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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 09-061

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### **2. Form, Style and Placement in Administrative Code**

a. There are a number of inconsistencies between the Table of Contents to ch. DHS 85 and the actual titles used in the text of the rule. For example, see the titles to subch. II and ss. DHS 85.05, 85.06, and 85.13.

b. In s. DHS 85.05, the introduction should read: “In this chapter:”.

c. In s. DHS 85.05, sub. (1) should be an introductory paragraph and the subsequent paragraphs should be numbered as subs. (1) to (4). This comment also applies to s. DHS 85.13.

d. In s. DHS 85.13 (1) (intro.), the word “through” should be replaced by the word “to.” [See ss. 227.27 (1) and 990.01 (14), Stats.]

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

a. In the summary of the proposed rule, under “Analysis and supporting documents used to determine effect on small business,” in the fourth paragraph, “Section 227.114 (1) (a)” should be replaced with “s. 227.114 (1).” In the first paragraph after the table and in the last paragraph under that section, “ch.” should be inserted before “DHS 85.”

b. In s. DHS 85.09 (1) (d), it appears that s. 55.02 (2), Stats., would be a better citation.

c. In s. DHS 85.14 (1) (c), “DHS” should be inserted before “85.13.”

d. In s. DHS 85.14 (4), a period should be inserted after the citation to s. 54.25 (2) (d) 3., Stats.

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

a. In the summary of the proposed rule, under “Plain language analysis,” in item 1., an apostrophe should be inserted after “wards” in the phrase “wards records.” In item 2., a comma should be inserted after “abuse and neglect.”

b. In the summary of the proposed rule, under “Michigan:”, “under which” should be inserted after “the circumstances” in the third sentence. Also, in the description of Michigan and Minnesota law, the word “an” should be inserted before the phrase “administrative rule governing.”

c. In the summary of the proposed rule, under “Summary of factual data and analytical methodologies,” in the fourth item in the list, it appears that “and” following “a proposed rule will have a significant economic impact on a substantial number of small businesses” in the second sentence should be deleted.

d. In the summary of the proposed rule, under “Effect on small business,” a comma should be inserted after “s. 181.0103 (17).”

e. In s. DHS 85.01, “s. 54.15 (7), Stats., and ch. 227.11 (2) (a), Stats.” should be replaced with “ss. 54.15 (7) and 227.11 (2) (a), Stats.”

f. In s. DHS 85.03 (8), the second instance of “s.” should be replaced with “ss.”

g. In s. DHS 85.04 (2) (intro.), “meet all of the following conditions” or “meet any of the following conditions” should be inserted at the end of the introduction to clarify the circumstances under which a variance or waiver may be granted.

h. In s. DHS 85.04 (5) (b) and (6) (c), should “licensee” be replaced with “applicant” in sub. (5) (b) and with “guardian” in sub. (6) (c)?

i. Sections DHS 85.07 (1) and 85.08 (1) both refer to “designated counties.” Section DHS 85.09 (1) (d) refers to “the county department designated under s. 55.02, Stats.” Do these phrases have the same meaning? Whether they do or not, it would be helpful to describe what is meant by “designated counties.”

j. In s. DHS 85.09 (1) (b), it may be clearer to replace “equivalency” with “its equivalent.”

k. In s. DHS 85.09 (3), it appears that a comma should be inserted after the word “misconduct.”

l. In s. 85.09 (4) (c), the comma should be replaced with “and.”

m. In s. DHS 85.12 (4), “ss.” should be replaced with “s.”

n. In s. DHS 85.12 (6), “shall not” should be replaced with “may not.”

o. In s. DHS 85.14 (4), the word “them” should be replaced by the phrase “the guardian representative.” In subs. (5) and (6), the word “must” should be replaced by the word “shall.”

p. In s. DHS 85.14 (7) and (8), in the second sentence of each subsection, “is” before “provided” should be deleted.

q. In s. DHS 85.16 (1) (f), it appears that “agency” should be replaced with “department.”