

STATE OF WISCONSIN  
PHARMACY EXAMINING BOARD

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

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PROPOSED ORDER

An order of the Pharmacy Examining Board to repeal Phar 2.01, 2.03, 2.04, 2.06, 4.01, 4.03 (3), 4.04, 4.045, 4.046, 4.05; to amend Phar 2.02 (1) (intro) and (a), and 4.03; to repeal and recreate Phar 2.05; and to create Phar 1.02 (6m) and 2.02 (1) (f) and (g) relating to application and examination.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** ss. 450.03 (2), 450.04, 450.05, Stats.

**Statutory authority:** ss. 15.08 (5) (b) and 450.02 (3) (d) and (e), Stats.

**Explanation of agency authority:**

The Pharmacy Examining Board shall promulgate rules for its own guidance and for the guidance of the profession and define and enforce professional conduct and unethical practices not inconsistent with the law relating to pharmacy.

The Pharmacy Examining Board may promulgate rules necessary for the administration and enforcement of chapters 450 and 961; and establishing minimum standards for the practice of pharmacy.

**Related statute or rule:** n/a

**Plain language analysis:**

Section 1 creates a definition for NABP which is the National Association of Boards of Pharmacy.

Section 2 repeals the qualifications for licensure as duplicative.

Section 3 removes the requirement that the completed application be submitted prior to examination. The application requires components which may be done prior to taking the

examination. 2013 Wisconsin Act 114 prohibits the board from requiring a person to complete the required education prior to taking the examination.

Section 4 adds passing the examinations to the application procedure requirements.

Section 5 repeals the examinations for licensure as it is now addressed as part of the application requirements. It also repeals the qualifications for persons licensed in another state as duplicative.

Section 6 repeals and recreates the application procedure for applicants who hold a license in another state. The rule specifies that the a person who holds a license in another state complete the application, pay a fee, utilize the National Association of Boards of Pharmacy's Clearinghouse transfer application and take the multi-state pharmacy jurisprudence examination.

Section 7 repeals the examinations required for applicants who hold a license in another state as it is now addressed in the application procedure section.

Section 8 repeals the section on administration of the examinations due to the rule being out of date and the Board no longer administers the examinations.

Section 9 is amended to recognize the board may adopt the recommended passing score of the examination provider.

Section 10 repeals examination provisions which are obsolete due to the test n longer being a Board administered or developed test.

**Summary of, and comparison with, existing or proposed federal regulation:** None

**Comparison with rules in adjacent states:**

**Illinois:** Illinois applicants are required to: pay a fee, provide proof of graduation and internship, and pass an examination. Applicants holding a license in another state applying for an Illinois license are required to show the requirements in the state they were licensed by examination were substantially equivalent to the requirements in Illinois.

**Iowa:** Iowa applicants are required to: pay a fee, provide proof of graduation and internship and pass the North American Pharmacist Licensure Examination and Multistate Pharmacy Jurisprudence Examination, Iowa Edition. Applicants holding a license in another state applying for an Iowa license are required to utilize the National Association of Boards of Pharmacy license transfer process.

**Michigan:** Michigan applicants are required to: pay a fee, provide proof of graduation and internship and pass the North American Pharmacist Licensure Examination and Multistate Pharmacy Jurisprudence Examination. Applicants holding a license in another state applying for a Michigan license are required to establish that they hold a license in another state and were licensed by exam in that state and pass the Multistate Pharmacy Jurisprudence Examination.

**Minnesota:** Minnesota applicants are required to: pay a fee, provide proof of graduation and internship and pass the North American Pharmacist Licensure Examination and Multistate Pharmacy Jurisprudence Examination. Applicants holding a license in another state applying for a Minnesota license requirements are: passing the Multistate Pharmacy Jurisprudence exam, Minnesota version; evidence of internship or work experience and the Board may compel applicants who have not engaged in the practice of pharmacy in the two years preceding the filing of their application to take the North American Pharmacist Licensure Examination.

**Summary of factual data and analytical methodologies:**

The Board reviewed their rules to ensure statutory compliance and updated to current practices.

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

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis is attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at [Jeff.Weigand@wisconsin.gov](mailto:Jeff.Weigand@wisconsin.gov), or by calling (608) 267-2435.

**Agency contact person:**

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at [Sharon.Henes@wisconsin.gov](mailto:Sharon.Henes@wisconsin.gov).

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

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to [Sharon.Henes@wisconsin.gov](mailto:Sharon.Henes@wisconsin.gov). Comments must be received on or before the public hearing to be held on February 24, 2016 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. Phar 1.02 (6m) is created to read:

Phar 1.02(6m) “NABP” means the National Association of Boards of Pharmacy.

