

**STATE OF WISCONSIN
PHARMACY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
PHARMACY EXAMINING BOARD : CR 19-022**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: n/a

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

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.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Pharmacy Examining Board held a public hearing on April 12, 2019. The following people either testified at the hearing, or submitted written comments:

Joel Kurzman, representing National Association of Chain Drug Stores
Tomson George, representing Walgreens

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

Both organizations are supportive of the rule.

The Pharmacy Examining Board did not make any modifications to its rule-making proposal prompted by public comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

The recommendation suggested in the Clearinghouse Report has been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

There is no impact on small businesses.

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 19-022)

PROPOSED 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.

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.

TEXT OF RULE

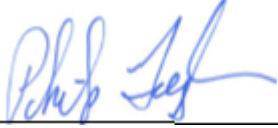
SECTION 1. Phar 7.01 (3) is repealed.

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)

This Proposed Order of the Pharmacy Examining Board is approved for submission to the Governor and Legislature.

Dated April 16, 2019

Agency 
Chair of the Pharmacy Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 14 March 2019
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Phar 7.01 (3)	
4. Subject Pharmacist to delegate ratio	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0.00	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The staffing levels of delegates in a pharmacy.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. This rule was posted for economic comments and none were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the State's Economy as a Whole.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The pilot program revealed that a ratio is not necessary to ensure safety, quality and efficiency of the pharmacy. The benefit to removing the ratio is to allow pharmacies to determine the best staffing level for their pharmacy and allow pharmacists to involved in other patient care activities.	
16. Long Range Implications of Implementing the Rule The long range implication to removing the ratio requirement is it allows pharmacies to determine staffing levels which meet the needs of their individual pharmacies.	
17. Compare With Approaches Being Used by Federal Government None	
18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)	

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

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.

19. Contact Name Sharon Henes	20. Contact Phone Number (608) 261-2377
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This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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