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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2009-10

(session year)

### Joint

(Assembly, Senate or Joint)

## Committee for Review of Administrative Rules ...

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  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
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\* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

**STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING**

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**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION  
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES  
AND LICENSING : (CLEARINGHOUSE RULE 10-081)**

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TO: Senator Jim Holperin, Senate Co-Chairperson  
Joint Committee for the Review of Administrative Rules  
Room 409 South, State Capitol  
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DEPARTMENT OF REGULATION AND LICENSING is submitting in final draft form rules relating to the Impaired Professionals Procedure.

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.

Thank you.

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**STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING**

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**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE  
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 10-081  
DEPARTMENT OF REGULATION : (s. 227.19 (3), Stats.)  
AND LICENSING :**

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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:**

The department finds that this rule has no significant fiscal effect on the private sector. This rule change will have no fiscal impact on the state of Wisconsin or on local units of government.

**IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**

These proposed rules modernize and clarify the language of ch. RL 7. Under the current rules, the Impaired Professionals Procedure is an alternative to the disciplinary process. Under the proposed rules, the renamed procedure, the Professional Assistance Procedure, may also be used in conjunction with the disciplinary process.

The department created a Task Force consisting of various stakeholder organizations, including the Boards of Pharmacy, Nursing and Medicine, trade associations representing hospitals, doctors, nurses and pharmacists, the Wisconsin Association of Justice Representatives and experts in the treatment of alcohol and drug dependency. The Task Force met six times in 2009 to discuss improvements to the existing procedure. A committee of the Task Force then convened in 2009-2010 to draft the rule changes with the department. All aspects of the procedure were explored in the Task Force meeting, including its effectiveness, requirements for entry, confidentiality, length of participation, terminology, practice restrictions, therapist involvement, disciplinary action and oversight of treatment providers and facilities by department staff and board members. Reports on procedures in other states were presented to the Task Force, in addition to information relating to laboratory facilities and treatment resources.

## **V. NOTICE OF PUBLIC HEARING:**

A public hearing was held on August 6, 2010. Written comments were accepted until August 9, 2010.

Judy Warmuth, Vice President, Wisconsin Hospital Association, appeared and provided testimony at the hearing and also provided written comments. Written comments were submitted by the Wisconsin Board of Nursing, the Wisconsin Nurses Association and Prosecuting Attorney Arthur Thexton from the Division of Enforcement, Department of Regulation and Licensing.

There was no other testimony presented and no further written comments were received.

### **Summary of Public Hearing Comments and Written Comments:**

Judy Warmuth's oral testimony and written comments on behalf of the Wisconsin Hospital Association (WHA) were supportive of the rule changes. A suggested change was to allow other state licensing boards to be informed that a licensee is enrolled in the procedure. The WHA believes that this change would help to ensure protection of the public.

The Wisconsin Board of Nursing (BON) commented that some of the proposed revisions were consistent with the BON goals, but there were some areas of concern. The foremost concern was that information about participants in the procedure should be available to other state licensing boards, especially to states that participate with the BON in the Multistate Nurse Licensure Compact. The BON expressed concern that this was essential to protection of the public and consistent with guidelines for alternative programs being developed by the National Council of State Boards of Nursing (NCSBN). The BON also had a number of recommendations primarily as to admission to the procedure criteria and discharge from the procedure criteria which would be consistent with the NCSBN guidelines being developed. The BON suggested that the promulgation of the rules be reconsidered or postponed until the NCSBN guidelines are released in final form or in the alternative that there be a separate agreement between the BON and the department that the BON would be allowed to establish admission and discharge criteria and be able to share information on participants with other state licensing boards.

The Wisconsin Nurses Association (WNA) expressed general support for the effort to improve these rules. The WNA raised a number of issues including adequate training for the board liaisons, inclusion of admission and discharge criteria making reference to the draft NCSBN guidelines, whether non-credentialed holders should be allowed to apply, and raising the issue of whether certain wording in the rules is an expansion of disciplinary authority. The WNA understands the concept of using the procedure in conjunction with discipline, but still wanted assurance that the language did not broaden the scope of the disciplinary authority.