SECTION 2. Phar 2.01 is repealed.

SECTION 3. Phar 2.02 (1) (intro) and (a) are amended to read:

**Phar 2.02 Application procedure for original licensure.** (1) Each applicant for original licensure as a pharmacist shall submit ~~a completed notarized application prior to the examination date on forms provided by the board.~~ The application shall include all of the following:

(a) ~~The~~ Completed application form with the signature of the applicant.

SECTION 4. Phar 2.02 (1) (f) and (g) are created to read:

Phar 2.02 (1) (f) Evidence of having passed the NAPLEX.

(g) Evidence of having passed the multi-state pharmacy jurisprudence examination with Wisconsin as primary state.

SECTION 5. Phar 2.03 and 2.04 is repealed.

SECTION 6. Phar 2.05 repealed and recreated:

**Phar 2.05 Application procedure for persons licensed in another state.** Each applicant licensed as a pharmacist in another state shall submit all of the following:

- (1) Completed application and fee as determined by the department under s. 440.05, Stats.
- (2) NABP Clearinghouse license transfer application.
- (3) Evidence of having passed the multi-state pharmacy jurisprudence examination with Wisconsin as primary state.

SECTION 7. Phar 2.06 is repealed.

SECTION 8. Phar 4.01 is repealed.

SECTION 9. Phar 4.03 is amended to read:

Phar 4.03 Passing scores. (1) The passing scores set by the board represent the minimum competency required to protect public health and safety. The board may adopt the recommended passing score of the examination provider.

SECTION 10. Phar 4.03 (3) is repealed.

SECTION 11. Phar 4.04, 4.045, 4.046 and 4.05 are repealed.

SECTION 12. EFFECTIVE DATE. 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.

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(END OF TEXT OF RULE)  
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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

Phar 2, 4

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3. Subject

Application and Examination

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

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5. Chapter 20, Stats. Appropriations Affected

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect    Increase Existing Revenues    Increase Costs  
 Indeterminate    Decrease Existing Revenues    Could Absorb Within Agency's Budget  
 Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

State's Economy    Specific Businesses/Sectors  
 Local Government Units    Public Utility Rate Payers  
 Small Businesses (if checked, complete Attachment A)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

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9. Policy Problem Addressed by the Rule

The rule will revise the application rules to allow for the examination to be taken prior to completion of education pursuant to 20. In addition, the proposed rule updates and clarifies the application and examination requirements.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This rule was posted for economic impact comments for 14 days and none were received.

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11. Identify the local governmental units that participated in the development of this EIA.

This rule does not impact local governmental units and none participated in the development of this EIA.

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule does not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the State's economy as a whole.

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13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit is to have rules which are clear and conform to statutes and are current practices.

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14. Long Range Implications of Implementing the Rule

The long range implication is rules which are clear.

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15. Compare With Approaches Being Used by Federal Government

None

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16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

**Illinois:** Illinois applicants are required to: pay a fee, provide proof of graduation and internship, and pass an examination. Applicants holding a license in another state applying for an Illinois license are required to show the requirements in the state they were licensed by examination were substantially equivalent to the requirements in Illinois.

**Iowa:** Iowa applicants are required to: pay a fee, provide proof of graduation and internship and pass the North

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

American Pharmacist Licensure Examination and Multistate Pharmacy Jurisprudence Examination, Iowa Edition. Applicants holding a license in another state applying for an Iowa license are required to utilize the National Association of Boards of Pharmacy license transfer process.

**Michigan:** Michigan applicants are required to: pay a fee, provide proof of graduation and internship and pass the North American Pharmacist Licensure Examination and Multistate Pharmacy Jurisprudence Examination. Applicants holding a license in another state applying for a Michigan license are required to establish that they hold a license in another state and were licensed by exam in that state and pass the Multistate Pharmacy Jurisprudence Examination.

**Minnesota:** Minnesota applicants are required to: pay a fee, provide proof of graduation and internship and pass the North American Pharmacist Licensure Examination and Multistate Pharmacy Jurisprudence Examination. Applicants holding a license in another state applying for a Minnesota license requirements are: passing the Multistate Pharmacy Jurisprudence exam, Minnesota version; evidence of internship or work experience and the Board may compel applicants who have not engaged in the practice of pharmacy in the two years preceding the filing of their application to take the North American Pharmacist Licensure Examination.

