



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 22-064

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

Sections 448.975 (5) (a) and 440.09 (5), Stats., should be included in the statutory authority section of the rule analysis and referenced in s. PA 1.01 of the proposed rule.

2. Form, Style and Placement in Administrative Code

a. Throughout the proposed rule, revise the format used for a series of subunits so that all subunits that follow an introduction end in a period instead of a semicolon, without use of the word “and” or “or”. See, for example, ss. PA 2.04 (3), 3.01 (1) (a) and (b), and 3.04 (3) (a). [s. 1.11 (3), Manual.]

b. Additionally, throughout the proposed rule, revise the grammatical structure used for a series of subunits so that each subunit following an introduction completes the idea and results in a complete sentence when read with the introduction. See, for example, ss. PA 2.01, 2.03 (1), 2.05 (2), 3.03 (1), and 3.04 (intro.). [s. 1.11 (2), Manual.]

c. Throughout the proposed rule, revise the format of cross-references to other “PA” administrative rule sections to include the abbreviation “s.” before “PA”. [s. 1.15 (2) (Table), Manual.]

d. Consider merging s. PA 3.01 (1) (b) (intro.) and 1. (intro.). Subdivision 1. is the only subdivision, and it is unclear why that material is separated by a colon. Additionally, the internal reference to “sub. (1) (b)” can be removed or modified depending on how the material is merged.

e. In s. PA 3.08 (8), the format of the reference to “448.975 (2) (a) (3)” should be changed to “448.975 (2) (a) 3.”. [s. 1.10 (1), Manual.]

f. The lowercase term “stats.” as used throughout the rule should be changed to uppercase “Stats.”. [s. 1.15 (2) (b) 1., Manual.]

3. Conflict With or Duplication of Existing Rules

Section PA 3.04 (5) provides that “Physician assistants temporarily practicing without a collaborating physician under sub. (3) of this section shall not practice outside of their education, training, and experience and shall refer patients to another provider when appropriate to the patient’s condition and the standard of care”. However, an inference could be made by this explicit prohibition that it is appropriate for a physician assistant practicing **with** a collaborating physician to “practice outside of their education, training, and experience”. This does not appear to be intended and is at odds with s. 448.975 (1) (a) and (3) (a) 4., Stats., and material related to unprofessional conduct proposed within the rule in s. PA 4.01 (2) (b), which apply to all physician assistants. Consider revising this material or removing it entirely.

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

- a. In s. PA 2.04 (4), the phrase “This Subsection” should be revised to “This section”.
- b. In s. PA 3.01 (2), the phrase “under this rule” should be removed. Review the entire rule for other unnecessary references to the rule itself.
- c. Similarly, duplicative references to “of this section” should be removed when referencing other subsections within a section. See, for example, ss. PA 2.01 (3) and (5) and 2.03 (2). [s. 1.15 (2) (Table), Manual.]
- d. Section PA 3.02 provides that “A physician assistant may practice with the supervision and direction of a podiatrist pursuant to s. 448.975 (1) (b) 2., stats. and the rules promulgated under s. 448.695 (4) (b), Stats.”. Should further reference to the actual rules promulgated under s. 448.695 (4) (b), Stats., be made in this rule? For example, it appears ch. Pod 9 addresses podiatrist supervision of a physician assistant, and that administrative code chapter contains further references to requirements found in other statutes and administrative code provisions.
- e. In s. PA 3.08 (1) (intro.) and (2) (intro.), both instances of the phrase “in this subsection” should be changed to “in this section”.
- f. In s. PA 3.08 (5), the phrase “under these rules” should be changed to “in this state” or something similar since licensure is a statutory requirement.

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

- a. Review the entire rule for missing periods at the end of sentences. See, for example, ss. PA 1.02 (4), 2.04 (3) (b), and 2.05 (2) (a).
- b. Throughout the proposed rule, revise the plural form of words to use the singular form of a word. The plural form of a word is used only when specifically referring to multiples of the word used. See, for example, ss. PA 2.02, 3.03 (2), and 3.04 (5). [s. 1.05 (1) (c), Manual.]
- c. Throughout the proposed rule, each instance of “each applicant”, “each patient”, or “each licensee” should be revised to “an applicant”, “a patient”, and “a licensee”. See, for example, ss. PA 2.03 (1) (intro.) and (3) and 2.04 (1).
- d. Throughout the proposed rule, each instance of “shall not” should be revised to “may not”, “does not”, or “is not”. See, for example, ss. PA 2.05 (1), 3.01 (1) (a), and 3.03 (2). [s. 1.08 (1) (b), Manual.]

e. Section PA 1.02 (3) creates a definition for “DEA”, but that term is not used anywhere in the rule. If not used, the definition should be removed.

f. In s. PA 2.01 (1) (c), it is not clear what the term “verified evidence” requires of an applicant. Is this requirement different from the requirement for “evidence” under s. PA 2.01 (1) (d)? If “verified evidence” is required, who does the verification and how is the verification provided?

g. In s. PA 3.03 (2), the source designation “; Stats.,” should be inserted after the statute citation, and the word “Physician” should not be capitalized.

h. In s. PA 3.08 (1) (c), the word “Telehealth” should be within quotation marks and should not be capitalized. Also, consider including a reference to par. (b).

i. In s. PA 4.01 (intro.), remove the phrase “; but is not limited to”. [s. 1.07 (3) (b) 2., Manual.]