its affiliated chapters.

19 12. The Association of Baccalaureate Program Directors.

20 13. The Council on Social Work Education.

21 (b) The program or course is offered by a training program accredited by the
22 Commission on Accreditation for Marriage and Family Therapy Education.

23 (c) The program is approved, sponsored, or co-sponsored by a presenter
24 approved by the Committee for the Approval of Continuing Education Sponsors of
25 the American Psychological Association.

1 (d) The program or course is offered by an accredited college or university. A
2 credential holder shall receive 15 continuing education credit hours for completing
3 a semester course approved under this paragraph.

4 (e) The program is an employee sponsored inservice training and development
5 program. No more than 15 continuing education credit hours earned through
6 employee sponsored in-service training and development programs that are not
7 approved under par. (a), (b), (c), or (d) may count toward satisfying continuing
8 education requirements.

9 **(2)** (a) A person may earn continuing education credit hours for engaging in any
10 of the following activities, if the activity is relevant to the practice of substance abuse
11 counseling:

12 1. Presenting professional material. One continuing education credit hour is
13 earned under this subdivision for each hour of a continuing education presentation,
14 except that 15 credit hours are earned for presenting a semester-long educational
15 course. No continuing education credit hours are earned by a person for repeating
16 a presentation for which the person has previously earned continuing education. A
17 person who presents for any of the following may earn continuing education credit
18 hours under this subdivision:

- 19 a. A seminar, workshop, program, or institution that is approved under sub. (1).
20 b. A university, college, or vocational technical adult education course.

21 2. Developing professional material. One continuing education credit hour is
22 earned under this subdivision for each hour spent developing continuing education
23 professional material.

1 3. Authoring a published textbook or professional resource book. Fifteen
2 continuing education credit hours are earned for authoring a book under this
3 subdivision.

4 4. Authoring a professional journal article or a chapter published in a textbook
5 or professional resource book. Eight continuing education credit hours are earned
6 for authoring an article or chapter under this subdivision.

7 (b) A person may earn up to 15 continuing education credit hours that count
8 toward satisfying continuing education requirements by completing continuing
9 education that is approved under par. (a).

10 **SPS 168.03 Postponement or waiver.** A holder of a credential under s.
11 440.88, Stats., may apply to the department for a postponement or waiver of the
12 requirements under this chapter on grounds of prolonged illness, disability, or other
13 grounds constituting extreme hardship. The department shall consider each
14 application individually on its merits.

15 **SECTION 66. Fiscal changes.**

16 (1) TRAINING MATERIALS FOR SUBSTANCE ABUSE-RELATED CASES. In the schedule
17 under section 20.005 (3) of the statutes for the appropriation to the department of
18 children and families under section 20.437 (1) (a) of the statutes, the dollar amount
19 for fiscal year 2018-19 is increased by \$50,000 to develop and maintain
20 Internet-accessible training materials for county social services or veteran services
21 workers on the appropriate response to cases involving substance abuse.

22 **SECTION 67. Initial applicability.**

23 (1) The treatment of chapters SPS 161, SPS 165, and SPS 166 of the Wisconsin
24 Administrative Code first applies to an application received by the department of
25 safety and professional services on the effective date of this subsection.

