

Report From Agency

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING: : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND
DEPARTMENT OF REGULATION : LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 06-125)

ORDER

An order of the Department of Regulation and Licensing to create RL 4.07 (66m) and chs. RL 174 to 177 relating to the registration of sanitarians.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Sections 440.03 (13) (a), (b) and (c) and 440.98, Stats.

Statutory authority:

Sections 227.11 (2), 440.03 (13) (a), (b) and (c) and 440.98, Stats.

Explanation of agency authority:

The Department of Regulation and Licensing has the authority to promulgate rules interpreting the provisions of any statute enforced or administered by it and to effectuate the purpose of the statute. The creation of administrative rules for the regulation of registered sanitarians is necessary to implement the changes resulting from 2005 Wisconsin Act 25.

Related statute or rule:

The proposed rules are intended to replace the former rules in ch. HFS 160.

Plain language analysis:

The creation of administrative rules for the regulation of registered sanitarians is necessary to implement the changes resulting from 2005 Wisconsin Act 25. Registered sanitarians had been regulated in ch. HFS 160.

The proposed rules shall apply to all persons educated and experienced in the field of environmental health who desire to be registered as a sanitarian. The rules will establish minimum standards and qualifications for licensure of registered sanitarians, set standards for sanitarians registered in other states to practice as registered sanitarians in this state, as well as define the basis for discipline of credential holders. The rules contain definitions, registration requirements, qualifications for examination, qualifying work experience requirements, reciprocal licensure, and standards of conduct.

Section RL 4.07 (66m) is created to include registered sanitarians in the department's rules relating to conducting investigations to determine whether an applicant for registration as a sanitarian has been charged with or convicted of a crime.

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

There is no existing or federal regulation pending.

Comparison with rules in adjacent states:

Minnesota:

Minnesota regulates and licenses environmental health specialists and sanitarians pursuant to Minnesota Statute 214.3 and Minnesota Administrative Code R. 4695.2500-4695.3200 to plan, develop, and enforce health and sanitation standards and prevent the spread of the communicable diseases. The regulations specify the requirements and procedures for obtaining licensure, including education, examination, work experience and fees.

Michigan:

Michigan regulates and licenses sanitarians pursuant to their Public Health Code located in Michigan Compiled Laws ss. 333.18401 – 333.18421 and Michigan Administrative Code R. 338-3901 et seq., with specified requirements for qualifying education, examination and experience.

Illinois:

Illinois regulates and licenses environmental health practitioners pursuant to 225 Illinois Compiled Statutes Part 37 and Illinois Administrative Code, Title 68, part 1247. The Illinois rules include provisions governing licensure and examination requirements, approved educational programs, work experience, supervision, endorsement, renewals and fees.

Iowa:

Iowa does not regulate or license sanitarians. A voluntary registration program is operated by the Iowa Environmental Health Association.

The comparison information with the rules in adjacent states was obtained directly from a review of the state statutes and rules. The rule revisions were based on information from various sources and recommendations from advisory committee members who were knowledgeable about the profession. The comparison of the proposed rules to the adjacent states demonstrates that the rules are comparable to those in adjacent states.

Summary of factual data and analytical methodologies:

No study resulting in the collection of factual data was used relating to this rule. The primary methodology for creating the rule is the department's analysis and determination that a rule change is necessary.

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

The proposed rules would reflect the statutory requirements for the transfer of credentialing authority of registered sanitarians to the Department of Regulation and Licensing. The rules will establish minimum standards and qualifications for licensure of registered sanitarians, set standards for sanitarians registered in other states to practice as registered sanitarians in this state, as well as define the basis for discipline of credential holders.

There are 579 registered sanitarians licensed in Wisconsin. Of the 579 registered sanitarians, a very small percentage of them probably work in small business. The field is primarily made up of state and local public health officials. This rule change will not have an effect on small business.

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 estimates that the proposed rule will have no significant fiscal impact.

Effect on small business:

These proposed rules will have no significant 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 larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

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 53708-8935. Telephone: (608) 266-0495. Email: pamela.haack@drl.state.wi.us.

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

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us. Comments must be received on or before December 13, 2006, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RL 4.07 (66m) is created to read:

RL 4.07 (66m) Registered sanitarian.

SECTION 2. Chapters RL 174 to 177 are created to read:

Chapter RL 174

REGISTERED SANITARIANS
AUTHORITY, SCOPE, PURPOSE AND DEFINITIONS

RL 174.01 Authority and intent. The rules in chs. RL 174 to 177 are adopted pursuant to s. 440.98, Stats.

