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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 17-049

#### 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 December 2014.]**

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

a. Under the summary of factual data and analytical methodologies section of the rule analysis, the board should consider providing a more thorough explanation of its review. Did the board review the rule and statutory requirements and then make the specific recommendations included in the proposed rule on the basis of a certain determination? Is the proposed rule meant to align the rule with the statutory requirements?

b. In the statutes interpreted section of the rule analysis, “Section” should be “Sections” and the board should insert “; Stats.” after “440.075”.

c. In the statutory authority section of the rule analysis, the board should insert a space between “15.08” and “(5)” and should insert “(2) (a), Stats.” after “445.03”.

d. Under the explanation of agency authority section of the rule analysis, the board should insert a space between “445.03 (2)” and “(a)” and should insert “; Stats.,” after “(a)”.

e. Under the place where comments are to be submitted section of the rule analysis, the board should insert the deadline by which comments must be submitted. [s. 1.02 (2) (a) 13., Manual.]

f. Each section of the proposed rule should be written in small capital letters rather than all capital letters. Beginning with “SECTION 2” through the end of the proposed rule, the board should modify each section to read as “SECTION”. [ss. 1.04 (1) and 1.05 (2) (a), Manual.]

g. In s. FD 1.06, under SECTION 2, the first use of “(1)” should be deleted. In general, whenever a section is divided into subsections, at least two subsections must be created. The remaining subunits should be renumbered as follows:

(1) ...

(a) to (f)

(2) ...

The board should also consider rephrasing the material that is currently labeled as paragraph b. so that it forms a complete sentence when read with the introduction (“an applicant shall submit to the board...”).

[s. 1.03 (1) and (3), Manual.]

h. The board should revise the section titles created under SECTIONS 3 and 7. Only the first word in a section title is capitalized. [s. 1.05 (2) (b), Manual.]

i. In s. FD 1.065, under SECTION 3, the board requires eight things of a person applying for a certificate of apprenticeship. However, it appears that items seven and eight would occur after a person has applied and received a certificate of apprenticeship. The board should consider moving these items to a separate section or consider renumbering s. FD 1.065 so that the first six items comprise an initial subsection and items seven and eight comprise a second subsection.

j. In s. FD 1.065, under SECTION 3, the board should insert “, Stats.” after “s. 440.05 (6)” and after “111.335”.

k. In s. FD 1.066 (1) (a) and (b), under SECTION 3, “Mortuary” should not be capitalized because it is not a proper name. [s. 1.01 (4), Manual.]

l. In s. FD 1.066, under SECTION 3, the title to sub. (2) should be written in small capital letters. Further, if sub. (2) has a title, then sub. (1) should also have a title. [s. 1.05 (1) and (2) (c), Manual.]

m. In s. FD 1.066, under SECTION 3, “1)” should be “(1)”, the board should replace “§” with “s.”, and “, Stats.” should be inserted after “445.095 (1) (d)”.

n. In s. FD 1.067 (1), under SECTION 3, the board should replace “§” with “s.”, and “, Stats.” should be inserted after “445.095 (4)”.

o. In s. FD 1.077, under SECTION 7, the board should replace “section” with “s.” and should insert “, Stats.” after “445.095 (4)”.

p. When a series of consecutively numbered rule sections are affected in their entirety by the same treatment, they may be included in a single section. Because it appears that the board is renumbering ss. FD 2.06 and 2.07 without changing any of the existing language, references in the treatment clauses to recreation and amendment should be removed and SECTIONS 5 and 6 should be combined into one section with the following treatment clause: “FD 2.06 and 2.07 are renumbered FD 1.075 and 1.076.”

The subsequent sections should be renumbered accordingly. [s. 1.04 (2) (a) 1., Manual.] However, should the board review and make changes to s. FD 2.07 in response to comment 3. a., below, then consolidating the sections may not be appropriate.

q. In SECTION 8, “administrative” and “register” should begin with capital letters because the Wisconsin Administrative Register is a proper name. [s. 1.01 (4), Manual.]

### **3. Conflict With or Duplication of Existing Rules**

In s. FD 1.066, under SECTION 3, the board requires a report if an apprentice leaves the employ of a licensed funeral director. Section FD 2.07, renumbered s. FD 1.076 under SECTION 6, also requires certain reporting to the board when there is a change in an apprenticeship assignment. The board should review these provisions and consider consolidating them or removing any duplicative language.

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

a. Under the statutes interpreted section of the rule analysis, it appears that the board may have erroneously cited to s. 445.03 (2) (a), Stats. That citation appears to be more appropriate as evidence of the board’s authority to promulgate the rule. Instead, it appears that board is interpreting, and should therefore cite to, ss. 445.095 and 445.10, Stats.

b. Because most of the proposed rule changes relate to apprenticeship requirements, the board should consider addressing whether other states also have apprenticeship requirements under the comparison with rules in adjacent states section of the rule analysis.

c. In s. FD 1.066 (1), under SECTION 3, the board requires that an apprentice submit a semi-annual report to the board. Under s. 445.095 (1) (d), Stats., the board is to provide a form for the submission of the report. Has such a form been created? If so, the board should consider adding a note to the rule explaining how the form may be obtained. [s. 1.09 (3), Manual.]

d. In s. FD 1.067, under SECTION 3, a certificate of apprenticeship may be renewed annually up to three times. Under s. 445.095 (1) (c), Stats., renewal requires payment of a fee. The board should include reference to that fee in the proposed rule.

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

a. In s. FD 1.06, under SECTION 2, a comma should be inserted after “s. 445.095 (1) (a), Stats.”.

b. In s. FD 1.065 (4), under SECTION 3, the board requires that a person applying for a certificate of apprenticeship hold a high school diploma or possesses equivalent education. Under s. 445.095 (1) (a), Stats., “equivalent education” is to be defined by the board, but it does not appear that the board has yet done so. The board should consider adding a definition of “equivalent education.”

c. In s. FD 1.066 (1) (c), under SECTION 3, the board should consider adding “as an apprentice” after “worked” to clarify that an apprentice need only submit information about apprenticeship-related work rather than any employment.

d. In s. FD 1.066 (1) (d), under SECTION 3, the board should clarify what it means by “intern.” Is the board interested in any and all internships or only those that relate to funeral work? The board should change “intern dates” to “internship dates”.

e. In s. FD 1.066 (1) (e), under SECTION 3, the board should clarify what it means by “employed”. Is the board interested in any and all employment, or only certain types of employment? Does employment include work done as an apprentice and work done as an intern?

f. The board should revise s. FD 1.067 (2), under SECTION 3, for clarity. Using the active voice, the subsection could be rephrased to clearly state that an apprentice whose certificate of apprenticeship has lapsed, or has been suspended or revoked by the board, may reregister the certificate within one year of the lapse, suspension, or revocation no more than twice.

g. The board should consider revising s. FD 1.067 (3), under SECTION 3, for clarity. Specifically, the subsection could be written entirely in the singular and could employ parallel structure as follows:

For a reregistration resulting from a lapsed registration, the board may credit the apprentice for time previously served. For a reregistration resulting from a suspension or revocation, the board may credit the apprentice up to 75 percent of time previously served.

h. The board should compare s. FD 1.067 (1), under SECTION 3, and s. FD 1.077, under SECTION 7, and consider consolidating the provisions or removing duplicative language.