

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

*Joint Committee for  
Review of  
Administrative Rules*

*(JCR-AR)*

Sample:

- Record of Comm. Proceedings
- 97hr\_AC-EdR\_RCP\_pt01a
- 97hr\_AC-EdR\_RCP\_pt01b
- 97hr\_AC-EdR\_RCP\_pt02

- Appointments ... Appt
- 
- Clearinghouse Rules ... CRule
- 97hr\_JCR-AR\_CRule\_98-054
- Committee Hearings ... CH
- 
- Committee Reports ... CR
- 
- Executive Sessions ... ES
- 
- Hearing Records ... HR
- 
- Miscellaneous ... Misc
- 
- Record of Comm. Proceedings ... RCP
-

28-054-C5B2.24-CONTROLLED SUB.  
BUTORPHANAL

31

**STATE OF WISCONSIN  
CONTROLLED SUBSTANCES BOARD**

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**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : CONTROLLED SUBSTANCES BOARD  
CONTROLLED SUBSTANCES BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 98-054**

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TO: Senator Robert Welch, Senate Co-Chairperson  
Joint Committee for the Review of Administrative Rules  
1 East Main Street  
Room 201  
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the CONTROLLED SUBSTANCES BOARD is submitting in final draft form proposed rules relating to adding butorphanol to the classification of controlled substances in schedule IV of chapter 961, the Uniform Controlled Substances Act.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

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State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson  
Governor

Marlene A. Cummings  
Secretary

1400 E. WASHINGTON AVENUE  
P O BOX 8935  
MADISON, WISCONSIN 53708-8935  
(608) 266-2112

# **Administrative Rules in Final Draft Form**

## **Controlled Substances Board**

### **Rule: CSB 2.24**

### **Relating to: Butorphanol**

### **Clearinghouse Rule: No. 98-054**

Regulatory Boards

Accounting, Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors, Auctioneer, Barbering and Cosmetology, Chiropractic, Dentistry, Dietitians, Funeral Directors, Hearing and Speech, Medical, Nursing, Nursing Home Administrator, Optometry, Pharmacy, Physical Therapists, Psychology, Real Estate, Real Estate Appraisers, Social Workers, Marriage and Family Therapists and Professional Counselors, and Veterinary

Committed to Equal Opportunity in Employment and Licensing

**STATE OF WISCONSIN  
CONTROLLED SUBSTANCES BOARD**

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**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE  
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 98-054  
CONTROLLED SUBSTANCES BOARD : (s. 227.19 (3), Stats.)**

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

No new or revised forms are required by these rules.

**III. FISCAL ESTIMATES:**

These rules will have no significant impact upon state or local units of government.

**IV. STATEMENT EXPLAINING NEED:**

This proposed order classifies the prescription drug, butorphanol, as a schedule IV controlled substance in the state of Wisconsin. Effective October 1, 1997, the federal Drug Enforcement Administration placed butorphanol, including its salts and isomers, into schedule IV of the federal Controlled Substances Act. The purpose of this rule is to bring the treatment of butorphanol in this state into conformity with that given under federal law.

**V. NOTICE OF PUBLIC HEARING:**

A public hearing was held on June 3, 1998. There were no appearances at the public hearing nor were any written comments received.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

Comment 2. The placement of "butorphanol" in s. 961.20 (4), Stats., should be in alphabetical order with the other substances currently contained in that subsection. Response: After talking with Donald Dyke from the Wisconsin Legislative Council Staff and Gary Poulson, Deputy Revisor, it was determined that it was not necessary to make this change. The remaining recommendation suggested in the Clearinghouse Report was accepted.

**VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:**

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN  
CONTROLLED SUBSTANCES BOARD

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : CONTROLLED SUBSTANCES BOARD  
CONTROLLED SUBSTANCES BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 98-054)

---

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.24, relating to adding butorphanol to the classification of controlled substances in schedule IV of chapter 961, Stats., the Uniform Controlled Substances Act.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 961.11 (1) and (2) and 961.19, Stats.

Statutes interpreted: s. 961.20, Stats.

This proposed order of the Controlled Substances Board classifies the prescription drug, butorphanol, as a schedule IV controlled substance in the state of Wisconsin. Effective October 1, 1997, the federal Drug Enforcement Administration (DEA) placed butorphanol, including its salts and isomers, into schedule IV of the federal Controlled Substances Act (CSA). The purpose of this rule is to bring the treatment of butorphanol in this state into conformity with that given under federal law.

Butorphanol is classified as an opioid agonist-antagonist analgesic that is marketed as a prescription drug for the relief of moderate to severe pain in humans. It is also marketed as a veterinary product for use in horses and dogs. Based on scientific and medical evaluation, as well as consideration of the federal counter-parts to the factors listed in s. 961.11 (1m), Stats., the DEA determined that butorphanol, whether administered orally, intravenously, or intranasally, had an abuse potential consistent with federal control within schedule IV of the CSA. Reports of abuse and diversion previously had led Canada and seven U.S. states to classify butorphanol as a controlled substance. Classifying butorphanol as a schedule IV controlled substance under the Uniform Controlled Substances Act, Chapter 961, Stats., will bring this state's treatment of butorphanol into conformity with that accorded at the federal level.

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TEXT OF RULE

SECTION 1. CSB 2.24 is created to read:

CSB 2.24 ADDITION OF BUTORPHANOL TO SCHEDULE IV. Paragraph (c) of s. 961.20 (4), is created to read:

(c) Butorphanol, including any of its isomers and salts of isomers.

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(END OF TEXT OF RULE)  
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The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated \_\_\_\_\_

Agency \_\_\_\_\_  
Chairperson  
Controlled Substances Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

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7/30/98

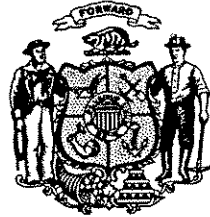


WISCONSIN LEGISLATIVE COUNCIL STAFF



***RULES CLEARINGHOUSE***

**Ronald Sklansky**  
Director  
(608) 266-1946



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

**Richard Sweet**  
Assistant Director  
(608) 266-2982

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-054**

AN ORDER to create CSB 2.24, relating to adding butorphanol to the classification of controlled substances in schedule IV of chapter 961, Stats., the uniform controlled substances act.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

04-07-98 RECEIVED BY LEGISLATIVE COUNCIL.

05-04-98 REPORT SENT TO AGENCY.

RNS:DD:jt;wu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

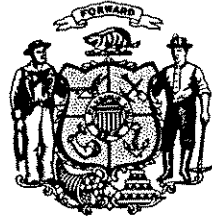
Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 98-054

### 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 October 1994.]**

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

The placement of "butorphanol" in s. 961.20 (4), Stats., should be in alphabetical order with the other substances currently contained in that subsection.

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

The reference in the department's analysis to s. 961.11, Stats., as a statute authorizing promulgation is insufficiently specific. Section 961.11, Stats., contains several different authorizations for promulgating rules to designate controlled substances. A specific reference for the authority used for this rule should be included in the analysis.

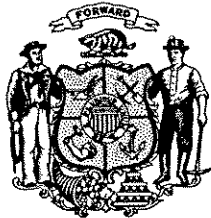
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

**RULES CLEARINGHOUSE**

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
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MAY 15 1998

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**CLEARINGHOUSE REPORT TO AGENCY**

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**CLEARINGHOUSE RULE 98-054**

AN ORDER to create CSB 2.24, relating to adding butorphanol to the classification of controlled substances in schedule IV of chapter 961, Stats., the uniform controlled substances act.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

04-07-98 RECEIVED BY LEGISLATIVE COUNCIL.

05-04-98 REPORT SENT TO AGENCY.

RNS:DD:jt;wu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

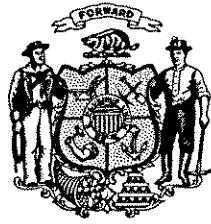
Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

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Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
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## CLEARINGHOUSE RULE 98-054

### 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 October 1994.]**

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

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STATE OF WISCONSIN  
CONTROLLED SUBSTANCES BOARD

---

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : CONTROLLED SUBSTANCES BOARD  
CONTROLLED SUBSTANCES BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 98- )

---

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.24, relating to adding butorphanol to the classification of controlled substances in schedule IV of chapter 961, Stats., the Uniform Controlled Substances Act.

Analysis prepared by the Department of Regulation and Licensing.

---

ANALYSIS

Statutes authorizing promulgation: ss. 961.11 and 961.19, Stats.

Statutes interpreted: s. 961.20, Stats.

This proposed order of the Controlled Substances Board classifies the prescription drug, butorphanol, as a schedule IV controlled substance in the state of Wisconsin. Effective October 1, 1997, the federal Drug Enforcement Administration (DEA) placed butorphanol, including its salts and isomers, into schedule IV of the federal Controlled Substances Act (CSA). The purpose of this rule is to bring the treatment of butorphanol in this state into conformity with that given under federal law.

Butorphanol is classified as an opioid agonist-antagonist analgesic that is marketed as a prescription drug for the relief of moderate to severe pain in humans. It is also marketed as a veterinary product for use in horses and dogs. Based on scientific and medical evaluation, as well as consideration of the federal counter-parts to the factors listed in s. 961.11 (1m), Stats., the DEA determined that butorphanol, whether administered orally, intravenously, or intranasally, had an abuse potential consistent with federal control within schedule IV of the CSA. Reports of abuse and diversion previously had led Canada and seven U.S. states to classify butorphanol as a controlled substance. Classifying butorphanol as a schedule IV controlled substance under the Uniform Controlled Substances Act, Chapter 961, Stats., will bring this state's treatment of butorphanol into conformity with that accorded at the federal level.

