

CERTIFICATE

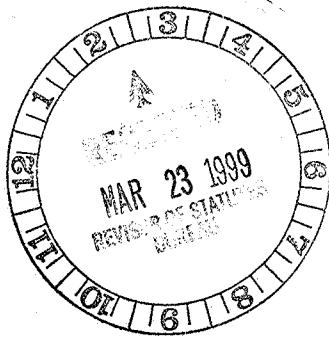
**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Marlene A. Cummings, Secretary, Wisconsin Department of Regulation and Licensing and custodian of the official records of the Department of Regulation and Licensing, hereby certify that the annexed rules were duly approved and adopted by the Department of Regulation and Licensing on the 22nd day of March, 1999.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

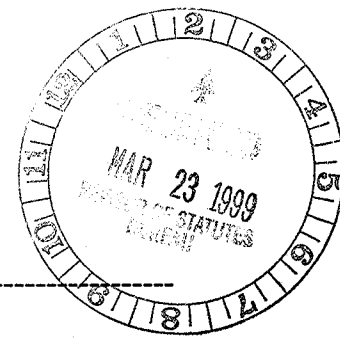
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 1400 East Washington Avenue, Madison, Wisconsin this 22nd day of March, 1999.



Marlene A. Cummings

**Marlene A. Cummings, Secretary
Department of Regulation and
Licensing**

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 98-124)

ORDER

An order of the Department of Regulation and Licensing to *repeal* RL 5.02 (1) (a) and (b); to *renumber* RL 5.02 (2); to *renumber and amend* RL 5.02 (1) (intro.); to *amend* RL 5.01, 5.02 (3), 5.06 (1), (2) (title) and (2); and to *create* RL 5.02 (1), 5.075 and 5.08 (3m), relating to charitable organizations.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2) and 440.42 (8), Stats.

Statutes interpreted: ss. 440.41 (1), (8), (9), 440.42 (1) (b), (3) (b), (8), 440.43 (1), (6) and s. 440.44 (1), Stats., and s. 440.03 (13), Stats., as created by 1997 Wisconsin Act 27.

SECTION 1 cites an additional statutory subsection as authority for the rules in Chapter RL 5. This citation has been added as additional authority for the department to deny or limit the application of a person convicted of a felony or misdemeanor, as provided in SECTION 7.

SECTION 2 renumbers a subsection in order to list definitions alphabetically and this SECTION defines "charitable organization" by simply cross-referencing the definition in the statutes.

SECTION 3 repeals pars. (a) and (b) under s. RL 5.02 (1). These paragraphs were elements of the definition of "charitable organization."

SECTION 4 creates a definition of "central organization."

SECTION 5 renumbers a subsection.

SECTION 6 amends the definition of "group return."

SECTION 7 cites a statute which specifies the registration fee for charitable organizations. This rule-making removes the specific fee from the rule which would have to be changed every time the statute changes. This SECTION also says that the department may deny or limit the registration of a charitable organization which has an officer, director, trustee or executive officer who has been convicted of a felony or a misdemeanor. Section RL 5.06 (1) currently permits the

department to ask a question relating to conviction; however, it does not permit the department to take any action when a conviction is discovered.

SECTION 8 provides criteria which the department may use to facilitate determining whether a person must register as a professional fund-raiser or a fund-raising counsel. The criteria make a distinction between the mechanical function of preparing and sending another person's mailings and the function of making a mailing under one's own name.

SECTION 9 increases from \$100,000 to \$175,000 the contribution limit which requires an audit with the opinion of an independent certified public accountant. This increase only applies when a charitable organization has received during its recently-completed fiscal year contributions from any number of contributors and the contribution or contributions of one contributor totals \$75,000 or more.

TEXT OF RULE

SECTION 1. RL 5.01 is amended to read:

RL 5.01 **Authority.** This chapter is adopted pursuant to ss. 227.11 (2), 440.42 (3) (am), 440.42 (8), and 440.455 (4), Stats., and s. 440.03 (13), Stats., as created by 1997 Wisconsin Act 27.

SECTION 2. RL 5.02 (1) (intro.) is renumbered RL 5.02 (2) and as renumbered amended to read:

RL 5.02 (2) "Charitable organization" ~~means any of the following:~~ has the meaning given in s. 440.41 (1), Stats.

SECTION 3. RL 5.02 (1) (a) and (b) are repealed.

