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**PHARMACY RULES COMMITTEE**  
**of the**  
**PHARMACY EXAMINING BOARD**  
**Room N208, 4822 Madison Yards Way, 2<sup>nd</sup> Floor, Madison, WI 53705**  
**Contact: Debra Sybell (608) 266-2112**  
**September 25, 2019**

*Notice: The following agenda describes the issues that the Committee plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. A **quorum of the Board may be present during any committee meetings.***

**AGENDA**

**8:30 A.M.**

**OPEN SESSION – CALL TO ORDER**

- A. Approval of Agenda (1)**
- B. Legislation and Administrative Rule Matters – Discussion and Consideration**
  - 1) Phar 7 Relating to the Practice of Pharmacy **(2-15)**
  - 2) Legislation and Pending or Possible Rulemaking Projects
- C. Public Comments**

**ADJOURNMENT**

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MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

## Subchapter I — General

### 7.01 Definitions.

(1) “Managing pharmacist” means a pharmacist currently licensed in this state who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy, and who is personally in full and actual charge of the pharmacy and personnel.

(2) “Standing order” means an order transmitted electronically or in writing by a practitioner for a drug or device for multiple patients or for one or more groups of patients.

**7.02 Prescription (1) REQUIREMENTS.** A prescription drug order shall include all of the following:

1. Date of issue
2. Name and address of the practitioner.
3. Prescriptions written by a delegate of the practitioner shall include the name and signature of the delegate and the name and address of the practitioner.
4. Name, strength, dosage, form and quantity of the drug.
5. Directions for use of the drug.
6. Refills, if any.
7. Name and address of the patient except as provided in ss. 118.2925 (3), 255.07 (2), 441.18 (2)(a)1., 448.035 (2) and 448.037 (2) (a) 1., Stats.
8. If prescription is issued under s. 118.2925 (3), Stats., the name and address of the school.
9. If prescription is issued under s. 255.07 (2), the name and address of the authorized entity.
10. Practitioner’s written signature, or electronic or digital signature.

(2) **STANDING ORDER.** (a) A prescription standing order shall include all of the following:

1. Date of issue
2. Name and address of the practitioner.
3. Prescriptions written by a delegate of the practitioner shall include the name and signature of the delegate and the name and address of the practitioner.
4. Name, strength, dosage, form and quantity of the drug.
5. Directions for use of the drug.
6. Refills, if any.
7. Name and address of the patient except as provided in ss. 118.2925 (3), 255.07 (2), 441.18 (2)(a)1., 448.035 (2) and 448.037 (2) (a) 1., Stats.
8. If prescription is issued under s. 118.2925 (3), Stats., the name and address of the school.
9. If prescription is issued under s. 255.07 (2), the name and address of the authorized entity.
10. Indicate the prescription is pursuant to a standing order.

(b) A copy of the standing order shall be retained.

(3) **ELECTRONIC PRESCRIPTION.** (a) Except as provided in s. 453.068 (1) (c) 4., Stats., and as otherwise prohibited by law, prescription orders may be accepted and dispensed if they have been transmitted electronically from a practitioner or his or her designated agent to a pharmacy via computer modem or other similar electronic device. Prescription orders transmitted by facsimile machine are not considered electronic prescription orders; but rather, written prescription orders.

(b) A pharmacist may dispense a prescription pursuant to a prescription order transmitted electronically, if the pharmacist assures the prescription order does all of the following:

1. Was sent only to the pharmacy of the patient's choice and only at the option of the patient, with no intervening person or third party having access to the prescription order other than to forward it to the pharmacy.
  2. Identifies the individual sender's name and telephone number for oral confirmation, the time and date of transmission, and the pharmacy intended to receive the transmission.
  3. Contains all other information that is required in a prescription order.
- (c) The prescribing practitioner's electronic signature, or other secure method of validation shall be provided with a prescription order electronically transmitted via computer modem or other similar electronic device.
- (d) Any alterations in prescription order drug data shall be documented including the identification of the pharmacist responsible for the alteration.
- (4) ORAL PRESCRIPTION.** Oral prescription orders may be received at a pharmacy via a telephone answering device or voice mail. The oral prescription shall be reduced to writing.

