

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : 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 on Phar 1, 6, 7, and 10, relating to Pharmacy Workplace Conditions, 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:

Nilajah Hardin, Administrative Rules Coordinator
Office of Chief Legal Counsel
Department of Safety and Professional Services
PO Box 14497
Madison, WI 53708-0497
DSPSAdminRules@wisconsin.gov

The deadline for submitting economic impact comments January 16, 2026.

PROPOSED ORDER

An order of the Pharmacy Examining Board to amend Phar 10.03 (2), (6), (7), (8), (13), (17), and (18) and create Phar 6.09 and 10.03 (22) to (25), relating to Pharmacy Workplace Conditions.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 450.02 (2) and 450.02 (3) (d) and (e), Stats.

Statutory authority: ss. 15.08 (5) (b); 450.02 (2); 450.02 (3) (b), (d), and (e); Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats. states that the Board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 450.02 (2), Stats., states that “[t]he board shall promulgate rules that do all of the following:

- (a) Define the active practice of pharmacy. The rules shall apply to all applicants for licensure under s. 450.05.
- (b) Define the activities that constitute the practice of a pharmacy technician for purposes if the registration requirement under s. 450.068.”

Section 450.02 (3) (b), Stats., states “[t]he board may promulgate rules... [e]stablishing security standards for pharmacies.”

Section 450.02 (3) (d), Stats., states “[t]he board may promulgate rules...[n]ecessary for the administration and enforcement of this chapter and ch. 961.”

Section 450.02 (3) (e), Stats., states “[t]he board may promulgate rules...[e]stablishing minimum standards for the practice of pharmacy.”

Section 450.02 (5), Stats., states “[t]he Board may promulgate rules governing pharmacies that are operated as remote dispensing sites.”

Related statute or rule: None.

Plain language analysis: The objective of the proposed rule is to amend requirements in the Wisconsin Administrative Code to increase public safety by improving working conditions in pharmacies. The Board achieved this objective by creating Phar 6.09, which consists of requirements related to working conditions in pharmacies. The Board also amended Phar 10.03 (2), (13), and (17) to include that they now also apply as unprofessional conduct for the pharmacy license. Phar 10.03 (6), (7), and (8) were amended to utilize the existing definition of “Board” from Phar 1.02 (1). Phar 10.03 (18) was updated to apply to any order of the board, instead of just formal disciplinary orders. Phar 10.03 (22) to (25) were created to include that violating any federal, state, or municipal law; failing to provide adequate supervision; failing to cooperate with a board investigation; and engaging in the practice of pharmacy while impaired are considered unprofessional conduct.

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

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

The Pharmacy Examining Board held a public hearing on February 20, 2025, on Scope Statement 002-25. The following people either testified at the hearing, or submitted written comments:

- Rachel Ver Velde, Associate Vice President of Government Relations and Senior Political Advisor, Wisconsin Manufacturers & Commerce (WMC)

The Pharmacy Examining Board summarizes the comments received either by hearing testimony or by written submission as follows:

- WMC commented that there is a lack of information in the statement of scope regarding the description of existing policies relevant to the rule, new policies proposed, and analysis of policy alternatives. The WMC further commented that this lack of information meant that their members could not comment on the scope statement.

The Pharmacy Examining Board did not make any modifications to Scope Statement 002-25 based on public comment.

Comparison with rules in adjacent states:

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Pharmacy in Illinois, with input from the Illinois Board of Pharmacy. The Illinois Pharmacy Practice Act contains various requirements on licensure, dispensing, and practice. Some of those requirements include pharmacy working conditions. In Illinois, a pharmacy cannot require any pharmacy staff to work more than 12 continuous hours per day. A pharmacy shall also allow pharmacists who work 6 continuous hours or longer to take at least one 30-minute break and one 15-minute break during that 6-hour period. If the pharmacy has a private break room, a pharmacist who qualifies for breaks shall have access to this room. The pharmacy may choose to close when the pharmacist is on break. If the pharmacy does not close, the pharmacist on break must remain within the pharmacy or the building where the pharmacy is located. Only prescriptions that have received final verification by a pharmacist may be dispensed while a pharmacist is on break. Additionally, a license may be revoked or have disciplinary action taken against it for failing to provide a working environment that protects the health and safety of a patient. This includes failure to employ sufficient pharmacy staff, provide breaks, and enough time for pharmacists to complete their professional duties [225 Illinois Compiled Statutes ch. 85 ss. 15.1 and 30].

Iowa: The Iowa Board of Pharmacy is responsible for the licensure and regulation of Pharmacy practice in Iowa. The Iowa Administrative Code includes various pharmacy practice rules. Some of those requirements include standards for pharmacies such as adequate drug storage under sanitary conditions, policies and procedures for pharmacy operation, equipment as needed to serve patient needs maintained pursuant to manufacturer recommendations, and the current pharmacist's license displayed within view of the public. Additionally, in Iowa unprofessional conduct includes negating a patient's freedom of choice in pharmacy services and breaching the public trust in terms of the practice of pharmacy [481 Iowa Administrative Code ch. 552 ss. 552.2 and 552.11].

