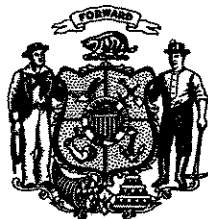


WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-165

AN ORDER to repeal Phar 7.05 (3) (b) 4.; to amend Phar 7.05 (3) (a) (intro.) and (c), (5) and (6) (intro.); and to create Phar 7.05 (3) (b) 8., relating to transfer of prescription orders.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

11-17-00 RECEIVED BY LEGISLATIVE COUNCIL.

12-18-00 REPORT SENT TO AGENCY.

RS:DD;jal;wu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

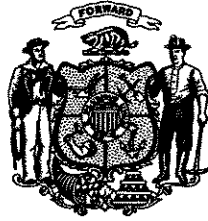
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-165

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. This rule appears to be a resubmittal of Clearinghouse Rule 00-49. It would be helpful if the department would indicate when a rule is a resubmittal in its transmittal letter.
- b. In the department's analysis, it is suggested that in the list of statutes authorizing promulgation, s. 450.02 (3) (b) and (d), Stats., be added.
- c. In s. Phar 7.05 (3) (b) 6., it is suggested that "and" be inserted after the second comma.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. The rule repeals s. Phar 7.05 (3) (b) 4. which requires the pharmacist receiving the transferred prescription order to record the date that the prescription was originally dispensed. It is not clear why this is being repealed. For example, the requirement of recording the date of issuance of the original prescription order by the receiving pharmacist is retained. If the provision is intended to be repealed, perhaps mention of the repeal and its rationale should be included in the department's analysis.
- b. In the second sentence of s. Phar 7.05 (5), both the words "original" and "renewal" are retained. Is this consistent with the striking of these terms in s. Phar 7.05 (3) (a) (intro.)? In addition, in s. Phar 7.05 (6) (intro.), "original" is stricken but "renewal" is retained. Is that the intent?

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

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

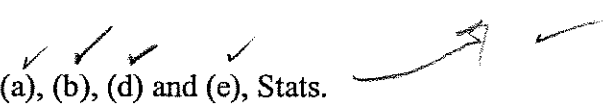
PROPOSED ORDER

An order of the Pharmacy Examining Board to repeal Phar 7.05 (3) (b) 4.; to amend Phar 7.05 (3) (a) (intro.) and (c), (5) and (6) (intro.); and to create Phar 7.05 (3) (b) 8., relating to transfer of prescription orders.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3) (a) and (e), Stats.

Statutes interpreted: s. 450.02 (3) (a), (b), (d) and (e), Stats. 

Under s. Phar 7.05 (3) and (4), a prescription order may be transferred between pharmacies only one time. The Pharmacy Examining Board amends its rules to permit an unlimited number of transfers between pharmacies. For example, a consumer may have a prescription order for medication with five refills that is originally presented and filled at a Milwaukee pharmacy. If the consumer goes on vacation in Door County and finds he or she requires a refill while there, the consumer can have the prescription order "transferred" to a Door County pharmacy for dispensing a refill. However, under the current one-time transfer rule, when the consumer returns to Milwaukee he or she will need a new prescription order for the medication, because the prescription cannot be transferred back to the original pharmacy even though there are refills remaining. The board believes the rule should be modified to rectify these types of situations.

The current reference to the transfer of an original prescription order is removed and modifies the one-time transfer limitation to permit unlimited transfer with the restriction that the transfer of original prescription order information for the purpose of renewal dispensing of controlled substances is only permitted between two pharmacies on a one-time basis. The controlled substance one-time transfer restriction does not apply where pharmacies have access to a common central processing unit, and approval is received from the Pharmacy Examining Board.

TEXT OF RULE

SECTION 1. Phar 7.05 (3) (a) (intro.) is amended to read:

Phar 7.05 (3) (a) (intro.) Except as provided in sub. (5), the transfer of original prescription order information for the purpose of renewal dispensing is permissible between 2 pharmacies on ~~a one-time~~ an unlimited basis pursuant to the following requirements:

SECTION 2. Phar 7.05 (3) (b) 4. is repealed. - *date prescription originally dispensed*

SECTION 3. Phar 7.05 (3) (b) 6. is amended to read:

Pharmacist receiving transferred prescription order shall record in writing:

Phar 7.05 (3) (b) 6. The pharmacy's name, address, the original prescription order number from which the prescription order information was transferred.

SECTION 4. Phar 7.05 (3) (b) 8. is created to read:

Phar 7.05 (3) (b) 8. The name, address and telephone number of the pharmacy from which the original prescription order was transferred if different from subd. 6.

SECTION 5. Phar 7.05 (3) (c), (5) and (6) (intro.) are amended to read:

Phar 7.05 (3) (c) The original and transferred prescription ~~order~~ orders shall be maintained for a period of 5 years from the date of the last renewal.