Attorney Thexton recommended that the current admission criteria be retained. The current draft of the rule places responsibility for the criteria with the coordinator and removes the responsibility from the boards. Mr. Thexton commented that the revised rules may divert more licensees into the procedure and therefore reduce public information about who is under an agreement or order. He would like to provide more flexibility to release information about procedure participants, especially to sister state boards. Mr. Thexton commented about the lag in enrolling a participant into the procedure. He would like to see a rule requiring updates to applications. He would also like to see a rule-making violation of a procedure agreement to be unprofessional conduct, but acknowledges this is not possible in this rule-making. Finally, Mr. Thexton would seek to have the procedure expanded to include mental, physical and health conditions. He commented that six other prosecutors in the Division of Enforcement authorized him to state that they were in agreement with his comments.

### **Department Response to Public Hearing Comments and Written Comments:**

After review of the public hearing comments and the written comments, the department made the following changes to the proposed rules:

A sentence has been added to s. RL 7.08 (2) to address the protection of the public concerns raised regarding the need to be able to release participation and status information about participants in the procedure to licensing boards in other jurisdictions. This need is particularly critical to the BON as a participant in the Multistate Nurse Licensure Compact. Section RL 7.08 (2) has been amended to read:

RL 7.08 (2) AVAILABILITY OF PROCEDURE RECORDS FOR PUBLIC INSPECTION. Any requests to inspect procedure records shall be made to the custodian. The custodian shall evaluate each request on a case by case basis using the applicable law relating to open records and giving appropriate weight to relevant factors in order to determine whether public interest in nondisclosure outweighs the public interest in access to the records, including the reputational interests of the credential holder, the importance of confidentiality to the functional integrity of the procedure, the existence of any ~~pledge~~ promise of confidentiality, statutory or common law rules which accord a status of confidentiality to the records and the likelihood that release of the records will impede an investigation. The fact of a credential holder's participation in the procedure and the status of that participation may be disclosed to credentialing authorities of other jurisdictions.

The second sentence of s. RL 7.03 (4) will be amended to address concerns raised about eligibility criteria being developed by the coordinator without any input by the disciplinary authorities. Amended s. RL 7.03 (4) reads:

RL 7.03 (4) Eligibility for the procedure shall be determined by the board liaison and coordinator who shall review all relevant materials including investigative results and the credential holder's application for participation. Eligibility shall be determined upon criteria developed by the coordinator in consultation with the disciplinary authority. The

decision on eligibility shall be consistent with the purposes of these procedures as described in s. RL 7.01 (2). Credential holders who have committed violations of law may be eligible for the procedure. The board liaison shall have responsibility to make the determination of eligibility for the procedure.

The other comments received were carefully considered, but did not result in further changes to the rules for a number of reasons. Adequate training for board liaisons is not a rule issue, but a program issue to be addressed by the department. Allowing non-credential holders to apply for a period of one year from the date of application for a credential is considered by the department to be another means of protecting the public. The concern about whether there is an expansion of the disciplinary authority is unnecessary to address as the rules do not and could not expand the authority of boards to impose discipline. The lag time in enrolling participants may be addressed by procedure oversight and is not necessary to address by rule. The issue of making violation of the procedure agreement unprofessional conduct is beyond this rule-making. The expansion of the program to include mental, physical and health conditions is also beyond the scope of this rule-making. Reconsidering or postponing action on the rules until the NCSBN acts on its draft guidelines for alternative programs needlessly delays important rule changes applicable to all disciplinary authorities to an unknown date in the future. Additionally, many issues addressed in the NCSBN guidelines may be addressed with modifications to future participant agreements which are prepared by the procedure coordinator and do not require rule changes.

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

Comment 5.e. In s. RL 7.07 (3) (e), the agency might consider replacing the second sentence of the paragraph with the following: In making the decision if a referral should occur, the board liaison shall consider whether the credential holder's therapist and a therapist selected by the department approve the early termination."

Response: The department discussed s. RL 7.07 (3) (e) at length prior to submitting the proposed rule to the Clearinghouse, and will not be changing the language as suggested.

All of the other recommendations in the clearinghouse report were accepted in whole.

