



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 23-022

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

In the rule summary’s listing of statutes interpreted, the agency could consider more precisely citing to s. 441.06 (1) (e) and (1c), Stats., rather than citing more generally to subch. I of ch. 441, Stats.

2. Form, Style and Placement in Administrative Code

a. The introductory clause for the proposed rule, which enumerates each of the provisions treated in the proposed rule, should be revised to list provisions that are repealed and recreated before listing the provisions that are created. [s. 1.01 (1) (b), Manual.]

b. In SECTIONS 4, 9, and 14, the proposed rule refers to “this section” in newly created paragraphs. If the reference intends to apply to the rule section as a whole, for example, that a person must comply with s. N 2.105, then consider placing the newly created subunits at the subsection level, rather than the paragraph level. If the reference intends to apply only to the subsection, for example, that a person must comply with s. N 2.105 (5), then revise “this section” to “this subsection”.

c. In SECTIONS 5, 10, and 15, the proposed rule creates a paragraph level provision when the text appears to apply to the full section. If the provision applies to licensure rules generally, then consider placing it at the subsection level.

d. The introductory clause for the proposed rule should be updated to reflect any changes made in response to these comments.

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

a. In SECTIONS 1, 6, and 11 of the proposed rule, it is unclear which entity approves an applicant to take the NCLEX. The certificate of approval is created by the school of nursing and the rule also states that if an applicant is seeking to take the NCLEX before graduation, the school of nursing shall provide a certificate of approval. If the school shall provide a certificate whenever

an applicant seeks to take the NCLEX before graduation, then what role does that certificate have in screening applicants? Consider revising these provisions to clarify the requirements of the various entities.

b. Also in SECTIONS 1, 6, and 11 of the proposed rule, it appears that the first instance of “anticipated” in each paragraph should be removed, as an applicant is eligible for admission to take the NCLEX either upon actual graduation or upon earlier receipt of a certificate of approval.

c. In SECTIONS 2, 7, and 12 of the proposed rule, each instance of the phrase “shall not” should be revised to “may not”. The word “shall” denotes an affirmative, mandatory directive. The correct way to express a prohibition is to state that a person “may not” do something. [s. 1.08 (1) (b), Manual.]

d. In SECTIONS 3, 8, and 13 of the proposed rule, the revised text should be in present tense, as in “one year from the time the applicant is eligible to take the examination”. [s. 1.05 (1) (n), Manual.]