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FORM 2



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
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Clearinghouse Assistant Director

Terry C. Anderson
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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 01-091

AN ORDER to amend Phar 2.01 (1) and 2.04 (1), relating to examinations for original licensure and for persons licensed in another state.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

07-27-01 RECEIVED BY LEGISLATIVE COUNCIL.

08-16-01 REPORT SENT TO AGENCY.

RS:REL;jal

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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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.]

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

The analysis to the rule appears to indicate that a foreign graduate who applies for a pharmacist license in Wisconsin will be required to take and pass the foreign pharmacy graduate equivalency examination, the test of English as a foreign language and the test of spoken English. The rule does not specifically state that these three examinations must be taken and passed. Instead, the rule merely provides that such an applicant must obtain certification by the foreign pharmacy graduate examination committee. Does this committee routinely require that the three examinations be taken and passed? Are there other examinations that may be required or offered by the committee? For ultimately clarity, the tests anticipated by the Pharmacy Examining Board should be stated in the rule, unless certification by the foreign pharmacy graduate examination committee is all that is desired. If certification is the goal, it should be acknowledged that the committee might apply different tests in the future.

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 01-)

PROPOSED ORDER

An order of the Pharmacy Examining Board to amend Phar 2.01 (1) and Phar 2.04 (1), relating to examinations for original licensure and for persons licensed in another state.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

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

Statutes interpreted: ss. 450.04 and 450.05, Stats.

The objective of this proposed rule-making order is to create consistent licensure requirements with other states that require applicants in certain instances to take and pass the Foreign Pharmacy Graduate Equivalency Examination (FPGEE), the Test of English as a Foreign Language (TOEFL), and the Test of Spoken English (TSE).

Currently, Wisconsin law only requires that an applicant who is a foreign graduate of a school of pharmacy to take and pass the Foreign Pharmacy Graduate Equivalency Examination (FPGEE), offered by the National Association of Boards of Pharmacy, Foreign Pharmacy Graduate Examination Committee (FPGEC). Other states require a foreign graduate of a school of pharmacy to take and pass three examinations, the Foreign Pharmacy Graduate Equivalency Examination (FPGEE), the Test of English as a Foreign Language (TOEFL), and the Test of Spoken English (TSE). Upon successfully taking and passing all three examinations the foreign graduate earns FPGEC Certification. Requiring foreign graduate applicants in Wisconsin to earn FPGEC Certification as a precondition for licensure will allow Wisconsin licensure requirements in this instance to be considered "substantially equivalent" with other states, thus allowing greater mobility for pharmacists with Wisconsin licensure who thereafter seek licensure in other states.

TEXT OF RULE

SECTION 1. Phar 2.01 (1) is amended to read:

Phar 2.01 (1) Has been graduated from a school or college of pharmacy approved by the board or has ~~taken and passed the foreign pharmacy graduate equivalency examination given~~ obtained certification by the foreign pharmacy graduate examination ~~commission~~ committee.

SECTION 2. Phar 2.04 (1) is amended to read:

Phar 2.04 (1) Has been graduated from a school or college of pharmacy approved by the board, or has ~~taken and passed the foreign pharmacy graduate equivalency examination given~~ obtained certification by the foreign pharmacy graduate examination ~~commission~~ committee.

(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

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: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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**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 01-091)**

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 examinations for original licensure and for persons licensed in another state.

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.

**STATE OF WISCONSIN
PHARMACY EXAMINING BOARD**

IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE 01-091
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:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

The objective of this rule-making order is to create consistent licensure requirements with other states that require applicants in certain instances to take and pass the Foreign Pharmacy Graduate Equivalency Examination (FPGEE), the Test of English as a Foreign Language (TOEFL), and the Test of Spoken English (TSE).

Currently, Wisconsin law only requires that an applicant who is a foreign graduate of a school of pharmacy to take and pass the Foreign Pharmacy Graduate Equivalency Examination (FPGEE), offered by the National Association of Boards of Pharmacy, Foreign Pharmacy Graduate Examination Committee (FPGEC). Other states require a foreign graduate of a school of pharmacy to take and pass three examinations, the Foreign Pharmacy Graduate Equivalency Examination (FPGEE), the Test of English as a Foreign Language (TOEFL), and the Test of Spoken English (TSE). Upon successfully taking and passing all three examinations the foreign graduate earns FPGEC Certification. Requiring foreign graduate applicants in Wisconsin to earn FPGEC Certification as a precondition for licensure will allow Wisconsin licensure requirements in this instance to be considered "substantially equivalent" with other states, thus allowing greater mobility for pharmacists with Wisconsin licensure who thereafter seek licensure in other states.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on September 11, 2001. There were no appearances at the public hearing nor were any written comments received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Response to Comment 5. The foreign pharmacy graduate examination committee does require that the three examinations listed in the analysis be successfully passed for certification. The rule is being amended to reflect that certification is the required element for state licensure. The number and nature of the tests required by the committee is immaterial for state purposes.

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.

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10/22/01

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
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(END OF TEXT OF RULE)

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Chairperson
Pharmacy Examining Board

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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.