---

TEXT OF RULE

SECTION 1. CSB 2.24 is created to read:

CSB 2.24 ADDITION OF BUTORPHANOL TO SCHEDULE IV. Paragraph (c) of s. 961.20 (4), is created to read:

(c) Butorphanol, including any of its isomers and salts of isomers.

-----  
(END OF TEXT OF RULE)  
-----

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated \_\_\_\_\_ Agency \_\_\_\_\_  
Chairperson  
Controlled Substances Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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4/6/98



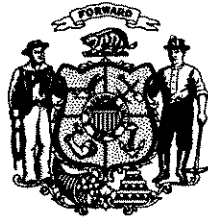
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***RULES CLEARINGHOUSE***

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
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---

**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-055**

AN ORDER to create subchapter 2 of chapter NR 16, relating to the development of fees, criteria and procedures to use when permitting the use of natural waters as fish farms.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

04-07-98 RECEIVED BY LEGISLATIVE COUNCIL.

05-04-98 REPORT SENT TO AGENCY.

RNS:GAA;jt;wu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 98-055

### 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 October 1994.]**

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

a. This rule creates a subch. II in ch. NR 16. However, that chapter currently has no subchapters. Therefore, a title for a subch. I should be created and placed before s. NR 16.001. Also, subchapters should be numbered with Roman numerals; i.e., subch. II, not subch. 2. In addition, the title of ch. NR 16 should be amended to reflect the inclusion of fish farms.

b. The section titles in the rule should be consistent. Some are all in capital letters and some have only an initial capital letter. It is suggested that the latter be used consistently.

c. Is s. NR 16.70 (2) (b) actually intended to be part of par. (a)? If so, "(a)" should be deleted before the (intro.) and the three subunits should be pars. (a) to (c).

d. "In this subchapter:" should be inserted after the title of s. NR 16.71. [Similarly, "In this chapter:" should be inserted after the title of current s. NR 16.001.]

e. In s. NR 16.72 (intro.), a colon should replace the period.

f. In s. NR 16.73 (3) (intro.), "all of" should be inserted after "verifying."

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

a. In s. NR 16.71 (6), "same" should be deleted.

b. In the second sentence of s. NR 16.74 (1), "many" should be deleted. Also, in that section, what is the meaning of "Wetland functional values"?

c. In s. NR 16.74 (1) (e), the material in parentheses should be deleted or incorporated in a "note." [See s. 1.01 (6), Manual.] In the alternative, the parentheses could be deleted and "including" could be inserted before "fishing."

d. In s. NR 16.74 (2), the first "that" should be replaced by "if." As written, the sentence does not make sense.

e. In s. NR 16.74 (4), "provided" should be replaced by "if."

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
CREATING RULES

The Wisconsin Natural Resources Board proposes an order to create NR 16, subchapter 2 relating to the development of fees, criteria, and procedures to use when permitting the use of natural waters as fish farms.

FH-18-98

Analysis Prepared by the Department of Natural Resources

Statutory authority: s. 29.521 (2) (f), Stats.

Statutes interpreted: s. 29.521, Stats.

Summary of the Proposed Rule

NR 16, subchapter 2 is created to set the fee structure, criteria, and procedures to use when permitting the use of natural waters as fish farms. The rule applies to fish farms and state-owned fish hatcheries located in, or proposed to be located in freeze-out ponds, and to natural water bodies that were licensed by the Department in 1997 as part of a private hatchery. A freeze-out pond is defined in s. 29.01 (3m), Stats. as a natural, self contained body of water (which has no inlet or outlet, except that it may have pipes equipped with barriers with which to put in or withdraw water) in which freezing or anoxic conditions prevent the body of water from naturally sustaining a fish population at least twice every five years. An application to use freeze-out ponds as fish farms may include more than one freeze-out pond if they are located on a contiguous parcel of property under the same ownership or leasehold.

The rule provides a three tiered fee structure as follows:

- 1) For natural waters that were licensed as a private fish hatchery or as part of a private fish hatchery in 1997, the Department will issue a 10 year permit for this use without making an initial determination as specified in s. 29.521 (2) (b), Stats. The fee is \$50.
- 2) For natural waters that are freeze-out ponds that were not formerly licensed by the Department, the Department will make an initial determination of substantial public interest in the freeze-out pond and whether public or private rights in the freeze-out pond would be damaged. This will entail an on-site visit by water management specialists, fisheries personnel, and other Department personnel as needed. The fee is \$500.
- 3) The natural waters permit is transferrable. The fee to transfer the permit is \$100.

Applications for this permit may be made beginning 60 days after the effective date of the rule. Renewal applications may be made within 16 months before the expiration date of the permit. The Department will issue, renew or deny the permit within 3 months of receiving the application, however, if the natural water body is ice-covered at the time of application, the Department may delay its action until May 31.

The applicant must provide evidence that they own, lease, or otherwise control the land riparian to the water body and that the public does not have access to the water body, except for allowing fishing for a fee. The applicant must also indicate why they believe the water body is a freeze-out pond. They must attach copies of any other permits required by state, local or federal authorities (Chapters 30 and 31, Army Corps of Engineers, etc.). The applicant will also indicate the water source and quantity used for the fish farm and whether

there is a discharge to a water of the state.

The Department will issue a permit for the use of a natural water body as a fish farm if all the requirements of this subchapter are met and if the Department determines that there is no substantial public interest in the body of water and that no public or private rights in the body of water will be damaged.

Although not inclusive, the following are indicative of public rights and interests: plant and wild animal habitats and populations, including threatened or endangered species; wetland functional values; water quality; navigability and associated incidents to navigation (fishing, swimming, canoeing, wading).

Species reared in the natural water body may not be detrimental, non-native species pursuant to s. 29.623 (2), Stats.

Physical improvements or modifications to the natural water body must comply with all federal, state, and local laws and ordinances.

The Department may schedule a public hearing or provide notice that it will proceed without a public hearing if no substantive written objections are received within 30 days of publication of the notice.

The Department will renew permits subject to the provisions of s. 29.521 (2) (c), Stats., and will deny permits subject to the provisions of s. 29.521 (2) (d), Stats.

The Department will suspend or revoke permits subject to the provisions of s. 29.521 (2) (e), Stats.

Di. 1/2/1

SECTION 1. NR 16, subch. 2 is created to read:

FORWA

NR 16, <sup>II</sup> SUBCHAPTER ~~X~~  
PERMITTING THE USE OF NATURAL BODIES OF WATER AS FISH FARMS

NR 16.70 PURPOSE AND APPLICABILITY. (1) Purpose. The purpose of this subchapter is to establish fees, criteria and procedures to be used for permitting the use of natural bodies of water as fish farms as required under s. 29.521(2)(f), Stats.

(2) Applicability. (a) The provisions of this subchapter are applicable to:

1. Fish farms and state-owned hatcheries located in or proposed to be located in freeze-out ponds.

2. Natural bodies of water that were licensed as a private fish hatchery or licensed as a part of a private fish hatchery in 1997.

§ 29.521  
(2)(b)

(b) A freeze-out pond or more than one freeze-out pond that is proposed as a fish farm at the time of application and is located on the same contiguous parcel of property under the same ownership or leasehold.

3-  
↑  
○

So part of title for this subch.:

NR 16.71 Definitions. (1) "Barrier equipped" means the placement of a structure or device which prevents the movement of fish or bait from a fish farm to a natural body of water.

(2) "Freeze-out pond" has the meaning specified in s. 29.01(3m), Stats. ✓

seek  
Stats.

(3) "Natural body of water" means any spring, stream, pond, lake or wetland that was historically present in a natural state but may have been physically altered over time and has not been permitted as an artificial and private water body under ch. 30 or 31, Stats.

(4) "Preexisting fish rearing facility" has the meaning specified in s. 29.01(11c), Stats.

(5) "Transfer of permit" means the conveyance of a permit from one party to another as a result of change in ownership or leasehold interest of a fish farm.

(6) "Wetland" has the same meaning specified under s. 23.32, Stats.

Note: For purposes of this subchapter, a natural body of water does not include a physically altered body of water that has been permitted as an artificial and private body of water under ch. 30 or 31, Stats.

~~NR 16.72 Natural body of water permit application fees.~~  
Permit application fees for the use of natural bodies of water for fish farms for a period of 10 years shall be as follows.:

*All over*  
*S. 105 (2)*  
*(5)*

(1) Permit applicants for natural bodies of water reauthorized for use as fish farms under s. 29.521(2)(b) and (c), Stats., shall pay a non-refundable renewal fee of \$50.00.

(2) Permit applicants for the initial use of freeze-out ponds as fish farms shall pay a \$500.00 non-refundable permit application fee.

(3) Recipients of permit transfers shall pay a non-refundable permit transfer fee of \$100.00. The expiration date of the original permit shall remain in effect for the transferred permit.

**NR 16.73 APPLICANT PERMIT PROCEDURES FOR USE OF NATURAL BODIES OF WATER FOR FISH FARMS.** (1) For permits reauthorized under s. 29.521(2)(b), Stats., the applicant shall complete and submit an application form provided by the department and the appropriate permit fee within 60 days from the effective date of this rule ... [revisor insert date].

