



***2014 ANNUAL REPORT
LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE***

WISCONSIN LEGISLATIVE COUNCIL

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February 2015

State of Wisconsin
JOINT LEGISLATIVE COUNCIL

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LEGISLATIVE COUNCIL STAFF
Terry C. Anderson
Director

February 2015

TO: THE HONORABLE SCOTT WALKER, GOVERNOR, AND THE WISCONSIN
LEGISLATURE

This report of the calendar year 2014 activity of the Legislative Council Rules
Clearinghouse is submitted to you pursuant to s. 227.15 (5), Stats.

Sincerely,

Terry C. Anderson
Director

TCA:jal

WISCONSIN LEGISLATIVE COUNCIL STAFF
2014 ANNUAL REPORT ON THE
LEGISLATIVE COUNCIL RULES CLEARINGHOUSE*

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* This Report was prepared by Scott Grosz and Jessica Karls-Ruplinger, Co-Directors, Legislative Council Rules Clearinghouse.

FUNCTION OF THE LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

REVIEW OF RULES

Legislative review of proposed permanent administrative rules begins with the submission of a rule to the Legislative Council Rules Clearinghouse. Section 227.15, Stats., requires that, prior to any public hearing on a proposed rule or prior to notification of the chief clerk of each house of the Legislature if no hearing is held, an agency must submit the proposed rule to the Legislative Council Rules Clearinghouse for staff review. [See the *Administrative Rules Procedures Manual* (December 2014), prepared jointly by the Legislative Council and the Legislative Reference Bureau, for more information on drafting, promulgating, and reviewing administrative rules. The Manual is available online at: <http://lc.legis.wisconsin.gov/administrative-rules/>.]

The Legislative Council has 20 working days, following receipt of a proposed rule, to prepare a report on its review of the rule. However, with the consent of the Director of the Legislative Council, the review period may be extended for an additional 20 working days.

Upon receipt of a proposed rule, a Clearinghouse Rule number is assigned and submission of the rule is recorded in the *Bulletin of Proceedings* of the Wisconsin Legislature. Two numbered rule jackets, one for the Assembly and one for the Senate, are prepared.

The Co-Directors of the Rules Clearinghouse assign the rule to a Legislative Council staff member for review and preparation of the statutorily required report. The staff member generally prepares the report within 10 working days and transmits the report to a Co-Director for final review. When the report on the proposed rule is completed, the staff returns the rule jackets and the Clearinghouse report containing the results of the review to the agency. [See *Appendix 1* for a sample Clearinghouse report.]

In accordance with s. 227.15, Stats., the Clearinghouse report:

1. Reviews the statutory authority under which the agency intends to adopt the proposed rule.
2. Reviews the proposed rule for form, style, and placement in the Wisconsin Administrative Code.
3. Reviews the proposed rule for conflict with, or duplication of, existing rules.
4. Reviews the proposed rule to ensure that it provides adequate references to related statutes, rules, and forms.

5. Reviews the language of the proposed rule for clarity, grammar, and punctuation and to ensure the use of plain language.

6. Reviews the proposed rule to determine potential conflicts and to make comparisons with related federal statutes and regulations.

7. Reviews the proposed rule to determine whether the agency has specified the number of business days within which the agency will review and make a determination on an application for a business permit.

As part of this review process, staff of the Legislative Council is directed to ensure that procedures for the promulgation of the rule are followed, as required by ch. 227, Stats., and to streamline and simplify the rule-making process.

OTHER RELATED RESPONSIBILITIES

Other primary rule review responsibilities of the Legislative Council include:

1. Working with and assisting the appropriate legislative committees throughout the rule-making process.

2. Notifying the Joint Committee for Review of Administrative Rules (JCRAR) and appropriate committees of the Legislature whenever the rule-making authority of an agency is eliminated or significantly changed by the repeal, amendment, or creation of a statute, by the interpretive decision of a court of competent jurisdiction, or for any other reason.

3. Assisting the public in resolving problems related to administrative rules. This function includes providing information, identifying agency personnel who may be contacted in relation to rule-making functions, describing locations where copies of rules, proposed rules, and forms are available, and encouraging and assisting participation in the rule-making process.

4. Creating and maintaining an Internet site that includes a copy of each proposed rule in a format that allows the site to be searched using keywords.