#### **VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:**

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

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION  
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES  
AND LICENSING : (CLEARINGHOUSE RULE 10-081)

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PROPOSED ORDER

An order of the Department of Regulation and Licensing to repeal RL 7.07 (1) and Appendix I to ch. RL 7; to renumber RL 7.03 (6); to renumber and amend RL 7.03 (1) and (3) to (5); to amend ch. RL 7 (title), RL 7.01 (2), 7.02 (1) to (2b) and (7), 7.03 (2), 7.04 (1) (e), (f), (2) and (3), 7.05 (3), 7.07 (3) (a), (b) and (c), 7.08 (2) and 7.11 (1) (d) and (e); and to create RL 7.03 (1) and 7.07 (3) (e) and (4), relating to the Impaired Professionals Procedure.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

**Statutes interpreted:**

Section 440.03, Stats.

**Statutory authority:**

Sections 15.08 (5) (b), 51.30, 146.82, 227.11 (2) and 440.04, Stats.

**Explanation of agency authority:**

The Department of Regulation and Licensing is authorized under s. 440.03 (1), Stats., to promulgate rules defining uniform procedures to be used by the department and the attached boards, examining boards and affiliated credentialing boards.

**Related statute or rule:**

Ch. RL 7.

**Plain language analysis:**

These proposed rules modernize and clarify the language of ch. RL 7. Under the current rules, the Impaired Professionals Procedure is an alternative to the disciplinary process. Under the proposed rules, the renamed Professional Assistance Procedure may also be used in conjunction with the disciplinary process.

**Summary of, and comparison with, existing or proposed federal regulation:**

None.

**Comparison with rules in adjacent states:**

**Illinois:**

Each profession is managed independently of other professions. See also Ill. Admin Code tit. 68, s. 1285.235 of the Illinois Rules, Mandatory Reporting of Impaired Professionals by Health Care Institutions.

**Iowa:**

Iowa Admin. Code 653-14.1 to 653-14.11. Section 653-14.5 (272C) defines who is deemed ineligible to participate in the program.

**Michigan:**

Section 333, Public Health Code. The Health Professional Recovery Program (HPRP) is administered by a private contractor under the direction of the HPRP and Bureau of Health Professions in the Michigan Department of Community Health. It is funded by participants and insurers. Several professions are included.

**Minnesota:**

MN Statutes ss. 214.31 to 214-37 includes the following professions: chiropractors, dentists, marriage and family therapists, nurses, pharmacists, podiatrists, social workers, veterinarians.

**Summary of factual data and analytical methodologies:**

The Department of Regulation and Licensing created a Task Force consisting of various stakeholder organizations, including the Boards of Pharmacy, Nursing and Medicine, trade associations representing hospitals, doctors, nurses and pharmacists, the Wisconsin Association of Justice Representatives and experts in the treatment of alcohol and drug dependency. The Task Force met six times in 2009 to discuss improvements to the existing procedure. A committee of the Task Force then convened in 2009-2010 to draft the rule changes with the department. All aspects of the procedure were explored in the Task Force meeting, including its effectiveness, requirements for entry, confidentiality, length of participation, terminology, practice restrictions, therapist involvement, disciplinary action and oversight of treatment providers and facilities by department staff and board members. Reports on procedures in other states were presented to the Task Force, in addition to information relating to laboratory facilities and treatment resources.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

The department does not anticipate a significant fiscal impact on small businesses. The changes are revisions to a program that is in operation and is funded by participants and license holders.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

**Anticipated costs incurred by the private sector:**

The department finds that this rule has no significant fiscal effect on the private sector.

**Fiscal estimate:**

This rule change will have no fiscal impact on the state of Wisconsin or on local units of government.

**Effect on small business:**

After review by the department’s Small Business Review Advisory Committee, it was determined that these proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at [hector.colon@drl.state.wi.us](mailto:hector.colon@drl.state.wi.us), or by calling (608) 266-8608.

**Agency contact person:**

Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 116, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0495; email at [pamela.haack@wisconsin.gov](mailto:pamela.haack@wisconsin.gov).

**Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 116, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to [pamela.haack@wisconsin.gov](mailto:pamela.haack@wisconsin.gov). Comments must be received on or before August 9, 2010, to be included in the record of rule-making proceedings.

