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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 97-118

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 treatment clause of SECTION 2 can be revised to simply refer to “RL 70.02 (1) to (5)” and “RL 70.02 (2) to (6).” See also the treatment clause of SECTION 11.

b. Section RL 70.02 (1) (a) is awkwardly drafted. It appears, for example, that “not as an adjunctive therapy” should modify “primary means of treatment.” Also, “the” should be substituted for “such.”

c. Section RL 70.02 (1) (b) inappropriately includes substantive provisions in a definition. [See s. 1.01 (7), Manual.] Further, as drafted, the meaning of the paragraph is unclear. For example, which applicants are being referred to and for what purpose is the listed evidence to be submitted?

It is not clear why the provisions in SECTION 11 are being repealed and placed in a definition. Furthermore, the remaining subsection, which is renumbered s. RL 71.03, is meaningless standing alone--for which applicants and for what purpose is the evidence to be provided?

d. In s. RL 71.04, “shall be required to have taken and passed” should be replaced by “shall take and pass.”

e. It is suggested that s. RL 73.01 (intro.) be redrafted to provide: “For purposes of s. 451.14 (2) (b), Stats., engaging in conduct while practicing acupuncture that evidences a lack of

knowledge or ability to apply professional principles or skills includes:”. A descriptive title might be “Lack of knowledge or ability to apply professional principles or skills.”

f. In s. RL 73.02 (2), “if” should replace “providing.”

g. It is suggested that the introductory clause to s. RL 73.03 be revised to read as follows: “For purposes of s. 451.14 (2) (d), Stats., false, deceptive or misleading advertising includes:”. Furthermore, s. RL 73.01 (10) should arguably be repealed, since under s. 451.14 (2), advertising in a manner that is false, deceptive or misleading is a separate violation from engaging in conduct which evidences a lack of knowledge or ability to apply professional principles or skills.

In s. RL 73.03 (1), “An acupuncturist advertises in a manner that is false, deceptive or misleading if the acupuncturist advertises” should be deleted and replaced by “Advertising.” A parallel change should be made to s. RL 73.03 (2).

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

a. Can the reference to chs. RL 70 to 73 in s. RL 73.01 (4) be more specific?

b. If s. RL 73.01 (10) is not repealed, as suggested above, then s. RL 73.03 should be cross-referenced in s. RL 73.01 (10).

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

a. The clarity and grammar of the last sentence of the first paragraph of the department’s analysis need improvement.

b. The first sentence in the third paragraph of the analysis is somewhat misleading. It appears that s. RL 72.02 (1) will still require sterilization of acupuncture equipment that comes in contact with a patient’s blood or body fluids or penetrates the skin.

c. In s. RL 72.07 (2) (intro.), second sentence, the use of “presenting with” is somewhat awkward. Can the intent of the revision be stated in a different way? Is the current rule not adequate?