(2) For renewal of permits under s. 29.521(2)(c), Stats., the applicant shall submit a new application to the department not more than 16 months before the expiration date of the permit granted under this chapter but not less than 2 months from the expiration date of the permit.

(3) Applications for permits under this subchapter shall include documents verifying the following:

(a) The land that is riparian to the body of water is owned, leased or controlled by the owners of the fish farm.

(b) None of the owners of the fish farm or of the riparian lands provides access to the body of water to the public by means of an easement or other right-of way or by means of a business open to the public, except that the owners of the fish farm may allow fishing by the public for a fee.

(c) Documentation that the natural body of water may be a freeze-out pond or that the natural body of water is a preexisting fish rearing facility that is barrier equipped.

||



(d) Copies of any other permits or authorization required by ch. 30 or 31, Stats., the Army corps of engineers and any other federal, state or local laws and zoning ordinances.

(e) All applicants shall identify the water source and quantity used for the fish farm and whether there is any discharge to a water of the state.

(f) Any other information requested by the department to determine whether a permit would or would not be granted by the department.

Note: Permit application forms are available from the customer service and licensing bureau, 101 South Webster, P.O. Box 7924, Madison, WI 53707.

*format*  
NR 16.74 Department determinations. (1) The department shall issue a permit ~~for use~~ of a natural body of water as a fish farm or as a part of a fish farm if all requirements of this subchapter have been met and if the department determines that no substantial public interest exists in the body of water and that no public or private rights in the body of water will be adversely impacted. Among the many factors considered, the following are indicative of public rights and interests including but not limited to:

(a) Plant and wild animal habitat or plant and wild animal populations.

(b) Threatened or endangered species or their habitat.

(c) Wetland functional values. — ? *unclear*

(d) Water quality.

(e) The public's <sup>*incl.*</sup> right to navigate and associated incidents to navigation (i.e. fishing, swimming, wading, canoeing). ?

(2) Fish farms <sup>*14*</sup> may not introduce or propagate any non-native fish species ~~that~~ the department has determined that having the fish in that particular self-contained fish rearing facility or preexisting fish rearing facility will pose a risk of being detrimental to the waters of the state.

(3) Physical improvements or modifications to natural bodies of water used as fish farms shall comply with all federal, state and local laws and ordinances.

(4) Permits approved under this subchapter may be transferred to another party ~~provided~~ the department determines

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that all conditions of this subchapter and s. 29.521, Stats., have been satisfied.

(5) The department shall renew permits issued under this subchapter subject to the provisions of s. 29.521(2)(c), Stats.

(6) The department may deny a permit under this subchapter subject to the provisions of s. 29.521(2)(d), Stats.

(7) The department may schedule a public hearing or provide notice that it will proceed on the application without a public hearing if no substantive written objection to issuance of the permit is received within 30 days after publication and notice.

NR 16.75 Enforcement. The department may suspend or revoke a permit issued under this subchapter subject to the provisions of s. 29.521(2)(e), Stats.

The foregoing rules were approved by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

The rules contained herein shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22(2) (intro.), Stats.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
George E. Meyer, Secretary

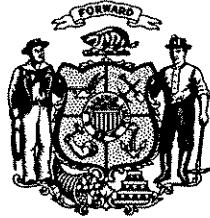
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WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***RULES CLEARINGHOUSE***

Ronald Sklansky  
Director  
(608) 266-1946



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

Richard Sweet  
Assistant Director  
(608) 266-2982

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-057**

AN ORDER to renumber and amend FD 2.12; to amend FD 1.02, 1.10 (3), 2.02 (1), 2.09, 2.10 (2), 3.02 (4), (7), (11) and (13), 4.03 (7), 4.04 (1) (a) 4. and (b) and 5.01; to repeal and recreate FD 1.03 and 1.10 (1) and (2); and to create FD 1.035, a Note following FD 1.08, a Note following FD 2.01 and a Note following FD 5.02 (1) (b), relating to the practice of funeral directors.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

04-15-98 RECEIVED BY LEGISLATIVE COUNCIL.

05-12-98 REPORT SENT TO AGENCY.

RNS:AS:jt;wu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

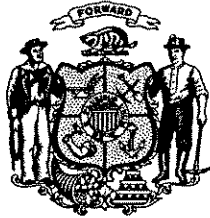
Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
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Richard Sweet  
Assistant Director  
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David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 98-057

### 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 October 1994.]**

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

- a. In s. FD 1.10 (3), "in" after "specified" should be underscored.
- b. In s. FD 3.02 (11), the term "savings bank" should be added to the list of financial institutions. [See s. 445.125 (1) (b), Stats.]

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

In s. FD 1.10 (3), in the cite to s. 440.08 (2) and (3) (a) 2., Stats., "2." should be stricken because there is no such subdivision in sub. (3) (a).

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

- a. In s. FD 1.035, it is not clear what the procedure is following an examination review. Section FD 1.035 (6) refers to a possible hearing following an examination review.
- b. In s. FD 2.10 (2), a hyphen should be inserted between "blood" and "borne." Also, "s" after "blood borne pathogens" should be replaced with "under."
- c. Section FD 4.04 (1), as drafted, could be interpreted as requiring a program to meet only one of the criteria in pars. (a), (b), (c) and (d). It appears, though, that the drafter intends that the program meet the criteria in both pars. (a) and (b) and one of the criterion in pars. (c)

and (d). The subsection should be redrafted. Also, sub. (1) (intro.) should clarify that the form must include information demonstrating that the program meets the criteria listed.

d. It appears that s. FD 4.04 (2) (intro.) should be amended to indicate that the information listed in pars. (a) to (d) must be included in the application instead of providing that an application must be approved if that information is included.

e. In s. FD 5.01 (intro.), after "the applicant," a phrase such as "meets all of the following criteria" should be inserted. This clarification is needed because "and" in sub. (5) is deleted.

f. In s. FD 5.01 (6), "Successfully" should be deleted because it is redundant.

STATE OF WISCONSIN  
FUNERAL DIRECTORS EXAMINING BOARD

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : FUNERAL DIRECTORS EXAMINING  
FUNERAL DIRECTORS : BOARD ADOPTING RULES  
EXAMINING BOARD : (CLEARINGHOUSE RULE 98- )

---

PROPOSED ORDER

An order of the Funeral Directors Examining Board to *renumber and amend* FD 2.12; to *amend* FD 1.02, 1.10 (3), 2.02 (1), 2.09, 2.10 (2), 3.02 (4), (7), (11) and (13), 4.03 (7), 4.04 (1) (a) 4. and (b) and 5.01; to *repeal and recreate* FD 1.03 and 1.10 (1) and (2); to *create* FD 1.035, a Note following FD 1.08, a Note following FD 2.01 and a Note following FD 5.02 (1) (b), relating to the practice of funeral directors.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 445.04, 445.045 and 445.06, Stats.

Statutes interpreted: s. 445.03 (2) (a), Stats.

The Funeral Directors Examining Board amends and repeals existing rules in Chapters FD 1 to 5. The amendments relate to statutory authority; form, style and placement of provisions in the rules; conflicts or duplication of existing rules; the adequacy of references to related statutes, rules and forms; and the clarity, grammar, punctuation and use of plain language. Language is being added concerning accommodations for persons with disabilities. Provisions relating to passing scores of the licensing examinations, examination reviews and dishonest acts by examination candidates are also amended.

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TEXT OF RULE

SECTION 1. FD 1.02 is amended to read:

FD 1.02 EXAMINATION APPLICATIONS. Applications for taking the examination for a funeral director or ~~embalmer~~ must be on file at least 30 days before the date of the examination. The board may accept applications after the 30-day limit if the circumstances warrant such procedure.

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

Note: An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

SECTION 2. FD 1.03 is repealed and recreated to read:

FD 1.03 EXAMINATION GRADE. (1) To pass the initial licensure examination each applicant shall receive a grade determined by the board to represent minimum competence to practice. The board shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.

(2) The release of grades or the issuance of a funeral director license may be denied if the board determines that an applicant violated the rules of conduct of the examination or otherwise acted dishonestly.

SECTION 3. FD 1.035 is created to read:

FD 1.035 EXAMINATION REVIEW. (1) An applicant who fails the state board examination may request a review of that examination by filing a written request with the board within 30 days of the date on which the examination results were mailed.

(2) Examination reviews are by appointment only.

(3) The time for review shall be limited to 4 hours.

(4) An applicant may not be accompanied during the review by any person other than the proctor.

(5) An applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet and a copy of the master answer sheet.

(6) An applicant may review the examination in the presence of a proctor. An applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. An applicant shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(7) An applicant may not review the examination more than once.

SECTION 4. A Note following FD 1.08 is created to read:

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.



SECTION 5. FD 1.10 (1) and (2) are repealed and recreated to read:

FD 1.10 REQUIREMENTS FOR RENEWAL; RESTORATION OF LICENSES. (1) To renew a funeral director license a licensee shall, by January 1 of each even-numbered year following initial licensure, provide all of the following to the board:

- (a) An application for renewal on a form provided by the department.
- (b) Evidence that the licensee has, during the biennial period immediately preceding application, completed the continuing education requirements specified in s. FD 4.03.
- (c) A fee in the amount required under s. 440.08 (2) (a), Stats.