## TEXT OF RULE

SECTION 1. Ch. RL 7 (title) is amended to read:

### CHAPTER RL 7

(title) ~~IMPAIRED PROFESSIONALS~~ PROFESSIONAL ASSISTANCE PROCEDURE

SECTION 2. RL 7.01 (2) is amended to read:

RL 7.01 (2) The intent of the department in adopting rules in this chapter is to protect the public from credential holders who are impaired by reason of their abuse of alcohol or other drugs by promoting early identification of chemically dependent professionals and encouraging rehabilitation. This goal will be advanced by providing an option ~~to that may be used in conjunction with~~ the formal disciplinary process for qualified credential holders committed to their own recovery. This procedure is intended to apply when allegations are made that a credential holder has practiced a profession while impaired by alcohol or other drugs or whose ability to practice is impaired by alcohol or other drugs or when a credential holder contacts the department and requests to participate in the procedure. ~~It is not intended to apply~~ may be used in conjunction with the formal disciplinary process in situations where allegations exist that a credential holder has committed misconduct, negligence or violations of law, other than practice while impaired by alcohol or other drugs, which are substantial. The procedure may then be utilized ~~in selected cases~~ to promote early identification of chemically dependent professionals and encourage their rehabilitation. Finally, the department's procedure does not seek to diminish the prosecution of serious violations but rather it attempts to address the problem of alcohol and other drug abuse within the enforcement jurisdiction of the department.

SECTION 3. RL 7.02 (1) to (2b) and (7) are amended to read:

RL 7.02 (1) "Board" means any board, examining board or affiliated credentialing board attached to the department ~~and the real estate board~~.

(2) "Board liaison" means the board member designated by the board or the secretary or the secretary's designee as responsible for approving credential holders for the ~~impaired professionals~~ professional assistance procedure under s. RL 7.03, for monitoring compliance with the requirements for participation under s. RL 7.04, and for performing other responsibilities delegated to the board liaison under these rules.

(2a) "Coordinator" means a department employee who coordinates the ~~impaired professionals~~ professional assistance procedure.

(2b) "Credential holder" means a person holding any license, permit, certificate or registration granted by the department or any board. For purposes of this chapter, "credential holder" includes a person with a pending application for a credential

for a period not to exceed one year from the date the application for the credential was submitted to the department.

(7) "Procedure" means the ~~impaired professionals~~ professional assistance procedure.

SECTION 4. RL 7.03 (1) is renumbered RL 7.03 (3) and is amended to read:

RL 7.03 (3) All informal complaints involving allegations of impairment due to alcohol or chemical dependency shall be screened and investigated pursuant to s. RL 2.035. After investigation, informal complaints involving impairment may be referred to the procedure along with a summary of the investigative results in the form of a draft statement of conduct to be used as a basis for the statement of conduct under s. RL 7.05 (1) (a) and considered for eligibility as an alternative to for the procedure or for formal disciplinary proceedings under ch. RL 2. The credential holder shall be provided with a written explanation of the credential holder's options for resolution of the matter through participation in the procedure and of the formal disciplinary process pursuant to ch. RL 2.

SECTION 5. RL 7.03 (1) is created to read:

RL 7.03 (1) A credential holder who contacts the department and requests to participate in the procedure shall be referred to the board liaison and the coordinator for determination of acceptance into the procedure.

SECTION 6. RL 7.03 (2) is amended to read:

RL 7.03 (2) A credential holder who has been referred to the procedure and considered for eligibility shall be provided with an application for participation, ~~a summary of the investigative results in the form of a draft statement of conduct to be used as a basis for the statement of conduct under s. RL 7.05 (1) (a), and a written explanation of the credential holder's options for resolution of the matter through participation in the procedure or through the formal disciplinary process pursuant to ch. RL 2.~~

SECTION 7. RL 7.03 (3) to (5) are renumbered RL 7.03 (4) to (6) and are amended to read:

RL 7.03 (4) Eligibility for the procedure shall be determined by the board liaison and coordinator who shall review all relevant materials including investigative results and the credential holder's application for participation. Eligibility shall be determined upon criteria developed by ~~each credentialing authority which shall include at a minimum the credential holder's past or pending criminal, disciplinary or malpractice record, the circumstances of the credential holder's referral to the department, the seriousness of other alleged violations and the credential holder's prognosis for recovery~~ the coordinator in consultation with the disciplinary authority. The decision on eligibility shall be consistent with the purposes of these procedures as described in s. RL 7.01 (2). Credential holders who have committed violations of law may be eligible for the

procedure. The board liaison shall have responsibility to make the determination of eligibility for the procedure.

