



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 16-072

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.]

1. Statutory Authority

a. A citation to s. 450.076 (3) (c), Stats., should be added to the rule summary’s listing of statutory authority and to the explanation of agency authority.

b. Section 450.076 (4), Stats., requires the board to promulgate rules governing the professional conduct of licensed providers and their employees and agents. While s. Phar 14.02 is titled “Standards of Professional Conduct”, it does not appear to include a code of ethical responsibilities. Compare, for example, the standards of professional conduct given in s. Phar 10.03, for the types of ethical responsibilities. That section identifies a number of actions as unprofessional conduct, such as falsifying records, disclosing confidential patient information, and aiding or abetting unlicensed practice. The board should review the proposed rule to ensure that it is complying with this requirement.

2. Form, Style and Placement in Administrative Code

a. In s. Phar 14.01 (2), a reference to “, Stats.” should be inserted after the citation to “s. 440.05 (1)”. [s. 1.07 (2) (Table), Manual.]

b. In ss. Phar 14.01 (3) and 14.02 (1), the parenthetical reference to “(DMEPOS)” should be removed. If the acronym is intended to be a defined term that can be used in place of the written-out phrase, a definition for the acronym should be created in s. Phar 1.02 or at the beginning of ch. Phar 14 and the written-out phrases should be removed. [s. 1.01 (6) and (7), Manual.]

c. In s. Phar 14.02, consider reorganizing and renaming the section. The title “Standards of Professional Conduct” suggests a code of ethical responsibilities, but most of the included items are standards of practice or other requirements. For example, sub. (1) could be placed in its own section with the title “Accreditation Requirement”. The other subsections could be reviewed to determine if they could be grouped into related requirements and placed in separate sections for duties and practice requirements, such as “Compliance with State and Federal Regulations”, “Quality and Safety Standards”, “Patient Plans”, and “Records”.

d. In s. Phar 14.02, there appears to be a typographical error that mistakenly labels sub. (5) as a second sub. (3).

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

a. In s. Phar 14.02 (2), the rule should identify whether the source of the “transportation rules” is the U.S. Department of Transportation, the Wisconsin Department of Transportation, or both. Consider adding references to specific provisions of the U.S. Code, Code of Federal Regulations, or transportation provisions of the Wisconsin Administrative Code. [s. 1.07 (1) (a) and (3), Manual.]

b. In s. Phar 14.02 (3), it appears that “U.S.” should be inserted before the phrase “food and drug administration”, and that the phrase “rules and regulations” should be inserted after the word “administration”. Consider adding references to specific provisions of the U.S. Code or Code of Federal Regulations. [s. 1.07 (1) (a) and (3), Manual.]

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

In s. Phar 14.02, the introductory material for subs. (5), (6), and (11) use the phrase “including all of the following”. That phrase suggests that the list is not exhaustive and that other unlisted items may be part of that list. Consider revising each instance of the phrase to “all of the following” (without the word “including”), and, if appropriate in the provision, adding a final paragraph for “such other procedures as may be relevant”. [ss. 1.01 (9) (f) and 1.03 (3), Manual.]