RL 174.02 Scope. The rules in chs. RL 174 to 177 shall apply to all persons educated and experienced in the field of environmental health who desire to be registered as a “registered sanitarian.”

RL 174.03 Purpose. Sanitarian registration minimum qualifications are established to:

- (1) Safeguard life, health and the environment.
- (2) Identify persons qualified in environmental health services.
- (3) Develop reciprocity agreements with states having equivalent registration requirements.

(4) Promote the delivery of environmental health services by qualified individuals certified on the basis of recognized examination.

RL 174.04 Definitions. In chs. RL 174 to 177:

(1) “Accredited college or university” means an educational institution that is accredited by a regional or national accrediting agency recognized by the U.S. Department of Education.

(2) “Department” means the department of regulation and licensing.

(3) “Environmental health” means the science and art which pertains to the protection of human health through the assessment, management, control and prevention of environmental factors that may adversely affect the health, comfort, safety or well being of individuals or the environment.

(4) “Field of environmental health” means employment, whether private or public, where the principles of environmental health are directly applied to one or more of the following areas:

- (a) Air quality.
- (b) Food protection.
- (c) Hazardous substances.
- (d) Product safety.
- (e) Housing.
- (f) Institutional health and safety.
- (g) Radiation protection.
- (h) Recreational areas and waters.
- (i) Solid waste management.
- (j) Vector control.
- (k) Water quality.
- (L) Wastewater technology and management.
- (m) Hazardous waste management.

(n) Industrial hygiene.

(o) Water supply.

(5) “Full-time equivalent employment” means an accumulation of 2,080 hours for one year of creditable employment experience in the field of environmental health. All creditable hours shall be within the scope of environmental health practice.

(6) “Nationally recognized professional examination” means a department-approved written examination designed to assess the knowledge and competence of professional sanitarians.

(7) “Registered sanitarian” means a sanitarian or environmental health professional registered in accordance with the provisions of chs. RL 174 to 177 and s. 440.98, Stats.

(8) “Registered sanitarian advisory committee” means the committee established by the secretary of the department, pursuant to s. 440.042, Stats., to advise the department in matters related to the administration of chs. RL 174 to 177.

Chapter RL 175

APPLICATION FOR REGISTRATION

RL 175.01 Application. Any person seeking a certificate of registration as a sanitarian shall submit a completed application on forms supplied by the department.

Note: Application forms are available on request to the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin, 53705, or from the department’s website at: <http://drl.wi.gov>.

RL 175.02 Qualifications for examination. (1) The department shall issue an approval for examination to an individual who meets the educational and qualifying work experience requirements under this chapter and whose application has been approved by the department.

(2) An applicant for examination shall submit evidence, including verified college or university transcripts, and completion of one of the following combinations of education and experience:

(a) A baccalaureate or higher degree in environmental health from an accredited college or university with at least 30 semester or 45 quarter hour academic credits in environmental, physical, biological, chemical, or environmental health areas and one year of full-time equivalent employment in the field of environmental health.

(b) A baccalaureate or higher degree in physical or biological sciences from an accredited college or university with at least 30 semester or 45 quarter hour academic credits in environmental, physical, biological, chemical, or environmental health areas and 2 years of full-time equivalent employment in the field of environmental health.

(c) A baccalaureate or higher degree from an accredited college or university and 4 years of full-time equivalent employment in the field of environmental health.

(d) An associate degree from an accredited college, community college or technical institute in environmental, physical, biological or chemical sciences, and 5 years of full-time equivalent employment in the field of environmental health.

(e) An associate degree from an accredited college, community college or technical institute and 8 years of full-time equivalent employment in the field of environmental health.

(3) Proof of required education shall be submitted in the form of an original official transcript and shall be sent by the educational institution to the department.

RL 175.03 Verification of sanitarian experience. For purposes of verifying the qualified sanitarian work experience required under this chapter, an applicant shall submit a detailed description of the position held, length of employment, duties of the position, and name of work supervisor.

RL 175.04 Employer work verification. An applicant shall provide verification from their work supervisor of the applicant's work experience describing the applicant's job duties and number of hours worked per year in the field of environmental health.

RL 175.05 Application review. (1) An applicant shall submit a completed application for examination and the application fees prior to the scheduled review of applications by the department. The department application procedures and application fees policies in ch. RL 4 shall apply to the review and processing of applications for examination.