(2) A licensee who fails to meet the requirements of sub. (1) by the renewal date shall cease and desist from practicing as a funeral director. A licensee who fails to meet the requirements of sub. (1) and who applies for renewal less than 5 years after the expiration date of his or her license may renew by furnishing the following to the board:

- (a) An application for renewal on a form provided by the department.
- (b) Evidence that the licensee has completed at least 15 hours of continuing education during the previous 2 year licensure period as required under s. 445.06, Stats., and s. FD 4.03.
- (c) The renewal fee specified in s. 440.08 (2) (a) and (3) (a), Stats.

SECTION 6. FD 1.10 (3) is amended to read:

FD 1.10 (3) A funeral director who files an application for renewal more than 5 years after the ~~renewal~~ expiration date of his or her license may be reinstated by filing with the board an application and fees under specified in s. 440.08 (2) and (3) (a) ~~2~~, Stats., ~~and the~~ The board may also require demonstration of competence by various methods, including, but not limited to, written or oral examination, documentation of funeral directing work in other jurisdictions, or documentation of current education or experience in the field. Any examination or education required under this section shall not be more extensive than the educational or examination requirements for an initial credential from the board. (2)

SECTION 7. A Note following FD 2.01 is created to read:

Note: Funeral directors must comply with the standards adopted by the Federal Trade Commission and set forth in 16 CFR 453. 2

SECTION 8. FD 2.02 (1) is amended to read:

FD 2.02 (1) "Funeral arrangements" means the provision of information or advice on selection and cost of merchandise, facilities, equipment or personal services provided for final ~~deposition~~ disposition of a dead human body in the course of formulating a contractual agreement between a funeral director or funeral home and client.

SECTION 9. FD 2.09 is amended to read:

FD 2.09 COMMISSIONS PROHIBITED. Paying Except as provided in s. 445.125 (3m), Stats., paying or accepting a commission or a salary based upon the selling price or number of funeral services sold shall be considered unethical and is therefore prohibited.

SECTION 10. FD 2.10 (2) is amended to read:

FD 2.10 (2) All post-mortem procedures shall be performed and all preparation rooms, equipment, instruments and supplies in funeral establishments shall be maintained in compliance with the terms and conditions set forth in the United States occupational safety and health administration ~~requirements~~ standard for occupational exposure to blood borne pathogens, 29 CFR 1910.1030. In cases of HIV infection, after the body has been prepared in accordance with s. ~~HSS 316.04~~ HFS 136.04, the usual and customary procedures may be followed for restoration and cosmetology. Following embalming and body preparation, no special precautions need to be observed during visitation.

SECTION 11. FD 2.12 is renumbered FD 1.11 and as renumbered FD 1.11 (2) is amended to read:

FD 1.11 (2) RECOGNIZED FUNERAL ESTABLISHMENT. For purposes of renewal of licenses under s. ~~455.06~~ 445.06, Stats., "recognized funeral establishment" means any building or part of a building used and held out to the public as being used in the care and preparation for burial and transportation of dead human bodies or for holding or conducting of funeral services.

SECTION 12. FD 3.02 (4), (7), (11) and (13) are amended to read:

FD 3.02 (4) Performing of any funeral ~~or embalming duty during the planning or conducting of services~~ director duty while under the influence of alcohol or controlled substances. (Controlled substances are listed in ch. ~~464~~ 961, Stats.)

(7) Disclosing confidential information ~~gained~~ obtained in the performance of official duties ~~outside of family members or official persons performing duly authorized duties.~~

(11) Failing to provide to the depositor, within 15 working days of receipt of a payment, written confirmation of receipt and deposit of payment made pursuant to a funeral trust agreement in accordance with s. 445.125 ~~(2)~~ (1)(b), Stats. Such written confirmation shall include the name of the bank, trust company, savings and loan association or credit union, the

add  
savings  
bank

account number, the date of deposit, and a copy of the deposit slip or other documentary evidence of a payment deposited.

(13) Engaging in inappropriate sexual contact with clients of the funeral establishment ~~when acting as a grief counselor.~~

SECTION 13. FD 4.03 (7) is amended to read:

FD 4.03 (7) No more than 10 hours of the 15-hour requirement may be acquired through participation in ~~non-contract~~ non-contact home study programs.

SECTION 14. FD 4.04 (1) (a) 4. and (b) are amended to read:

FD 4.04 (1) (a) 4. Technical or practical aspects of the profession;

(b) The program is available to all funeral directors regardless of membership in or affiliation with any organization; ~~and;~~

SECTION 15. FD 5.01 is amended to read:

FD 5.01 QUALIFICATIONS. (intro.) A person licensed as a funeral director in another state may obtain a license as a funeral director under this chapter if the applicant:

(1) Has met requirements in another state substantially equal to those in this state;

(2) Has never been disciplined by the licensing authority in any other state, territory or country for any misconduct or violations which ~~evidene~~ demonstrate lack of competence to practice as a funeral director in Wisconsin as determined by the board;

(3) Is not under any current investigation and is not a party in a proceeding involving a complaint against the applicant which relates to the applicant's practice as a funeral director;

(4) Does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, Stats.

(5) Has satisfactorily completed 9 months or more of instruction in a prescribed curriculum in funeral service education offered by an educational institution accredited by the American board of funeral service education or deemed to be equivalent by the board; ~~and;~~

(6) ~~Completes the~~ Successfully passes the board's examination on Wisconsin law ~~with a score of at least 75. The board shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions~~

and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.

SECTION 16. A Note following FD 5.02 (1) (b) is created to read:

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

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(END OF TEXT OF RULE)  
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The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register pursuant to s. 227.22 (2) (intro.), Stats.

Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson

Funeral Directors Examining Board

#### FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

#### INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

g:\rules\fd3.doc  
4/14/98

STATE OF WISCONSIN  
FUNERAL DIRECTORS EXAMINING BOARD

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : FUNERAL DIRECTORS EXAMINING  
FUNERAL DIRECTORS : BOARD ADOPTING RULES  
EXAMINING BOARD : (CLEARINGHOUSE RULE 98- )

---

PROPOSED ORDER

An order of the Funeral Directors Examining Board to *renumber and amend* FD 2.12; to *amend* FD 1.02, 1.10 (3), 2.02 (1), 2.09, 2.10 (2), 3.02 (4), (7), (11) and (13), 4.03 (7), 4.04 (1) (a) 4. and (b) and 5.01; to *repeal and recreate* FD 1.03 and 1.10 (1) and (2); to *create* FD 1.035, a Note following FD 1.08, a Note following FD 2.01 and a Note following FD 5.02 (1) (b), relating to the practice of funeral directors.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 445.04, 445.045 and 445.06, Stats.

Statutes interpreted: s. 445.03 (2) (a), Stats.

The Funeral Directors Examining Board amends and repeals existing rules in Chapters FD 1 to 5. The amendments relate to statutory authority; form, style and placement of provisions in the rules; conflicts or duplication of existing rules; the adequacy of references to related statutes, rules and forms; and the clarity, grammar, punctuation and use of plain language. Language is being added concerning accommodations for persons with disabilities. Provisions relating to passing scores of the licensing examinations, examination reviews and dishonest acts by examination candidates are also amended.

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TEXT OF RULE

SECTION 1. FD 1.02 is amended to read:

FD 1.02 EXAMINATION APPLICATIONS. Applications for taking the examination for a funeral director ~~or embalmer~~ must be on file at least 30 days before the date of the examination. The board may accept applications after the 30-day limit if the circumstances warrant such procedure.

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

Note: An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

SECTION 2. FD 1.03 is repealed and recreated to read:

FD 1.03 EXAMINATION GRADE. (1) To pass the initial licensure examination each applicant shall receive a grade determined by the board to represent minimum competence to practice. The board shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.

(2) The release of grades or the issuance of a funeral director license may be denied if the board determines that an applicant violated the rules of conduct of the examination or otherwise acted dishonestly.

SECTION 3. FD 1.035 is created to read:

FD 1.035 EXAMINATION REVIEW. (1) An applicant who fails the state board examination may request a review of that examination by filing a written request with the board within 30 days of the date on which the examination results were mailed.

(2) Examination reviews are by appointment only.

(3) The time for review shall be limited to 4 hours.

(4) An applicant may not be accompanied during the review by any person other than the proctor.

(5) An applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet and a copy of the master answer sheet.

(6) An applicant may review the examination in the presence of a proctor. An applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. An applicant shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(7) An applicant may not review the examination more than once.

SECTION 4. A Note following FD 1.08 is created to read:

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

SECTION 5. FD 1.10 (1) and (2) are repealed and recreated to read:

FD 1.10 REQUIREMENTS FOR RENEWAL; RESTORATION OF LICENSES. (1) To renew a funeral director license a licensee shall, by January 1 of each even-numbered year following initial licensure, provide all of the following to the board:

- (a) An application for renewal on a form provided by the department.
- (b) Evidence that the licensee has, during the biennial period immediately preceding application, completed the continuing education requirements specified in s. FD 4.03.
- (c) A fee in the amount required under s. 440.08 (2) (a), Stats.

(2) A licensee who fails to meet the requirements of sub. (1) by the renewal date shall cease and desist from practicing as a funeral director. A licensee who fails to meet the requirements of sub. (1) and who applies for renewal less than 5 years after the expiration date of his or her license may renew by furnishing the following to the board:

- (a) An application for renewal on a form provided by the department.
- (b) Evidence that the licensee has completed at least 15 hours of continuing education during the previous 2 year licensure period as required under s. 445.06, Stats., and s. FD 4.03.
- (c) The renewal fee specified in s. 440.08 (2) (a) and (3) (a), Stats.

