

SENATOR JUDITH B. ROBSON
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**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

March 20, 2002

BY INTER-D

Secretary Oscar Herrera
Department of Regulation and Licensing
1400 East Washington Avenue
Madison, Wisconsin

Re: Clearinghouse Rule 00-157

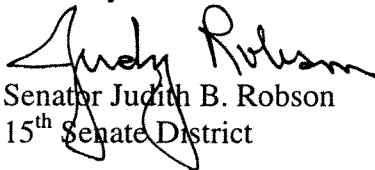
Dear Secretary Herrera:


We are writing in regards to Clearinghouse Rule 00-157, relating to consultation programs and licensure requirements. This rule was proposed by the Pharmacy Examining Board and a portion of the rule was objected to by the Senate Committee on Health.

We recently received a letter dated March 12, 2002 from William Black, Legal Counsel to the Pharmacy Examining Board. This letter stated that the Pharmacy Examining Board met on March 12, 2002 and approved a motion to withdraw the portion of the rule, Section 11, to which the Senate Committee on Health objected.

Given the department's assurance that Section 11 of Clearinghouse Rule 00-157 will not be promulgated, the Joint Committee for Review of Administrative Rules will not be taking action on this rule.

Sincerely,


Senator Judith B. Robson
15th Senate District


Representative Glenn Grothman
59th Assembly District

JBR:GG:da

WISCONSIN DEPARTMENT OF
REGULATION & LICENSING

Scott McCallum
Governor
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Secretary



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March 12, 2002

The Honorable Senator Judith Robson, cochairperson
Joint Committee for Review of Administrative Rules
P.O. Box 7882
Madison, WI 53707

RE: Clearinghouse Rule 00-157 Relating to consultation programs and
licensure requirements. (Wisconsin Pharmacy Examining Board)

Dear Senator Robson,

At its regularly scheduled meeting held on March 12, 2002, the Wisconsin Pharmacy Examining Board approved a motion to withdraw Section 11 of Clearinghouse Rule 00-157 from consideration for promulgation by the board. Section 11 of Clearinghouse Rule 00-157 is currently scheduled on the March 20, 2002 agenda for consideration by the Joint Committee for Review of Administrative Rules. Accordingly, the board is requesting by this correspondence that Section 11 of Clearinghouse Rule 00-157 be taken off calendar as an agenda item.

If I may provide any further information or if the committee desires the board to present information or testimony regarding Section 11 at the March 20, 2002 hearing, please contact me at 266-1790. (william.black@dr1.state.wi.us)

Sincerely,

A handwritten signature in cursive script that reads "William Anderson Black".

William Anderson Black
Legal Counsel
Wisconsin Pharmacy Examining Board

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 00-157)

ORDER

An order of the Pharmacy Examining Board to repeal Phar 2.06 (1) (title), (3) (a) and 4.02 (3); to renumber Phar 2.06 (3) (c) and 4.02 (5) and (6); to renumber and amend Phar 2.06 (3) (b) and 4.02 (4); and to amend Phar 2.03 (1), 2.06 (1), 12.03 (2) (d) and (e), 13.05 (2) and 16.02 (1), relating to consultation programs and licensure requirements.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 450.02 (2g) (a) and (3) (e), 450.03 (2), 450.04 (1), 450.05 and 450.085, Stats.

Statutes interpreted: ss. 450.02 (3) (e), 450.03 (2), 450.04 (1) and 450.02 (2g) (a), Stats.

The objective of the proposed amendment of ss. Phar 2.03 (1) and 2.06 (1) is to require the patient consultation portion of the laboratory practical examination for all applicants for original licensure and as part of an equivalency examination for persons licensed in another state who have not been engaged in the active practice of pharmacy as defined in the rules. The objective of the proposed amendment of s. Phar 16.02 is to provide that the board may require that not more than 6 continuing education hours in each 2-year period be acquired within specified topic areas. Currently, the rules require that an applicant for original licensure in this state and pharmacists licensed in another state seeking licensure in this state who have not engaged in the active practice of pharmacy successfully pass the laboratory practical examination. The laboratory practical examination currently consists solely of an examination testing competence in the consultation of patients, and does not otherwise test compounding and dispensing competence. Currently, the rules do not allow the board to require any portion of continuing education to be acquired within specified topic areas.

The objective of the proposed repeal of ss. Phar 2.06 (3) (a) and 4.02 (3) and the relettering of s. Phar 2.06 (3) (b) and (c), and the renumbering and amending of s. Phar 4.02 (4) and the renumbering of s. Phar 4.02 (5) and (6) are to provide consistent examination references for applicants licensed in another state and residents of this state seeking original licensure. The objective of amending ss. Phar 2.06 (3) (b) and 4.02 (4) is to provide consistent nomenclature between those sections for the practical examination. The current examination requirements for original licensure are set forth in s. Phar 4.02 and include the multi-state pharmacy jurisprudence examination, the state practice of pharmacy examination, the laboratory practical examination,

and the NAPLEX. The current examination requirements set forth in s. Phar 2.06 (3) for an applicant licensed in another state who has not engaged in the active practice of pharmacy include the state practice of pharmacy examination, the laboratory practical examination, and the multi-state pharmacy jurisprudence examination. The use of the NAPLEX national examination is determined by the board to adequately safeguard the health, safety and welfare of the citizens of this state. Therefore, to provide clarity and consistency between chapters, the references to the state practice of pharmacy examination are being deleted from current ss. Phar 2.06 (3) (b) and 4.02 (4). The multi-state pharmacy jurisprudence examination will be retained as a requirement of all applicants. Section Phar 2.03 (1) is amended to provide consistency with the other amended rules.