The final responsibility of the Legislative Council is the submission of an annual report to the chief clerk of each house of the Legislature and to the Governor summarizing any action taken by the staff and making recommendations to streamline the rule-making process and to eliminate obsolete, duplicative, and conflicting rules. This report is the 35th *Annual Report* submitted by the Legislative Council and covers the staff's activities during calendar year 2014. It has been preceded by an initial report to the 1979 Legislature, which covered the staff's activities from November 2, 1979 to April 1, 1980 (i.e., from the effective date of Ch. 34, Laws of 1979, which initiated the omnibus rule review process, to the end of Floorperiod IV of the 1979 Session) and annual reports for calendar years 1980 to 2013.

RECORDKEEPING SYSTEM

The Legislature's *Bulletin of Proceedings* is used for recording actions relating to the review of administrative rules. The Legislative Council, the Senate and Assembly Chief Clerks, and the Legislative Reference Bureau cooperate in a computerized recordkeeping system. Commencing with the 1979 Session, action on administrative rules has been shown in a separate part of the *Bulletin of Proceedings*.

Under this system, each proposed rule is assigned a Clearinghouse Rule number and entered in the computer system by the staff of the Legislative Council. A copy of the Clearinghouse report is placed in a Senate rule jacket and an Assembly rule jacket (similar to bill jackets) and the two rule jackets are then transmitted to the agency promulgating the rule. After transmittal, all legislative actions taken on the rule are entered on the face of the respective jacket and are reported to the chief clerk of each house. The chief clerk enters the actions in the computer system, thereby compiling a history of all legislative actions taken on the rule.

At the beginning of each biennial session, the administrative rule portion of the *Bulletin of Proceedings* is updated by deletion of all records relating to rules which, in the preceding session, have become effective, have been withdrawn, or have been permanently objected to by law. Also removed from the *Bulletin of Proceedings* annually and withdrawn from the rule-making process is any proposed rule that, in accordance with s. 227.14 (6) (c), Stats., has been pending for at least four years, but no more than five years, after the date of its receipt by the Legislative Council under s. 227.15 (1), Stats. The final *Bulletin of Proceedings* printed for the preceding session then serves as the permanent record of the disposition of those rules. The remaining rules, which are still in the promulgation process, are carried over into the new *Bulletin of Proceedings* for the following biennial session.

Access to rules and agency reports over the Internet became available in 2001 for all rules initiated after the year 2000. These materials may be found at the Legislative Council's website, www.legis.wisconsin.gov/lc. A useful executive branch website for information about administrative rules is <https://health.wisconsin.gov/admrules/public/Home>.

2014 ACTIVITIES OF THE RULES CLEARINGHOUSE

During 2014, 78 proposed administrative rules were submitted to the Legislative Council by 16 state agencies.

As of December 31, 2014, Clearinghouse reports had been completed on 65 of the 78 proposed rules and 13 rules were in the process of review. In addition to the 65 rule reports completed on 2014 rules, reports were prepared in 2014 on 17 rules received in late 2013. Of the 82 reports completed in 2014, no rule required an extension of the review process by the Director of the Legislative Council. Clearinghouse activities in 2014 are summarized below:

| | | |
|--|----|-----------|
| Rules Received in 2014 | | 78 |
| Withdrawn | 0 | |
| No report required | 0 | |
| Pending | 13 | |
| | | -13 |
| 2014 Reports Completed | | 65 |
| 2013 Reports Completed in January 2014 | | 17 |
| Total Reports in 2014 | | 82 |

The table below shows that, from November 2, 1979 (the beginning of the omnibus rule review process) through December 31, 2014, the Clearinghouse has received 6,338 rule submissions and completed reviews on 6,232 proposed rules. Of the total rule submissions, 93 were exempt from the reporting process for various reasons and 13 were under review at the end of 2014.

