



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 14-078

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

In s. NHA 4.02 (3), the proposed rule creates a process by which a licensee whose license has been surrendered, revoked, or not renewed may apply for reinstatement of the license. The proposed rule appears to interpret s. 456.11, Stats. The agency should review the proposed rule to ensure that it is consistent with s. 456.11, Stats., and any other applicable statutes. For example, reinstatement under s. 456.11, Stats., does not apply to revocations under s. 440.12, Stats., and s. 456.11, Stats., also states that application for reinstatement may not be made in the first year after a revocation. However, s. NHA 4.02 (3) does not explicitly contain these two limitations. In addition, should s. NHA 4.02 (3) explain how the board determines whether to reinstate a license?

2. Form, Style and Placement in Administrative Code

a. The introductory clause should read: “... to repeal NHA 2.02 (1) and (4) (Note 2) and 2.03; to renumber and amend NHA 4.01 (1) (d); to amend NHA 2.02 (4) and (4) (Note 1), 4.01 (1) (c) (Note), and 4.02 (1) (c) and (2) (a) 4.; and to create NHA 4.01 (1) (d) 1. to 3. and 4.02 (3), relating to entrance to examinations.”. The agency should also reference reinstatement in the relating clause because the proposed rule contains provisions relating to reinstatement in SECTION 9.

b. In s. NHA 2.02 (4) (Note 1), the comma after “Credentialing” should be underscored because it is new material. [s. 1.06 (1), Manual.] In addition, “East” should replace “E.” to accurately reflect the text of the current rule. These comments also apply to s. NHA 4.01 (1) (c) (Note).

c. In SECTION 4, why does the proposed rule repeal s. NHA 2.03? It appears that the repeal may be unnecessary because of the repeal of s. NHA 2.02 (1).

d. In s. NHA 4.01 (1) (d) (intro.), “~~s. NHA 2.02 (1)~~” should replace “~~s. NHA 2.02~~” to accurately reflect the text of the current rule.

e. In s. NHA 4.02 (1) (c), the period at the end of the paragraph should not be underscored. [s. 1.06 (1) and (4), Manual.]

f. In s. NHA 4.02 (2) (a) 4., “~~and (3)~~” should be inserted after “~~s. 440.08 (2) (a) 51.~~” to accurately reflect the text of the current rule.

g. With the creation of s. NHA 4.02 (3), the agency might consider amending the title of s. NHA 4.02 so that the title captures the contents of sub. (3).

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

a. In s. NHA 4.02 (1) (c) and (2) (a) 4., should “440.03 (9) (a)” replace “440.05 (1)”? Section 440.03 (9) (a), Stats., appears to be a more accurate statutory reference for credential renewal fees.

b. In s. NHA 4.02 (3) (a) 1., “s. NHA 4.02 (2) (b)” should replace “s. 4.02 (2) (b)”. [s. 1.07 (2), Manual.]

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

a. In the plain language section of the agency’s rule analysis, “Department” should be changed to the lowercase. In addition, “carryout” should be changed to “carry out”.

b. In s. NHA 4.02 (3) (a) (intro.), “the” should replace “their”.

c. In s. NHA 4.02 (3) (b), “a” should replace “their”.