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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 13-091

#### 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 November 2011.]**

#### 1. Statutory Authority

The listing of statutes interpreted, under the rule summary, should list s. 470.03 (2), Stats., rather than s. 15.405 (2m), Stats., as this section confers specific authority to make rules establishing continuing education requirements. The listing of statutory authorities could include s. 15.405 (2m), Stats., in addition to the sections listed, as it provides for the general creation, subject matter, and structure of the board.

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

a. In the introductory clause of the proposed rule, the listing of affected provisions should be reordered to place “3.05 (title)” before “3.06 (10) (Note)”, and to place “4.05 (title)” before “4.06 (10) (Note)”.

b. In the summary of factual data and analytical methodologies, it would be helpful to identify the two states that have similar licenses and continuing education requirements.

c. The rule summary should give the analysis and supporting documents used to determine effect on small business, and should state the effect on small business.

d. In s. GHSS 1.01, it is not necessary to amend “3” to “three”. Numbers should generally be expressed using Arabic numerals. [s. 1.01 (5), Manual.]

e. In the treatment clause for SECTION 4:

- (1) The references to ss. GHSS 1.01 and 1.02 should be deleted, as those sections are not amended in this SECTION.
- (2) The other affected provisions should be treated by separate SECTIONS, as the affected provisions are not subsections of one rule and are not consecutively numbered rule sections. [s. 1.04 (2) (a), Manual.]
- (3) When moved into separate SECTIONS, the listing of affected provisions should also be reordered to place “3.05 (title)” before “3.06 (10) (Note)”, and to place “4.05 (title)” before “4.06 (10) (Note)”, in the same order as they are treated in the text.

f. In s. GHSS 6.10, the introduction should be renumbered to sub. (1), and sub. (1) should be renumbered to sub. (2). When a section is divided into smaller subunits, at least two subunits must be created. [s. 1.03 (1), Manual.] Also, sub. (1) (a) should be renumbered, as par. (a) has a different focus than pars. (b) and (c). For example, it could be renumbered to sub. (3).

g. In s. GHSS 6.10 (1) (b), the acronyms for “OSHA” and “HAZWOPER” should be spelled out in the text of the rule.

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

a. In the rule summary’s listing of related statutes or rules, a reference to “, Wis. Adm. Code.” should be inserted after the chapter numbers.

b. In the rule summary’s comparison with Illinois, a citation should be given to “Ill. Admin. Code tit. 68, ss. 1252.10 to 1252.120; 225 Ill. Comp. Stat. 745”.

c. In s. GHSS 11.055 (1), a reference to “s. GHSS 6.70” should replace the reference to “ch. GHSS 6”.

d. The Note to s. GHSS 1.055 (1) should be deleted as the reference to the authority under s. 440.05, Stats., applies to initial credentialing fees rather than late renewal fees, which is the topic of this section.

e. In the Note to s. GHSS 6.02 (1), it appears that the words “handicap” and “physical” should be deleted, as those terms are not used in s. 111.321, Stats. The board could consider including additional prohibited bases of discrimination under Wisconsin law, including creed, marital status, ancestry, and military service.

f. In s. GHSS 6.02 (9), the reference to s. GHSS 6.31 should be deleted, as that section does not specify “necessary information” as indicated. Is this reference intended to be to another section?

g. In the Note to s. GHSS 6.60 (4), the reference to s. GHSS 2.03 should be deleted, as that section does not specify information relating to “disciplinary proceedings and actions”. Is this reference intended to be to another section?

h. In s. GHSS 6.70, the reference to s. 440.05 (1), Stats., should be deleted, as that section applies to initial credentialing fees rather than late renewal requirements, which is the topic of this section. Is this reference intended to be to another section?

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

a. In s. GHSS 1.055 (1), a comma should be inserted after “Stats.”.

b. In s. GHSS 1.055 (1) and (2) (a), is it the intent that the more detailed review of a late renewal be applied to an application that is five years or more after a license expiration? It is unclear which procedure applies in the fifth year. If it is the intent to apply the more detailed review during that year, in sub. (2) (a), “5 years or more” should replace “more than 5 years”.

c. In s. GHSS 6.02 (intro.), the phrase “In addition to definitions specified in s. GHSS 1.02,” could be deleted, as the introduction to s. GHSS 1.02 is revised under the proposed rule to specify that those definitions apply in ch. GHSS 6.

d. In s. GHSS 6.02 (5), the Arabic numeral “(1)” could be deleted after “One”, as it is not necessary to repeat the number that is spelled out.

e. In s. GHSS 6.02 (6), the language could be revised to be in the singular form. For example, the definition could be revised to state: “‘Professional development activity’ means an organized educational course, program, or activity on topics related..., and which fosters the enhancement...”.

f. In s. GHSS 6.10 (intro.):

(1) The word “extension” should replace “postponement” in order to be consistent with the language under s. GHSS 6.50.

(2) The phrase “a licensee” should replace “all licensees”.

(3) The words “learning and” should be deleted as that phrase is not part of the definition of “professional development activities”.

