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CLEARINGHOUSE RULE 98-192

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.]

4. Adequacy of References to Related Statutes, Rules and Forms

The rule analysis cites, as statutes interpreted, s. 446.04 (1), (4) and (5), Stats. Section 446.04, Stats., generally relates to unprofessional conduct and the three cited subsections pertain, respectively, to: conduct of a character likely to deceive or defraud the public; splitting fees for chiropractic services with persons other than an associate licensed chiropractor; and use of unprofessional advertising. The rule includes three provisions, in SECTIONS 9, 25 and 26, that relate to the conduct of a person taking a chiropractic examination or making material misstatements, omissions or falsifications in applying for or renewing a license. However, the rule does not contain any provisions relating to fee splitting or unprofessional advertising. Therefore, the references to subs. (4) and (5) should be removed. Reference should be made to s. 446.02 (2) (b), Stats., which requires the chiropractic examining board to promulgate rules establishing educational requirements for obtaining a license, including requiring a provision that, beginning July 1, 1998, an application must be accompanied by evidence that the applicant has obtained a bachelor’s degree and has graduated from a college of chiropractic approved by the examining board. The board may also wish to cite s. 446.02 (3g) (b), Stats., which directs the board to promulgate rules establishing additional requirements for obtaining a license and s. 446.02 (3r), Stats., which permits the board to promulgate rules providing for the granting of a temporary permit to practice chiropractic to an individual licensed in another state, territory or country and establishing requirements for practicing chiropractic under a temporary permit. Those subjects are covered in the rule.

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

a. The first and third sentences of the analysis are awkwardly worded. For greater clarity, the phrase “is modifying” in the first sentence could be changed to “proposes to change the term” and the phrases “clinical examination” and “practical examination demonstrating clinical competence” should be placed in quotation marks to highlight the proposed change in terminology. A period should be inserted after the word “practice” on line 5. The third sentence is not a complete sentence and does not make sense as written. It should be reviewed and rewritten. On line 10 of the analysis, the word “that” should be inserted after the word “indicating.” On line 12, the terms “certificate of education” and “official certified transcript” should be placed in quotation marks.

b. In SECTIONS 2, 15, 18 and 22, what is the rationale for changing the phrase “the fee specified in s. 440.05 (1), Stats.” to the fee *required under* s. 440.05 (1), Stats.? Is this intended to be a substantive change? “The fee specified . . .” is used throughout the statutes and administrative rule.

c. In s. Chir 2.02 (3), for consistency with statutory language in s. 446.02 (2) (b), Stats., the phrase “listed as” should be inserted after “accrediting body” on line 2. This comment also pertains to the language in s. Chir 2.02 (6) (a) in SECTION 6.

d. In the Note to SECTION 5, the phrase “federal department of education” should not be capitalized.

e. In the treatment clause to SECTION 6, the comma following “(5)” should be replaced by the word “and.”

f. In s. Chir 2.02 (6) (intro.), the word “and” on line 2 should be changed to “or.”

g. In the treatment clause to SECTION 8, the first comma should be replaced by the word “and.” Also, on the second line of s. Chir 2.025, the phrase “shall be” should be replaced by the word “are,” as this is current language.

h. In s. Chir 2.04, the phrase “who violated” on line 4 should be changed to “violates” and the phrase “who otherwise cheated or acted” on line 5 should be changed to “otherwise cheats or acts.”

i. Section Chir 2.07 (2) changes the current requirement of a passing grade of 75 on the state law examination to a grade “determined by the board to represent minimum competence to practice.” Will the board make this determination for each individual applicant taking the exam, for all applicants taking the exam at a particular sitting or for all applicants taking examinations at any time? How will applicants know what the board has determined to be minimum competence? Will this be included in the administrative rules? The same comment pertains to s. Chir 2.07 (3).

j. In s. Chir 2.09 (1) (intro.), the word “clinical” on line 1 should be stricken-through, the word “practical” should be inserted and underscored following “clinical” and the phrase

“demonstrating clinical competence” should be inserted and underscored following the word “examination.”

k. In the treatment clause to SECTION 12, the comma following the “(b)” should be replaced by the word “and.”

l. In SECTION 14, the title of ch. Chir 3 is changed from “Licensure” to “Licensure Registration and Renewal.” It is suggested the word “Licensure” be changed to “License,” since licensure refers to the act or practice of granting licenses, while a license is the item being registered or renewed. Also, it is suggested that the title to s. Chir 3.01 be changed to read “Registration and Renewal of License.” Finally, in the text of s. Chir 3.01, the phrase “of registration of license” on line 3 could be changed to “of license registration.”

m. In s. Chir 3.03 (2) (e), for consistency with other rule and statutory provisions, the phrase “United States” on line 3 should be replaced by the word “federal.”

n. In the treatment clause to SECTION 22, the comma following “(intro.)” should be replaced by the word “and.” Also, in s. Chir 3.035 (1) (intro.), the word “pay” on line 2 should be changed to “pays” and the word “each” on line 3 should be changed to “all.”

o. In s. Chir 6.02 (18), the comma following “misrepresentation” on line 2 should be deleted and the word “a” should be inserted after the word “for” on line 3.

p. In s. Chir 6.02 (30), where can the rules of conduct of an examination be found? [See also s. Chir 2.04.]

q. In s. Chir 9.04 (6), should semesters be referenced, as well as trimesters and academic quarters?