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CLEARINGHOUSE RULE 00-052

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 September 1998.]

1. Statutory Authority

In s. HFS 12.12 (2) (a) 2., the department does not have statutory authority to permanently bar approval of a person who has been convicted of a crime that is not listed in s. 48.685 (5) (bm), Stats. However, since that provision refers to crimes listed in section III of the appendix, and no appendix was included with the rule that was submitted to the Rules Clearinghouse, it is not possible to ascertain whether the department has exceeded its authority. Also, since the statute refers only to offenses under Wisconsin statutes, not offenses committed in other jurisdictions, it is unclear under what authority the department is including offenses committed in other jurisdictions.

2. Form, Style and Placement in Administrative Code

In s. HFS 12.03, sub. (1) should begin on a new line.

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

a. In s. HFS 12.02 (1) (b), “, Wis. Adm. Code,” should be deleted.

b. In s. HFS 12.03 (22) (b), “(1)” should be deleted because s. 48.833, Stats., does not contain a sub. (1).

- c. In s. HFS 12.12 (1) (b) 2., both instances of “(5) (d)” should be replaced with “(5d).”

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

a. In s. HFS 12.03, several of the definitions cite provisions in both ss. 48.685 and 50.065, Stats. These are drafted awkwardly. It seems unnecessary to divide each of these definitions into separate paragraphs. Perhaps the definitions in which the statutory definitions in the two sections are identical could simply state that the word or phrase has the definition given in the applicable sections (e.g., “direct contact” has the meaning specified in ss. 48.685 (1) (ar) and 50.065 (1) (br), Stats.). Perhaps the other definitions could be redrafted as follows: ““Caregiver” has the meaning specified in s. 48.685 (1) (ag) or 50.065 (1) (ag), whichever is applicable.”

b. In s. HFS 12.03 (12), “, unless all of the children are siblings, or if necessary to keep siblings together,” should be replaced with “or, if all are siblings,” to be consistent with the statutory language regarding foster homes.

c. In s. HFS 12.03 (25) (intro.), “, under ss. 48.685 (1) and 50.065 (1), Stats.,” could be deleted. Also, “both” could be replaced with “all” so that the paragraph need not be amended to accommodate additional paragraphs in the future.

d. In s. HFS 12.04 (1), “on file” should be deleted.

e. In s. HFS 12.04 (2), a comma should be inserted after “at a minimum.” Also, the comma following “name or names” should be moved to follow “and social security numbers.”

f. In s. HFS 12.05 (1) (a), “knew” should be replaced with “knows.”

g. In s. HFS 12.05 (2) (intro.), “All” should be replaced with “Any.”

h. In s. HFS 12.06 (1) (intro.), (2) (intro.) and (3) (intro.), “, any of the following” should be inserted at the end of the sentence.

i. In s. HFS 12.06 (1) (d), “their” should be replaced with “a client’s.”

j. In s. HFS 12.07 (1), “the abuse or neglect of, or threat of abuse or neglect to a child” should be replaced with “the abuse or neglect, or threat of abuse or neglect, of a child.”

k. In s. HFS 12.07 (3), what is the purpose of using the “regulatory agency’s next business day” instead of the “next business day”?

l. In s. HFS 12.12 (1) (a), “who are” should be inserted after “persons.” Also, “contracted” should be replaced with “contract.” Finally, “for those” should be inserted before “who are eligible to receive rehabilitation review.”

m. In s. HFS 12.12 (1) (b) 1., a phrase such as “if a plan submitted under s. 48.685 (5d) or 50.065 (5d), Stats., has been approved by the department” should be inserted at the end of the sentence.

n. In s. HFS 12.12 (2) (a) 1., the description of what is meant by “similar” is awkward. Perhaps the examples could be described more generally, such as positions that require a comparable level of direct contact with clients or application for different types of licenses that both relate to the care of children.

o. As noted earlier, s. HFS 12.12 (2) (a) 2. refers to an appendix. This is not attached to the rule.

p. In s. HFS 12.12 (4) (b), “*Timeframe*” should be written as two words.

q. In s. HFS 12.12 (4) (c), “*Requestor*” should be spelled “*Requester*.” This comment also applies to sub. (5) (a) 2. and (c).

r. In s. HFS 12.12 (4) (d) (intro.), “residency” should be replaced with “residing.”

s. In s. HFS 12.12 (4) (d) 8., does “similar authority” mean another jurisdiction? If so, please clarify.

t. In s. HFS 12.12 (4) (d) 10., “a” should be inserted before “profession.”

u. In s. HFS 12.12 (5) (a) 3., “that” should be inserted before “he or she may appeal.”

v. In s. HFS 12.12 (6) (b) and (c), “granted” should be replaced with “grants” or “has granted” and “when” should be replaced with “if.”

w. In s. HFS 12.12 (6) (d), “that” should be inserted before “any person.”

x. In s. HFS 12.12 (6) (h), “contracting” should be replaced with “contract” and “residing” should be replaced with “reside.”

y. In s. HFS 12.12 (7) (c) 1., “can” should be replaced with “may.”

z. In s. HFS 12.12 (7) (c) 4., “in fact” could be deleted.