SECTION 6. FD 1.10 (3) is amended to read:

FD 1.10 (3) A funeral director who files an application for renewal more than 5 years after the renewal expiration date of his or her license may be reinstated by filing with the board an application and fees under specified in s. 440.08 (2) and (3) (a) 2., Stats., ~~and the~~ The board may also require demonstration of competence by various methods, including, but not limited to, written or oral examination, documentation of funeral directing work in other jurisdictions, or documentation of current education or experience in the field. Any examination or education required under this section shall not be more extensive than the educational or examination requirements for an initial credential from the board.

SECTION 7. A Note following FD 2.01 is created to read:

Note: Funeral directors must comply with the standards adopted by the Federal Trade Commission and set forth in 16 CRF 453.

SECTION 8. FD 2.02 (1) is amended to read:

FD 2.02 (1) "Funeral arrangements" means the provision of information or advice on selection and cost of merchandise, facilities, equipment or personal services provided for final ~~deposition~~ disposition of a dead human body in the course of formulating a contractual agreement between a funeral director or funeral home and client.

SECTION 9. FD 2.09 is amended to read:

FD 2.09 COMMISSIONS PROHIBITED. ~~Paying~~ Except as provided in s. 445.125 (3m), Stats., paying or accepting a commission or a salary based upon the selling price or number of funeral services sold shall be considered unethical and is therefore prohibited.

SECTION 10. FD 2.10 (2) is amended to read:

FD 2.10 (2) All post-mortem procedures shall be performed and all preparation rooms, equipment, instruments and supplies in funeral establishments shall be maintained in compliance with the terms and conditions set forth in the United States occupational safety and health administration ~~requirements~~ standard for occupational exposure to blood borne pathogens, 29 CFR 1910.1030. In cases of HIV infection, after the body has been prepared in accordance with s. ~~HSS 316.04 HFS 136.04~~, the usual and customary procedures may be followed for restoration and cosmetology. Following embalming and body preparation, no special precautions need to be observed during visitation.

SECTION 11. FD 2.12 is renumbered FD 1.11 and as renumbered FD 1.11 (2) is amended to read:

FD 1.11 (2) RECOGNIZED FUNERAL ESTABLISHMENT. For purposes of renewal of licenses under s. ~~455.06~~ 445.06, Stats., "recognized funeral establishment" means any building or part of a building used and held out to the public as being used in the care and preparation for burial and transportation of dead human bodies or for holding or conducting of funeral services.

SECTION 12. FD 3.02 (4), (7), (11) and (13) are amended to read:

FD 3.02 (4) Performing of any funeral ~~or embalming duty during the planning or conducting of services~~ director duty while under the influence of alcohol or controlled substances. (Controlled substances are listed in ch. ~~464~~ 961, Stats.)

(7) Disclosing confidential information ~~gained~~ obtained in the performance of official duties ~~outside of family members or official persons performing duty authorized duties.~~

(11) Failing to provide to the depositor, within 15 working days of receipt of a payment, written confirmation of receipt and deposit of payment made pursuant to a funeral trust agreement in accordance with s. 445.125 ~~(2)~~ (1)(b), Stats. Such written confirmation shall include the name of the bank, trust company, savings and loan association or credit union, the



account number, the date of deposit, and a copy of the deposit slip or other documentary evidence of a payment deposited.

(13) Engaging in inappropriate sexual contact with clients of the funeral establishment ~~when acting as a grief counselor.~~

SECTION 13. FD 4.03 (7) is amended to read:

FD 4.03 (7) No more than 10 hours of the 15-hour requirement may be acquired through participation in ~~non-contract~~ non-contact home study programs.

SECTION 14. FD 4.04 (1) (a) 4. and (b) are amended to read:

FD 4.04 (1) (a) 4. Technical or practical aspects of the profession;~~;~~

(b) The program is available to all funeral directors regardless of membership in or affiliation with any organization; ~~and;~~

SECTION 15. FD 5.01 is amended to read:

FD 5.01 QUALIFICATIONS. (intro.) A person licensed as a funeral director in another state may obtain a license as a funeral director under this chapter if the applicant:

(1) Has met requirements in another state substantially equal to those in this state;~~;~~

(2) Has never been disciplined by the licensing authority in any other state, territory or country for any misconduct or violations which ~~evidence~~ demonstrate lack of competence to practice as a funeral director in Wisconsin as determined by the board;~~;~~

(3) Is not under any current investigation and is not a party in a proceeding involving a complaint against the applicant which relates to the applicant's practice as a funeral director;~~;~~

(4) Does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, Stats.

(5) Has satisfactorily completed 9 months or more of instruction in a prescribed curriculum in funeral service education offered by an educational institution accredited by the American board of funeral service education or deemed to be equivalent by the board; ~~and;~~

(6) ~~Completes the~~ Successfully passes the board's examination on Wisconsin law ~~with a score of at least 75. The board shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions~~

and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.

SECTION 16. A Note following FD 5.02 (1) (b) is created to read:

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

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(END OF TEXT OF RULE)

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The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register pursuant to s. 227.22 (2) (intro.), Stats.

Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson

Funeral Directors Examining Board

#### FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

#### INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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4/14/98

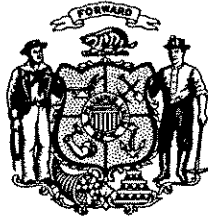
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***RULES CLEARINGHOUSE***

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-058**

AN ORDER to amend Ins 2.30, relating to adopting additional annuity mortality tables.

Submitted by **OFFICE OF THE COMMISSIONER OF INSURANCE**

04-17-98 RECEIVED BY LEGISLATIVE COUNCIL.

05-14-98 REPORT SENT TO AGENCY.

RNS:GAA:kjf

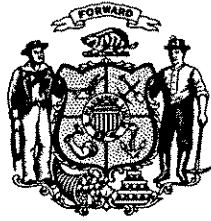


# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
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(608) 266-2982



David J. Stute, Director  
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(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 98-058

### 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 October 1994.]**

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

- a. In the treatment clause of SECTION 1, "s." should be deleted.
- b. Several provisions are created in s. Ins 2.30 through the use of underscoring. When a new unit of a rule is being created, the treatment clause should state this and the unit should not be underscored. [See s. 1.06 (1), Manual.]

**★★★ NOTICE OF RULEMAKING HEARING ★★★**

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41(3), Stats., and the procedure set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Section Ins 2.30 Wis. Adm. Code, relating to adopting additional annuity mortality tables.

**HEARING INFORMATION**

**Date:** June 19, 1998, 1998

**Time:** 11:00 a.m., or as soon thereafter as the matter may be reached

**Place:** Room 187, OCI, 121 East Wilson Street, Madison, WI

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to: Stephen Mueller, OCI, PO Box 7873, Madison WI 53707

**SUMMARY OF PROPOSED RULE & FISCAL ESTIMATE**

For a summary of the rule see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes and the fiscal estimate are attached to this Notice of Hearing.

**INITIAL REGULATORY FLEXIBILITY ANALYSIS**

This rule does not impose any additional requirements on small businesses.

**CONTACT PERSON**

A copy of the full text of the proposed rule and fiscal estimate may be obtained from Meg Gunderson, Services Section, Office of the Commissioner of Insurance, at (608) 266-0110 or at 121 East Wilson Street, PO Box 7873, Madison WI 53707-7873.

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE  
AMENDING A RULE**

To amend Ins 2.30 Wis. Adm. Code, relating to adopting additional annuity mortality tables.

---

**ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE**

The purpose of this rule is to amend current rule Ins. 2.30, Wis. Adm. Code to add updated mortality tables approved for use by insurers to determine reserve liabilities for annuity contracts. The currently in-force mortality tables are based on a National Association of Insurance Commissioners (NAIC) Model Act adopted by OCI in 1985. The current rule incorporates those tables by reference to the Proceedings of the NAIC where they were published in 1982 and 1984.

This proposed amendment conforms the rule to recent NAIC Model Act changes by adding 2 more tables, the "1994 GAR Table" and the "Annuity 2000 Mortality Table". Although these tables were adopted by the NAIC for this purpose the NAIC has chosen not to publish these new tables in their Proceedings bulletin. Therefore these tables are incorporated by reference to the publication Transactions, Society of Actuaries where these tables were first published after adoption by the Society of Actuaries.

Prior to the first draft of this rule the attorney general and the revisor had given OCI permission to incorporate the new tables by reference to the NAIC Proceedings. However since the NAIC has decided not to publish these tables we have sent the attorney general and revisor a revised request to incorporate the new tables by reference to the Transactions, Society of Actuaries instead of the NAIC Proceedings.

For convenience we have attached a copy of all tables referred to in the rule to this Notice of Hearing. However, as described above these tables will not be published with the rule.

Statutory authority: ss. 601.41, 623.02 & 623.06, Stats.

Statutes interpreted: ss. 623.02 & 623.06, Stats.

SECTION 1. <sup>3</sup>s. Ins 2.30 is amended to read:

INS 2.30 Annuity mortality tables

*Case x  
11/1/98*

(1) PURPOSE. The purpose of this section is to adopt, pursuant to s. 623.06 (2a) (b) and (d), Stats., ~~new mortality tables designated as "1983 Table A" and "1983 GAM Table"~~ for use in determining the minimum standard of valuation for annuity and pure endowment contracts.