(2) The department, in consultation with the advisory committee, shall make an investigation as it deems necessary to determine if the applicant shall be admitted to the examination for registration and may request additional documentation prior to approving an application.

(3) The applicant shall be notified in writing of the department's decision regarding their application. An applicant may appeal the application review decision of the department in accordance with ch. RL 1 procedures.

RL 175.06 Reciprocal licensure and certification. Upon application and payment of the appropriate application fee, an applicant who holds a certificate of registration or license as a sanitarian in good standing issued by the proper authority of any state, territory, or possession of the United States, any foreign country, or any other organization that registers or certifies sanitarians, may receive a certificate in this state provided that the requirements for the registration in the other jurisdiction are comparable to the qualifications for registration in this chapter. The successful passage of a recognized professional examination of any state, territory or possession of the United States, any foreign country or any other organization may be construed as tantamount to passing the required examination recognized by the department, provided that the scope of the examination and the applicant's passing score are comparable to the examination and passing score administered under this chapter.

Chapter RL 176

EXAMINATIONS

RL 176.01 Examination requirements. (1) Each applicant for registration shall be required to pass a nationally recognized professional examination or other professional examination approved by the department.

(2) Notice of eligibility to take the national examination shall be provided to each applicant with a completed and approved application on file. The notice of eligibility shall be presented by the applicant to gain attendance to the examination site.

(3) The applicant shall notify the department and testing agency of any change of their mailing address.

RL 176.02 Notice of examination results. (1) An applicant for registration shall receive notification of their examination results.

(2) An applicant must receive a passing grade determined by the department to represent the minimum competence to practice. The department may accept the passing grade recommendation of a testing agency whose examination has been approved by the department.

(3) The department may refuse to release the grade or issue a certificate of registration if the department determines that an applicant violated the rules of conduct of the examination or otherwise acted dishonestly.

RL 176.03 Reexamination. An applicant who fails to achieve passing grades on the examinations required under this chapter may reapply for examination on forms provided by the department. No applicant shall make more than 3 attempts to pass the examination within any 12 month period. For each reexamination, the applicant shall pay the reexamination fee specified by the department.

Note: Application forms are available on request to the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or from the department's website at: <http://drl.wi.gov>.

Chapter RL 177

UNPROFESSIONAL CONDUCT

RL 177.01 Authority and intent. (1) The rules of conduct in this chapter are adopted under authority of ss. 227.11 (2) and 440.98, Stats.

(2) The intent of the department in adopting this chapter is to establish rules of professional conduct for the profession of registered sanitarians. A violation of any standard specified in this chapter may result in disciplinary action under ss. 440.98 (9) and 440.98 (9), Stats.

RL 177.02 Unprofessional conduct. A registered sanitarian shall comply with the standards of practice established by s. 440.98, Stats., and this chapter. The violation of any provision of this chapter, or the aiding or abetting of any of the following constitutes unprofessional conduct and may result in disciplinary action:

(1) Making a materially false, misleading, deceptive, or fraudulent representation in an application for a certificate of registration, including misrepresenting qualifications, education, experience, credentials or professional affiliations.

(2) An administrative or judicial determination that the registered sanitarian has made false, misleading, deceptive, or fraudulent representations in the course of practice as a registered sanitarian.

(3) Any sanction, suspension, or disciplinary action taken against the registered sanitarian in this state or another jurisdiction arising out of any occupational or professional conduct.

(4) Violating any rule adopted by the department relating to the practice of a registered sanitarian, or any term, provision, or condition of any order issued by the department.

(5) Failing to practice as a registered sanitarian within the scope of the registered sanitarian's competence, education, training and experience.

(6) Practicing in a manner that substantially departs from the standard of care ordinarily exercised by a registered sanitarian or any gross professional negligence, incompetence, or misconduct.

(7) Failing to notify the department of any criminal conviction within 30 days after the date of conviction and failing to provide a copy of the judgment of

conviction to the department. Conviction of any crime which is substantially related to the practice of a registered sanitarian shall be grounds for discipline against the registered sanitarian.

(8) Subject to ss. 111.321, 111.322 and 111.335, Stats., to have been convicted of a felony in this state or a crime in another state that if committed in this state would be a felony.

(9) Failing to cooperate in a timely manner with the department's investigation of a complaint filed against the registered sanitarian. A registered sanitarian who takes longer than 30 calendar days to respond to a request of the department is subject to a rebuttable presumption of failing to act in a timely manner under this subsection.

(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 _____

Celia M. Jackson, Secretary
Department of Regulation and Licensing