



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 23-072

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.]

2. Form, Style and Placement in Administrative Code

a. The rule caption’s listing of treated provisions should be grouped in the following order: to repeal; to renumber and amend; to amend; and to create. [s. 1.01 (1) (b), Manual.]

b. The board’s plain language analysis for the proposed rule should be revised to provide a brief summary of the proposed rule that provides an understandable and objective description of the effect of the proposed rule. The summary should contain sufficient detail to enable the reader to understand the content of the proposed rule and the changes made to existing rules. [s. 1.01 (2) (b), Manual.]

c. SECTION 1 of the proposed rule should be reorganized into separate SECTIONS. Subunits of different rule sections should not be combined in a single treatment SECTION. [s. 1.03 (1) and (2) (b) 1. and (c) 2., Manual.] Accordingly, the separate SECTIONS should be organized as follows:

(1) To amend s. Phar 1.01.

(2) To amend s. Phar 1.02 (intro.) and (Note).

d. In SECTION 2 of the proposed rule, the treatment clause and rule caption should be corrected to cite “1.02”, rather than “1.01”.

e. In SECTION 3 of the proposed rule, creating s. Phar 5.07, the format of the cross-reference in sub. (1) to “chapter Phar 19” should be revised to “ch. Phar 19”.

f. SECTION 4 of the proposed rule should be reorganized into separate SECTIONS. The treatment of the subunit under s. Phar 7.07 should be in a separate SECTION from the treatment of the subunits under s. Phar 7.14.

g. In the treatment clause for SECTION 6 of the proposed rule, each of the affected subunits that is an introduction should be identified as “(intro.)”. This should also be revised in the rule caption’s listing of affected provisions.

h. In SECTION 7 of the proposed rule, the title for subch. V of ch. Phar 7 is amended in its entirety. Accordingly, the treatment could be identified as repealing and recreating the title, rather than amending the title. If revised to that treatment, the new material would be shown without underscoring. [s. 1.04 (5), Manual.] This comment also applies in SECTION 4 of the proposed rule, amending s. Phar 7.14 (title), and SECTION 11 of the proposed rule, amending s. Phar 7.62 (title).

i. In SECTION 8 of the proposed rule, the text of the created s. Phar 7.60 (intro.) should be shown without underscoring.

j. In SECTION 10, the proposed rule creates a definition for “Uncredentialed Pharmacy staff” within subch. V of ch. Phar 7, but that term is also used in the material created in ch. Phar 19 within the proposed rule. Should that definition, and other definitions within subch. V of ch. Phar 7, be moved to ch. Phar 1 to make clear they apply to all chapters of the board’s rules?

k. In SECTION 11 of the proposed rule, the treatment of s. Phar 7.62 (3) (intro.) should be moved to a separate SECTION, in order to renumber the provision as s. Phar 7.62 (3), since all of the subunits under sub. (3) are repealed by SECTION 12 of the proposed rule. Alternatively, the board could consider renumbering the material as something like s. Phar 7.62 (3m), if it may help to reduce confusion on whether the current or previous provision is being referred to and to reduce erroneous cross-references.

l. In SECTION 14 of the proposed rule, consider expanding the amended provisions to include all of the subsections in s. Phar 10.03 that currently end in a semicolon. Under current drafting conventions, a series of subunits should each end in a period. The proposed rule could be revised to include the current subunits that end in a semicolon, to amend each semicolon to a period. [s. 1.11 (3), Manual.]

m. In s. Phar 19.01 (2) (c), the abbreviation “stats.” should be revised to “Stats.”.

n. In s. Phar 19.02 (1), the abbreviation “s.” should be inserted before the cross-reference to s. Phar 7.14.

o. In s. Phar 19.03 (1) (c), the reference to “sub. (b)” should be revised to “par. (b)”, if par. (b) is the intended cross-reference.

p. In s. Phar 19.04, the abbreviation “Stats.,” should be inserted after the statutory cross-references.

q. If a treatment clause identifies multiple subunits of a rule section, it is not necessary to repeat the rule section number or previously identified higher subunits. See, for example, the treatment clauses for SECTIONS 4 and 6 of the proposed rule. [s. 1.03 (2) (c) 2. (Example), Manual.]

r. The rule caption’s listing of treated provisions should be updated to reflect any changes made in response to these comments.

3. Conflict With or Duplication of Existing Rules

SECTIONS 11 and 12 of the proposed rule modify provisions that identify certain acts that may not be done by an unlicensed person, but those acts are incorporated by cross-reference within the proposed rule’s treatment to s. Phar 7.62 (7). It is not clear if the intent of the proposed rule is to allow a pharmacist to delegate any acts within the practice of pharmacy or the practice of a pharmacy technician under s. 7.62 (3), or if the intent is to only allow delegation of acts not

mentioned in s. 450.01 (16) or s. Phar 19.02. The proposed rule should be modified for clarification.

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

The material created in s. Phar 19.03 (2) (a) makes reference to “s. 19.02 (2)”, but it is not clear how the material in s. Phar 19.02 (2) is a requirement that could be completed for reinstatement. Section Phar 19.02 (2) simply lists an act that may not be performed by a pharmacy technician. Is this the correct cross-reference? Additionally, the cross-reference in sub. (2) (a) should include the identifier “Phar”.

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

a. In s. Phar 1.02 (1) (Note), the comma that appears in the current text after the street address and before the city name should be shown.

b. In s. Phar 5.07 (title), the word “Technicians” should not be capitalized. [s. 1.10 (2) (b) 2., Manual.]

c. The word “Pharmacy” should not be capitalized within the definition of “Uncredentialed Pharmacy staff” in s. Phar 7.60 (3), or as used in s. Phar 7.62 (title).

d. In s. Phar 7.14 (title), only the initial word should be capitalized.

e. In ch. Phar 19, review the section titles and revise the format so that only the first word of each section title is capitalized.

f. In s. Phar 19.01 (2) (b), the word “Department” should not be capitalized. Also, “department” is not a defined term in ch. Phar 1 or in proposed ch. Phar 19. The term could be spelled out, but as it is used in two other locations in ch. Phar 19, it may be preferable to define the term with the definitions in ch. Phar 1.