



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 09-080

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. In s. A-E 12.02 (4), it is unclear what the phrase “technical and professional” is intended to include. Does the subject need to be both “technical and professional” to be considered “health, safety and welfare?” Or could the subject be technical *or* professional? Also, so that the defined term is parallel with the definition, the defined term should be “health, safety and welfare topic” or “HSW topic.”

Also, many of the subjects listed have multiple interpretations. Shorter phrases with the word “and” make it unclear how to interpret the smaller lists within the section. For example, does the phrase “evaluation and selection” refer just to “building systems,” or does it also refer to “products or materials?” Section A-E 12.02 (4) should either separate the subject items with semi-colons or break apart the subjects into paragraphs.

b. Section A-E 12.07 (intro.) should be written in the active voice--“A registrant shall maintain....”

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

Statutory authority for granting reciprocity to architects is provided by s. 443.10 (1) (a), Stats., and should be included in the “Statutory Authority” section. It should also be cited in the “Statutes Interpreted” section, as the proposed rule also interprets what requirements for the registration of architects are “not of a standard lower than specified in this chapter.”

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

a. In the description of Minnesota's continuing education requirements, "need" should replace "require."

b. In s. A-E 12.02 (2), the second sentence is substantive and should be moved out of the definitions section.

c. The meaning of s. A-E 12.03 (1) (b) is unclear. Who is required to comply with par. (b), the registrant or program providers? If it is directed towards the registrant, is the person required to complete professional development hours in each of the three categories every biennium? Is there a minimum number of hours in each category?

d. The meaning of A-E 12.03 (2) is unclear. May a registrant only obtain contact hours for continuing education if the program is offered by an approved provider? May a continuing education program include any one of the items listed in pars. (a) to (f)? Also, par. (b) requires "successful completion." Is successful completion not required for the rest of sub. (2)? The agency should consider moving this phrase to the beginning of sub. (2). The agency should consider rewriting the (intro.) to read, "A contact hour may not count for purposes of fulfilling the continuing education requirement unless it is offered by an approved provider. Continuing education may be obtained by successful completion of any of the following:".

e. What are the definitions of synchronous and asynchronous learning in s. A-E 12.03 (2)? The agency should consider defining these terms or removing them altogether.

f. The term "one quarter" in s. A-E 12.03 (2) (b) and (e) has two possible interpretations (i.e. 0.25, or a type of college session). To clarify its meaning, the phrases "one semester" and "one quarter" should be rewritten something to the effect of "one college or university semester" and "one college or university quarter."

g. Section A-E 12.03 (2) (e) 1. to 4. is unclear for three reasons. First, the last phrase "Teaching credit." in par. (e) (intro.) should include a verb. The department should consider rewriting it to read: "A registrant may count teaching credits if any of the following apply:..." Second, subs. 1. to 4. start with different tenses. They should be rewritten to all be in the same form. Third, the word "shall" appears to be used incorrectly. It appears to remove the architect section's discretion and direct it to automatically approve teaching credits. The words "shall" and "is" should be replaced with "may" and "shall not" should be replaced with "may not."

h. The requirement in s. A-E 12.04 (3) that "additional hours of continuing education may be required depending on the circumstances of the lapse and commensurate with continuing competency" is vague. It does not put registrants on notice as to why they would be penalized by having to participate in more continuing education programs.

i. According to s. A-E 12.05 (1) (c), continuing education credits must include course completion examinations. Is it the intent of the agency that a person must take an examination in order to receive credits for attending professional meetings or for teaching a course? If not, the agency should rewrite this section to indicate that examinations are permissible, not mandatory.

j. Section A-E 12.05 (2) is unclear. May someone other than the architect section approve providers of continuing education programs? Also, are each of the organizations listed in pars. (a) to (e) automatically approved providers? If the answer is no to both questions, sub. (2) should be rewritten to read: “The architect section shall approve providers for continuing education programs, which may include the following:”.

k. The beginning of s. A-E 12.06 (2) authorizes the architect section to require additional evidence for continuing education compliance as it deems necessary. It is unclear how the ability for a registrant to use the American institute of architects’ continuing education service relates to the architect section’s authority. The agency should consider whether to divide s. A-E 12.06 (2) into two subsections, or rewrite it to explain how the two sentences relate.

l. In s. A-E 12.06 (3), the architect section may conduct audits on a biennial basis. There are two possible interpretations. Does it mean that the section must audit at least once each biennium? Or does it limit the number of audits to one per biennium? The agency should clarify what “biennial basis” means.

m. There are some ambiguities in s. A-E 12.06 (4). First, what does “within 30 days of the notice” mean? Does the time limit start upon receipt of the notice? Does a registrant have to respond to the architect section if he or she is taking six months to acquire additional contact hours? How does acquiring additional contact hours satisfy the next renewal period? It appears that the registrant would be making up credits for deficiencies in the previous biennium.

n. Section A-E 12.07 (3) lists what qualifies as proof of participation. Because s. A-E 12.05 (1) (c) indicates that courses may include examinations, the agency might also consider including exams in s. A-E 12.07 (3).

o. Sections A-E 12.08 (3) and (4) are confusing as two different terms of hardship are used. Subsection (4) defines the term “extreme hardship” but then does not use it anywhere. In sub. (3), the term “undue hardship” is used, but is not defined. If the intent is to have two different types of hardship, two changes should be made to sub. (4). First, the word “section” should be replaced with the word “subsection.” Second, the agency should explain how an exemption may be granted for a registrant who demonstrates extreme hardship.

Also, it is unclear what is meant by “similar extenuating circumstances” in par. (c). Similar to what? Similar to the circumstances in pars. (a) and (b)?

p. To be consistent with the definitions, in s. A-E 12.08 (4) (a), the phrase “renewal period” should be replaced with the term “biennium.”

q. In s. A-E 12.08 (4) (b), the word “practice” should be rewritten to clarify that it is referring to the “practice of architecture.”

r. Section A-E 12.08 (4) (b) requires a registrant to acquire contact hours before re-entering the practice if the registrant had an exemption due to an incapacitating disability or medical illness. Section A-E 12.08 (4) (c) does not have this same requirement upon an

exemption granted for similar extenuating circumstances. Nor does sub. (3) have this requirement for those with less extenuating circumstances. Is this the intent of the agency?

s. In s. A-E 12.09, the phrase “registration to practice architecture under s. A-E 3.06, shall...” should be rewritten to read “registration to practice architecture shall, in addition to the information required under s. A-E 3.06, submit proof....”