| <i>Year</i> | <i>Received</i> | <i>Completed</i> | <i>Exempt</i> |
|--------------|-----------------|------------------|---------------|
| 1979 | 70 | 45 | 12 |
| 1980 | 252 | 227 | 24 |
| 1981 | 252 | 234 | 9 |
| 1982 | 251 | 254 | 3 |
| 1983 | 222 | 220 | 4 |
| 1984 | 255 | 247 | 2 |
| 1985 | 213 | 206 | 4 |
| 1986 | 251 | 252 | 4 |
| 1987 | 182 | 186 | 1 |
| 1988 | 219 | 216 | 5 |
| 1989 | 212 | 208 | 1 |
| 1990 | 264 | 254 | 3 |
| 1991 | 199 | 205 | 2 |
| 1992 | 225 | 228 | 0 |
| 1993 | 241 | 232 | 1 |
| 1994 | 225 | 234 | 0 |
| 1995 | 236 | 224 | 2 |
| 1996 | 194 | 201 | 1 |
| 1997 | 158 | 159 | 1 |
| 1998 | 208 | 200 | 2 |
| 1999 | 170 | 177 | 1 |
| 2000 | 189 | 176 | 1 |
| 2001 | 157 | 158 | 1 |
| 2002 | 155 | 160 | 1 |
| 2003 | 126 | 127 | 2 |
| 2004 | 142 | 142 | 0 |
| 2005 | 122 | 123 | 0 |
| 2006 | 139 | 139 | 3 |
| 2007 | 117 | 114 | 0 |
| 2008 | 114 | 118 | 0 |
| 2009 | 123 | 108 | 3 |
| 2010 | 151 | 159 | 0 |
| 2011 | 53 | 57 | 0 |
| 2012 | 55 | 54 | 0 |
| 2013 | 118 | 106 | 0 |
| 2014 | 78 | 82 | 0 |
| Total | 6,338 | 6,232 | 93 |

In 2014, rules were received from the following 16 state agencies:

Number of Proposed Rules, by Submitting Agency

| | |
|--|-----------|
| Department of Administration | 1 |
| Department of Agriculture, Trade and Consumer Protection | 11 |
| Department of Children and Families | 4 |
| Department of Employee Trust Funds | 1 |
| Department of Health Services | 2 |
| Department of Justice | 1 |
| Department of Natural Resources | 10 |
| Department of Public Instruction | 3 |
| Department of Revenue | 3 |
| Department of Safety and Professional Services | 30 |
| Department of Transportation | 2 |
| Department of Workforce Development | 1 |
| Department of Veterans Affairs | 1 |
| Insurance Commissioner | 5 |
| Public Service Commission | 2 |
| Technical College System Board | 1 |
| Total Number of Rules Submitted | 78 |

Although the statistics presented in this report give some indication of the workload of the Legislative Council staff in reviewing proposed administrative rules, it should be noted that rules vary in length. Similarly, Clearinghouse reports vary from completion of a simple checklist to large reports. In summary, for all rule reports completed in 2014, the Legislative Council staff commented on:

1. The *statutory authority* of a proposed administrative rule on 19 occasions.
2. The *form, style and placement* of proposed administrative rules in the Wisconsin Administrative Code on 63 occasions.
3. A *conflict* with, or *duplication* of, existing rules on 4 occasions.
4. The *adequacy of references* of proposed administrative rules to related statutes, rules and forms on 34 occasions.
5. *Clarity, grammar, punctuation and use of plain language* in proposed administrative rules on 56 occasions.

6. The *potential conflicts* of proposed administrative rules with, and their comparability to, related federal statutes and regulations on no occasions.¹

7. The *permit action deadline requirement* on no occasions.

WORKING WITH AND ASSISTING COMMITTEES

A Legislative Council staff attorney or analyst works with each standing committee and statutory committee, except the Joint Finance Committee. When a committee has a proposed rule referred to it by the presiding officer of the house, the staff member will participate in the committee’s oversight.

During 2014, legislative committees held hearings or requested meetings on 11 proposed rules and one committee waived its jurisdiction over a proposed rule. One rule was recalled by the agency and resubmitted with germane modifications. Germane modifications were received in the legislative review of one other proposed rule. Legislative committees requested modifications to two rules during the year. In one instance, modifications were received; in the other, the request was denied. Legislative committees did not object to any rules during the year.

Pursuant to 2011 Wisconsin Act 21, all proposed permanent rules must be referred to the Joint Committee for the Review of Administrative Rules (JCRAR).² In 2014, JCRAR requested a meeting with an agency on one proposed permanent rule and scheduled a hearing on one proposed permanent rule.