(2) DEFINITIONS. (a) "NAIC" means the national association of insurance commissioners.

(a) ~~(b)~~ "1983 Table A table 'a' " means that mortality table adopted for the valuation of individual annuity and pure endowment contracts in June of 1982 by the ~~National Association of Insurance Commissioners (NAIC)~~ and published on page 454, ~~NAIC Proceedings-proceedings, Vol. vol. II~~ 1982.

(b) ~~(c)~~ "1983 GAM Table table " means that those male and female group annuity mortality tables adopted for the valuation of group annuity and pure endowment contracts in December of 1983 by the ~~National Association of Insurance Commissioners (NAIC)~~ and published on pages 414-415, ~~NAIC Proceedings-proceedings, Vol. vol. I, 1984.~~

(d) "Annuity 2000 mortality table" means those male and female mortality tables adopted for the valuation of individual annuity and pure endowment contracts in December of 1996 by the NAIC as published on page 240, vol. XLVII, transactions, society of actuaries, 1995.



(e) "1994 GAR table" means the group annuity reserving table adopted for the valuation of group annuity and pure endowment contracts in December of 1996 by the NAIC as published on pages 866 & 867, vol. XLVII, transactions, society of actuaries, 1995.

(3) **INDIVIDUAL ANNUITY OR PURE ENDOWMENT CONTRACTS.** (a) The 1983 Table A table 'a' may, at the option of the insurer, be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after November 8, 1977 but before January 1, 1986.

(b) Either The the 1983 Table A table 'a' or the annuity 2000 mortality table shall be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1986 but before January 1, 1999.

(c) Except as provided in par (d) the annuity 2000 mortality table shall be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1999.

(d) The 1983 table 'a' without projection shall be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 1999 when the contract is based on life contingencies and is issued to fund periodic benefits arising from any of one of the following:

1. Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions.
2. Settlements involving similar actions such as worker's compensation claims.

**3. Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.**

(4) **GROUP ANNUITY OR PURE ENDOWMENT CONTRACTS.** (a) Either The the 1983 GAM Table table , and the 1983 Table-A table 'a', or the 1994 GAR table may, at the option of the insurer, be used to value any annuity or pure endowment purchased on or after November 8, 1977 but before January 1, 1986 under a group annuity or pure endowment contract.

(b) Either The the 1983 GAM Table table or the 1994 GAR table shall be used to determine the minimum standard of valuation for any annuity or pure endowment contract purchased on or after January 1, 1986 but before January 1, 1999 under a group annuity or pure endowment contract.

*a-*  
(c) The 1994 GAR table shall be used for determining the minimum standard of valuation for any annuity or pure endowment contract purchased on or after January 1, 1999 under a group annuity or pure endowment contract.

*a-*  
**(5) APPLICATION OF 1994 GAR TABLE**

*7*  
(a) In using the 1994 GAR table the mortality rate for a person age x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} (1-AA_x)^n$$

where the  $q_x^{1994}$ s and  $AA_x$ s are as specified in the 1994 GAR Table.

**SECTION 2 This rule is effective January 1, 1999.**

Dated at Madison, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_.

---

Randy Blumer

Commissioner of Insurance

LRB or Bill No./Adm. Rule No.  
*WS. 2.30 WI ADM CODE*  
Amendment No. if Applicable

FISCAL ESTIMATE  
DOA-2048 N(R10/94)

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

Subject

*ADOPTWG ADDITIONAL ANNUITY MORTALITY TABLES*

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget     Yes     No

- Increase Existing Appropriation       Increase Existing Revenues
- Decrease Existing Appropriation       Decrease Existing Revenues
- Create New Appropriation

Decrease Costs

Local:  No local government costs

- 1.  Increase Costs
  - Permissive     Mandatory
- 2.  Decrease Costs
  - Permissive     Mandatory

- 3.  Increase Revenues
  - Permissive     Mandatory
- 4.  Decrease Revenues
  - Permissive     Mandatory

5. Types of Local Governmental Units Affected:

- Towns       Villages       Cities
- Counties     Others \_\_\_\_\_
- School Districts     WTCS Districts

Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)  
*STEPHEN K. MUELLER 267-2833*

Authorized Signature/Telephone No.  
*Randy Blum 267-1133*

Date  
*APRIL 15, 1998*

*OCT*

**FISCAL ESTIMATE WORKSHEET**

1995 Session

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.    Amendment No.  
**INS. 2-30 WI ADM CODE**

Subject: **ADOPTING ADDITIONAL ANNUAL MORTALITY TABLES**

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	( FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	\$ 0	\$ - 0

3. State Costs by Source of Funds	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S	0	- 0

II. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Annualized Fiscal impact on State funds from:	
	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	\$ 0	\$ - 0

**NET ANNUALIZED FISCAL IMPACT**

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.) **STEPHEN K. MUELLER 267-2833**    Authorized Signature/Telephone No. **Randy Blum 267-1233**    Date **APRIL 15, 1998**  
OCI

1983 TABLE 2-1,000px  
 TABLE 16  
 1983 TABLE 2-1,000px

TABLE 16  
1983 TABLE 2-1,000px

Age	Males	Females	Age	Males	Females	Age	Males	Females
5	0.377	0.194	45	2.399	1.122	85	90.987	65.518
6	0.350	0.160	46	2.693	1.231	86	99.122	73.493
7	0.333	0.134	47	3.009	1.356	87	107.577	82.318
8	0.352	0.134	48	3.343	1.499	88	116.316	92.017
9	0.368	0.136	49	3.694	1.657	89	125.394	102.491
10	0.382	0.141	50	4.057	1.830	90	134.887	113.605
11	0.394	0.147	51	4.431	2.016	91	144.873	125.227
12	0.405	0.155	52	4.812	2.215	92	155.429	137.222
13	0.415	0.165	53	5.198	2.426	93	166.629	149.462
14	0.425	0.175	54	5.591	2.650	94	178.537	161.834
15	0.435	0.183	55	5.994	2.891	95	191.214	174.228
16	0.446	0.201	56	6.409	3.151	96	204.721	186.535
17	0.458	0.214	57	6.839	3.432	97	219.120	198.646
18	0.472	0.229	58	7.290	3.739	98	234.735	211.102
19	0.488	0.244	59	7.782	4.081	99	251.889	224.445
20	0.505	0.260	60	8.338	4.467	100	270.906	239.215
21	0.525	0.276	61	8.983	4.908	101	292.111	255.951
22	0.546	0.293	62	9.740	5.413	102	315.826	275.201
23	0.570	0.311	63	10.630	5.990	103	342.377	297.500
24	0.596	0.330	64	11.664	6.633	104	372.086	323.390
25	0.622	0.349	65	12.851	7.336	105	405.278	353.414
26	0.650	0.368	66	14.199	8.090	106	442.277	388.111
27	0.677	0.387	67	15.717	8.888	107	483.406	423.023
28	0.704	0.405	68	17.414	9.731	108	528.989	473.692
29	0.731	0.423	69	19.296	10.653	109	579.351	525.658
30	0.759	0.441	70	21.371	11.697	110	634.814	584.462
31	0.786	0.460	71	23.647	12.890	111	695.704	650.646
32	0.814	0.479	72	26.131	14.319	112	762.343	724.750
33	0.843	0.499	73	28.835	15.980	113	835.056	807.316
34	0.876	0.521	74	31.794	17.909	114	914.167	898.885
35	0.917	0.545	75	35.046	20.127	115	1000.000	1000.000
36	0.968	0.574	76	38.631	22.654			
37	1.032	0.607	77	42.587	25.509			
38	1.114	0.646	78	46.951	28.717			
39	1.216	0.691	79	51.755	32.328			
40	1.341	0.742	80	57.026	36.395			
41	1.492	0.801	81	62.791	40.975			
42	1.673	0.867	82	69.081	46.121			
43	1.886	0.942	83	75.908	51.889			
44	2.129	1.026	84	83.230	58.336			

## III. Group Annuity Mortality Table

Attached (Attachment Two-A6) is an amendment to the model rule (regulation) for recognizing a new mortality table for use in determining reserve liabilities for group annuities. This amendment provides for a new mortality table, the 1983 GAM Table, for use in determining a minimum reserve standard for group annuity and pure endowment contracts. Previously the NAIC had adopted this model rule for the 1983 Table "a". The Task Force recommends the use of this new table as indicated in the proposed model regulation.

