

STATE OF WISCONSIN  
PHARMACY EXAMINING BOARD

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IN THE MATTER OF RULEMAKING : ORDER OF THE  
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD  
PHARMACY EXAMINING BOARD : ADOPTING EMERGENCY RULES

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The statement of scope for this rule, SS 135-20, was approved by the Governor on October 16, 2020, published in Register 778A3 on October 19, 2020, and approved by the Pharmacy Examining Board on December 3, 2020.

This emergency rule was approved by the Governor on January 14, 2021.

ORDER

An order of the Pharmacy Examining Board to repeal Phar 2.05 (3), relating to endorsement requirements for pharmacists.

Analysis prepared by the Department of Safety and Professional Services.

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FINDING OF EMERGENCY

The Pharmacy Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

On March 25, 2020, the Pharmacy Examining Board granted a variance of s. 450.03 (1), Stats., pursuant to s. 450.02 (3m) (b), Stats., to allow pharmacists who are licensed in good standing in other states, United States territories and the District of Columbia to practice pharmacy in the state of Wisconsin without a Wisconsin license. The purpose of the variance was to compensate for a shortage of pharmacy staff during the pandemic. The variance was in effect for 90 days. Subsequently, the provisions of the variance were superseded by Emergency Order #16 and it was rescinded on April 3, 2020. Then 2019 Act 185 was signed into law which expired on June 10, 2020. On June 4, 2020, the Board reviewed and reissued the variance until August 1, 2020. On July 23, 2020, the Pharmacy Board determined that the requirements of s. 450.02 (3m) (b), Stats., were met and extended the variance for another 90 days.

The Pharmacy Examining Board has received information from stakeholders that there remains a shortage of pharmacy staff and an inability to receive a license due to the impact the pandemic has had on the availability of the multi-state pharmacy jurisprudence examination. The Board determines that the preservation of the public health and safety necessitates an emergency rule to temporarily suspend the requirement that applicants who hold a license in another state take the multi-state pharmacy jurisprudence examination with Wisconsin as primary state.

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ANALYSIS

**Statutes interpreted:** Section 450.05, Stats.

**Statutory authority:** Sections 15.08 (5) (b) and 450.02 (2) and (3) (d) and (e), Stats.

**Explanation of agency authority:**

Section 15.08 (5) (b), Stats., provides that each examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.

Section 450.02 (2), Stats., provides that the Board shall adopt rules defining the active practice of pharmacy. The rules shall apply to all applicants for licensure under s. 450.05, Stats.

Section 450.02 (3) (d) and (e), Stats., provide the Board may promulgate rules necessary for the administration and enforcement of this chapter and ch. 961 and establishing minimum standards for the practice of pharmacy.

**Related statutes or rules:**

Section 450.05, Stats., specifies the requirements for licensure as a pharmacist on the basis of licensure as a pharmacist in another state.

**Plain language analysis:**

The emergency rule temporarily suspends the requirement that applicants for a pharmacist license who hold a license in another state take the multi-state pharmacy jurisprudence examination.

**Summary of, and comparison with, existing or proposed federal statutes and regulations:**

None.

**Comparison with rules in adjacent states:****Illinois:**

Rules of the Illinois Department of Financial and Professional Regulation specify the licensure requirements for an applicant who is currently licensed as a pharmacist under the laws of another U.S. jurisdiction or another country (68 Ill. Adm. Code 1330.350). The requirements include successful passage of the Illinois multi-state pharmacy jurisprudence examination.

**Iowa:**

Rules of the Iowa Board of Pharmacy specify the requirements for an applicant for license transfer who is currently licensed as a pharmacist in another state or territory of the United States (657 IAC 2.9). The requirements include successful completion of the multi-state pharmacy jurisprudence examination, Iowa edition.

**Michigan:**

Rules of the Michigan Board of Pharmacy specify the requirements for an applicant for licensure by endorsement (Mich Admin Code, R 338.475). The requirements include successful completion of the Michigan multi-state pharmacy jurisprudence examination.

**Minnesota:**

Rules of the Minnesota Board of Pharmacy specify the requirements for an applicant for licensure as a pharmacist on the basis of licensure as a pharmacist in another state (Minnesota Rules, part 6800.1300). The requirements include successful completion of the Minnesota version of the multi-state pharmacy jurisprudence examination.

**Summary of factual data and analytical methodologies:**

The Pharmacy Examining Board has received information from stakeholders that there remains a shortage of pharmacy staff and an inability to receive a license due to the impact the pandemic has had on the availability of the multi-state pharmacy jurisprudence examination. The Board determined that the preservation of public health and safety necessitates an emergency rule to temporarily suspend the requirement that applicants for a pharmacist license who hold a license in another state take the multi-state pharmacy jurisprudence examination.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:**

As the emergency rule temporarily suspends the requirement that applicants for a pharmacist license who hold a license in another state take the multi-state pharmacy jurisprudence examination, there is no anticipated effect on small business.

**Fiscal estimate:**

The emergency rule will not have a fiscal impact.

**Effect on small business:**

The emergency rule does not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

**Agency contact person:**

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone (608) 261-4472; email at DSPSAdminRules@wisconsin.gov.

**Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted by the date and time at which the public hearing on this emergency rule is conducted. Information as to the place, date, and time of the public hearing will be published on the Legislature’s website and in the Wisconsin Administrative Register.

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TEXT OF RULE

SECTION 1. Phar 2.05 (3) is repealed.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect upon publication in the official state newspaper, pursuant to s. 227.22 (2) (c), Stats.

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(END OF TEXT OF RULE)  
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Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson  
Pharmacy Examining Board