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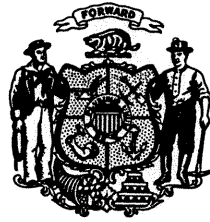
LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-049

AN ORDER to amend Phar 7.05 (3) (a) (intro.), (c), (5) and (6) (intro.), relating to transfer of prescription orders.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

03-06-00 RECEIVED BY LEGISLATIVE COUNCIL.

03-30-00 REPORT SENT TO AGENCY.

RS:PS:rv;jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

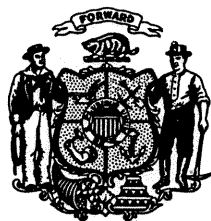
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-049

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

In both the "proposed order" language and the treatment clause to SECTION 1, the comma after the first occurrence of "(intro.)" should be replaced by the word "and."

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

On line 2 of the rule analysis, the word "unlicensed" should be changed to "unlimited" and the space in the middle of the word "number" should be deleted. On line 7, the word "on-time" should be changed to "one-time." Also, the use of a hyphen between the words "one" and "time" should be used on a consistent basis.



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson
Governor

Marlene A. Cummings
Secretary

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March 6, 2000

TO: Ron Sklansky, Director
Rules Clearinghouse
Wisconsin Legislative Council
1 East Main Street, Suite 401

FROM: Pamela A. Haack, Paralegal
Office of Administrative Rules
Department of Regulation and Licensing
Room 171, 1400 East Washington Avenue
(608) 266-0495

RE: Proposed Rule-Making Order of the Pharmacy Examining Board

Attached please find a proposed rule-making order of the Pharmacy Examining Board submitted under s. 227.15, Wis. Stats. The proposed order contains citations to the statutory authority under which the board intends to adopt the proposed rules and a description of the effect of the proposal.

Please stamp or sign a copy of this letter to acknowledge receipt. Please call me at 266-0495 if I can be of any assistance to the Clearinghouse in reviewing this rule.

Thank you.

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors; Professional Geologists, Hydrologists and Soil Scientists; Auctioneer; Barbering and Cosmetology; Chiropractic; Controlled Substances; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Podiatry; Psychology; Real Estate; Real Estate Appraisers; Social Workers; Marriage and Family Therapists; and Professional Counselors; and Veterinary.

Committed to Equal Opportunity in Employment and Licensing

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 00-)

PROPOSED ORDER

An order of the Pharmacy Examining Board to amend Phar 7.05 (3) (a) (intro.)^{amend} (c), (5) and (6) (intro.), relating to transfer of prescription orders.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

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

Statutes interpreted: s. 450.02 (3) (a), (b), (d) and (e), Stats.

Under s. Phar 7.05 (3) and (4), a prescription order may be transferred between pharmacies only one time. The Pharmacy Examining Board amends its rules to permit an unlimited number of transfers between pharmacies. For example, a consumer may have a prescription order for medication with five refills that is originally presented and filled at a Milwaukee pharmacy. If the consumer goes on vacation in Door County and finds he or she requires a refill while there, the consumer can have the prescription order "transferred" to a Door County pharmacy for dispensing a refill. However, under the current on-time transfer rule, when the consumer returns to Milwaukee he or she will need a new prescription order for the medication, because the prescription cannot be transferred back to the original pharmacy even though there are refills remaining. The board believes the rule should be modified to rectify these types of situations. X

The current reference to the transfer of an original prescription order is removed and modifies the one time transfer limitation to permit unlimited transfer with the restriction that the transfer of original prescription order information for the purpose of renewal dispensing of controlled substances is only permitted between two pharmacies on a one-time basis. The controlled substance one time transfer restriction does not apply where pharmacies have access to a common central processing unit, and approval is received from the Pharmacy Examining Board, and a variance is obtained from the Federal Drug Enforcement Administration. X

TEXT OF RULE

SECTION 1. Phar 7.05 (3) (a) (intro.) ^{sub}(c), (5) and (6) (intro.) are amended to read:

Phar 7.05 (3) (a) (intro.) Except as provided in sub. (5), the transfer of ~~original~~ prescription order information for the purpose of renewal dispensing is permissible between 2 pharmacies on ~~a one-time~~ an unlimited basis pursuant to the following requirements:

(c) The original and transferred prescription ~~order~~ orders shall be maintained for a period of 5 years from the date of the last renewal.

