



WISCONSIN LEGISLATIVE COUNCIL 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 01-155

AN ORDER to amend Phar 2.06 (2), relating to the definition of the "active practice of pharmacy"

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

12-17-01 RECEIVED BY LEGISLATIVE COUNCIL

01-15-02 REPORT SENT TO AGENCY

RS:MO:tlujal

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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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

The word “shall” should be used instead of the word “must” in the last sentence of s. Phar 2.06 (2). [See s. 1.01 (2), Manual.]

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

a. Nowhere in the analysis is s. 450.05, Stats., mentioned. Section 450.05, Stats., prohibits the board from requiring a person licensed as a pharmacist in another state to be tested on anything other than state and federal laws, rules and regulations, if they are engaged in the active practice of pharmacy.

b. In s. Phar 2.06 (2), the word “section” should be replaced by the word “subsection.”

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

a. The last sentence of the analysis states that the proposed modification is intended to “define the prerequisite for when a person licensed in another state may be tested to demonstrate the equivalent minimum pharmacy practice skills” Actually, the proposed modification establishes an additional prerequisite that would have to be met before a person licensed in another state could *avoid* having to demonstrate equivalent minimum pharmacy practice skills. To clarify, delete the language in the last sentence of the analysis after “intended to” and replace

with "facilitate a determination under s. 450.05, Stats., as to whether a person licensed in another state is engaged in the active practice of pharmacy and therefore cannot be required to demonstrate equivalent minimum pharmacy practice skills for licensure in this state."

b. Should there be a definition for the word "legend," apparently used as an adjective to the word "drugs," in the last sentence of s. Phar 2.06 (2)? Or is the word a known term of art?

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 01-)

PROPOSED ORDER

An order of the Pharmacy Examining Board to amend Phar 2.06 (2) relating to the definition of "active practice of pharmacy."

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 450.02 (2) and (3) (e), 450.03 (2) and 450.04 (1), Wis. Stats.

Statutes interpreted: s. 450.02 (2), Wis. Stats.

This proposed rule-making order of the Pharmacy Examining Board is intended to more closely identify those out-of-state applicants who have not devoted a sufficient portion of their practice to the consultation of patients which includes the provision of information on legend and non-prescription drugs and advice relating to therapeutic values and potential hazards and the uses of drugs and devices. The proposed modification of the rule defining "active practice of pharmacy" is therefore intended to define more precisely the prerequisite for when a person licensed in another state may be tested to demonstrate the equivalent minimum pharmacy practice skills required for licensure in this state.

TEXT OF RULE

SECTION 1. Phar 2.06 (2) is amended to read:

Phar 2.06 (2) **Definition.** In this section, "active practice of pharmacy" means having engaged in at least 2,000 hours of the practice of pharmacy within the 12 months preceding application for licensure in Wisconsin or at least 2,000 hours of the practice of pharmacy comprised of no less than 500 hours in each of 3 of the 4, 12-month periods preceding application for licensure in Wisconsin. Ten percent (10%) of the required hours in this section must be comprised of the provision of information on legend and non-prescription drugs which may include advice relating to therapeutic values and potential hazards and the uses of drugs and devices.

(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: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee 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.

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12/14/01