



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 21-107

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. In ss. DCF 12.03 (2) and 12.04 (2) (c), the department should write in the singular form. [s. 1.05 (1) (c), Manual.]

b. There is no s. DCF 12.08 (2) (b) 1., only par. (b). The department should delete reference to subd. 1.

c. In SECTION 28, there should be no space between the chapter and section in “DCF 52.03”. [s. 1.10 (1) (b) 2., Manual.]

d. There is introductory material in s. DCF 52.41 (1) (c). As such, subd. 8. should be written to form a complete sentence when read together with the introduction. [s. 1.11 (2), Manual.]

e. In SECTION 41, the full text of s. DCF 55.02 (2) is not included in the proposed rule. Specifically, it excludes reference to s. 48.685, Stats., at the end of the provision. The department should review the intended treatment of this subsection and revise accordingly.

f. The treatment clause in SECTION 45 should be revised to specify that it is amending s. DCF 55.07 (3) (Note).

g. There is no s. DCF 56.13 (6) (f). As such, in SECTION 58, the department should review its treatment of par. (f), and revise the reference accordingly.

h. Section DCF 56.21 (3) (b) uses the term “respite care worker”. However, the term “respite care provider” is used throughout the rest of this chapter. The department should review the intent of the proposed treatment and consider using the term “respite care provider”.

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

In s. DCF 12.02 (8g), the definition of “congregate care facility” uses terms “group home”, “shelter care facility”, and “residential care center for children and youth”, which are defined elsewhere in the administrative code, but does not cross-reference the definitions of these terms.

The department should add cross-references to these three terms in the definition of “congregate care facility”.

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

a. In the rule summary, it appears that the department intends to list all of the changes made by the proposed rule. As such, the following changes made by the rule should also be included in the summary:

- (1) Gender-specific pronouns are replaced with gender-neutral terms.
- (2) The change listed under chs. DCF 13 and 50 related to the definition of “final substantiated finding” was also made in ch. DCF 12.
- (3) The deletion of information in s. DCF 12.06 (1) (a) (Note) regarding how a person may file an Equal Rights complaint for a suspected discriminatory termination.

b. In various places, the proposed rule replaces the possessive pronouns to non-gender specific nouns that are not possessive. For example, in s. DCF 12.02 (26) (b) 1., the phrase “his or her duties” is replaced with “the caregiving duties”. Replacing possessive pronouns with a noun that is not possessive may lead to ambiguity. Throughout the rule, the department should review the nouns it uses to replace the phrase “his or her” for purposes of clarity.

c. The proposed rule appears to make substantive changes to s. DCF 52.42 (7) (d) 4. The department should review the changes made to this subdivision, and explain these changes in the rule summary.

d. Sections DCF 55.13 (4) and 56.055 (4) have introductions, which state that a person is prohibited from receiving subsidized guardianship payments, or from obtaining a foster care license, respectively, if any of the items listed in the following paragraphs apply. However, in both ss. DCF 55.13 (4) (a) and 56.055 (4) (a), as repealed and recreated, it is unclear how to treat subs. 1. and 2., in relation to those introductions. The department should review the intent of the rule and either create additional introductions in both pars. (a) that precedes the subdivisions, or replace the subdivisions with pars. (a) and (am), such that the material would directly follow the respective sub. (4) (intro.).

e. SECTION 65 replaces the term “law in another state” with the term “law in another jurisdiction”. While this new term appears to be used in order to include tribal law, it is also ambiguous. In ch. 48, Stats., the terms “law of another state” and “tribal law” are used. The department should review the intent of the treatment and revise accordingly.