(5) ~~Prior to the signing of an agreement for participation the~~ The credential holder shall obtain a comprehensive assessment for chemical dependency from a treatment facility or individual therapist approved under s. RL 7.06. The credential holder shall arrange for the treatment facility or individual therapist to file a copy of its assessment with the board liaison or coordinator. ~~The assessment shall include a statement describing the credential holder's prognosis for recovery.~~ The board liaison and the credential holder may agree to waive this requirement. The obtaining of the assessment shall not delay admission into the procedure.

(6) If a credential holder is determined to be ineligible for the procedure, the credential holder ~~shall~~ may be referred to the division for prosecution.

SECTION 8. RL 7.03 (6) is renumbered RL 7.03 (7).

SECTION 9. RL 7.04 (1) (e), (f), (2) and (3) are amended to read:

RL 7.04 (1) (e) Submit random monitored ~~blood or urine samples~~ physiological specimens for the purpose of screening for alcohol or controlled substances provided by a drug testing program approved by the department under s. RL 7.11, as required.

(f) Execute releases valid under state and federal law ~~in the form shown in Appendix I~~ to allow access to the credential holder's counseling, treatment and monitoring records.

(2) If the board liaison or department determines, based on consultation with the person authorized to provide treatment to the credential holder or monitor the credential holder's enrollment or participation in the procedure, or monitor any drug screening requirements or restrictions on employment under sub. (1), that a credential holder participating in the procedure has failed to meet any of the requirements set under sub. (1), the board liaison may ~~request that the board dismiss~~ refer the credential holder from the procedure to the division. A failure to maintain abstinence is considered a relapse and shall be reviewed by the board liaison to determine whether the credential holder should be referred to the division. The board ~~shall~~ liaison may review the complete record in making this determination. ~~If the credential holder is dismissed the matter shall be referred to the division.~~

(3) If a credential holder violates the agreement and ~~the board does not dismiss and refer the credential holder to the division~~ no referral to the division occurs, then a new admission under s. RL 7.05 (1) (a) shall be obtained for relapses and for misconduct, negligence or violations of law which are substantial. If a new admission is not obtained, then a referral to the division by the coordinator shall occur.

SECTION 10. RL 7.05 (3) is amended to read:

RL 7.05 (3) The board or board liaison may include a promise of confidentiality that all or certain records shall remain closed and not available for public inspection and copying. Any promise is subject to s. RL 7.08 and ends upon a referral to the division. Information and records may be made available to staff within the department on an as-needed basis, to be determined by the coordinator.

SECTION 11. RL 7.07 (1) is repealed.

SECTION 12. RL 7.07 (3) (a), (b) and (c) are amended to read:

RL 7.07 (3) (a) Credential holders participating in the procedure who ~~are dismissed for failure~~ fail to meet the requirements of their rehabilitation program ~~or who otherwise engage in behavior which should be referred to prevent harm to the public.~~

(b) Credential holders who apply and who are determined to be ineligible for the procedure where the board liaison is in possession of information indicating misconduct, negligence or a violation of law.

(c) Credential holders who do not complete an agreement for participation where the board liaison is in possession of information indicating misconduct, negligence or a violation of law.

SECTION 13. RL 7.07 (3) (e) and (4) are created to read:

RL 7.07 (3) (e) Credential holders who request early termination of an agreement for participation. In making the decision if a referral should occur, the board liaison shall consider whether the credential holder's therapist approves the early termination and whether this opinion is supported by a second therapist selected by the department who shall always be consulted and shall concur.

(4) The board liaison shall refer credential holders who relapse in the context of the work setting to the division for investigation and prosecution. A credential holder referred under this subsection who has not been dismissed from the procedure may continue to participate in the procedure.