SECTION 4. RL 5.02 (1) is created to read:

RL 5.02 (1) "Central organization" means a charitable organization that has one or more affiliated subunits under its general supervision and control, such as a chapter, local, post or unit.

SECTION 5. RL 5.02 (2) is renumbered RL 5.02 (2m).

SECTION 6. RL 5.02 (3) is amended to read:

RL 5.02 (3) "Group return" means a financial report submitted by a central, ~~parent or similar charitable organization for 2 or more charitable organizations which are affiliated with it.~~

SECTION 7. RL 5.06 (1), (2) (title) and (2) are amended to read:

RL 5.06 (1) APPLICATION FOR REGISTRATION. An applicant for registration as a charitable organization shall submit to the department an application on a form prepared by the department, a registration statement that complies with s. 440.42 (2), Stats., and ~~a \$15 registration~~ the fee specified in s. 440.42 (1) (b) 3., Stats. Pursuant to s. 440.42 (2) (m), Stats., the department may require information about a professional fund-raiser or fund-raising counsel whose services the charitable organization uses and information about whether any officers, directors, trustees or executive officers of the charitable organization have been convicted of a felony or a misdemeanor. Subject to ss. 111.321, 111.322 and 111.335, Stats., the department may deny or limit the registration of a charitable organization which has an officer, director, trustee or executive officer who has been convicted of a felony or a misdemeanor.

(2) (title) REGISTRATION OF A ~~PARENT OR~~ CENTRAL ORGANIZATION.

A central, ~~parent or similar charitable~~ organization may file a single application for registration of the central, ~~parent or similar charitable~~ organization and all of its affiliated subunits, provided that the central, ~~parent or similar charitable~~ organization has complete and direct control over the solicitation activities of all subunits, receives all contributions for its use or future distribution to the subunits and is accountable for all receipts and disbursements relating to the solicited contributions.

SECTION 8. RL 5.075 is created to read:

RL 5.075 Criteria relating to registration as a professional fund-raiser or a fund-raising counsel. (1) In determining whether a person is required to register as a fund-raising counsel under s. 440.43, Stats., or a professional fund-raiser under s. 440.44, Stats., the department evaluates the obligations of the person to determine whether the person's responsibilities are limited to preparing and sending mailings for a registered charitable organization as distinguished from the function of making a mailing under the person's own name.

(2) For the limited purpose of determining whether a person is required to register as a professional fund-raiser under s. 440.44, Stats., a person does not "solicit" in this state or employ, engage or provide, directly or indirectly, another person to "solicit in this state" as those terms are used in s. 440.41 (7), Stats., if all of the following apply:

- (a) The person mails requests for contributions.
- (b) The contents of the mailing identify a charitable organization as the person requesting the contributions.
- (c) The contents of the mailing do not include the name of the professional fund-raiser or the fund-raising counsel.

SECTION 9. RL 5.08 (3m) is created to read:

RL 5.08 (3m) EXCEPTION FOR CONTRIBUTION LIMIT REQUIRING AN AUDIT WITH OPINION. The \$100,000 contribution limit in s. 440.42 (3) (b), Stats., is raised to \$175,000 if a charitable organization has received during its most recently completed fiscal year one or more contributions from one contributor totaling \$75,000 or more.

(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 3/23/99

Agency Marlene A. Cummings
Marlene A. Cummings, Secretary
Department of Regulation and Licensing

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3/22/99



State of Wisconsin

DEPARTMENT OF REGULATION AND LICENSING

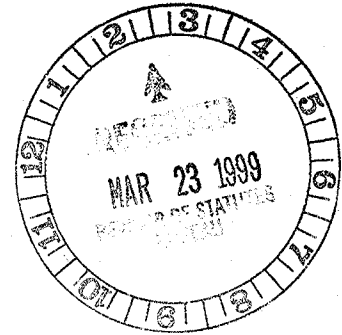
CORRESPONDENCE/MEMORANDUM

DATE: March 23, 1999

TO: Gary Poulson
Assistant Revisor of Statutes

FROM: Pamela A. Haack, Administrative Rules Coordinator
Department of Regulation and Licensing
Office of Administrative Rules

SUBJECT: Final Order Adopting Rules



Agency: DEPARTMENT OF REGULATION AND LICENSING

Clearinghouse Rule 98-124

Attached is a copy and a certified copy of a final order adopting rules relating to charitable organizations. Would you please publish these rules in the register.

Please stamp or sign a copy of this letter to acknowledge receipt.

Thank you.