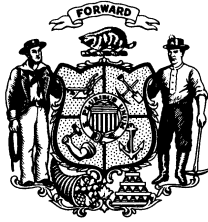


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CLEARINGHOUSE RULE 98-133

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

a. In SECTION 1, s. BC 1.01 (1) should be renumbered to read “BC 1.01 (1m).” The use of an intermediate letter such as “m” allows the agency the flexibility to insert other provisions preceding sub. (1m) if the necessity ever arises. [See also s. BC 1.01 (2a) and (10a) and see s. 2.07 (1a) and (1b), which should be created to read s. BC 2.07 (1g) and (1r).]

b. In order to preserve the structure of the subsections in s. BC 2.06, sub. (5) should be rewritten to read: “In the case of an owner of a barbering and cosmetology establishment, appoint a manager who shall have direct authority over the operations of the establishment.” Similarly, in SECTION 23, s. BC 2.06 (4) should simply begin with the word “Maintain.”

c. In s. BC 2.07 (1a), the phrase “be responsible for the provision of training and supervision to an apprentice” should be replaced by the phrase “train and supervise an apprentice.” Also, the word “must” should be replaced by the word “shall.”

d. In s. BC 2.07 (2), the phrase “be responsible for the posting of” should be replaced by the word “post.”

e. In s. BC 3.01 (13), the word “must” should be replaced by the word “shall.”

f. In s. BC 3.02 (1), the phrase “have direct responsibility to” is unnecessary and should be deleted and the phrase “is required to” should be replaced by the word “shall.”

g. In s. BC 4.03 (1), the acronym “FDA” should be spelled out since the acronym is not defined.

h. Section BC 4.07 (5) should be rewritten to conform to the structure of the preceding subsections.

i. In s. BC 6.01 (5), the phrase “have direct responsibility for the provision of employment and for making arrangements” should be replaced by the phrase “employ and make arrangements.”

j. In s. BC 6.01 (8), the phrase “in the exercise of its discretion” is unnecessary and should be deleted.

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

a. In s. BC 1.01 (2), it is not clear that the term “over-curly” is necessary. What does the term mean?

b. In s. BC 1.01 (15), the phrase “regular on premise” should be replaced by the phrase “regular, on-premise.”

c. The definition of “Low level disinfection” in s. BC 1.01 (10a) could refer to the requirements in s. BC 1.01 (9) (a) to (d) rather than repeating them, since they are identical. Also, in subs. (9) and (10a), the word “the” should be inserted before each occurrence of the word “manufacturer’s.”

d. It is not clear why s. BC 2.03 (4) is repealed.

e. In ss. BC 2.06 (4) and 2.07 (1b), the phrase “including employment records” should be set off by commas.

f. The basic requirement in s. BC 3.02 that a manager must work full-time is not clear. Also, the provision in s. BC 3.02 (3) requiring a manager to work “full-time” for more than one establishment is unclear. One alternative would be to define “full-time”; another would be to consider revising the standard.

g. What is the intended scope of the phrase “any specialty service” in s. BC 3.02 (4)? This should be clarified. Also, the word “their” should be replaced by the word “its.”

h. The agency has moved the material contained in a note following s. BC 4.06 (2) to the text of the rule. It appears the provisions are more appropriate for a note because they are phrased in a general, advisory manner, not in a direct, regulatory manner.

i. The term “principals of electricity,” as used in several places in the rule, should be changed to “principles of electricity.” It is not clear in the rule why this requirement is being added; or why references to “tanning” are being deleted. [See SECTIONS 50 and 59.]

j. How will the agency determine in s. BC 6.02 whether an apprentice has enrolled in the “first available” course of theory instruction? With multiple schools available, it would seem

problematic to require enrollment in the “first available” course. This should be reviewed and revised if necessary to accomplish the intended result. Also, the word “apprentices” should be replaced by the phrase “an apprentice” and the word “their” should be deleted.

k. In s. BC 6.05 (3), the rule requires the department to grant transferees to an apprenticeship program credit for time spent in prior training. The agency may wish to change this provision from mandatory to discretionary by changing “shall” to “may” to permit review of circumstances prior to granting credit.

l. Section BC 8.01 (1) permits the board to enter into a reciprocal agreement with the licensing authority of another state where the education and services practiced are substantially equivalent to those in Wisconsin. The statutory authority for this provision is contained in s. 454.13, Stats. That statute refers to “services performed,” not “education and services practiced.” This should be reviewed to assure that the rule is consistent with the statute. Also, amending the “and” to “or” in s. BC 8.01 (1), creates some uncertainty regarding the requirements that must be met. It appears that sub. (1) simply should conclude with a colon.

m. The agency should consider the use of an “initial applicability” section to specify when the new rule provisions will first apply.