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17. Contact Name

Sharon Henes

18. Contact Phone Number

(608) 261-2377

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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Scott Grosz  
*Clearinghouse Director*

Margit S. Kelley  
*Clearinghouse Assistant Director*

Terry C. Anderson  
*Legislative Council Director*

Jessica Karls-Ruplinger  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 16-017

AN ORDER to repeal Phar 2.01, 2.03, 2.04, 2.06, 4.01, 4.03 (3), 4.04, 4.045, 4.046, and 4.05; to amend Phar 2.02 (1) (intro.) and (a) and 4.03; to repeal and recreate Phar 2.05; and to create Phar 1.02 (6m) and 2.02 (1) (f) and (g), relating to application and examination.

Submitted by **PHARMACY EXAMINING BOARD**

01-25-2016 RECEIVED BY LEGISLATIVE COUNCIL.

02-22-2016 REPORT SENT TO AGENCY.

SG:SM

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached            YES             NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached            YES             NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached            YES             NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached            YES             NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached            YES             NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached            YES             NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached            YES             NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Terry C. Anderson  
*Legislative Council Director*

Jessica Karis-Ruplinger  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 16-017

#### 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.]

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

In SECTION 9 of the proposed rule, s. Phar 4.03 (title) should be indicated in bold text.

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

Section Phar 2.02 (1) (a) specifically requires an in-state applicant’s signature. Should that language be repeated in s. Phar 2.05?

STATE OF WISCONSIN  
PHARMACY EXAMINING BOARD

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

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PROPOSED ORDER

An order of the Pharmacy Examining Board to create Phar 8.13 relating to identification card required for certain controlled substances.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** s. 450.11 (1b), Stats.

**Statutory authority:** ss. 15.08 (5) (b), 450.11 (1b) (a) 1. and 450.11 (1b) (bm), Stats.

**Explanation of agency authority:**

The Pharmacy Examining Board shall promulgate rules for its own guidance and for the guidance of the profession and define and enforce professional conduct and unethical practices not inconsistent with the law relating to pharmacy. [s. 15.08 (5) (b)]

Health care facility means any other facility identified by the board by rule and the pharmacist shall maintain the record for a time established by the board by rule. [s. 450.11 (1b) (a) 1. and 450.11 (1b) (bm)].

**Related statute or rule:** Phar 7.05 (1m)

**Plain language analysis:**

This rule adds an inpatient hospice to the definition of health care facility. It also requires the record of the name of the person the drug is dispensed or delivered to shall be maintained for 5 years or until the name is submitted to the prescription drug monitoring program, whichever is sooner.

**Summary of, and comparison with, existing or proposed federal regulation:** None

**Comparison with rules in adjacent states:**

**Illinois:** Illinois requires identification for a prescription to be dispensed. The name and address of the purchaser is recorded and maintained for not less than 2 years.

**Iowa:** Iowa does not require identification for a prescription to be dispensed.

**Michigan:** Michigan does not require identification for a prescription to be dispensed.

**Minnesota:** Minnesota requires identification for a controlled substance being dispensed if the purchase is not covered in whole or in part by a health plan company or other third party payor. Minnesota requires prescription records to be kept for a minimum of 2 years.

**Summary of factual data and analytical methodologies:**

The Board recognizes an inpatient hospice is similar in nature to the other health care facilities in the definition. The 5 year timeframe to maintain records is consistent with the length of time other pharmacy records are to be maintained.

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

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis is attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jeffrey.Weigand@wisconsin.gov, or by calling (608) 267-2435.

**Agency contact person:**

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

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

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to Sharon.Henes@wisconsin.gov. Comments must be received at or before the public hearing to be held on February 24, 2016 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. Phar 8.13 is created to read:

Phar 8.13 **Identification card.** (1) In subsection 450.11 (1b) (a), Stats, "Health care facility" means a facility, as defined in s. 647.01(4); any hospital, nursing home, community-based residential facility, county home, county infirmary, county hospital, county mental health complex, or other place licensed or approved by the department of health services under s. 49.70, 49.71, 49.72, 50.03, 50.032, 50.033, 50.034, 50.35, 51.08, or 51.09, Stats.; a facility under s. 45.50, 51.05, 51.06, 233.40, 233.41, 233.42, or 252.10, Stats.; and a hospice facility under s. 50.90 (1) (c), Stats.

(2) A pharmacist or other person dispensing or delivering a drug shall legibly record the name on each identification card presented under 450.11 (1b) (b), Stats. to the pharmacist or other person, and the name of each person to whom a drug is dispensed or delivered subject to 450.11 (1) (3) 2., Stats and shall maintain that record for 5 years or, for a record that is subject to s. 961.385, Stats., until the name is delivered to the controlled substances board under s. 961.385, Stats. whichever is sooner.

SECTION 2. EFFECTIVE DATE. 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.

