



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 15-078

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 December 2014.]

2. Form, Style and Placement in Administrative Code

a. The introductory clause that enumerates the provisions treated by the proposed rule should delete the phrase “of the Optometry Examining Board” and follow the format “An order to repeal...”. A comma should separate the final affected section (“7.06”) from the “relating to” clause. The “relating to” clause could be rewritten to better reflect that this rule relates to “licensure applications, renewals, and reinstatements, unprofessional conduct, and informed consent”. [s. 1.02 (1), Manual.]

b. SECTION 10 repeats statutory language defining the optometrist’s duty of informed consent. The board may wish to consider whether this repetition of statutory language is necessary. [s. 1.08 (1), Manual.]

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

a. In the rule summary’s explanation of agency authority, third paragraph, the word “board” was omitted from the sentence “The examining board may promulgate rules...”.

b. In the rule summary’s explanation of agency authority, third paragraph, several words were omitted from the final sentence. With reference to s. 440.08 (3) (b), Stats., the board should insert the phrase: “examinations that are more extensive than the” after the phrase “The rules may not require the holder to complete educational requirements or pass”.

c. The repealed s. Opt 5.09 that requires minimum examination for fitting of contact lenses refers to s. Opt 1.02 (4), the definition of a minimum examination for a fitting of contact

lenses. Although this requirement is being moved and not discarded, the clarifying reference is not found in the reorganized requirements. The board should consider including this reference for clarity in the replacement requirement in SECTION 8, the new s. Opt 5.03 (17) (a) 3.

d. The board should add a corrected reference in s. Opt 5.03 (17) (b) 3., because the reference to s. Opt 1.02 (5) l. is incorrect.

e. The repealed s. Opt 5.10 (3) and (4) contain requirements for prescription specifications that are not found in the new reorganized requirements. The board should confirm if it intends that failure to fulfill these requirements will no longer be unprofessional conduct.

f. The repealed s. Opt 5.11 is not replaced in the new reorganized requirements. The board should review the deletion of the references to requirements in s. Opt 5.10 (1) (d) and the American National Standards Institute table and consider whether a reference to those requirements should be placed elsewhere.

g. A reference should be added to identify the late renewal fee referred to in s. Opt 7.05 (2) (a).

h. The board could consider adding a reference to s. Opt 7.06 in s. Opt 7.05 (2), such as “subject to s. 7.06”.

i. In the Note to s. Opt 5.03 (24), the correct federal regulation citation is not 16 CFR s. 456.02 but 16 CFR s. 456.2.

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

a. In s. Opt 5.03 (1), a comma should be inserted after the word “welfare”.

b. In s. Opt 5.03 (7), comma usage should be revised for clarity.

c. In s. Opt 5.03 (17) (a) 3., pluralize “contact lenses”.

d. In s. Opt. 5.03 (27), a comma should be inserted after “Stats.”.

e. In SECTION 8, s. Opt 5.03 (23), the board should insert a phrase such as “as required” before the phrase “under s. Opt 5.14”.

f. In the treatment clause for SECTION 19, a comma should be inserted after the phrase “renumbered s. Opt 7.03”.

g. In SECTION 19, the final sentence would gain clarity if the board added the phrase “in accordance with this section” after the phrase “An optometrist who fails to renew a certificate of registration”.

h. The title for s. Opt 7.05 should be “Renewal” rather than “Late Renewal”, as that section incorporates both the timely and late renewal processes.

i. The board should consider rewriting the examination description found in ss. Opt 3.02 (4) and 7.05 (2) (b) 2. b. For instance, this would be clearer: “Passage of examination assessing knowledge of state laws and administrative rules regarding the practice of optometry.”.

j. In s. Opt 7.06 (3), the comma should be deleted.