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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 18-073

#### 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**

The board should examine whether the amended version of s. RAD 5.04 conforms to s. 440.03 (4m), Stats., with regard to the circumstances in which the board may require proof of fulfillment of a continuing education requirement. Under the statute, the board may do so “only if a complaint is made” against a licensee or permit holder. Under proposed s. RAD 5.04, the board may do so when a licensee or permit holder is “under investigation by the board for alleged misconduct”. Can the board initiate an investigation on a basis other than a complaint? If so, then s. RAD 5.04 would allow the board to require proof of fulfillment of a continuing education requirement in a situation in which s. 440.03 (4m), Stats., would not. If, on the other hand, the board can initiate an investigation only in response to a complaint, then s. RAD 5.04 appears to be consistent with the statute, although the board nevertheless could consider whether to make s. RAD 5.04 applicable to investigations of other than alleged misconduct, such as of negligence or incompetence. For example, s. RAD 6.01 refers generally to “unprofessional conduct”, and s. RAD 6.01 (19) distinguishes between “negligence”, “incompetence”, and “misconduct”. Did the board intend to limit audits of continuing education only to instances of “misconduct”?

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

In the amendment to s. RAD 5.01 (1), the stricken “Radiographers” should precede the underscored “RADIOGRAPHERS”. [s. 1.06 (1) (a), Manual.]

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

- a. In the plain language analysis on page 1, and in the Fiscal Estimate & Economic Impact Analysis on line 11, “ch. MTBT 5” should be “ch. RAD 5”.
- b. In the comparison with rules in Iowa on page 2, and in the Fiscal Estimate & Economic Impact Analysis on line 18, “Technology” is misspelled in “Nuclear Medicine Technologt Certification Board”.
- c. In the amendment to s. RAD 5.01 (2), the board might consider whether to use “a LXMO” rather than “an LXMO” to align with similar article usage in ch. RAD 3.
- d. In SECTION 11, “effective” is misspelled in the title.