The table below reviews legislative committee activity in the review of proposed administrative rules beginning on November 2, 1979 and ending on December 31, 2014.

| LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES (November 2, 1979 Through December 31, 2011)* | | | | | | |
|--|-----------------|-------------------------------|-----------------------------|-----------------------|--|--|
| Year | Rules Submitted | Rules Subject to Modification | Committee Review Objections | JCRAR Rule Objections | Enacted Laws Following Rule Objections | Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections |
| 11/2/79–80 | 322 | 18 | 5 | 1 | 0 | No bill introduced, rule withdrawn |
| 1981 | 252 | 29 | 10 | 4 | 4 | Chapters 20 (SEC. 1561), 26, 31 and 180, Laws of 1981 |
| 1982 | 251 | 31 | 4 | 1 | 1 | 1983 Wisconsin Act 94 |
| 1983 | 222 | 30 | 5 | 0 | 0 | — |
| 1984 | 255 | 26 | 2 | 2 | 2 | 1983 Wisconsin Act 310 and 1985 Wisconsin Act 29 (SEC. 826) |
| 1985 | 213 | 37 | 8 | 3 | 2 | ◆ 1985 Wisconsin Act 29 (SECS. 1059r and 2238ng to 2238or) ◆ 1985 Assembly Bill 460, passed and vetoed; override failed |
| 1986 | 251 | 30 | 1 | 0 | 0 | — |
| 1987 | 182 | 30 | 5 | 0 | 0 | — |
| 1988 | 219 | 38 | 4 | 0 | 0 | — |

¹ In addition, the Legislative Council staff has adopted a policy of noting when proposed rules are based on federal “*guidelines*,” which do not have the force of law, as opposed to rules based on federal “*regulations*,” which do have the force of law and with which the state may have a legal obligation to comply.

² Prior to Act 21, only rules receiving a standing committee objection had to be referred to JCRAR. Act 21 requires that all rules be referred to JCRAR, but only requires that JCRAR take action on rules that received a standing committee objection.

| LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES (November 2, 1979 Through December 31, 2011)* | | | | | | |
|--|-----------------|-------------------------------|-----------------------------|-----------------------|--|---|
| Year | Rules Submitted | Rules Subject to Modification | Committee Review Objections | JCRAR Rule Objections | Enacted Laws Following Rule Objections | Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections |
| 1989 | 212 | 22 | 6 | 2 | 0 | ◆ 1989 Senate Bill 89 and 1989 Assembly Bill 171 (failed to pass) ◆ 1989 Senate Bill 248 and 1989 Assembly Bill 457 (failed to pass) |
| 1990 | 264 | 29 | 2 | 1 | 0 | ◆ 1991 Senate Bill 24 and 1991 Assembly Bill 71 (failed to pass) |
| 1991 | 199 | 19 | 5 | 1 | 0 | ◆ 1991 Senate Bill 442 and 1991 Assembly Bill 840 (failed to pass after rule objected to withdrawn by agency) |
| 1992 | 225 | 33 | 3 | 2 | 1 | ◆ 1993 Wisconsin Act 9 ◆ 1993 Senate Bill 3 and 1993 Assembly Bill 17 (failed to pass) |
| 1993 | 241 | 24 | 1 | 0 | 0 | — |
| 1994 | 225 | 29 | 3 | 0 | 0 | — |
| 1995 | 236 | 19 | 0 | 0 | 0 | — |
| 1996 | 194 | 19 | 1 | 1 | 1 | ◆ 1997 Assembly Bill 5 and 1997 Senate Bill 20 (failed to pass) ◆ 1997 Wisconsin Act 237 (SECS. 320s, 322d and 322e) |
| 1997 | 158 | 19 | 6 | 0 | 0 | — |
| 1998 | 208 | 15 | 0 | 0 | 0 | — |
| 1999 | 170 | 18 | 2 | 1 | 0 | — |
| 2000 | 189 | 20 | 2 | 1 | 1 | ◆ 1999 Wisconsin Act 178 |
| 2001 | 157 | 14 | 5 | 2 | 0 | ◆ 2001 Assembly Bill 18 and Senate Bill 2 (failed to pass); ◆ 2001 Assembly Bill 524 and Senate Bill 267 (failed to pass) ◆ 2001 Assembly Bill 697 and Senate Bill 361 (failed to pass) |
| 2002 | 155 | 35 | 2 | 1 | 0 | ◆ 2003 Assembly Bill 25 and Senate Bill 19 (failed to pass) |
| 2003 | 126 | 20 | 2 | 2 | 0 | ◆ 2003 Assembly Bill 253 and Senate Bill 123 (failed to pass) |
| 2004 | 142 | 21 | 4 | 2 | 1 | ◆ 2003 Wisconsin Act 240 |
| 2005 | 122 | 20 | 4 | 3 | 0 | ◆ 2005 Assembly Bill 8 and Senate Bill 8 (failed to pass) ◆ 2005 Assembly Bill 12 and Senate Bill 12 (failed to pass) ◆ 2005 Assembly Bill 401 and Senate Bill 200 (failed to pass) ◆ 2005 Assembly Bill 404 and Senate Bill 201 (failed to pass) ◆ 2005 Assembly Bill 442 and Senate Bill 220 (failed to pass) |

| LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES (November 2, 1979 Through December 31, 2011)* | | | | | | |
|--|-----------------|-------------------------------|-----------------------------|-----------------------|---|---|
| Year | Rules Submitted | Rules Subject to Modification | Committee Review Objections | JCRAR Rule Objections | Enacted Laws Following Rule Objections | Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections |
| 2006 | 139 | 21 | 8 | 4 | 0 | ♦ 2005 Assembly Bill 1225 and Senate Bill 732 (failed to pass, late introduction in 2005 Session and reintroduction in 2007 session as Assembly Bill 37 and Senate Bill 9) ♦ 2005 Assembly Bill 1226 and Senate Bill 733 (failed to pass; late introduction in 2005 Session and reintroduction in 2007 session as Assembly Bill 27 and Senate Bill 10) |
| 2007 | 117 | 16 | 2 | 0 | 0 | — |
| 2008 | 114 | 13 | 1 | 0 | 0 | — |
| 2009 | 123 | 4 | 0 | 0 | 0 | — |
| 2010 | 151 | 16 | 1 | 0 | 0 | — |
| 2011 | 53 | 6** | 2 | 1 | 0 | ♦ 2011 Assembly Bill 196 and Senate Bill 139 (failed to pass) |
| 2012 | 55 | 3** | 0 | 0 | 0 | — |
| 2013 | 118 | 5 | 0 | 0 | 0 | — |
| 2014 | 78 | 3 | 0 | 0 | 0 | — |
| TOTAL | 6,338 | 732 | 106 | 35 | 13 (PLUS ONE BILL PASSED AND VETOED; VETO NOT OVERRIDDEN) | |

* The general system of legislative review of proposed administrative rules, primarily embodied in ss. 227.15 and 227.19, Stats., took effect on November 2, 1979, as part of Ch. 34, Laws of 1979.

** Includes rules modified by JCRAR.

ELECTRONIC ACCESS

In 2001, the Legislature, through its service agencies, began providing electronic access to all proposed administrative rules submitted to the Clearinghouse. The system mirrors the process already in place for legislative proposals. That is, interested persons are able to use the Internet to search for proposed rules directly or to link to them from the Legislature's Bulletin of Proceedings. The site holds the initial version of the proposed rule, the Clearinghouse report on the proposed rule, all modified versions of the proposed rule submitted to the Legislature, and the related agency report to the Legislature. It also has the economic impact analyses and fiscal estimates prepared by agencies, as well as reports prepared by the Small Business Regulatory Review Board.

Electronic access is available for proposed rules submitted to the Clearinghouse after the year 2000. [The Clearinghouse also has given advice to the Department of Health and Family Services (now the Department of Health Services) regarding a searchable rules website operated by the Executive Branch. That website is now operated by the Department of Administration. The website is <https://health.wisconsin.gov/admrules/public/Home>.]

NOTICE OF CHANGE IN RULE-MAKING AUTHORITY

In 2014, the Rules Clearinghouse did not provide any notifications under s. 227.15 (4), Stats.

ASSISTING THE LEGISLATURE AND STATE AGENCIES

In 2014, the Rules Clearinghouse staff responded to questions concerning the rule-making process and the laws governing legislative and gubernatorial review of proposed rules.

PUBLIC LIAISON

In 2014, the Rules Clearinghouse staff received a number of requests from the public for information about aspects of the rule-making process or the status of specific rules.

SG:JKR:jal

APPENDIX 1
SAMPLE CLEARINGHOUSE REPORT



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **14-059**

AN ORDER to repeal SPS 166.03 (4); and to amend SPS 160.01, 166.03 (1) and (2), and 166.07 (1) (intro.) and (a), relating to substance abuse professionals.

Submitted by **DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

10-29-2014 RECEIVED BY LEGISLATIVE COUNCIL.

11-24-2014 REPORT SENT TO AGENCY.