**7.03 Drug utilization review. (1)** A pharmacist shall complete a drug utilization review by reviewing the patient record prior to dispensing each prescription drug order for all of the following:

- (a) Known allergies.
  - (b) Rational therapy
  - (c) Contraindications.
  - (c) Proper dose, duration of use, and route of administration, considering the age, gender, and other patient factors.
  - (d) Proper directions for use.
  - (e) Potential or actual adverse drug reactions.
  - (f) Drug interactions with food, beverages, other drugs or medical conditions.
  - (i) Therapeutic duplication;
  - (j) Proper utilization and optimum therapeutic outcomes.
  - (k) Potential abuse or misuse.
- (2)** Upon recognizing any of the items in sub. (1) (a) to (k), the pharmacist shall take steps to mitigate or resolve the problem.

**7.04 Transferring Prescription Order Information. (1) GENERAL REQUIREMENTS.** A prescription order information between pharmacies licensed in this state or another state, for the purpose of original or refill dispensing, if all of the following conditions are satisfied:

- (a) The transfer is communicated in one of the following ways:
    1. Oral communication between two pharmacists.
    2. Electronically or by facsimile machine between the two pharmacies.
  - (b) The pharmacist receiving the oral transfer of prescription order information for either a controlled or a non-controlled substance transcribes the transferred information in writing.
  - (c) All original and transferred prescription records are maintained for a period of 5 years from the date of the last refill.
- (2) NON-CONTROLLED SUBSTANCES.** The transfer of prescription order information for non-controlled substances for the purposes of original or refill dispensing is permissible pursuant to the following requirements:
- (a) The pharmacist, or delegate, making the transfer records the following information:
    1. The word "VOID" is on the face of the invalidated prescription order or recorded in a similar manner to "VOID" on a prescription order in a computer system meeting the requirements of s. Phar 7.10(1) (a) 1. and 2.

2. The name and address of the pharmacy to which it was transferred, the full name of the pharmacist receiving the prescription order, the date and the name of the pharmacist transferring the information are recorded on the reverse side of the invalidated prescription order or in a computer system meeting the requirements of s. Phar 7.05 (1) (a) and (b).

(b) The pharmacist, or delegate, receiving the transferred prescription order information shall record the following:

1. The word "TRANSFER" on the face of the transferred prescription order or recorded in a similar manner in a computer system.
2. The name and address of the patient, the name and address of the prescribing practitioner, and the name and quantity and dosage form of the drug product or device prescribed and the directions for use.
3. The date of issuance of the original prescription order.
4. The original number of refills authorized on the original prescription order.
5. The date of original dispensing if the prescription order has previously been dispensed.
6. The number of valid refills or total quantity remaining and the date of the last refill.
7. The pharmacy's name, address, and the prescription order number from which the prescription order information was transferred.
8. The full name of the pharmacist authorizing the transfer.

**(3) CONTROLLED SUBSTANCES.** The transfer of prescription order information for schedule III to V controlled substances for the purposes of refill dispensing is permissible pursuant to the following requirements:

(a) The requirements in sub. (2).

(b) The transfer of prescription order information is permissible only on a one time basis unless a computer system meeting the requirements of sub. (4) is used.

(c) Unless a computer system meeting the requirements of sub. (4) is used, the pharmacist making the transfer shall record in writing the following information:

1. The word "VOID" is written on the face of the invalidated prescription order.
2. The name, address and DEA registration number of the pharmacy to which it was transferred, the name of the pharmacist receiving the prescription order and the date and the name of the pharmacist transferring the information are recorded on the reverse side of the invalidated prescription order.

(d) Unless a computer system meeting the requirements of sub. (4) is used, the pharmacist receiving the transferred prescription order information shall record in writing the following information:

1. The word "TRANSFER" on the face of the transferred prescription order.
2. The name and address of the patient, the name, address and DEA number of the prescribing practitioner, and the name and quantity and dosage form of the drug product or device prescribed and the directions for use.
3. The date of issuance of the original prescription order.
4. The original number of refills authorized on the original prescription order.
5. The date of original dispensing.
6. The number of valid refills remaining.
7. The name, address, telephone number, DEA registration number and prescription order number of the pharmacy from which the prescription order information was transferred if different from the pharmacy from which the prescription order was originally dispensed.
8. The name of the pharmacist making the transfer.

(4) Use of computer system. A computer system used for transferring prescription order information shall, in addition to meeting the requirements of s. Phar 7.10(1) (a) 1. and 2., contain a shared real time electronic file database with complete prescription record filled and dispensed.

**Phar 7.06 Label Requirements (1)** In this section, ambulatory patient does not include those in a correctional facility.

