



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 06-096

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 January 2005.]

2. Form, Style and Placement in Administrative Code

a. The definition of “administer” in s. RL 180.02 (1) contains additional substance that is not necessary. The phrase “by a person licensed in this state to prescribe and administer drugs or by his or her authorized agent” should be deleted.

b. The phrase “, but is not limited to,” in the definition of “consultation” in s. RL 180.02 (2) is superfluous and should be deleted. This comment also applies to s. RL 183.01 (1) (c) and (i).

c. In the definition of “health care provider” in s. RL 180.02 (5), after the word “means” “a health care provider” should be inserted. [See s. 440.980 (1), Stats.]

d. In s. RL 181.01 (2), subds. 1. and 2. should be pars. (b) and (c) since sub. (2) currently only has one paragraph. As a result of this change, the reference in subd. 2. to “subd. 1.” should be to par. (b).

e. Parenthetical abbreviations should be avoided. [See s. 1.01 (6) and (8), Manual.] For example, see s. RL 181.01 (4) (a) 2. b.

f. In s. RL 182.03 (5) (a), all of the material following the first sentence should be placed in a separate paragraph and the first sentence should end with a colon.

g. In s. RL 182.03 (6) (intro.), “may” should replace “shall.” In par. (g) (intro.), “any of” should be inserted after “with.”

h. In s. RL 182.03 (6) (g) 17., note, the slashed alternative “maternal/fetal” should be replaced by “material risks or fetal risks.” Also, the note appears to contain substantive provisions.

i. In s. RL 183.01 (1) (t), the phrase “or with any other request for information by the department” is redundant and should be deleted.

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

a. The reference of statutory authority to subch. XII of ch. 440, Stats., is too general. It could be made more specific by citing s. 440.984, Stats.

b. In s. RL 181.01 (2) (a) 1., the citation for the renewal fee should be to s. 440.08 (2) (a) 46w.

c. In s. RL 181.01 (4) (b) 3., the reference should be to par. (a) 2. c.

d. In s. RL 182.03 (1) (b), “on call” should be hyphenated.

e. In s. RL 182.03 (1) (q), the acronym “HIPPA” is used. First of all, this term should be defined before the acronym is used. Second, if this is meant to refer to the Health Insurance Portability and Accountability Act, the acronym is wrong. The correct acronym is “HIPAA.” In addition, when this term is defined, a citation to the specific federal regulations should be included.

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

a. The explanation of agency authority states that the Department of Regulation and Licensing is “authorized” to promulgate rules. This should be changed to “required” to promulgate rules.

b. In the first paragraph under “Analysis and supporting documents used to determine effect on small business...,” the phrase “in consistence” in the third sentence should be changed to “consistent.”

c. In the note after s. RL 180.02 (1), “nurse prescribers” should replace “nurses.”

d. In s. RL 181.01 (1) (c), the applicant is required to include information that the applicant does not have an arrest or conviction record, subject to ss. 111.321, 111.322, and 111.335, Stats. This is a misleading statement. The statutes allow only a very limited consideration of an arrest record when making licensing decisions. Under s. 111.335 (1) (a), Stats., only information on ***pending charges*** may be requested. Any other request for information on an arrest record is not permitted.

e. Section RL 182.03 (1) (d), insert a comma after the word “postpartum.”

f. Section RL 182.03 (1) (h) should be rephrased as follows: “Observe mother and newborn until stable condition is achieved, but in no event for less than 2 hours.” The way this paragraph is currently phrased, it appears to permit observation for a shorter period than two

hours if the mother and newborn are stabilized prior to that time. The same comment applies to s. 182.03 (1) (j), which provides that the midwife shall “reevaluate maternal and newborn well being within 36 hours of delivery or as indicated.” Again, this appears to allow a reevaluation of well-being prior to 36 hours after delivery if the midwife determines that this is “as indicated.”

g. In s. RL 182.03 (2), the provisions are unclear as written. As the note indicates, some of the drugs listed are prescription drugs. A licensed midwife, unless he or she is an advanced practice nurse prescriber, may not prescribe prescription drugs. It should be clarified that the licensed midwife only administer drugs under the authorization of a licensed prescriber. This was attempted to be clarified in the definition of “administer” in s. RL 180.02 (1) and the note that follows, but this clarification would be better placed in this rule subsection.

h. In s. RL 182.03 (4) (b) (intro.), what is an “other licensed medical professional”? This term is not defined.

i. In s. RL 182.03 (4) (b) 1. a., if blood pressure of 140/90 on two occasions greater than six hours apart is intended to describe “pregnancy induced hypertension,” this should be indicated.

j. In s. RL 182.03 (4) (b) 2. g., the word “or” should be inserted after the semi-colon, if these are intended to be two separate events.

k. In s. RL 182.03 (4) (c) (intro.), does a parental request need to coexist with neonatal risk factors in order for a midwife to be required to consult with a physician or other licensed medical professional? What if there were risk factors without a parent request, or a parental request with no risk factors? Would there still need to be a required licensed midwife consultation with a physician or other licensed medical professional? This should be clarified.

l. In s. RL 182.03 (4) (c) 23., the word “or” should be inserted before the word “pale.” In s. RL 182.03 (4) (c) 24., the word “or” should be inserted after “distension” and the comma should be removed.

m. In s. RL 182.03 (5) (a) (intro.), and throughout the rule, the term “client” is used. This term should be defined. Does it include the mother, the father, the baby, or all of these people?

n. In s. RL 182.03 (5) (b), there should be a semi-colon after the word “suffering” instead of a comma.

o. In s. RL 182.03 (6) (g) 17., the word “ability” should be changed to “inability.”

p. In s. RL 183.01 (1) (a), the first “or” should be deleted.

q. In s. RL 183.01 (1) (i), the word “or” should be inserted before the word “reporting.”

r. In s. RL 183.01 (1) (L), the term “patient” is used. This appears to be the first time this term is used. Is this appropriate? Are lay midwives considered to have “patients”? How does this differ from “client”?

s. In s. RL 183.01 (1) (m), should the phrase “, whichever is later” be inserted at the end of the final sentence? For example, if a client is almost 18 years of age, should they not be allowed two full years after termination of services to be considered a client? Also, “age 18” should replace “the age of majority.”

t. In s. RL 183.01 (1) (q), commas should be inserted after the word “regimen” and after the word “product.”