



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 11-011

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

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

a. Chapter BC 1 contains a number of definitions that are applicable to chs. BC 1 to 10. Is there a reason why those definitions are not also applicable to ch. BC 11? Several of the defined terms, including “board”, “department”, and “licensee”, are used in ch. BC 11. To make the definitions in ch. BC 1 applicable to ch. BC 11, s. BC 1.01 (intro.) would need to be amended to read: “For the purposes of chs. BC 1 to ~~10~~ 11.”.

b. In current s. BC 9.01 (3), the cross-reference to s. BC 11.01 should be amended to read “11.03”, as is done with the same cross-reference in current s. BC 9.02.

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

a. Under the heading “PROPOSED ORDER”, “repeal and create” should be replaced with “repeal and recreate”.

b. The purpose of the plain language analysis is to provide an understandable description of the effect of the rule. It is not intended to be an exhaustive discussion of the rule, but should enable the reader to understand the content of the rule and the changes made, if any, in existing rules. [s. 1.02 (2) (c), Manual.] The following comments pertain to the analysis:

- (1) The description of SECTION 1 should simply state that SECTION 1 contains a cross-reference change. No further explanation of the provision is needed.

- (2) In SECTION 2, rather than give a section-by-section description of ch. BC 11, the analysis should concisely summarize the major provisions of the rule and explain why current ch. BC 11 is being repealed and recreated and how the proposed rule differs from the current rule.
- (3) In the fourth paragraph of the analysis, “may also be had” on line 8 should be changed to “may also be obtained”.
- (4) In the sixth paragraph, the “its” on line 4 should read “their”. In this paragraph and in several provisions of the rule, reference is made to “the law course” or “the law program”, without any explanation. For clarity, only one term should be used and it should be explained in the analysis and defined or otherwise explained in the text. [See also comment 5. t. on this subject.]
- (5) In the final paragraph, if retained in the rule text, “biennium” should read “biennia”. However, see comment 5. e. (1) below, regarding use of another term instead of “biennium” to describe the licensure period.
- (6) The plain language analysis should be modified to reflect changes made to the text of the rule in accordance with the comments below.

c. In the section comparing rules in adjacent states, could a website be cited for Illinois? Also, the time span in which eight hours of continuing education must be completed in Iowa should be clarified.

d. In the section regarding the effect on small businesses, in the last sentence of the first paragraph, a period should be added after the word “thereon”, and the word “It” should be added before the word “appears”.

e. The rule contains some inconsistencies in the use of key terms, which should be reviewed and clarified. In particular, the following modifications to definitions in s. BC 11.02 should be considered to facilitate the consistent use of terms throughout the rule:

- (1) The rule uses more than one term to refer to the two-year period for fulfilling continuing education requirements. For example, in s. BC 11.02 (1), “biennium” is defined as a two-year period beginning April 1 of each odd-numbered year. This appears to differ from the two-year time period for fulfilling continuing education credit hours specified under s. BC 11.03 (1), which refers to “the 2-year period immediately preceding the license renewal date of March 31 of every odd-numbered year”. (Note that under s. 440.08 (2), Stats., the renewal date is April 1, not March 31.) In addition, s. BC 11.03 (4) refers to a “2-year licensing period”, which appears to refer to the timeframe established in s. BC 11.03 (1). The department should review the entire rule and use only a single term or phrase to describe the two-year time period in which a person must complete the continuing education requirement. For example, “biennium” could be replaced throughout the rule by “two-year reporting period”, or “biennial reporting period”,

either of which would be defined as “the two-year period beginning April 1 of an odd-numbered year and ending March 31 of the next odd-numbered year, during which a licensee shall satisfy the continuing education requirements in this chapter”. The department should review the license renewal language in current s. BC 9.01 to determine if consistency is required with that provision, which refers to a licensee having to take specified steps on or before March 31 of an odd-numbered year.

- (2) It seems unnecessary to define the term “continuing education” in s. BC 11.02 (2). The meaning does not differ from the popular meaning of the term, and the term is generally used as a modifier throughout the rule. However, if the definition is retained, the end of the first sentence and beginning of the second sentence should be rewritten to read: “...education courses consisting of fifty minutes of actual instruction...”.
- (3) The definition for “course” or “program”, in s. BC 11.02 (4) could be replaced with a definition of “continuing education training program”, which might be defined as “a course or program approved under s. BC 11.04”. Finally, the definition of “continuing education credit” or “CEC” in s. BC 11.02 (3), could be replaced with a definition of “continuing education credit hour”, which could be defined as “fifty minutes of instruction in a continuing education program”.
- (4) The definition of “safety, sanitation and infection control” in s. BC 11.02 (5) could be eliminated and the language in the last sentence of the definition inserted at the end of s. BC 11.03 (2) (b), which is the only provision in which the phrase is used. That provision would then read: “Four credit hours in safety, sanitation and infection control, including topics dealing with first-aid, blood-borne pathogens, product selection, infection control, client safety, and proper techniques for cleaning, disinfection and sterilization of equipment in accordance with state and federal standards.”.