1983 GAM TABLE  
MALES

<u>Age</u>	<u>q</u>	<u>Age</u>	<u>q</u>	<u>Age</u>	<u>q</u>
5	.000342	40	.001238	76	.049388
6	.000318	41	.001370	77	.054758
7	.000302	42	.001527	78	.060678
8	.000294	43	.001715	79	.067125
9	.000292	44	.001932	80	.074070
10	.000293	45	.002183	81	.081484
11	.000298	46	.002471	82	.089320
12	.000304	47	.002790	83	.097525
13	.000310	48	.003138	84	.106047
14	.000317	49	.003513	85	.114836
15	.000325	50	.003909	86	.124170
16	.000333	51	.004324	87	.133870
17	.000343	52	.004755	88	.144073
18	.000353	53	.005200	89	.154859
19	.000365	54	.005660	90	.166307
20	.000377	55	.006131	91	.178214
21	.000392	56	.006618	92	.190460
22	.000408	57	.007139	93	.203007
23	.000424	58	.007719	94	.217904
24	.000444	59	.008384	95	.234086
25	.000464	60	.009158	96	.248436
26	.000488	61	.010064	97	.263954
27	.000513	62	.011133	98	.280803
28	.000542	63	.012391	99	.299154
29	.000572	64	.013868	100	.319185
30	.000607	65	.015592	101	.341086
31	.000645	66	.017579	102	.365052
32	.000687	67	.019804	103	.393102
33	.000734	68	.022229	104	.427255
34	.000785	69	.024817	105	.469531
35	.000860	70	.027530	106	.521945
36	.000907	71	.030354	107	.586518
37	.000966	72	.033370	108	.665268
38	.001039	73	.036680	109	.760215
39	.001128	74	.040388	110	1.000000
		75	.044597		

1983 GAM TABLE  
FEMALES

<u>Age</u>	<u>q</u>	<u>Age</u>	<u>q</u>	<u>Age</u>	<u>q</u>
		40	.000665	76	.027184
5	.000171	41	.000716	77	.030672
6	.000140	42	.000775	78	.034459
7	.000118	43	.000841	79	.038549
8	.000104	44	.000919	80	.042945
9	.000097	45	.001010	81	.047655
10	.000096	46	.001117	82	.052691
11	.000104	47	.001237	83	.058071
12	.000113	48	.001366	84	.063807
13	.000121	49	.001505	85	.069918
14	.000131	50	.001647	86	.076570
15	.000140	51	.001793	87	.084459
16	.000149	52	.001948	88	.091935
17	.000159	53	.002119	89	.101354
18	.000168	54	.002315	90	.111750
19	.000179	55	.002541	91	.123076
20	.000189	56	.002803	92	.135630
21	.000201	57	.003103	93	.149577
22	.000212	58	.003442	94	.165103
23	.000225	59	.003821	95	.182419
24	.000238	60	.004241	96	.201757
25	.000253	61	.004702	97	.222043
26	.000268	62	.005210	98	.243899
27	.000283	63	.005769	99	.268185
28	.000301	64	.006385	100	.295187
29	.000320	65	.007064	101	.325225
30	.000342	66	.007817	102	.358897
31	.000364	67	.008681	103	.395842
32	.000388	68	.009702	104	.438360
33	.000414	69	.010921	105	.487816
34	.000443	70	.012385	106	.545886
35	.000476	71	.014128	107	.614309
36	.000502	72	.016159	108	.694884
37	.000535	73	.018481	109	.789474
38	.000573	74	.021091	110	1.000000
39	.000617	75	.023992		



ANNUITY 2000 MALE MORTALITY TABLE

AGE NEAREST BIRTHDAY

AGE	1000qx	AGE	1000qx	AGE	1000qx	AGE	1000qx	AGE	1000qx
5	0.291	28	0.675	51	3.279	74	25.644	97	184.706
6	0.270	29	0.687	52	3.576	75	28.304	98	196.946
7	0.257	30	0.694	53	3.884	76	31.220	99	210.484
8	0.294	31	0.699	54	4.203	77	34.425	100	225.806
9	0.325	32	0.700	55	4.534	78	37.948	101	243.398
10	0.350	33	0.701	56	4.876	79	41.812	102	263.745
11	0.371	34	0.702	57	5.228	80	46.037	103	287.334
12	0.388	35	0.704	58	5.593	81	50.643	104	314.649
13	0.402	36	0.719	59	5.988	82	55.651	105	346.177
14	0.414	37	0.749	60	6.428	83	61.080	106	382.403
15	0.425	38	0.796	61	6.933	84	66.948	107	423.813
16	0.437	39	0.864	62	7.520	85	73.275	108	470.893
17	0.449	40	0.953	63	8.207	86	80.076	109	524.128
18	0.463	41	1.065	64	9.008	87	87.370	110	584.004
19	0.480	42	1.201	65	9.940	88	95.169	111	651.007
20	0.499	43	1.362	66	11.016	89	103.455	112	725.622
21	0.519	44	1.547	67	12.251	90	112.208	113	808.336
22	0.542	45	1.752	68	13.657	91	121.402	114	899.633
23	0.566	46	1.974	69	15.233	92	131.017	115	1000.000
24	0.592	47	2.211	70	16.979	93	141.030		
25	0.616	48	2.460	71	18.891	94	151.422		
26	0.639	49	2.721	72	20.967	95	162.179		
27	0.659	50	2.994	73	23.209	96	173.279		

SUM = 10915.2560

Filecode = 2000A--A.QXS

ANNUITY 2000 FEMALE MORTALITY TABLE

AGE NEAREST BIRTHDAY

AGE	1000qx	AGE	1000qx	AGE	1000qx	AGE	1000qx	AGE	1000qx
5	0.171	28	0.376	51	1.695	74	15.592	97	178.563
6	0.141	29	0.389	52	1.864	75	17.564	98	189.604
7	0.113	30	0.402	53	2.047	76	19.805	99	201.557
8	0.118	31	0.414	54	2.244	77	22.328	100	215.013
9	0.121	32	0.425	55	2.457	78	25.158	101	230.565
10	0.126	33	0.436	56	2.689	79	28.341	102	248.805
11	0.133	34	0.449	57	2.942	80	31.933	103	270.326
12	0.142	35	0.463	58	3.218	81	35.985	104	295.719
13	0.152	36	0.481	59	3.523	82	40.552	105	325.576
14	0.164	37	0.504	60	3.863	83	45.690	106	360.491
15	0.177	38	0.532	61	4.242	84	51.456	107	401.054
16	0.190	39	0.567	62	4.668	85	57.913	108	447.860
17	0.204	40	0.609	63	5.144	86	65.119	109	501.498
18	0.219	41	0.658	64	5.671	87	73.136	110	562.563
19	0.234	42	0.715	65	6.250	88	81.991	111	631.645
20	0.250	43	0.781	66	6.878	89	91.577	112	709.338
21	0.265	44	0.855	67	7.555	90	101.758	113	796.233
22	0.281	45	0.939	68	8.287	91	112.395	114	892.923
23	0.298	46	1.035	69	9.102	92	123.349	115	1000.000
24	0.314	47	1.141	70	10.034	93	134.486		
25	0.331	48	1.261	71	11.117	94	145.689		
26	0.347	49	1.393	72	12.386	95	156.846		
27	0.362	50	1.538	73	13.871	96	167.841		

