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CLEARINGHOUSE RULE 95-043

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 October 1994.]

1. Statutory Authority

The analysis to Clearinghouse Rule 95-43 notes that the promulgation process for the rule has begun prior to the enactment of statutes that will authorize the rule. While the analysis also indicates that the rule will not be finally promulgated before statutory changes are enacted, the Office of the Commissioner of Insurance should note that s. 227.15 (2) (a), Stats., requires the Legislative Council Staff to review the statutory authority under which an agency intends to promulgate a proposed rule. In this case, Legislative Council Staff cannot perform its statutorily required function without enacted statutes before it. Anticipated changes to the statutes provide insufficient information for Legislative Council Staff to review the rule.

2. Form, Style and Placement in Administrative Code

a. The introductory clause to the rule does not follow the format set forth in the *Administrative Rules Procedures Manual* and should be redrafted. [See s. 1.02 (1), Manual.]

b. In ch. Ins 28, rule section titles should be written in solid capital letters and underscored. [See s. 1.05 (2) (b), Manual.]

c. In s. Ins 28.01, substitute “To provide necessary” for “So that insurance intermediaries receive needed.”

d. In s. Ins 28.02, substitute “to” for “through” and insert “Ins” before “28.04.”

e. In s. Ins 28.03, the phrase “In this chapter:” should be inserted after the title to the section.

f. In s. Ins 28.04 (1), the introduction should be renumbered as par. (a) and the remaining paragraphs should be renumbered accordingly. Also, in the newly renumbered par. (a), the phrase “will be” should be replaced by the word “are.”

g. In s. Ins 28.04 (1) (b) and (d), the phrases “are allowed to” and “shall be eligible to” should be replaced by the word “may.” Also, in par. (d), the phrase “of this section” should be inserted after the word “requirements.” Finally, in par. (d), the word “However” should be deleted.

h. In ss. Ins 28.04 (2) (a) and 28.06 (1) (b), rewrite these paragraphs without using slashed alternatives. [See s. 1.09 (9), Manual.] In s. Ins 28.04 (2) (c), substitute “under” for “pursuant to.”

i. In s. Ins 28.05, in the second sentence, substitute “Good” for “As used herein, good.” [See s. 1.01 (9) (c), Manual.] Also, delete “such” and “as may be.”

j. In s. Ins 28.06 (1) (g), substitute “Appendix 1” for “Appendix A.” In sub. (2) (a), substitute “Comply with” for “Not violate.” In sub. (2) (b) 1. and 2., delete “at least” and in subs. 3. and 4., substitute “a” for “at least one.” In sub. (5) (c) 2., 5., and 6., substitute “instructor” for “instructor(s),” “The date the” for “Date(s)” and “The location” for “Location(s),” respectively. [See s. 1.01 (6), Manual.] Also, in sub. (5) (f), substitute “date and location” for “date(s) and location(s).” In sub. (6) (a) (intro.), delete “would” and insert “under sub. (5)” prior to the colon; and in sub. (6) (b) (intro.), substitute “do not” for “will not.” All of the subdivisions in sub. (6) should conclude with periods. Paragraph (b) (intro.) should end with a colon; and all of the parenthetical notations and slashed alternatives should be eliminated.

k. In s. Ins 28.07 (1) (d), delete the second “on.” In par. (e), substitute “complete” for “the completion of.” Also, all references to a “certificate of continuing education” should be presented in lowercase letters. [See also the courses of study named in s. Ins 28.09.]

l. In s. Ins 28.08, substitute “are” for “will not be.”

m. In s. Ins 28.09, substitute “the following” for “these,” substitute a colon for the first period and delete “The designations are the following:”.

n. In s. Ins 28.10 (4), in the first sentence, substitute “withdraws” for “deems it proper to withdraw.” In the second sentence, after “denial” insert “or withdrawal.”

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

a. In s. Ins 28.03 (2), substitute “under this chapter” for “in the manner described in this rule.” [See s. 1.07 (1) (a) and (2), Manual.]

b. In s. Ins 28.03 (4), substitute “under s. Ins 28.06” for “pursuant to s. 28.06.” [See s. 1.07 (2), Manual.]

c. In s. Ins 28.04 (1) (f), substitute “the reporting date set forth in par. (a)” for “February 15 of the reporting period provided by s. 28.04 (1) (a).” Also, in par. (g), substitute “under par. (f)” for “per s. 28.04 (1) (f).” [See s. 1.07 (2), Manual, and comment 2, f, regarding the renumbering of this section.]

d. In s. Ins 28.06 (5), substitute “of sub. (6)” for “set forth in s. 28.06 (6).” [See s. 1.07 (2), Manual.] In sub. (8), substitute “sub. (5) (c)” for “s. 28.06 (5) (c).”

e. In s. Ins 28.07 (1) (d), substitute “s. Ins 28.09” for “s. 28.09.”

f. In ss. Ins 28.08 and 28.09, after “s.” insert “Ins”.

g. In s. Ins 28.10 (3), insert “, Stats.,” after “601.44” and “, Stats.,” after “s. 601.45.”

h. In Appendix 1, the notation “s.” should be replaced by the notation “ch.”

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

a. Section Ins 28.04 (1) (g) refers to a “notice of suspension issued per s. Ins 28.04 (1) (f).” This reference should be changed because par. (f), while it provides for suspension of a license, does not refer to any “notice of suspension.”

b. In s. Ins 28.06 (5) (c) (intro.) and (6) (a) (intro.) and (b) (intro.), delete the period and substitute a colon. In sub. (5) (e), in the first sentence, delete “that were.” The second sentence is awkwardly constructed and its meaning is unclear. The sentence should be rewritten.

c. In s. Ins 28.10 (1) (intro.), the phrase “any of” should precede the phrase “the following.”