(5) ~~Pharmacies~~ The transfer of original prescription order information for the purpose of renewal dispensing of a controlled substance is permissible between 2 pharmacies only on a one-time basis. However, pharmacies having access to a common central processing unit are not limited in the transfer of original prescription order information pertaining to controlled substances for the purpose of renewal dispensing if prior written approval is received from the board.

(6) (intro.) A computerized system may be used for maintaining a record, as required under this section, of prescription dispensing and transfers of original prescription order information for the purposes of renewal dispensing, if the system:

(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

Draft of November 17, 2000

Page 2

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: These rules would increase agency costs due to printing and postage costs for mailings for approximately 6,000 pharmacists. A copy of the rules and a cover letter would need to be mailed and associated with this mailing would be approximately \$15,000. This cost to print and mail each rule is estimated at \$2.50 multiplied by 6,000. This is a one-time cost.

FINAL REGULATORY FLEXIBILITY ANALYSIS

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

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11/17/00

**STATE OF WISCONSIN
PHARMACY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 00-165)**

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the PHARMACY EXAMINING BOARD is submitting in final draft form rules relating to transfer of prescription orders.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

APR 12 2001

**STATE OF WISCONSIN
PHARMACY EXAMINING BOARD**

| | |
|---------------------------------------|----------------------------------|
| IN THE MATTER OF RULE-MAKING : | REPORT TO THE LEGISLATURE |
| PROCEEDINGS BEFORE THE : | ON CLEARINGHOUSE 00-165 |
| PHARMACY EXAMINING BOARD : | (s. 227.19 (3), Stats.) |

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

The projected net annualized fiscal impact on state funds of the proposed rule is: These rules would increase agency costs due to printing and postage costs for mailings for approximately 6,000 pharmacists. A copy of the rules and a cover letter would need to be mailed, and associated with this mailing would be approximately \$15,000. This cost to print and mail each rule is estimated at \$2.50 multiplied by 6,000. This is a one-time cost.

IV. STATEMENT EXPLAINING NEED:

Under s. Phar 7.05 (3) and (4), a prescription order may be transferred between pharmacies only one time. The Pharmacy Examining Board amends its rules to permit an unlimited number of transfers between pharmacies. For example, a consumer may have a prescription order for medication with five refills that is originally presented and filled at a Milwaukee pharmacy. If the consumer goes on vacation in Door County and finds he or she requires a refill while there, the consumer can have the prescription order "transferred" to a Door County pharmacy for dispensing a refill. However, under the current one-time transfer rule, when the consumer returns to Milwaukee he or she will need a new prescription order for the medication, because the prescription cannot be transferred back to the original pharmacy even though there are refills remaining. The board believes the rule should be modified to rectify these types of situations.

Former s. Phar 7.05 (3) (b) 4., which requires the pharmacist receiving the transferred prescription order to record the date that the prescription was originally dispensed, is repealed because it was determined to be unnecessary.

The current reference to the transfer of an original prescription order is removed and modifies the one-time transfer limitation to permit unlimited transfer with the restriction that the transfer of original prescription order information for the purpose of renewal

dispensing of controlled substances is only permitted between two pharmacies on a one-time basis. The controlled substance one-time transfer restriction does not apply where pharmacies have access to a common central processing unit, and approval is received from the Pharmacy Examining Board.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on February 14, 2001. There were no appearances at the public hearing. Written comments, in support of the proposed rules, were received from:

Michael J. Anderson, R.Ph., Pharmacy Team Leader, ShopKo Pharmacy #2012,
Wisconsin Rapids, WI
Joe Mastalski, R.Ph., Joe's Lakeland Pharmacy, Minocqua, WI
Jeffrey Bratberg, PharmD, Osco Community Pharmacist, Milwaukee, WI and
Pharmacy Practice Resident, Froedtert Memorial Lutheran Hospital, Milwaukee, WI

Written comments, opposed to the proposed rules, were received from Kevin Wright, R.Ph., ShopKo Pharmacy, Watertown, WI

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 5.b. In the second sentence of s. Phar 7.05 (5), both the words "original" and "renewal" are retained. Is this consistent with the striking of these terms in s. Phar 7.05 (3) (a) (intro.)? In addition, in s. Phar 7.05 (6) (intro.), "original" is stricken but "renewal" is retained. Is that the intent?

Response: The use of "original" and "renewal" is as intended by the board in those sections. The transfer of prescription order information under s. Phar 7.05 (5) for controlled substances is treated differently than for non-controlled substances.

The remaining recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

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

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 00-165)

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(END OF TEXT OF RULE)

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Dated _____

Agency _____

Chairperson
Pharmacy Examining Board

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