Sections Phar 12.03 (2) (d) and (e), and 13.05 (2) are amended to remove dates which are no longer applicable.

As originally drafted, Sections 3, 4 and 5 of the proposed rule-making were intended to delete entirely the requirement for an applicant for licensure to take and pass the consultation portion of the laboratory practical examination contained in s. Phar 4.02 (4). Upon further review by the board following the public hearing for the proposed rule, it was decided that the consultation portion of the laboratory practical examination would be retained for all applicants for original licensure under s. Phar 2.03, and for persons licensed in another state who were not engaged in the active practice of pharmacy under s. Phar 2.06 (2). The proposed rule has been modified to reflect the board's decision to maintain the consultation examination under these circumstances. Accordingly, ss. Phar 2.06 and 4.02 have undergone revision to remove references to examinations no longer offered, and provide for consistent nomenclature for the state practical examination, which includes the consultation of patients.

At a duly noticed meeting of the Pharmacy Examining Board on December 11, 2001, the board considered and approved a modification to this rule. Based upon public comment offered at the public hearing on this rule before the Senate Committee on Health, Utilities, Veterans and Military Affairs on May 23, 2001, the board became aware of concerns of the Pharmacy Society of Wisconsin relating to the proposed continuing education requirements contained in the rule. Clearinghouse Rule 00-157, as modified, is resubmitted for legislative committee review.

TEXT OF RULE

SECTION 1. Phar 2.03 (1) is amended to read:

Phar 2.03 (1) An applicant for original licensure as a pharmacist is required to pass the examinations identified in s. Phar 4.02 (1), ~~(4) and (5)~~ (2) and (3).

SECTION 2. Phar 2.06 (1) (title) is repealed.

SECTION 3. Phar 2.06 (1) is amended to read:

Phar 2.06 Examinations for persons licensed in another state. (1) An applicant licensed as a pharmacist in another state who is engaged in the active practice of pharmacy, shall

take the multi-state pharmacy jurisprudence examination described in s. Phar 4.02 (1), ~~and the patient consultation portion of the laboratory practical examination described in s. Phar 4.02 (4).~~ The applicant shall submit, on forms furnished by the board, information describing his or her practice experience preceding the filing of the application. The board ~~shall~~ may review requests for reciprocity.

SECTION 4. Phar 2.06 (3) (a) is repealed.

SECTION 5. Phar 2.06 (3) (b) is renumbered Phar 2.06 (3) (a) and amended to read:

Phar 2.06 (3) (a) ~~Laboratory practice~~ Practical examination.

SECTION 6. Phar 2.06 (3) (c) is renumbered Phar 2.06 (3) (b).

SECTION 7. Phar 4.02 (3) is repealed.

SECTION 8. Phar 4.02 (4), (5) and (6) are renumbered Phar 4.02 (2), (3) and (4) and as renumbered Phar 4.02 (2) is amended to read:

Phar 4.02 (2) The ~~laboratory~~ practical examination shall determine an applicant's competence in compounding and dispensing medications, which includes consultation of patients.

SECTION 9. Phar 12.03 (2) (d) and (e) are amended to read:

Phar 12.03 (2) (d) Register with the food and drug administration and comply with all applicable requirements of 21 CFR 200, 201, 202, 207, 210 and 211 ~~(1985)~~.

(e) If applicable, register with the drug enforcement administration and comply with all appropriate requirements of 21 CFR 1301, 1302, 1303, 1304, 1305, 1307, 1311 and 1312 ~~(1985)~~.

SECTION 10. Phar 13.05 (2) is amended to read:

Phar 13.05 (2) Pass an inspection of the facility conducted by the board or its representative to determine if the location meets standards specified in ss. Phar 13.08 to 13.11, 21 USC 351 and 352 ~~(1990)~~ and 21 CFR 211.142 (b) ~~(1991)~~.

SECTION 11. Phar 16.02 (1) is amended to read:

Phar 16.02 (1) Each pharmacist required to complete the continuing education requirement provided under s. 450.085, Stats., shall, at the time of making application for renewal of a license under s. 450.08 (2) (a), Stats., sign a statement on the application for renewal certifying that the pharmacist has completed at least 30 hours of acceptable continuing education programs within the 2-year period immediately preceding the date of his or her application for renewal. The board may require that not more than 6 continuing education hours

in each 2-year period immediately preceding the date of the application for renewal be acquired within specified topic areas, such requirement to first apply to applications that are submitted to the department to renew a license to practice pharmacy that expires on June 1, 2004. The 30 hours of continuing education for pharmacists first applies to applications that are submitted to the department to renew a license to practice pharmacy that expires on June 1, 2000.

This subsection does not apply to an application for renewal of a license that expires on the first renewal date after the date on which the board initially granted the license.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Chairperson
Pharmacy Examining Board

FISCAL ESTIMATE

(See attached)

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.