(2) All prescribed drugs or devices for outpatient, ambulatory patient or inpatient self-administration shall have a label attached to the container disclosing all of the following:

(a) Critical information for patients which shall be displayed in a field size and text size which is in the best interest of patient care and includes all of the following:

1. Identification of the patient by one of the following:

a. Except as provided in subd. 1. b to e., the full name of the patient

b. For an antimicrobial drug dispensed under s. 450.11 (1g), Stats., the full name of the patient, if known, or the words, “expedited partner therapy” or the letters “EPT”.

c. For an opioid antagonist when delivered under s. 450.11 (1i), Stats., the name of the person to whom the opioid antagonist is delivered.

d. For an epinephrine auto-injector prescribed under s. 118.2925 (3) or 255.07 (2), the name of the school, authorized entity, or other person specified under s. 255.07 (3).

e. If the patient is an animal the last name of the owner, name of the animal and animal species.

2. Directions for use as indicated by the prescriber using numeric instead of alphabetic characters for numbers and simplified language.

3. Symptom or purpose if the patient indicates in writing to the prescriber that the patient wants the information on the label.

4. Drug name, unless the prescribing practitioner requests omission of the name of the drug. Both the generic brand name of the drug product equivalent and the brand name specified in the prescription order may be listed on the label if the brand name is listed on the prescription and the drug product equivalent is dispensed, unless the prescribing practitioner requests that the brand name be omitted from the label.

5. Drug strength, unless the prescribing practitioner requests omission of the strength of the drug dispensed.

6. The use by date indicating the date after which the medication shall not be used.

(b) Important information for patients which shall not displace the critical information for patients includes all of the following:

1. Pharmacy name.

2. Pharmacy telephone number.

3. Prescriber name.

4. Date the prescription was filled.

5. Prescription number.

6. Drug quantity.

7. Number of remaining refills.

8. Written or graphic product descriptions.

9. Any cautions or other provisions.

(3) Sub. (2) does not apply to complimentary samples of drug products or devices dispensed in original packaging by a practitioner to his or her patients.

**Phar 7.07 Unit of Use Packaging.** A Pharmacy prepackaging drugs shall do all of the following:

- (1) The prepackaging processes are conducted under conditions that ensure the integrity of the drug.
- (2) In the absence of stability data for the drug product in the repackaged container, the beyond-use dating period is one year or the time remaining until the expiration date, whichever is shorter. If current stability data is available for the drug product in the repackaged container, the length of time established by the stability study may be used to establish the beyond use date, but may not exceed the manufacturer's expiration date.
- (3) The repackaged container shall meet or exceed the original container's specification for light resistance.
- (4) The conditions or storage shall meet the storage specifications as described in the labeling of the original container received for repackaging. Where no specific storage conditions are specified, the product must be maintained at controlled room temperature and in a dry place during the repackaging process, including storage.
- (5) The prepackaged drugs are labeled with all the following components:
  - (a) Drug name, strength and dosage form.
  - (b) Pharmacy control and manufacturer lot number.
  - (c) Name of the manufacturer or distributor of the drug or NDC number.
  - (d) Beyond use date.
- (6) Records of all prepackaging operations are maintained and include all the following:
  - (a) Name, strength, dosage form, quantity per container, and quantity of containers of the drug being prepackaged.
  - (b) Name of the manufacturer or distributor of the drug or NDC number.
  - (c) Pharmacy control and manufacturer lot number.
  - (d) Expiration date of the drug according to the original manufacturer or distributor container and the beyond-use date.
  - (e) Name, initials, or identification codes of the pharmacist or technician that prepackaged the drug and the name or initials of the pharmacist that verified the appropriateness of the prepackaged drug.
  - (f) Date the drug is prepackaged.

**Phar 7.08 Final Check (1)** The final check on the accuracy and correctness of the prescription including all of the following:

- (a) Label requirements.
  - (b) Correct product.
  - (c) Ensure completion of the drug utilization review.
- (2) For all original and renewed prescriptions, the prescription record shall identify the pharmacist responsible for each part of the final check of the prescription. If sub. (1) (a) or (b) is completed by automated technology under s. Phar 7.20 or delegate check delegate under s. Phar 7.21, the prescription record shall identify the pharmacist supervising the delegation.