SUM = 10258.8050

Filecode = 2000A--G.QXS

TABLE 1  
1994 Group Annuity Reserving Table

Age (x)	Male		Female		Age (x)	Male		Female	
	$q_x^{1994}$	$AA_x$	$q_x^{1994}$	$AA_x$		$q_x^{1994}$	$AA_x$	$q_x^{1994}$	$AA_x$
1	0.000592	0.020	0.000531	0.020	81	0.008988	0.015	0.005093	0.005
2	0.000400	0.020	0.000346	0.020	82	0.010147	0.015	0.005832	0.005
3	0.000332	0.020	0.000258	0.020	83	0.011471	0.014	0.006677	0.005
4	0.000259	0.020	0.000194	0.020	84	0.012940	0.014	0.007621	0.005
5	0.000237	0.020	0.000175	0.020	85	0.014535	0.014	0.008638	0.005
6	0.000227	0.020	0.000163	0.020	86	0.016239	0.013	0.009694	0.005
7	0.000217	0.020	0.000153	0.020	87	0.018034	0.013	0.010784	0.005
8	0.000201	0.020	0.000137	0.020	88	0.019859	0.014	0.011783	0.005
9	0.000194	0.020	0.000130	0.020	89	0.021729	0.014	0.012709	0.005
10	0.000197	0.020	0.000131	0.020	90	0.023730	0.015	0.013730	0.005
11	0.000208	0.020	0.000138	0.020	91	0.025951	0.015	0.014953	0.006
12	0.000226	0.020	0.000148	0.020	92	0.028481	0.015	0.016508	0.006
13	0.000255	0.020	0.000164	0.020	93	0.031201	0.015	0.018344	0.007
14	0.000297	0.019	0.000189	0.018	94	0.034051	0.015	0.020381	0.007
15	0.000345	0.019	0.000216	0.016	95	0.037211	0.014	0.022686	0.008
16	0.000391	0.019	0.000242	0.015	96	0.040858	0.014	0.025325	0.008
17	0.000430	0.019	0.000262	0.014	97	0.045171	0.013	0.028366	0.007
18	0.000460	0.019	0.000273	0.014	98	0.050211	0.012	0.031727	0.007
19	0.000484	0.019	0.000280	0.015	99	0.055861	0.011	0.035382	0.007
20	0.000507	0.019	0.000284	0.016	100	0.062027	0.010	0.039396	0.007
21	0.000530	0.018	0.000286	0.017	81	0.068815	0.009	0.043952	0.007
22	0.000556	0.017	0.000289	0.017	82	0.075532	0.008	0.049153	0.007
23	0.000589	0.015	0.000292	0.016	83	0.082510	0.008	0.054857	0.007
24	0.000624	0.013	0.000291	0.015	84	0.089613	0.007	0.060979	0.007
25	0.000661	0.010	0.000291	0.014	85	0.097240	0.007	0.067738	0.006
26	0.000696	0.006	0.000294	0.012	86	0.105792	0.007	0.075347	0.005
27	0.000727	0.005	0.000302	0.012	87	0.115671	0.006	0.084023	0.004
28	0.000754	0.005	0.000314	0.012	88	0.126980	0.005	0.093820	0.004
29	0.000779	0.005	0.000331	0.012	89	0.139452	0.005	0.104594	0.003
30	0.000801	0.005	0.000351	0.010	90	0.152931	0.004	0.116265	0.003
31	0.000821	0.005	0.000373	0.008	91	0.167260	0.004	0.128751	0.003
32	0.000839	0.005	0.000397	0.008	92	0.182281	0.003	0.141973	0.003
33	0.000848	0.005	0.000422	0.009	93	0.198392	0.003	0.155931	0.002
34	0.000849	0.005	0.000449	0.010	94	0.215700	0.003	0.170677	0.002
35	0.000851	0.005	0.000478	0.011	95	0.233606	0.002	0.186213	0.002
36	0.000862	0.005	0.000512	0.012	96	0.251510	0.002	0.202538	0.002
37	0.000891	0.005	0.000551	0.013	97	0.268815	0.002	0.219655	0.001
38	0.000939	0.006	0.000598	0.014	98	0.285277	0.001	0.237713	0.001
39	0.000999	0.007	0.000652	0.015	99	0.301298	0.001	0.256712	0.001
40	0.001072	0.008	0.000709	0.015	100	0.317238	0.001	0.276427	0.001
41	0.001156	0.009	0.000768	0.015	101	0.333461	0.000	0.296629	0.000
42	0.001252	0.010	0.000825	0.015	102	0.350330	0.000	0.317093	0.000
43	0.001352	0.011	0.000877	0.015	103	0.368542	0.000	0.338505	0.000
44	0.001458	0.012	0.000923	0.015	104	0.387855	0.000	0.361016	0.000
45	0.001578	0.013	0.000973	0.016	105	0.407224	0.000	0.383597	0.000
46	0.001722	0.014	0.001033	0.017	106	0.425599	0.000	0.405217	0.000
47	0.001899	0.015	0.001112	0.018	107	0.441935	0.000	0.424846	0.000
48	0.002102	0.016	0.001206	0.018	108	0.457553	0.000	0.444358	0.000
49	0.002326	0.017	0.001310	0.018	109	0.473150	0.000	0.464489	0.000
50	0.002579	0.018	0.001428	0.017	110	0.486745	0.000	0.482325	0.000
51	0.002872	0.019	0.001568	0.016	111	0.498356	0.000	0.495110	0.000
52	0.003213	0.020	0.001734	0.014	112	0.500000	0.000	0.500000	0.000
53	0.003584	0.020	0.001907	0.012	113	0.500000	0.000	0.500000	0.000
54	0.003979	0.020	0.002084	0.010	114	0.500000	0.000	0.500000	0.000
55	0.004425	0.019	0.002294	0.008	115	0.500000	0.000	0.500000	0.000
56	0.004949	0.018	0.002563	0.006	116	0.500000	0.000	0.500000	0.000
57	0.005581	0.017	0.002919	0.005	117	0.500000	0.000	0.500000	0.000
58	0.006300	0.016	0.003359	0.005	118	0.500000	0.000	0.500000	0.000
59	0.007090	0.016	0.003863	0.005	119	0.500000	0.000	0.500000	0.000
60	0.007976	0.016	0.004439	0.005	120	1.000000	0.000	1.000000	0.000

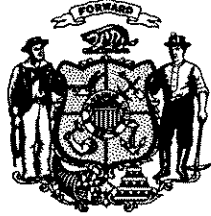
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***RULES CLEARINGHOUSE***

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-060**

AN ORDER to renumber HFS 167.05 (4); to amend HFS 167.05 (3); and to create HFS 167.05 (4), relating to the statewide poison control system.

Submitted by **DEPARTMENT OF HEALTH AND FAMILY SERVICES**

04-29-98 RECEIVED BY LEGISLATIVE COUNCIL.

05-14-98 REPORT SENT TO AGENCY.

RNS:JLK:kjf;jt

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

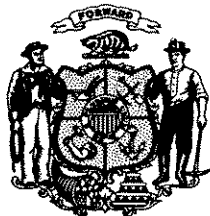
Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 98-060

### 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 October 1994.]**

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

a. The word "shall" should replace "shall" in s. HFS 167.05 (3) (intro.) since the word is part of the current rule.

b. In s. HFS 167.05 (4) (a), "an" should be inserted after "with" in the second sentence. Also, subs. 1. to 4. should end with periods.

c. In s. HFS 167.05 (4) (b), it appears that the term "on-duty staff" should be changed to "on-line staff", which is a defined term in s. HFS 167.03 (6). If it is deemed necessary to include the concept of being on duty in s. HFS 167.05 (4) (b), s. HFS 167.05 (4) (b) could refer to "a member of the on-line staff identified in sub. (3) (a) to (f) who is on duty."

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

a. The analysis indicates that a poison information provider may be a licensed practical nurse who has medication-dispensing experience. However, s. HFS 167.05 (4) (a) 4. refers only to a licensed practical nurse, licensed under ch. 441, Stats., without requiring that the nurse have medication-dispensing experience. This apparent discrepancy should be clarified.

b. Section HFS 167.05 (4) (a) (intro.) refers to a person who provides "poison information to manage non-toxic poison exposures." What constitutes "non-toxic poison exposures"?

c. Current s. HFS 167.05 (3) (g) refers to a "person employed as an on-line staff member at a center on May 1, 1994, who has worked in that capacity at the center for at least 3 years and who receives at least 16 documented hours of continuing education each year in interpreting poison data and in providing poison intervention and management information." The role of such a person is unclear under the proposed rule. The person is still listed in s. HFS 167.05 (3) as a person who interprets poison exposure data and provides poison intervention and management information. However, s. HFS 167.05 (4) (b) does not provide for referring incoming calls to such a person because it refers only to on-line staff identified in s. HFS 167.05 (3) (a) to (f).

If any employe continues to meet the criteria in s. HFS 167.05 (3) (g), how will tasks be assigned to such a person? If, as appears to be the case, such a person can provide services if he or she happens to answer the telephone directly, why can a poison information provider not refer calls to such a person?

PROPOSED ORDER OF THE  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
RENUMBERING, AMENDING AND CREATING RULES

To renumber HFS 167.05 (4); to amend HFS 167.05 (3); and to create HFS 167.05 (4), relating to the statewide poison control system.

Analysis Prepared by the Department of Health and Family Services

This rulemaking order amends the Department's rules for operation of the two 24-hour regional poison control centers in the state, at the University of Wisconsin Hospital and Clinics in Madison, and the Children's Hospital of Wisconsin in Milwaukee, to give the centers, at their request, more flexibility in staffing to respond to phone inquiries they receive.

The current rules specify the qualifications of on-line staff who interpret poison exposure data and provide poison intervention and management information. Yet about 70% of phone calls received by poison control centers originate from homes and do not require intervention. Consequently, most calls can be handled by staff who can provide the requested information about poisons without being expected to advise about intervention. Around the country, poison information providers with "appropriate health-oriented backgrounds," but without the intervention skills of physicians, registered nurses, pharmacists, certified poison information specialists and other types of staff now specified in ch. HFS 167, are employed to staff poison information hotlines, with physicians, registered nurses, pharmacists or poison information specialists available to handle calls requiring advice about intervention.

This order amends ch. HFS 167 to permit poison control centers to employ poison information providers with "appropriate health-oriented backgrounds," who receive at least 16 hours of relevant continuing education each year, to provide information about poisons and routine follow-up but not intervention advice related to toxic exposures or drug interaction interpretations for health care providers. The specified "appropriate health-oriented backgrounds" are licensed emergency medical technicians at basic, intermediate and paramedic levels, licensed practical nurses who have medication-dispensing experience and pharmacy interns.

The Department's authority to renumber, amend and create these rules is found in ss.146.57 (4) and 227.11 (2), Stats. The rules interpret s.146.57, Stats.



SECTION 1. HFS 167.05 (3) (intro.) is amended to read:

HFS 167.05 (3) (intro.) ~~On-line staff~~ Each on-line staff member at a regional poison control center who ~~will interpret~~ interprets poison exposure data and ~~provide~~ provides poison intervention and management information ~~shall include one or more be~~ one of the following:

SECTION 2. HFS 167.05 (4) is renumbered 167.05 (5).

SECTION 3. HFS 167.05 (4) is created to read:

HFS 167.05 (4) (a) Each on-line staff member at a regional poison control center who has the title poison information provider may provide poison information to manage non-toxic poison exposures and routine follow-up provided that he or she has an appropriate health-oriented background and receives at least 16 documented hours of job-relevant continuing education each year. A person with an appropriate health-oriented background is any of the following:

1. An emergency medical technician – basic, licensed under s. 146.50, Stats., and ch. HSS 110;
2. An emergency medical technician – intermediate, licensed under s. 146.50, Stats., and ch. HFS 111;
3. An emergency medical technician – paramedic, licensed under s. 146.50, Stats., and ch. HFS 112;
4. A licensed practical nurse, licensed under ch. 441, Stats.; or
5. A pharmacy intern registered under ch. Ph-Int 1.

(b) Poison information providers shall triage incoming calls dealing with toxic exposures and calls from health care providers who request drug interaction interpretations to the on-duty staff identified in sub. (3) (a) to (f).

~~check~~

The rules included in this order shall take effect on the first day of the month following their publication in the Wisconsin Administrative register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health and  
Social Services

Dated:

By: \_\_\_\_\_  
Joseph Leean  
Secretary

SEAL: