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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 95-211

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 second sentence of s. RL 1.03 (1) should be placed in a newly created s. RL 1.03 (7) and should read: “‘Person’ includes a business entity.”

b. Section RL 1.04 should be created after the renumbering of current s. RL 1.04. Similarly, s. RL 1.05 should be created after the repeal of current s. RL 1.05. Finally, ss. RL 1.07, 1.08, 1.09, 1.12 and 1.13 should be created following the renumbering and amending of ss. RL 1.06 and 1.07.

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

a. A note following s. RL 1.01 indicating where to locate procedures used for denial of a renewal of a credential would be helpful.

b. In s. RL 1.10, the last sentence appears clearer with the phrase “the date of” retained rather than eliminated.

c. In s. RL 1.04, there appears to be a due process problem for an applicant who wants a hearing regarding an examination that is always given every six months. It appears that in this instance, an applicant would never be able to challenge the validity, scoring or administration of an examination. In particular, a question of validity cannot be necessarily resolved by retaking an examination.

d. In ss. RL 1.05 to 1.08, the agency may wish to specify, in either the text or a note, whether the days are intended to refer to “calendar” days or “working” days. If the intent is to have the time periods be calendar days, then the agency may wish to carefully review the length of time allowed to assure it is adequate for the purposes of the rule. Any changes in the text should also be reflected in the appended forms.

e. Section RL 1.08 (1) provides in part that, for purposes of a petition for review under s. 227.52, Stats., a request for a hearing is denied if a response to a request for a hearing is not issued within 45 days of its receipt by the credentialing authority. Because a petition for review must be filed within certain time deadlines, the notice of denial should clearly indicate that the time periods for a petition for review begin to run 45 days after a credentialing authority has received a request for a hearing and has not responded.

f. In s. RL 1.09 (1), does the phrase “when requested by a party” apply to both the phrases “hearings in which the testimony of witnesses is offered” and “other oral proceedings”?

g. An applicability section would aid in determining the initial application of the rule to pending or filed cases or complaints.

h. In s. RL 1.13 (2), what is “indigency”?

i. The form letter in Appendix 1 is somewhat misleading in that the second full paragraph notes that a person has a right to a hearing on the denial of an application. However, s. RL 1.08 provides that a request for a hearing may be denied and the last sentence of Appendix 1 implies that a decision denying a request may be entered.