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(END OF TEXT OF RULE)  
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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

Phar 8

---

3. Subject

Relating to identification card required for certain controlled substances

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect    Increase Existing Revenues    Increase Costs  
 Indeterminate    Decrease Existing Revenues    Could Absorb Within Agency's Budget  
 Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

State's Economy    Specific Businesses/Sectors  
 Local Government Units    Public Utility Rate Payers  
 Small Businesses (if checked, complete Attachment A)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

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9. Policy Problem Addressed by the Rule

2013 Act 199 requires the pharmacist to record the name of the person, obtained from the identification card or known to the pharmacist, to whom the drug is dispensed or delivered to and requires the board to promulgate rules to designate the time period for which the record is to be maintained. The Board designates a time period of 5 years to be consistent with the other pharmacy record retention requirements.

In addition, 2013 Act 199 allows the pharmacy board to add facilities to the definition of a health care facility. This rule recognizes that inpatient hospice facilities are similar in nature to the other facilities designated in the definition.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This rule was posted for economic impact comments for 14 days and none were received.

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11. Identify the local governmental units that participated in the development of this EIA.

This rule does not impact local governmental units and none participated in the development of this EIA.

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule does not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the State's economy as a whole.

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13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit to implementing the rule is to create consistency and clarity.

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14. Long Range Implications of Implementing the Rule

The long range implication is a rule which is consistent with other pharmacy rules.

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15. Compare With Approaches Being Used by Federal Government

None.

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16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Michigan and Iowa do not require identification for a prescription to be dispensed. Illinois requires identification and

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**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

requires the name and address be maintained for not less than 2 years. Minnesota requires identification for a controlled substance being dispensed if the purchase is not covered in whole or in part by a health plan company or other third party payor and requires the record to be maintained for a minimum of 2 years.

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17. Contact Name

Sharon Henes

18. Contact Phone Number

(608) 261-2377

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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
- 

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Scott Grosz  
*Clearinghouse Director*

Margit S. Kelley  
*Clearinghouse Assistant Director*

Terry C. Anderson  
*Legislative Council Director*

Jessica Karls-Ruplinger  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 16-018

AN ORDER to create Phar 8.13, relating to identification card required for certain controlled substances.

Submitted by **PHARMACY EXAMINING BOARD**

01-25-2016 RECEIVED BY LEGISLATIVE COUNCIL.

02-22-2016 REPORT SENT TO AGENCY.

MSK:BL





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Scott Grosz  
Clearinghouse Director

Margit Kelley  
Clearinghouse Assistant Director

Terry C. Anderson  
Legislative Council Director

Jessica Karls-Ruplinger  
Legislative Council Deputy Director

### CLEARINGHOUSE RULE 16-018

#### 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.]**

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

a. In s. Phar 8.13 (1), a more direct distinction should be made between the statutory definition and the additional meaning added under the proposed rule, with a clear statement for the extent of its applicability. For example, the subsection could be phrased as follows: “In s. 450.11 (1b) (e) 3., Stats., a ‘health care facility’ has the meaning given in s. 450.01 (1b) (a), Stats., and also means a hospice facility as defined in s. 50.90 (1) (c), Stats.”. Then, if desired, the definition under s. 450.01 (1b) (a), Stats., could be provided in a Note to the subsection.

b. In s. Phar 8.13 (2), the Board should consider moving the five-year record-keeping requirement to s. Phar 8.02. There is no relationship between subs. (1) and (2) in proposed s. Phar 8.13, and it is not necessary to repeat the entire statutory provision. For example, the rule could instead create s. Phar 8.02 (2m), to provide that:

Records required under s. 450.11 (1b) (bm) shall be maintained for at least 5 years from the date the drug was dispensed, or, for a record that is subject to s. 961.385, Stats., until the name of a person to whom a drug is dispensed is delivered to the controlled substances board under s. 961.385, Stats., whichever is sooner.

c. If s. Phar 8.13 (2) is moved to s. Phar 8.02, then s. Phar 8.13 (1) should be numbered as s. Phar 8.13. Also, consider revising the title of the section to “Identification card exception for a health care facility.”.

d. In SECTION 2 of the proposed rule, the full name of the publication, "Wisconsin Administrative Register," should be capitalized. [s. 1.02 (4) (Example), Manual.]

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

If the language in s. Phar 8.13 (2) is maintained, the citation to "450.11 (1) (3) 2., Stats" should be corrected to "s. 450.11 (1b) (e) 2., Stats.". Also, the format of the citation should include an "s." before the number and a period after "Stats". [s. 1.07 (2) (Table), Manual.]

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

In the rule summary, a more descriptive narrative could be given in the explanation of agency authority and plain language analysis to explain the interaction of the proposed rule with the statutory identification card requirements, and the statutory exception for a drug that is delivered to a health care facility.