(4) If it is intended that all professional development activities must have “a clear purpose and objective that will maintain, improve or expand the skills and knowledge relevant to the practice of professional geology, professional hydrology or professional soil science”, that standard should be removed from this introduction and inserted in the definition of a “professional development activity” under s. GHSS 6.02 (6).

g. In s. GHSS 6.10 (1) (intro.), “a” should replace “every”. Also, the word “extension” should replace “postponement” in order to be consistent with the language under s. GHSS 6.50.

h. In s. GHSS 6.10 (1) (a), the intent of this provision should be spelled out with more specificity. For example: “A licensee granted first licensure in the state between August 1, 2014, and July 31, 2016, is exempt from the continuing education requirements of this chapter for that biennium.”.

i. In s. GHSS 6.10 (1) (b) and (c), “a” should replace each instance of “each”. Also, the phrasing of the intent in both paragraphs could be clearer. For example:

- (1) “(b) A licensee may claim no more than 4 CEUs for each biennial registration period that are earned for initial or refresher training under the Occupational Safety and Health Administration’s Hazardous Waste Operations and Emergency Response standard.”
- (2) “(c) A licensee may claim no more than 4 CEUs for each biennial registration period that are earned in the area of general professional development, including professional conduct and ethics, and financial, personal, and meeting management.”

j. In s. GHSS 6.20, a number of revisions could make the section clearer:

- (1) In the introduction, “To be qualified for credit,” and “criteria” could be deleted. Also, “do” could replace “meet”.
- (2) In sub. (1), “Provide” could replace “Include”. Also, “that contributes” should replace “contributing”.
- (3) In sub. (2), “Provide instruction” could replace “Is conducted”. Also, is there a standard for an instructor to be “considered qualified”?
- (4) In sub. (3), the “and” should be deleted, and “Fulfill pre-established goals and objectives.” should be listed separately as sub. (4).

k. In s. GHSS 6.21 (intro.), in order to be consistent with the definitions already given in the text of the proposed rule for a “continuing education unit” and “professional development activities”, the text of the introduction could be replaced with the following phrase: “Acceptable professional development activities may include:”.

l. In s. GHSS 6.21 (2), “eligible for” should replace “based on”.

m. In s. GHSS 6.21 (4):

- (1) “Successful completion of” should replace “Successfully completing”.
- (2) “eligible for” should replace “based on”.
- (3) “or as defined in provider program materials” is unclear and should be deleted.
- (4) After “No CEUs”, “may” should replace “shall”.

n. In s. GHSS 6.21 (5), the phrase “may be claimed” should replace both instances of “shall be awarded”.

o. In s. GHSS 6.21 (6), “may earn” should replace “shall earn”, and “may be claimed” should replace “shall be awarded”.

p. In s. GHSS 6.21 (7), the rate at which CEUs may be earned is not clear. Is it one CEU per position, or may a CEU be earned for a particular number of hours attending board meetings?

q. In s. GHSS 6.30, the introduction and subsections could be consolidated as follows:

- (1) “(1) A licensee shall maintain records of earned CEUs, certificates of completion or evidence of attendance, and any other proof of compliance with this chapter, for at least 5 years from the end of the biennium in which the CEUs were claimed.”.
- (2) “(2) A licensee shall submit to an audit requested by the board and to any random audit under s. GHSS 6.60, and shall provide any other proof of compliance with this chapter as may be requested by the board or a section of the board.”.

r. In s. GHSS 6.31:

- (1) The first sentence is repetitive of the reporting requirements given in ss. GHSS 1.05 (2) and 6.10 (intro.) and could be deleted.
- (2) The second sentence could be rephrased to more specifically distinguish between tracking and reporting earned CEUs. For example: “A licensee shall use a continuing education tracking form approved by the joint board to record CEUs earned in a biennium and may use the form to report the earned CEUs.”.

s. In s. GHSS 6.40:

- (1) In the introduction, “their” should be deleted and “a licensee may” should replace “licensees shall”. Also, “any” could replace “one or more”.
- (2) In subs. (1) to (6), “The provider or sponsor” should be inserted at the beginning of the text of each subsection.
- (3) In sub. (1), “for” should replace “that regulates”.

t. In s. GHSS 6.50:

- (1) The introduction should be renumbered to sub. (1), because it gives part of the requirements for an extension or waiver of continuing education rather than an introduction to the other requirements. Subsections (1) to (3) should then be renumbered to (2) to (4).
- (2) In the introduction, “of this chapter” should be moved to appear after “the requirements”, and the repetition of the grounds for an extension or waiver should be deleted.
- (3) In sub. (1), the final two sentences from “Extreme hardship shall be determined...for the applicable biennium.” should be deleted as they are repetitive of the standards given in the introduction.

- (4) In the Note to sub. (2) (a), a period should be inserted after “Stats”.
- u. In s. GHSS 6.60 (2), the phrase “a certificate of completion or evidence of attendance, or” could be deleted, as it is repetitive of the phrasing in sub. (1).