

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	NOTICE OF TIME PERIOD
PROCEEDINGS BEFORE THE	:	FOR COMMENTS FOR THE
PHARMACY EXAMINING BOARD	:	ECONOMIC IMPACT ANALYSIS
	:	

NOTICE IS HEREBY GIVEN of the time period for public comment on the economic impact of this proposed rule of the Pharmacy Examining Board relating to identification card required for certain controlled substances, including how this proposed rule may affect businesses, local government units and individuals. The comments will be considered when the Department of Safety and Professional Services prepares the Economic Impact Analysis pursuant to § 227.137. Written comments may be submitted to:

Sharon Henes, Administrative Rules Coordinator
Division of Policy Development
Department of Safety and Professional Services
PO Box 8366
Madison, WI 53708-8366
Sharon.Henes@wisconsin.gov

The deadline for submitting economic impact comments is noon on January 25, 2016.

PROPOSED ORDER

An order of the Pharmacy Examining Board to create Phar 8.13 relating to identification card required for certain controlled substances.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 450.11 (1b), Stats.

Statutory authority: ss. 15.08 (5) (b), 450.11 (1b) (a) 1. and 450.11 (1b) (bm), Stats.

Explanation of agency authority:

The Pharmacy Examining Board shall promulgate rules for its own guidance and for the guidance of the profession and define and enforce professional conduct and unethical practices not inconsistent with the law relating to pharmacy. [s. 15.08 (5) (b)]

Health care facility means any other facility identified by the board by rule and the pharmacist shall maintain the record for a time established by the board by rule. [s. 450.11 (1b) (a) 1. and 450.11 (1b) (bm)].

Related statute or rule: Phar 7.05 (1m)

Plain language analysis:

This rule adds an inpatient hospice to the definition of health care facility. It also requires the record of the name of the person the drug is dispensed or delivered to shall be maintained for 5 years or until the name is submitted to the prescription drug monitoring program, whichever is sooner.

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

Comparison with rules in adjacent states:

Illinois: Illinois requires identification for a prescription to be dispensed. The name and address of the purchaser is recorded and maintained for not less than 2 years.

Iowa: Iowa does not require identification for a prescription to be dispensed.

Michigan: Michigan does not require identification for a prescription to be dispensed.

Minnesota: Minnesota requires identification for a controlled substance being dispensed if the purchase is not covered in whole or in part by a health plan company or other third party payor. Minnesota requires prescription records to be kept for a minimum of 2 years.

Summary of factual data and analytical methodologies:

The Board recognizes an inpatient hospice is similar in nature to the other health care facilities in the definition. The 5 year timeframe to maintain records is consistent with the length of time other pharmacy records are to be maintained.

Fiscal Estimate and Economic Impact Analysis:

The department is currently soliciting information and advice from businesses, local government units and individuals in order to prepare the Economic Impact Analysis.

Effect on small business:

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-2377; email at Sharon.Henes@wisconsin.gov.

TEXT OF RULE

SECTION 1. Phar 8.13 is created to read:

Phar 8.13 **Identification card.** (1) In subsection 450.11 (1b) (a), Stats, "Health care facility" means a facility, as defined in s. 647.01(4); any hospital, nursing home, community-based residential facility, county home, county infirmary, county hospital, county mental health complex, or other place licensed or approved by the department of health services under s. 49.70, 49.71, 49.72, 50.03, 50.032, 50.033, 50.034, 50.35, 51.08, or 51.09; a facility under s. 45.50, 51.05, 51.06, 233.40, 233.41, 233.42, or 252.10; and a hospice facility under s. 50.90 (1) (c).

(2) A pharmacist or other person dispensing or delivering a drug shall legibly record the name on each identification card presented under 450.11 (1b)(b), Stats. to the pharmacist or other person, and the name of each person to whom a drug is dispensed or delivered subject to 450.11 (1) (3) 2., Stats and shall maintain that record for 5 years or, for a record that is subject to s. 961.385, until the name is delivered to the controlled substances board under s. 961.385, whichever is sooner.

SECTION 2. EFFECTIVE DATE. 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.

(END OF TEXT OF RULE)
