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# WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 01-028

### 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**

Section ATCP 82.04 (3) should be reviewed for consistency with s. 98.146 (2), Stats. The statute provides that licenses “. . . expire biennially on September 30 of the 2nd year commencing after the date of issuance or renewal.” For example, if a license is issued on February 1, 2000, the second year commencing after that is 2002, and the license would expire on September 30, 2002. Section ATCP 82.04 (3) (a) would have it expire on September 30, 2001.

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

In the analysis section, there should be a reference to the statutes the rules interpret, and to the statutes that confer rule-making authority. [See s. 1.02 (2), Manual.]

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

Section ATCP 1.32 (1) mentions only two scenarios: an administrative law judge issuing a proposed decision when the judge is not the final decision-maker, and an administrative law judge who is the final decision-maker issuing a final judgment without previously issuing a proposed decision. However, s. ATCP 1.31 (2) authorizes an administrative law judge who is the final decision-maker to issue a proposed decision before issuing a final decision. What happens if the administrative law judge issues a proposed decision under s. ATCP 1.31 (2) (a),

and then issues a final decision under s. ATCP 1.31 (1)? Presumably, the 30-day period would begin to run after the proposed decision was issued; however, s. ATCP 1.32 (1) does not address this scenario. A solution might be to change “. . . under s. ATCP 1.30 (1), or, if the administrative law judge . . .” to “. . . under s. ATCP 1.30 (1) or s. ATCP 1.31 (2) (a), or, if the administrative law judge . . .”