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# Wisconsin Legislative Council

## RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 23-038

#### 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 statutory authority, the department could remove the citations to ss. 227.11 (2) (a) and 440.077 (2) (a), Stats., as the third citation to s. 440.077 (5), Stats., provides specific rulemaking authority.

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

a. The Medical Examining Board (MEB) has also proposed administrative rules to address the Military Medical Personnel Program, in CHR 23-037. Consider coordinating with MEB to use consistent language in both rules. See, for example, some of the comments under Section 5, below.

b. Also, the department and MEB could consider which agency’s administrative code provisions are best suited to promulgate rules outlining the program. Currently, as proposed, the majority of the substantive provisions for the program are outlined in the MEB rule. In coordinating the rules, the department and MEB could consider whether some of the substantive provisions would be better placed under the department’s rules.

c. In the plain language analysis of the proposed rule, could the agency provide more detail on the content of the rule and the role of rulemaking, relative to the statutory text, in administration and oversight of the Military Medical Personnel Program?

d. In s. SPS 11.03 (1) (intro.) and (b) of the proposed rule, the word “department” is used, but the term is not defined for purposes of ch. SPS 11. The term should be defined in the proposed rule. [s. 1.07, Manual.]

e. In s. SPS 11.04 of the proposed rule, the abbreviation “s.” should be inserted before “SPS 11.03 (1) (a)”. Also, the abbreviation “Stats” should be revised to include a period and a comma, to be shown as “Stats.,”.

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

a. In s. SPS 11.01 of the proposed rule, the citation to s. 227.11 (2), Stats., could be removed, and a citation to s. 440.077 (5), Stats., could be added. Also, consider revising “following rules” to “rules in this chapter”. Lastly, the phrase “by the department of safety and professional services” could be removed.

b. In s. SPS 11.03 (1) (a) of the proposed rule, the reference to s. 440.077 (3) (a), Stats., is unclear. The cited statute section does refer to a “timeline”, but does not establish requirements for a “verified statement” or identify actions by the applicable credentialing boards. The cross-reference to the statute should be reviewed and rephrased as needed to identify how the statute applies to the requirement to submit a “verified statement”.

c. In s. SPS 11.05 (2) of the proposed rule, it appears that the reference to “this section” is intended to mean “this chapter”. If so, the reference should be revised to reflect the intended meaning.

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

a. In s. SPS 11.02 (2) of the proposed rule, a period should be inserted at the end of the sentence.

b. In s. SPS 11.03 (1) (intro.) of the proposed rule, consider dividing or rearranging the introductory material. The sentence both summarizes the program and introduces documentation a participant must submit to the department.

c. In s. SPS 11.03 (1) (a) of the proposed rule, what is a “verified statement” and who verifies the statement? Is it a statement issued by the applicable credentialing board with an estimate of the individual’s needed timeline? Is it the timeline established by the military medical personnel and their employer? Must the timeline be memorialized in a statement from the employer? Must the department then “verify” the statement from the applicable credentialing board or employer? Would the timeline be included in the memorandum of understanding that is referenced under par. (b)?

d. In s. SPS 11.03 (2), the proposed rule refers to a “reasonable timeline to obtain licensure”. Consider explaining what would constitute a reasonable timeline or what factors would be considered in determining a reasonable timeline.

e. In ss. SPS 11.03 (2) and 11.04 of the proposed rule, consider revising each instance of the word “each” to the word “a”, as in “A military medical personnel program participant shall...” and “A participant may...”.

f. In s. SPS 11.04, the proposed rule refers to “the day after the participant agreed to obtain licensure in Wisconsin under SPS 11.03 (1) (a)”. In s. SPS 11.03 (1) (a), the proposed rule refers to “an estimated timeline to obtain licensure”. Is the date submitted to the department an agreement or an estimated timeline? Consider using similar language in both provisions.

g. In s. SPS 11.05 (1) of the proposed rule, it appears that the word “to” should be inserted after “Pursuant”.

h. In s. SPS 11.05, the proposed rule states that MEB may suspend or terminate a military medical personnel program participant’s authority to perform basic patient care. In s. Med 26.06, the proposed rule refers to the ability to suspend or terminate a military medical personnel program

participant's authority to perform delegated clinical acts. What is the relationship between "basic patient care" and a "delegated clinical act"? Consider using consistent language for both of the two proposed rules.

i. In s. SPS 11.05 (2), the proposed rule refers to disciplinary proceedings against the licensed supervising practitioner. Consider clarifying which entity would conduct the disciplinary proceeding.

## **6. Potential Conflicts With, and Comparability to, Related Federal Regulations**

Consider revising the rule summary's section regarding the summary of, and comparison with, existing or proposed federal regulations to describe any relevant federal regulation in comparison to the proposed rule. If the cited federal regulation does not have any relevant comparison to the military medical personnel program, that relationship to the federal rules can be described and explained.