



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 24-039

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.]

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

a. The proposed rule defines the phrase, “telemedicine” in ch. Med 24 as “analogous” to “telehealth” as defined in s. 440.01 (1) (hm), Stats. The phrase “telemedicine” is used throughout the current administrative rule chapter. Could the chapter be made clearer by more comprehensively changing references from “telemedicine” to “telehealth” throughout, or is there a reason to retain “telemedicine” as a separate phrase? Additionally, if retained, use of the term “is analogous” in the definition could be considered ambiguous relative to s. 440.17, Stats., which directs that an agency “shall define ‘telehealth’ *to have* the meaning given in s. 440.10 (1) (hm)”. [Emphasis added.] Is there a reason the agency chose to use the term “is analogous” instead of specifying the connection between the two terms more directly?

b. In its plain language analysis, the agency refers to “an update” to a reference to the Physician Assistant Affiliated Credentialing Board, in apparent reference to the treatment proposed in SECTION 1 of the rule text. However, SECTION 1 of the rule text proposes the repeal of s. Med 24.01 (5), which in conjunction with s. Med 24.01 (intro.), reads: “The rules in this chapter may not be construed to prohibit any of the following: (5) Use of telemedicine by a physician assistant licensed by the medical examining board to provide patient care, treatment, or services within the licensee’s scope of practice under s. Med 8.07.”. Could the agency expand its plain language analysis to explain the effect of the repeal of s. Med 24.01 (5) in greater detail?

6. Potential Conflicts With, and Comparability to, Related Federal Regulations

With respect to the Fiscal Estimate and Economic Impact Analysis, consider explaining why the document does not compare the proposed rule with approaches being used by the federal government. For example, it appears the federal government defines “telehealth services” for purposes of Medicare in s. 42 C.F.R. 410.78. [See s. 227.137 (3) (a), Stats.]