

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULEMAKING: ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS #058-19, was approved by the Governor on July 29, 2019, published in Register 764A1 on August 5, 2019, and approved by the Pharmacy Examining Board on August 15, 2019. This emergency rule as approved by the Governor on September 19, 2019.

ORDER

An order of the Pharmacy Examining Board to repeal Phar 7.01 (3) relating to pharmacist to delegate ratios.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Pharmacy Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The Pharmacy Examining Board may authorize a pilot program and grant a waiver or variance in connection with the pilot program from any rule promulgated by the Board and the pilot program may not last longer than 3 years pursuant to s. 450.02 (3r), Stats. The pilot program waives Phar 7.01 (3), Wis. Admin. Code. Pharmacies have been operating in the pilot program since October 1, 2016.

Without a rule in place when the pilot program expires, pharmacies will be required to hire more pharmacists to continue current operations.

CR 19-022 was submitted to the legislature on July 16, 2019. The pilot program will expire prior to the completion of legislative review and adoption.

ANALYSIS

Statutes interpreted: s. 450.11, Stats.

Statutory authority: ss. 450.02 (2) and (3)(a), (d) and (e), Stats.

Explanation of agency authority:

The board shall adopt rules defining the active practice of pharmacy. The rules shall apply to all applicants for licensure under s. 450.05. [s. 450.02, Stats.]

The board may promulgate rules:

(a) Relating to the manufacture of drugs and the distribution and dispensing of prescription drugs.

(d) Necessary for the administration and enforcement of this chapter and ch. 961.

(e) Establishing minimum standards for the practice of pharmacy.

[ss. 450.02 (3) (a), (d) and (e), Stats.]

Related statute or rule: ch. Phar 7

Plain language analysis:

Under current pharmacy rules, there is a one pharmacist to four delegate ratio for staffing pharmacies. Wisconsin does not credential technicians although a delegate is often referred to as a technician. This rule repeals the requirement establishing a pharmacist to technician or intern ratio.

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

Comparison with rules in adjacent states:

Illinois: Illinois does not have rules regarding pharmacist to technician ratio.

Iowa: Iowa does not have rules regarding pharmacist to technician ratio.

Michigan: Michigan does not have rules regarding pharmacist to technician ratio.

Minnesota: Minnesota has a ratio of one pharmacist to two technicians except the ratio is one pharmacist to three technicians when the technicians are doing the following: intravenous admixture preparation; setting up or preparing patient specific in unit dose or modified unit dose packaging; prepacking; or compounding.

Summary of factual data and analytical methodologies:

The Pharmacy Examining Board began a pilot program for delegate ratios on October 1, 2016. The purpose was to study the supervision and staffing of delegates in order to determine if a minimum ratio is necessary to ensure safety, quality and efficiency of the pharmacy and allow the availability of a pharmacist to be involved in other patient care activities. The Pharmacy Examining Board determined that a rule establishing a ratio was not necessary.

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

This rule was posted for economic comments and none were received. This rule will not have an effect on small business.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@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 Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before October 23, 2019 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Phar 7.01 (3) is repealed.

SECTION 2. EFFECTIVE DATE. This emergency rule shall take effect upon publication in the official state newspaper.

(END OF TEXT OF RULE)

Dated September 25, 2019

Agency 
Chair of the Pharmacy Examining Board