



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 14-067

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

Section 440.08 (3) (b), Stats., authorizes the department and relevant credentialing boards to promulgate rules requiring a credential holder who fails to renew a credential within five years of the credential’s renewal date to satisfy requirements in addition to typical renewal requirements before the credential will be reinstated. That section does not expressly authorize the department and credentialing boards to prohibit such a credential holder from applying for a new credential using the application process for an initial credential. Rather, the section specifies that additional requirements may not be more extensive than the requirements required to obtain an initial credential. Thus, it is uncertain whether the stated basis of statutory authority supports the creation of the prohibition in s. SPS 4.10.

2. Form, Style and Placement in Administrative Code

It appears that the term “reinstatement” is not used in the new section created by the rule, nor does it appear elsewhere in ch. SPS 4. If that is correct, SECTION 1 of the rule, which creates a definition of “reinstatement”, should be removed. [See, also, s. 1.01 (7) (b), Manual.]

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

In the analysis of the proposed rule, the department refers generally to existing rules relating to reinstatement of expired credentials. It may be useful to refer to these existing rules with more specificity, especially as it relates to the distinction between rules regarding

credentials expired for less than five years and rules regarding credentials expired for five years or more. [See, also, comment 5. b., below.]

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

a. In the third sentence of s. SPS 4.10, the word “renews” should be replaced with “may renew” or “shall renew”. [See s. 1.01 (2), Manual.]

b. The use of the phrase “expired credential” throughout s. SPS 4.10 is potentially confusing. Using the common meaning of the word “expire”, every credential that has a renewal date that has already passed is expired. Thus, it appears that the intent of the provision is to specify that credentials that are not renewed for more than five years will be treated the same as all other credentials that have not been renewed. Is that correct? If not, the section should be revised to clarify how credentials that have been not renewed for more than five years will be treated differently from other credentials that have not been renewed.