

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 00-157

### 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

Will the requirement referred to in the new language of s. Phar 16.02 (1) be of general applicability or be applied on an individual basis? If the former, the specific requirements should be promulgated as a rule. See the definition of the term “rule” in s. 227.01 (13), Stats.

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

- a. The department’s analysis is deficient in several respects:
  - (1) The first narrative paragraph of the analysis cites ss. Phar 2.06 (4) and 4.02 (5) and (6). These sections are not treated in the rule.
  - (2) The first paragraph is also misleading. The rule does more than remove the consultation requirement from the licensure examination; it removes the entire laboratory practical examination, not merely the part that relates to consultation of patients. Further, the analysis indicates that the rule requires consultation programs as a part of continuing education. The rule does not expressly require this; s. RL 16.02 merely provides that the board may require that not more than 15 continuing education hours in each two-year period be acquired within specified topic areas. Finally, the last sentence of the first paragraph is also misleading. The current exam is the laboratory

practical examination which determines an applicant's competence in compounding and dispensing medication, including consultation of patients.

- (3) The second paragraph of the department's analysis fails to specify what the current examination requirements are for original licensure and for licensure of applicants already licensed in another state; fails to specify what the rule does to the current requirements; and fails to specify what the requirements will be if the rule is promulgated. Further, it does not appear that the rule achieves "consistent" licensure requirements as stated in the analysis; they may be more consistent than current requirements but there still is some variation. Furthermore, there are other ways to achieve consistency than by repealing current examination requirements. There is no indication why this method was utilized.
- (4) The last paragraph of the analysis should be part of the second paragraph; the amendment to s. Phar 2.03 (1) reflects a repeal cited in the second paragraph.

b. The underscored citation in s. Phar 2.03 (1) to s. Phar 4.02 (2) appears to assume the renumbering of s. Phar 4.02 (5), which the rule does not accomplish.

c. The statutes cited in the department's analysis under statutes authorizing promulgation and statutes interpreted do not include ss. 450.05 and 450.085, Stats. The department should review those sections to determine if they should be listed as well.