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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 12-005

#### 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 November 2011.]**

#### 2. Form, Style and Placement in Administrative Code

a. If the suggestions in this report for treating various rule sections are followed, the enumeration of rule provisions treated and the relating clause should be rewritten as follows:

The Wisconsin Medical Examining Board proposes an order to repeal Med 8.10 (2); to renumber Med 8.01 and 8.02 (1); to amend Med 8.05 (2) (title), (b) (intro.) and 7., and (c), 8.07 (1) and (2) (a) and (e), and 8.10 (title), (1) and (3); to repeal and recreate Med 8.08 and 8.10 (4); and to create Med 8.01 (2), 8.02 (1), (4m) and (5s), 8.05 (2) (e), and 8.07 (1) (a) and (b), relating to physician assistant prescribing limitations, employment requirements, and supervising physician responsibilities.

b. In the treatment clause to SECTION 1, the phrase “and is amended to read” should be deleted. Also, the text of current s. Med 8.01 should not be shown.

c. In s. Med 8.01 (2), a colon should be placed at the end of the treatment clause. The text of the subsection should not be underscored, as it is newly created material. [s. 1.055, Manual.]

d. To maintain the alphabetical order of definitions, s. Med 8.02 (7) should be numbered s. Med 8.02 (5s). [s. 1.01 (7), Manual.]

e. The treatment clause to SECTION 5 should read: “Med 8.05 (2) (title) and (b) (intro.) are amended to read:”.

f. In SECTIONS 6 and 7, a period should be inserted after the SECTION number. Also, in SECTION 6, the treatment clause should read: “Med 8.05 (2) (b) 7. is amended to read:”. (Emphasis added.) The text of that provision should be amended as follows:

Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism with any condition, impairment, or illness, including a personality disorder, that presents a risk of harm to another person.

g. SECTIONS 9 and 10 should be combined into SECTION 9, with the following treatment clause and text:

SECTION 9. Med 8.07 (1) is amended to read:

**Med 8.07 Practice. (1) SCOPE AND LIMITATIONS.** ~~In providing medical care, the entire~~ (a) The practice of a physician assistant shall be under the supervision of a licensed physician one or more supervising physicians. The scope of practice is limited to providing medical care as specified in sub. (2).

(b) A physician assistant’s practice may not exceed his or her educational training or experience and may not exceed the scope of practice of the supervising physician.

(c) A medical care task assigned by the supervising physician to a physician assistant may not be delegated by the physician assistant to another person.

h. SECTION 11 should be renumbered as SECTION 10 and a colon should be placed at the end of the treatment clause.

i. Current SECTIONS 12 through 17 all contain changes to provisions of s. Med 8.08, some of which are amended, others repealed and recreated, and still others created. It is suggested that s. Med 8.08 instead be repealed and recreated in its entirety in SECTION 11, with the treatment clause: “Med 8.08 is repealed and recreated to read:”. The section title and rule text can then be set forth as they will read, without strike-throughs and underscores. In addition, the following changes to provisions of s. Med 8.08 are suggested:

- (1) The section title could be simplified, for example, as: “**Prescribing authority and written guidelines.**” The subsections of s. Med 8.08 could also be given titles, to facilitate locating material within the somewhat lengthy section.
- (2) The language currently in s. Med 8.08 (1) is not an introductory clause and therefore cannot be followed by pars. (a), (b), and so forth, as drafted in current SECTION 13. Subsection (1) should instead be denoted as (1) (a) and the remaining paragraphs under sub. (1) should be re-lettered as pars. (b) to (e).

- (3) In s. Med 8.08 (1) (d), a comma should be inserted after “verifying that the review has occurred”.
- (4) In s. Med 8.08 (2) (b), a comma should be inserted between the citation and “Stats.”.
- (5) In s. Med 8.08 (2) (c), the citation to “s. 448.21 Stats.” should read “s. 448.21 (3), Stats.”.
- (6) In the text of s. Med 8.08 (3) (a), “Med 8.08” should be replaced with “sub”. This comment also applies to s. Med. 8.08 (3) (b). Also, in sub. (3) (a), “include” should be replaced with “do”.
- (7) In s. Med 8.08 (3) (c), the commas in the second sentence should be deleted. Also in that sentence, “determined” should be replaced with “determines”.
- (8) In s. Med 8.08 (3) (d), a comma should be inserted after “shall indicate that”.

j. In current SECTION 18 (which will become SECTION 12), the treatment clause should read: “Med 8.10 (title) and (1) are amended to read:”.

k. In current SECTIONS 19 and 20 (which will become SECTIONS 13 and 14), it would be less confusing if the numbering remained the same. If this approach is taken, s. Med 8.10 (3) should be amended and s. Med 8.10 (4) should be repealed and recreated. [s. 1.03 (5), Manual.]

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

In the plain language analysis, the description of SECTION 6 should cite s. Med 8.05 (2) (b) 7, instead of s. Med 8.05 (2) (b) (7). (Emphasis added.)

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

a. In the analysis under “Summary of factual data and analytical methodologies”, in the first sentence of the last paragraph, “ratio from 1:5” should be replaced with “physician to physician assistant ratio to 1:5”. In the third sentence, “physician assistant’s” should be replaced with “physician assistants”.

b. In s. Med 8.02 (1), “adequate” should be capitalized. Also in that provision, it appears that “acts undertaken” may be too vague a description of to what a physician assistant’s training, skill, and experience should pertain. The same concern appears to be raised with the phrase “the supervising physician is competent and credentialed to perform the act”. Finally, after both instances of “skill”, a comma should be inserted.

c. Section Med 8.02 (4m) contains substantive provisions as to the supervision requirements. These provisions should not be included in a definition. [s. 1.01 (7) (b), Manual.]

d. In s. Med 8.05 (2) (e), must all applicants be minimally competent to practice surgery?

e. In s. Med 8.10 (3), what is included in “telecommunication”?

f. In s. Med 8.10 (4), the new language is somewhat redundant, considering that sub. (3) provides that the physician must be available to be contacted by the physician assistant. Also, the requirements of the provision are vague and would, therefore, be difficult to enforce. In particular, what is meant by “including competent medical practice”?