

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 01-154)

ORDER

An order of the Pharmacy Examining Board to repeal Phar 8.05 (5); and to amend Phar 8.05 (4), relating to requirements for the dispensing of prescription orders for schedule II controlled substances.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 450.02 (3) (a), (d) and (e), and 961.31, Wis. Stats.

Statutes interpreted: ss. 450.01 (7), (16) (b) and 450.02 (2g) (b), (3) (a), Wis. Stats.

Current requirements of s. Phar 8.05 (4), Wis. Admin. Code, for the dispensing of prescription orders for schedule II controlled substances provide in part that a prescription order may not be dispensed unless the order is presented for dispensing within 7 days following the date of its issue, and may not be dispensed more than 60 days after the date of issue. The proposed rule modification would remove the 7 day limitation. A prescription order presented past the 7 day limit currently will not be filled, which necessitates a return to the prescriber for a new prescription. This result occurs even when a legitimate reason exists for the late presentment. The result of the 7 day limit therefore becomes at times an arbitrary cutoff that doesn't allow for a pharmacist and a prescriber to take into account a patient's specific needs in a given situation. The modification of this rule will therefore allow pharmacists and prescribers to exercise their professional judgment in the dispensing of controlled substances.

Current requirements of s. Phar 8.05 (5), Wis. Admin. Code, for the dispensing of prescription orders provides that no pharmacy, individual practitioner or other DEA registered dispenser may dispense at any one time, and no individual practitioner may prescribe for dispensing at any one time, a controlled substance in any quantity exceeding a 34-day supply, except that up to a 90 day supply of any schedule III or IV anticonvulsant substance as determined by the directed dosage and frequency of dosage, may be prescribed and dispensed at one time. The proposed rule modification would repeal s. Phar 8.05 (5), Wis. Admin. Code to make the dispensing requirements for controlled substances consistent with federal dispensing law. This consistency

allows practitioners and pharmacists to better meet legitimate patient need, not inconsistent with federal controlled substances prescription rules. Removing the 34-day and 90 day restriction currently contained in s. Phar 8.05 (5), Wis. Admin. Code, will better meet legitimate patient need in instances where a proper course of treatment as determined by a practitioner necessitates ongoing drug therapy such that dispensing a greater supply of any controlled substance will promote efficiency and continuity of treatment as well as patient convenience. The repeal of this rule will therefore allow pharmacists and practitioners to more fully exercise their professional judgment in prescribing of controlled substances, consistent with federal dispensing law.

TEXT OF RULE

SECTION 1. Phar 8.05 (4) is amended to read:

Phar 8.05 (4) A prescription containing a controlled substance listed in schedule II may be dispensed only pursuant to a written order signed by the prescribing individual practitioner, except in emergency situations. ~~No prescription containing a controlled substance listed in schedule II shall be dispensed unless the order is presented for dispensing within 7 days following the date of its issue.~~ A prescription for a controlled substance listed in schedule II may not be dispensed more than 60 days after the date of issue on the prescription order.

SECTION 2. Phar 8.05 (5) is repealed.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____ Agency _____
Chairperson
Pharmacy Examining Board