

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## ***RULES CLEARINGHOUSE***

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## **CLEARINGHOUSE RULE 98-090**

### **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 department’s analysis should add s. 961.38 (2), Stats., to both the list of statutes authorizing promulgation and the list of statutes interpreted.
- b. The analysis fails to note and discuss the amendment of s. Phar 8.09 (4), which revises the current 72-hour period to a seven-day period.
- c. In s. Phar 7.08 (3), “a” should replace the second “the.”
- d. In s. Phar 7.08 (4), it is suggested that “in connection with an electronically transmitted prescription order” follow “received” and that “only” be relocated to follow “accessible.”
- e. In s. Phar 7.08 (5), first sentence, “a” should replace the first two occurrences of “any.” In addition, “therein” should be replaced by “in the order.”
- f. It is suggested that the Note following s. Phar 7.08 (7) be relocated to follow sub. (1).

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

- a. If possible, the phrase “(e)xcept as otherwise prohibited by law” in s. Phar 7.08 (1) should be replaced by specific cross-references to pertinent statutes and rules.

b. The reference to “under law” in s. Phar 7.08 (2) (d) should be replaced by specific cross-references to pertinent statutes or rules.

c. Can the references in s. Phar 7.08 (7) to a pharmacist’s “responsibilities” and to “other pharmacy laws” be made more specific?

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

a. In s. Phar 7.01 (1) (a), the comma that follows the second “oral” in the current text of the rule is not included.

b. Section Phar 7.08 (2) (a) requires that a pharmacist “assures” that an electronically transmitted prescription order was sent only to the pharmacy of the patient’s choice and only at the option of the patient, with no intervening person or third party having access to the prescription order other than to forward it to the pharmacy. Is it possible for a pharmacist to assure that no intervening person or third party had access to the prescription? Can more guidance be given, either in the rule or in a note, as to how this requirement can be accomplished? See, also, comment d. below.

c. Consideration should be given to including in a note following s. Phar 7.08 (2) (c) examples of “similar words or abbreviations.”

d. Section Phar 7.08 (5) requires the system for transmitting prescriptions electronically to “have adequate security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of patient records.” Does the requirement apply to both ends of the system? Can more guidance be given as to what constitutes “adequate” security and system safeguards? For example, do adequate safeguards require:

- (1) That, during a message’s transit from sender to receiver, not only can no observer obtain access to the content of the data, but no observer can identify the sender and receiver?
- (2) That data cannot be lost or changed during transmission?
- (3) That the sender can be sure that the message reaches only the intended recipient?
- (4) That the recipient can be sure that the message came from the sender and not an imposter?

e. Section Phar 7.08 (6) appears only to apply to access to the system at the receiving end. Is that intended?