Michigan: The Michigan Board of Pharmacy is responsible for the licensure and regulation of pharmacy practice in Michigan. Many pharmacy practice regulations are located in the Michigan Administrative Rules and include requirements for pharmacies. In Michigan, pharmacies are required to be equipped with the necessary facilities to provide efficient services [Michigan Administrative Rules R 338.537].

Minnesota: The Minnesota Board of Pharmacy is responsible for the licensure and regulation of pharmacy practice in Minnesota. Part 6800 of the Minnesota Administrative Code includes regulations for pharmacy in Minnesota. Some of those regulations include requirements for pharmacy work conditions. In Minnesota, a pharmacy cannot require pharmacists or pharmacy technicians to work more than 12 hours per day including breaks. Those working more than 6 hours per day are allowed a 30-minute uninterrupted break. If a pharmacy chooses to stay open while the pharmacist is on break, the pharmacist needs to stay within the pharmacy or within the establishment for emergencies. Only prescriptions that have been approved by the pharmacist to be dispensed without counseling may be sold while the pharmacist is on break. These work conditions do not apply to an emergency situation that necessitates longer working hours or no breaks to minimize immediate patient health risks. Additionally, it is unprofessional conduct for a pharmacist or pharmacy to engage in practice that causes a danger to the patient or public [Minnesota Administrative Rules part 6800, sections 6800.2160 and 6800.2250].

Summary of factual data and analytical methodologies: The Pharmacy Examining Board completed a comprehensive review of Wisconsin Administrative Code Chapters Phar 1, 6, 7 and 10 and made changes as needed. The Board utilized references from Virginia's pharmacy rules and regulations, National Association of Boards of Pharmacy, and other sources.

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

The rule will be posted for 14 days on the Department of Safety and Professional Services' website to solicit economic impact comments, including how the proposed rules may affect businesses, local municipalities, and private citizens.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Office of Chief Legal Counsel, P.O. Box 14497, Madison, Wisconsin 53708-0497; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Office of Chief Legal Counsel, P.O. Box 14497, Madison, Wisconsin 53708-0497, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on a date to be determined, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Phar 6.09 is created to read:

Phar 6.09 Workplace Conditions. A pharmacy shall provide a safe working environment by ensuring all of the following:

- (1) Determine appropriate staffing levels to operate in a safe and effective manner in consultation with the managing pharmacist.
- (2) Carry and utilize equipment as needed to meet the needs of the patients served that is maintained in accordance with manufacturer recommendations.
- (3) That enough time is allotted for pharmacy staff to complete services safely and accurately.
- (4) That staff are sufficiently trained and demonstrate competency in their assigned tasks as determined by the managing pharmacist.
- (5) That the pharmacy shall not override the managing pharmacist when using their professional judgement regarding all aspects of pharmacy practice.

SECTION 2. Phar 10.03 (2), (6), (7), (8), (13), (17), and (18) are amended to read:

Phar 10.03 (2) Engaging in any pharmacy practice which constitutes a danger to the health, welfare, or safety of patient or public, including but not limited to, practicing in a manner which substantially departs from the standard of care ordinarily exercised by a pharmacy, pharmacist or pharmacy technician which harmed or could have harmed a patient.

(6) Disclosing to the public information concerning a patient without the consent of the patient unless the information is requested by the pharmacy examining board or the department of safety and professional services or unless release is otherwise authorized by law.

(7) Failing to report to the pharmacy examining board any pharmacy practice which constitutes a danger to the health, safety or welfare of patient or public.

- (8) Providing false information to the ~~pharmacy examining~~ board or its agent.
- (13) Exercising undue influence on or taking unfair advantage of a patient in the promotion or sale of services, drugs or other products for the financial gain of the ~~pharmacy~~, pharmacist or a third party.
- (17) Having a ~~pharmacist license or pharmacy technician registration credential granted by the board~~ revoked or suspended in another state or United States jurisdiction or having been subject to other disciplinary action by the licensing authority thereof.
- (18) Violating or attempting to violate any ~~formal disciplinary~~ order of the board.

SECTION 3. Phar 10.03 (22) to (25) are created to read:

Phar 10.03 (22) Violating any federal, state, or municipal law which substantially relates to the practice of the licensee or registrant, or having a civil judgment entered against you which civil judgment substantially relates to the practice of the licensee or registrant.

- (23) Failure to provide competent supervision to a subordinate, which subordinate is credentialed by the board.
- (24) After a request by the board, failing to cooperate in a timely manner with the board's investigation of a complaint filed against a credential holder. There is a rebuttable presumption that a credential holder who takes longer than 30 days to respond to a request of the board has not acted in a timely manner.
- (25) Engaging or attempting to engage in the practice of pharmacy or practice of a pharmacy technician while the person's ability to practice is impaired by alcohol or other drugs, or as a result of an illness which impairs the credential holder's ability to appropriately carry out the functions delineated under the credential in a manner consistent with the safety of a client, patient, or the public.

SECTION 4. 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)
