



To: Pharmacy Examining Board

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Date: February 26, 2026

Subject: Comments on Proposed Rule Order – EmR 2601 & CR 26-013

The Pharmacy Society of Wisconsin (PSW), representing nearly 5,000 pharmacists, pharmacy technicians, and student pharmacists across Wisconsin, appreciates the opportunity to comment on the proposed rule relating to workplace conditions.

PSW strongly supports the Board's commitment to patient safety, professional accountability, and the integrity of pharmacy practice. After careful review, however, we have concerns about the necessity and defensibility of Section 1 (creation of Phar 6.09) and believe Section 2 sufficiently accomplishes the rule's intended purpose while preserving appropriate Board discretion.

Section 1 – Creation of Phar 6.09: Workplace Conditions

While the intent of Phar 6.09 is understandable and aligned with patient safety goals, PSW believes this section may be unnecessary and problematic for several reasons:

1. Not an All-Inclusive List

The rule attempts to outline specific workplace condition requirements (staffing levels, equipment, time allotment, training, and protection of professional judgment), but it is not comprehensive. By identifying selected workplace elements without defining their full scope, the rule risks creating interpretive gaps and unintended omissions.

If additional workplace factors materially affect safety but are not explicitly listed, the Board may face arguments that such matters fall outside the rule's scope.

2. Overly Broad and Ambiguous Terminology

Terms such as "appropriate," "enough," and "safe and effective" are inherently subjective. These provisions may be difficult to interpret, apply, or defend consistently in disciplinary proceedings.

This ambiguity may also create uncertainty for licensees and pharmacies seeking to comply in good faith.

3. Legal and Enforcement Challenges

Because Phar 6.09 sets generalized operational expectations rather than specific, objective requirements, enforcement may rely heavily on after-the-fact interpretation. This could make the rule difficult to defend legally if disciplinary action is taken based on broadly defined terms.

In contrast, disciplinary standards grounded in demonstrated harm, deviation from the standard of care, or clearly defined unprofessional conduct are more firmly rooted in established regulatory authority.

Section 2 – Amendments to Phar 10.03

PSW supports the amendments and additions to Phar 10.03. These provisions clarify that conduct that harmed or could have harmed a patient constitutes unprofessional practice and applies not only to pharmacists and pharmacy technicians, but also to pharmacy license-holders.

This section provides the Board with sufficient authority to address unsafe workplace conditions on a case-by-case basis when they result in or contribute to conduct that endangers patients or substantially departs from the standard of care.

Importantly, Section 2 preserves the Board's ability to evaluate facts individually, apply professional standards, and exercise regulatory discretion without relying on broad operational mandates that may be difficult to define or defend.

Recommendation

PSW respectfully recommends that the Board remove Section 1 (Phar 6.09) and instead rely on the strengthened unprofessional conduct provisions in Section 2 to address workplace-related patient safety concerns.

This approach would maintain the Board's authority to discipline unsafe practices while preserving flexibility and allowing for case-by-case discretion. It would also avoid creating vague or potentially unenforceable operational standards and reduce legal ambiguity for credential holders and regulated entities.

We appreciate the Board's thoughtful consideration of these comments and its continued commitment to protecting patients and supporting safe pharmacy practice in Wisconsin.