

Clearinghouse Rule 09-019

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING: : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 09-)

PROPOSED ORDER

An order of the Pharmacy Examining Board to repeal Phar 4.02 (2), relating to the practical examination.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Sections 450.04 and 450.05, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 450.02 (3) (d), Stats.

Explanation of agency authority:

The board is authorized under s. 450.02 (3) (d), Stats., to promulgate rules necessary for the administration of ch. 450, Stats., which includes approving examinations to determine whether an applicant is competent to engage in the practice of pharmacy. Refer also to s. 450.04 (1), Stats.

Related statute or rule:

Ch. Phar 4 sets forth the board's procedures for administering, scoring, handling claims of examination error and responding to requests to retake the examination.

Plain language analysis:

SECTION 1. In this proposed rule-making order, the board proposes to repeal s. Phar 4.02 (2), which relates to the practical examination required for licensure of pharmacists. Under the current rule, the board administers a practical examination to determine an applicant's competence in compounding and dispensing medications, which includes consultation of patients. The board has determined that this examination is no longer needed because the competencies tested in the examination are also tested in two other

national examinations that applicants are required to take in order to obtain a license in Wisconsin.

Summary of, and comparison with, existing or proposed federal regulation:

Federal Medicaid law requires a patient consultation on new prescriptions.

Comparison with rules in adjacent states:

Iowa:

Iowa does not have a separate patient consultation examination requirement.

Illinois:

Illinois does not have a separate patient consultation examination requirement.

Michigan:

Michigan does not have a separate patient consultation examination requirement.

Minnesota:

Minnesota does not have a separate patient consultation examination requirement.

Summary of factual data and analytical methodologies:

It was the board's custom over time to review examination performance at each full board meeting for the examination that occurred the day before its meetings. As a result of apparent trends that emerged from these post-examination reviews, the board undertook an analysis of aggregate examination pass rates as it discussed the ongoing need for a practical consultation examination and found rates to be significantly higher for graduates of the University of Wisconsin-Madison than for other pharmacy schools. The board also reviewed experience in other states and found that Wisconsin is one of only four states in the nation that continues to require a practical consultation examination. One of the implications suggested by the board as a result of its review is that the examination creates a barrier to licensure in Wisconsin, and that the benefits of the examination do not justify its costs.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

It is anticipated that elimination of the examination will have a positive impact on small business by yielding an enlarged pool of licensed pharmacists available for hire.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department finds that this rule has no significant fiscal effect on the private sector.

Effect on small business:

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0495; email at pamela.haack@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to pamela.haack@wisconsin.gov. Comments must be received on or before April 13, 2009, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Phar 4.02 (2) is repealed.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Chairperson

Pharmacy Examining Board

Phar 4.02 (2) CR09- (Practical examination) Draft to CH 2-25-09