SG:JEO

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

- 1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

- 2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

- 3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

- 4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO

- 5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

- 6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

- 7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 14-059

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

1. Statutory Authority

Section 440.88 (3) (c), Stats., specifies that before the department may promulgate rules under s. 440.88 (3) (a), Stats., the department shall appoint a certification review committee under s. 227.13, Stats., and shall consult with the certification review committee on the proposed rules. Has the department appointed and consulted with a certification review committee? If so, it should explain such activity in the rule analysis.

2. Form, Style and Placement in Administrative Code

a. SECTION 2 should refer to the amendment of s. SPS 166.03 (1) (intro.) and (2).

b. The treatment of s. SPS 166.07 (1) (intro.) and (a) should be reorganized into additional SECTIONS to include the following treatments: amendment of s. SPS 166.07 (1) (intro.); renumbering and amendment of s. SPS 166.07 (1) (a) to (1) (a) (intro.), including the amendments that create subd. 1. and pars. (d) and (e); and creation of s. SPS 166.07 (1) (a) 2. The order of strikes and underscores should be reviewed in relation to the creation of s. SPS 166.07 (1) (d) and (e). If this approach is adopted, SECTION 5 should be renumbered as SECTION 7, and the enumeration of sections treated by the rule should be updated accordingly. Alternatively, the department may wish to repeal and recreate s. SPS 166.07 (1) in its entirety. [See, also, comment c., below.]

c. Generally, do the treatments specified by the proposed rule fully capture the department’s intent for the rule-making, as stated in the plain language explanation of the

proposed rule? In the rule summary, the department states that its goal is to recognize competency-based flexible option programs as well as comprehensive programs. However, the treatments specified by the rule appear to characterize a competency-based program as a sub-type of a comprehensive program rather than an alternative to a comprehensive program. Would it be desirable for the department to revise its rules in a manner that clearly and separately recognizes each type of program, rather than redefining “comprehensive” program to include a competency-based program in a manner that expands the definition of “comprehensive” program to include its alternative?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. SPS 166.03 (1), it appears the sentence could more precisely cite s. SPS 161.04. Could the sentence be clarified to read, “The following content areas and related hours constitute the educational requirements of SPS 161.04 (2) (a) 4. and (3) (c):...”?

b. In s. SPS 166.07 (1) (intro.), what is the department’s intended effect for changing the phrase “360 hour comprehensive program” to “comprehensive program equivalent to 360 hours”? [See, also, comment 2. c., above.]

APPENDIX 2

PROCESSING INSTRUCTIONS TO AGENCY HEADS



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

PROCESSING INSTRUCTIONS TO AGENCY HEADS

[ENCLOSED ARE THE SENATE AND ASSEMBLY RULE JACKETS CONTAINING THE LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT. AN ADDITIONAL COPY OF THE CLEARINGHOUSE REPORT IS ENCLOSED FOR YOUR FILES.]

PLEASE NOTE: Your agency must complete the following steps in the legislative process of administrative rule review:

1. On the appropriate line on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date and, in column 2, "Report Received by Agency."
2. On the appropriate line or lines on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date or dates and, in column 2, "Public Hearing Held" OR "Public Hearing Not Required."
3. Enclose in both clearinghouse rule jackets, in triplicate, the notice and report required by s. 227.19 (2) and (3), Stats. [The report includes the rule in final draft form.]
4. Notify the presiding officer of the Senate and Assembly that the rule is in final draft form by hand delivering the Senate clearinghouse rule jacket to the Senate Chief Clerk and the Assembly clearinghouse rule jacket to the Assembly Chief Clerk. At the time of this submission, on the appropriate line on the face of the clearinghouse rule jacket, each Chief Clerk will enter, in column 1, the appropriate date and, in column 2, "Report Received from Agency." Each clearinghouse rule jacket will be promptly delivered to each presiding officer for referral of the notice and report to a standing committee in each house.
5. If the agency does not proceed with the rule-making process on this rule, on the appropriate line on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date and, in column 2, "Rule Draft Withdrawn by Agency" and hand deliver the Senate clearinghouse rule jacket to the Senate Chief Clerk and the Assembly clearinghouse rule jacket to the Assembly Chief Clerk.

FOR YOUR INFORMATION: A record of all actions taken on administrative rules is contained in the Bulletin of Proceedings of the Wisconsin Legislature. The clearinghouse rule jackets will be retained by the Legislature as a permanent record.

[See reverse side for jacket sample.]