(5) ~~Pharmacies~~ The transfer of original prescription order information for the purpose of renewal dispensing of a controlled substance is permissible between 2 pharmacies only on a one-time basis. However, pharmacies having access to a common central processing unit are not limited in the transfer of original prescription order information pertaining to controlled substances for the purpose of renewal dispensing if prior written approval is received from the board.

(6) (intro.) A computerized system may be used for maintaining a record, as required under this section, of prescription dispensing and transfers of ~~original~~ prescription order information for the purposes of renewal dispensing, if the system:

(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

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: These rules would increase agency costs due to printing and postage costs for mailings for approximately 6,000 pharmacists. A copy of the rules and a cover letter would need to be mailed

and associated with this mailing would be approximately \$15,000. This cost to print and mail each rule is estimated at \$2.50 multiplied by 6,000. This is a one-time cost.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules shall be reviewed by the department through its Small Business Review Advisory Council to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

g:\rules\phm10.doc
3/6/2000

JUN 13 2000

**STATE OF WISCONSIN
PHARMACY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 00-049)**

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the PHARMACY EXAMINING BOARD is submitting in final draft form rules relating to transfer of prescription orders.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.



Tommy G. Thompson
Governor

State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Marlene A. Cummings
Secretary

1400 E. WASHINGTON AVENUE
P O. BOX 8935
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FAX#: (608) 267-0644

Administrative Rules in Final Draft Form

Pharmacy Examining Board

Relating to: Transfer of Prescription Orders

Rule: Phar 7.05

Clearinghouse Rule: No. 99-049

**STATE OF WISCONSIN
PHARMACY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE 00-049
PHARMACY EXAMINING BOARD : (s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

There is no anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule. There is no projected anticipated state fiscal effect during the current biennium of the proposed rule.

The projected net annualized fiscal impact on state funds of the proposed rule is: This rule would increase agency costs due to printing and postage costs for mailings for approximately 6,000 pharmacists. A copy of the rule and a cover letter would need to be mailed and associated with this mailing would be approximately be approximately \$15,000. This cost to print and mail each rule is estimated at \$2.50 multiplied by 6,000. This is a one-time cost.

IV. STATEMENT EXPLAINING NEED:

Under s. Phar 7.05 (3) and (4), a prescription order may be transferred between pharmacies only one-time. The Pharmacy Examining Board amends its rules to permit an unlimited number of transfers between pharmacies. For example, a consumer may have a prescription order for medication with five refills that is originally presented and filled at a Milwaukee pharmacy. If the consumer goes on vacation in Door County and finds he or she requires a refill while there, the consumer can have the prescription order "transferred" to a Door County pharmacy for dispensing a refill. However, under the current one-time transfer rule, when the consumer returns to Milwaukee he or she will need a new prescription order for the medication, because the prescription cannot be transferred back to the original pharmacy even though there are refills remaining. The board believes the rule should be modified to rectify these types of situations.

The current reference to the transfer of an original prescription order is removed and modifies the one-time transfer limitation to permit unlimited transfer with the restriction that the transfer of original prescription order information for the purpose of renewal

dispensing of controlled substances is only permitted between two pharmacies on a one-time basis. The controlled substance one-time transfer restriction does not apply where pharmacies have access to a common central processing unit, and approval is received from the Pharmacy Examining Board.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on April 11, 2000. M. Colleen Wilson, Madison, representing the State Medical Society of Wisconsin, appeared and registered in support of the proposed rules. Tom McGregor, R.Ph., Waukesha Professional Pharmacies, Waukesha, Wisconsin, submitted written comments in opposition of the "unlimited number of transfers" between pharmacies.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

The rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 00-049)

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