

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 03-096)

ORDER

An order of the Pharmacy Examining Board to amend Phar 6.04 (3) (a) (intro.); and to create Phar 6.04 (3) (c), relating to the professional service area requirements where the pharmacist is absent.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3), Stats.

Statutes interpreted: s. 450.09, Stats.

Modifications of s. Phar 6.04 will allow a pharmacy to remain open without placement of physical barriers during temporary periods of absence from a pharmacy by a pharmacist under certain conditions, and sets forth permissible technician activities under s. Phar 7.015 during the temporary absence of a pharmacist. Currently, s. Phar 6.04 (3) (a) 1. and 2. provide that in the absence of a pharmacist a pharmacy may convert to a non-prescription or sundry outlet if certain requirements are met, in part the placement of a physical barrier. Modifying the rule will allow certain limited interactions between pharmacy staff and patients, as well as the carrying on of certain allowable pharmacy staff functions in the absence of a pharmacist. Patients will benefit by increased availability of pharmacy services.

SECTION 1 amends s. Phar 6.04 (3) (a) (intro.) and adds a provision allowing a pharmacy in the absence of a pharmacist to continue to operate without converting to a sundry outlet if specific conditions are met.

SECTION 2 creates s. Phar 6.04 (3) (c) specifying the conditions under which a pharmacy may continue to operate in the absence of a pharmacist without converting to a sundry outlet.

TEXT OF RULE

SECTION 1. Phar 6.04 (3) (a) (intro.) is amended to read:

Phar 6.04 (3) PROFESSIONAL SERVICE AREA, REQUIREMENTS WHERE PHARMACIST IS ABSENT. (a) (intro.) A Except as provided in par. (c), if no pharmacist is present in the professional service area, a pharmacy may convert to a non-prescription or sundry outlet without a pharmacist present if the following requirements of the professional service area are met:

SECTION 2. Phar 6.04 (3) (c) is created to read:

Phar 6.04 (3) (c) Where no pharmacist is present in the professional service area a pharmacy is not required to convert to a non-prescription or sundry outlet if the following requirements are met:

1. The pharmacist is absent for a time period of one half hour or less.
2. The pharmacist must be accessible for communication with the remaining pharmacy staff by phone, pager or other device.
3. The pharmacy must indicate that the pharmacist is not available in the professional service area and indicate the period of absence and the time of the pharmacist's return.
4. Pharmacy technicians may only perform duties allowed by s. Phar 7.015 (2).

(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

FISCAL ESTIMATE

The Department of Regulation and Licensing will incur \$500 in costs to print and distribute the rule change.

FINAL REGULATORY FLEXIBILITY ANALYSIS

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

Phar 6.04(3) CR03-096 (Pharmacist absence) Final Draft for Adoption 03-09-04