



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 20-025

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.]

1. Statutory Authority

a. With respect to proposed s. Cos 2.046 (1) (d), the board should explain its authority to generally require licensees practicing outside of a licensed establishment to comply with the sanitation and safety precautions in ch. Cos 4, Wis. Adm. Code. The standards in ch. Cos 4 appear to be promulgated pursuant to s. 454.08 (4), Stats., which authorizes the board to establish minimum standards concerning the maintenance, equipment, plans, and specifications for licensed establishments as they relate to the public health and safety.

In its plain language analysis, the board cites s. 454.08 (1) (ag), Stats., as authority to impose the same sanitation and safety standards outside of a licensed establishment. However, that provision appears to apply only with respect to regulation of the use of chemical process in such circumstances. Thus, if relying solely on s. 454.08 (1) (ag), Stats., it would appear the board’s authority would require the reference to compliance with sanitation and safety precautions to be linked more specifically to the use of chemical process outside of a licensed establishment. Alternatively, the board should describe its reliance on other sources of authority in additional detail.

b. The board should consider adding a section that repeals ch. Cos 11, which sets forth continuing education requirements that no longer apply following 2017 Wisconsin Act 81.

2. Form, Style and Placement in Administrative Code

In s. Cos 2.06 (5), underscored text should follow all stricken text in the second line of the provision.

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

- a. For clarity, should the board define the term “chemical process”?
- b. Regarding the language in s. Cos 4.05 (2) (b) that explicitly requires a licensee to excuse him or herself in the case of certain injuries to patrons, the board should more clearly explain the purpose of the provision in its plain language analysis, or consider deleting the provision.
- c. In s. Cos 4.045, replace the words “are prohibited from using” with “may not use”. [s. 1.01 (2), Manual.]
- d. Generally, the board should review the proposed rule to ensure consistent use of singular rather than plural pronouns. See, for example, s. Cos 5.015 and the Note to s. Cos 8.01.
- e. In s. Cos 4.05 (1) and (2), replace “the licensee shall take the following actions” with “the licensee shall do all of the following”.
- f. In s. Cos 8.02 (3), add a space between the words “service” and “members”, use singular rather than plural pronouns, and insert a comma after the reference to s. 454.06, Stats.