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# Wisconsin Legislative Council

## RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 24-054

#### 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.]**

#### 1. Statutory Authority

The statutes specify that a temporary license may not be renewed. [s. 460.08, Stats.] However, the proposed rule allows a subsequent temporary license to be issued if the person presents a substantial change in circumstances. [SECTION 1 of the proposed rule, amending s. MTBT 6.02 (3) (b).] The board should review its authority to issue multiple temporary licenses to a person and explain how multiple, consecutive temporary licenses to a single person with a substantial change in circumstances differs from a prohibited renewal.

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

In SECTION 1 of the proposed rule, amending s. MTBT 6.02 (1) (d), the current full text of sub. (1) (d) should be shown. The second part of the current sentence is missing, and should be shown, whether it is amended or not. If the board intends to delete that portion of the current text of the rule, the current text should be shown with a strike-through.

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

In SECTION 1 of the proposed rule, amending s. MTBT 6.02 (1) (intro.), it appears that the new cross-reference should be corrected to “s. 460.05 (1) (f), Stats.”, in order to include sub. (1).

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

a. In the rule summary’s plain language analysis for the proposed rule, consider identifying the specific standards under the current rule to obtain a temporary license or more than one temporary license, and identifying how the specific standards will be different in the proposed rule. As proposed, the plain language analysis only states that the changes “include amendments regarding the exam and the ability of a licensee to receive more than one temporary license”. The analysis should contain sufficient detail to enable the reader to understand the content of the proposed rule and the changes made to the existing rules. [s. 1.01 (2) (b), Manual.]

b. The following comments apply in SECTION 1 of the proposed rule, amending s. MTBT 6.02 (3) (b):

- (1) Consider describing the types of circumstances that could constitute a “substantial change in circumstances” or identifying the standard the board will use in determining whether a change is “substantial”. An agency should avoid using subjective terms when setting a standard or condition. For example, would the board consider serious illness, personal adversity, active military service, or other hindering circumstances to be a substantial change in circumstances that could warrant reissuance of a temporary license? [s. 1.08 (1) (k), Manual.]
- (2) Should the word “expiration” be revised to “issuance”? It seems that a hindering circumstance could have occurred after the issuance of the first temporary license, even before it expires.

c. The following comments apply in SECTION 2 of the proposed rule, creating s. MTBT 6.02 (6):

- (1) The phrase “Temporary licensees who fail” should be revised to “A temporary licensee who fails”, as the provision would apply to each individual licensee. [s. 1.05 (1) (c), Manual.]
- (2) The board should identify under what circumstances the temporary license would be reviewed and what standards apply to determining whether a temporary license would be revoked. Also, the phrasing suggests that there are circumstances in which a person with a temporary license may fail the examination but could retain the temporary license; if so, this could be stated more clearly and identify the circumstances in which that would occur.
- (3) Consider rephrasing the provision using active voice. For example, consider starting the sentence along the following lines: “The board may review a temporary license if..”, or “The board shall revoke a temporary license if..”.