Report From Agency

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	**:**	
PROCEEDINGS BEFORE THE	**:**	**REPORT TO THE LEGISLATURE**
PHARMACY EXAMINING BOARD	**:**	**CR 23-015**

I. THE PROPOSED RULE:
The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:
The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:
The objective of the proposed rule is to revise Wisconsin Administrative Code chs. Phar 7 and 10, to bring the code into compliance with current statutory provisions as modified by 2021 Wisconsin Act 9. Section Phar 7.15 was created to outline the new consumer disclosure requirements created in 2021 Wisconsin Act 9. Additional requirements were also added to Phar 10.03 regarding unprofessional conduct of a licensee.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:
The Pharmacy Examining Board held a public hearing on June 15, 2023. No public comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: #5.b. "In SECTION 1 of the proposed rule, the proposed text restates the statutes interpreted with minimal additional detail (the statute requires updates of pharmacy lists at least monthly while the rule requires updates monthly, for example). Consider whether the proposed rule is necessary, or alternatively, whether the proposed rule should be revised in order to add additional detail. For example, it could be clarified to include how, under s. Phar 7.15 (2), generic drug product equivalents are determined to be "most commonly" prescribed."

Response: The Board accepts this comment and acknowledges that although minimal additional detail has been provided in Phar 7.15, it nonetheless provides clarification to licensees on which lists need to be posted for consumers and which list of most commonly prescribed drugs needs to be available in each pharmacy, as well as where to find them. The Board believes the wording provides additional clarification for the public.

Comment: #5.c. "In SECTION 2 of the proposed rule, it is unnecessary to refer to compliance with a "valid" rule. Rhetorically, why would a person be required to comply with an invalid rule? Additionally, and related to comment b., above, are the provisions created by SECTION 2 merely duplicative of s. 450.10 (1) (a) 2., Stats.?"

> **Response**: The Board accepts this comment and has removed the word "valid" from Section 2. As to the duplicative nature of the section, the Board considers these disclosures important to the safety of the public such that it should be considered unprofessional conduct if a licensee does not comply with them.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A