SECTION 14. RL 7.08 (2) is amended to read:

RL 7.08 (2) AVAILABILITY OF PROCEDURE RECORDS FOR PUBLIC INSPECTION. Any requests to inspect procedure records shall be made to the custodian. The custodian shall evaluate each request on a case by case basis using the applicable law relating to open records and giving appropriate weight to relevant factors in order to determine whether public interest in nondisclosure outweighs the public interest in access to the records, including the reputational interests of the credential holder, the importance of confidentiality to the functional integrity of the procedure, the existence of any pledge

promise of confidentiality, statutory or common law rules which accord a status of confidentiality to the records and the likelihood that release of the records will impede an investigation. The fact of a credential holder's participation in the procedure and the status of that participation may be disclosed to credentialing authorities of other jurisdictions.

SECTION 15. RL 7.11 (1) (d) and (e) are amended to read:

RL 7.11 (1) (d) The program shall maintain a nationwide ~~800 number~~ toll-free access or an internet website that is operational 24 hours per day, 7 days per week to inform participants of when to provide specimens and is able to document the date and time of contacts by credential holders.

(e) The program shall maintain and make available to the department and treatment providers through an internet website data that are updated on a daily basis verifying the date and time each participant was notified after random selection to provide a specimen, the date, time and location each specimen was collected, the results of drug screen and whether or not the participant complied as directed.

SECTION 16. Appendix I to ch. RL 7 is repealed.

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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 \_\_\_\_\_

Celia M. Jackson, Secretary  
Department of Regulation and Licensing

Ch. RL 7 CR10-081 (Professional assistance procedure) Draft to Leg 8-26-10



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[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 10-081

AN ORDER to repeal RL 7.07 (1) and Appendix I; to renumber RL 7.03 (6); to renumber and amend RL 7.03 (1) and (3) to (5); to amend chapter RL 7 (title), RL 7.01 (2), 7.02 (1) to (2b) and (7), 7.03 (2), 7.04 (1) (e) and (f), (2) and (3), 7.05 (3), 7.07 (3) (a), (b), and (c), and 7.11 (1) (d) and (e); and to create RL 7.03 (1) and 7.07 (3) (d) and (4), relating to the impaired professionals procedure.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

06-30-2010 RECEIVED BY LEGISLATIVE COUNCIL.

07-13-2010 REPORT SENT TO AGENCY.

RS:JKR





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Ronald Sklansky  
Clearinghouse Director

Richard Sweet  
Clearinghouse Assistant Director

Terry C. Anderson  
Legislative Council Director

Laura D. Rose  
Legislative Council Deputy Director

### CLEARINGHOUSE RULE 10-081

#### Comments

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

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

- a. In s. RL 7.02 (1), “credentialing” should replace “credential.”
- b. In s. RL 7.03 (3), “s. RL 2.035” should replace “s. RL 2.05.”

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

a. In the “Illinois” section of the rule summary, the agency might consider replacing “section 1285.235 of the Illinois Rules” with “Ill. Admin. Code tit. 68, s. 1285.235” or a similar citation to clarify the reference. In addition, should Ill. Admin. Code tit. 68, ss. 1305.75 and 1360.86, relating to impaired advanced practice nurses and podiatric physicians, also be cited in this section?

b. In the “Iowa” section of the rule summary, the agency might consider replacing “Iowa administrative code s. 653.14” with “Iowa Admin. Code 653-14.1 to 653-14.11” or a similar citation to clarify the reference. In addition, the agency should check the website address included in this section.

c. In the “Michigan” section of the rule summary, the agency should clarify the reference to “Section 333, Public Health Code” in a manner similar to that described in a. and b. above.

- d. In the "Minnesota" section of the rule summary, "ss. 214.31 to 214.37" should replace "s. 214.31-214-37."
- e. In SECTION 3, "RL 7.02" should replace "RL 7.01."
- f. In SECTION 15, "to chapter RL 7" should be inserted after "Appendix I."

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

- a. In the "Minnesota" section of the rule summary, the last sentence is an incomplete sentence.
- b. In s. RL 7.01 (2), "that" should replace "which" on the fifth line of the subsection.
- c. In s. RL 7.04 (3), the agency should specify who should make a referral to the division.
- d. In s. RL 7.05 (3), it appears that "promise" should replace "pledge" in the subsection.
- e. In s. RL 7.07 (3) (e), the agency might consider replacing the second sentence of the paragraph with the following: "In making the decision if a referral should occur, the board liaison shall consider whether the credential holder's therapist and a therapist selected by the department approve the early termination."
- f. In s. RL 7.11 (1) (d), what does the agency intend with the term "adequately?"