f. The language in s. BC 11.03 (2) (intro.) should be replaced with: “The continuing education credit hours required under sub. (1) shall consist of all of the following:”.

g. In s. BC 11.03 (2) (a), (b), and (c), “credit hours” should be replaced with “continuing education credit hours” if the change suggested in comment 5. e. (3) is adopted.

h. It should be clarified whether the approach set forth in s. BC 11.03 (2) (c) with regard to licensees who hold more than one license also applies to such licensees with regard to the continuing education credit hours required under s. BC 11.03 (a) and (b). If the approach applies only to par. (c), the word “subsection” should be replaced with “paragraph”. In addition, it is unclear whether the approach in par. (c) conflicts with the note following the provision. Consider adding a separate provision or modifying the note to provide clarification.

i. Section BC 11.03 (3) (a) (intro.), “license” should be inserted before “renewal”. Paragraph (b) should be rewritten to read: “A licensee who has held an active Wisconsin license

for at least 30 years is required to complete only the 6 credit hours of continuing education specified in sub. (2) (a) and (b) during a 2-year licensing period”.

j. Is it necessary to retain the language in s. BC 11.03 (3) (c)? That language is in current s. BC 11.01 (3) (c) and appears to have been drafted with the March 31, 2011 date to cover the remainder of the two-year licensing period following promulgation of Clearinghouse Rule 09-65, which established continuing education requirements for license renewal.

k. In s. BC 11.03 (4), “continuing education requirement” should be replaced with “continuing education credit hours required under this section”. Also, in the last sentence, to what time period does “any other period” refer?

l. In s. BC 11.03 (5) (intro.), the word “one” should be deleted, and the phrase “continuing education” should be replaced with the phrase “continuing education credit hours”, as suggested in comment 5. e. (3), above.

m. In s. BC 11.03 (5) (a), how will a person know whether a seminar is “qualifying” or whether a provider is “qualified”? Should reference be made to programs or courses approved under s. BC 11.04? The word “can” on line 3 should be changed to “may”.

n. In s. BC 11.03 (5) (b), does the statement that “a person who teaches [a continuing education program] may only receive credit for the initial offering or presentation of a course or program” mean that the person may only receive credit for teaching the program one time and can never again receive credit for teaching the same course or program? Also, in this provision, note the use of the phrase “biennial registration period”, in relation to comment 5. e. (1), above.

o. Several modifications should be made to s. BC 11.03 (5) (c). First, in par. (c) (intro.), the comma between the terms “CD-ROM” and “internet” should be replaced with “or the”. Second, it is not clear from par. (c) (intro.) whether all distance education courses, or only correspondence courses, must meet the criteria specified in subd. 1. through 5. If the criteria are meant to apply to all distance courses, a period should be added after “correspondence courses” in par. (c) (intro.), and the word “that” should be replaced with “The course or program shall”. In subd. 1., a citation should be given to the location of “all continuing education requirements”. Next, subds. 1. and 2. should be modified to begin as follows, respectively: “The course or program offers...” and “The course or program requires...” Finally, in subd. 4., “The program or course shall contain” should be replaced with “The course or program contains”. Also, consider whether a phrase such as “procedure to verify enrollees’ identities” might be more appropriate than the phrase “security procedure” in that provision.

p. In s. BC 11.04 (1) (intro.), “for CECs” should be replaced with “as a continuing education program”, to match the corresponding definition suggested in comment 5. e. (3). In addition, “a continuing education program or course” should be replaced with “the program”, which is the term used in the suggested definition and in pars. (a) to (d).

q. For consistency, the words “or course” should be deleted from s. BC 11.04 (1) (d).

r. In s. BC 11.04 (2), par. (d) should be deleted because it is not a type of provider. The information contained in par. (d) could be conveyed by adding the phrase “with no prior approval necessary” after the word “board” in sub. (2) (intro.).

s. In s. BC 11.04 (3) (b), “3 year” should read “3-year”.

t. In s. BC 11.04 (4) and elsewhere in the rule, it is not clear what is meant by the phrase “law program”. [See also comment 5. b. (4), above, on this point.] If the phrase refers to the continuing education credit hours required under s. BC 11.03 (2) (a), then the phrase “law program” should be replaced with “continuing education credit hours required under s. BC 11.03 (2) (a)”. In addition, “law courses” should be replaced with “curriculum for courses that fulfill the continuing education credit hour requirements under s. BC 11.03 (2) (a)”.

u. In s. BC 11.04 (6), the phrase “provider and program approval” should be replaced with the phrase “The approval of providers and programs under this section” and “it finds” should be deleted.

v. In s. BC 11.05 (intro.), the word “license” should be inserted before “renewal” on line 2.

w. In the first sentence of s. BC 11.06, “Licensees” should be changed to “A licensee”. In the second sentence, “it shall be the responsibility of the licensee to” should be replaced with “The licensee shall.”

x. In s. BC 11.07, “requirement” should be added to the end of the title. In sub. (3), “biennium” should be replaced by “licensing periods”.

y. An initial applicability clause should be added to specify which license renewal application forms will be subject to the rule. [See s. 1.02 (3m), Manual.]