**Phar 7.09 Patient Counseling. (1)** Patient counseling shall include at least one of the following:

- (a) Name and description of the drug.
- (b) Dosage form, dose, route of administration and duration for drug therapy.
- (c) Intended use of the drug and expected action.
- (d) Special directions and precautions for preparation, administration and use by the patient.

- (e) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.
  - (f) Techniques for self-monitoring drug therapy.
  - (g) Proper storage and appropriate disposal method of unwanted or unused medication.
  - (i) Action to be taken in the event of a missed dose.
  - (j) Assessment of the drug's effectiveness in meeting the patient's treatment goals and any adverse effects related to the prescription.
- (2) A pharmacist shall give the patient or patient's agent appropriate consultation relative to the prescription for all new or renewal of a prescription, change in the patient's therapy, and the first refill after a new prescription or change in patient's therapy. The consultation shall occur before the transfer of the drug to the patient. This requirement is not satisfied by only offering to provide consultation.
- (3) Sub. (2) applies regardless of the method of delivery of the drug.
- (4) Consultation is required upon patient request.
- (5) A pharmacist shall utilize professional judgement in determining whether to give the patient or patient's agent appropriate consultation relative to the prescription for any refill.
- (6) Notwithstanding sub. (2), a consultation is not required when a health care provider is administering the medication.

**Phar 7.10 Procurement, recall and out-of-date prescription drugs and devices.**

- (1) Procurement of prescription drugs and devices shall be from a drug wholesaler licensed by the board or U.S. food and drug administration to distribute to pharmacies or from another licensed pharmacy or licensed practitioner located in the United States.
- (2) There shall be a system for identifying any prescription drugs and devices subjected to a product recall and for taking appropriate steps as required by the recall notice.
- (3) Any drug or device bearing an expiration date shall not be dispensed for use beyond the expiration date of the drug or device. Outdated drugs or devices shall be removed from dispensing stock and shall be quarantined until such drugs or devices are properly disposed of.

**7.11 Return or exchange of health items. (1) In this section:**

- (a) "Health item" means drugs, devices, hypodermic syringes, needles or other objects for injecting a drug, medicines, or items of personal hygiene.
  - (b) "Original container" means the container in which a health item was sold, distributed, or dispensed.
  - (c) "Tamper-resistant package" means a container bearing a beyond use date that is sealed so that the contents cannot be used without obvious destruction of the seal.
- (2) No health items after taken from a pharmacy where sold, distributed or dispensed, may be returned to that pharmacy, except for any of the following:
- (a) Where the health items were dispensed in error, were defective, adulterated, misbranded, or dispensed beyond their beyond use date.
  - (b) When in the professional judgment of the pharmacist substantial harm could result to the public or patient if they were to remain in the possession of the patient, patient's family or agent, or other person.
  - (c) A health item that is prepackaged for consumer use and labeled in compliance with all applicable state and federal laws where all of the following apply:
    - 1. The pharmacist determines that the original package is unopened, sealed and intact and that package labeling is unaltered.
    - 2. The pharmacist determines the contents are not adulterated.
- (3) Health items returned to a pharmacy pursuant to sub. (2) (a) and (b), may not be sold, resold, or repackaged and sold or resold, given away, or otherwise distributed or dispensed. Returned

health items shall either be destroyed at the pharmacy or delivered for destruction or other disposal by an authorized person or entity.

(4) It is not a return of a health care item if a patient or agent of a patient delivers a previously dispensed drug or device to a pharmacy for the purpose of repackaging and relabeling of that previously dispensed drug or device, and subsequent return of the drug or device is for the same patient's use.

**Note:** The DEA does not permit the return of controlled substances to a pharmacy from a non-DEA registrant under any circumstances.

(5) It is not a return of a health care item if a patient or agent of a patient delivers a previously dispensed drug or device to a pharmacy for the purpose of destruction at the pharmacy or other disposal by an authorized person or entity.

**Phar 7.12 Pharmacy Records. (1) PRESCRIPTION RECORDS.** (a) A computerized system may be used for maintaining a record, as required under this section, of prescription dispensing and transfers of prescription order information for the purposes of original or refill dispensing if the system:

1. Is capable of producing a printout of any prescription data which the user pharmacy is responsible for maintaining.
2. Is equipped with an auxiliary procedure which, during periods of down-time, shall be used for documentation of prescription dispensing. The auxiliary procedure shall ensure that prescription refills are authorized by the original prescription order, that the maximum number of prescription refills has not been exceeded and that all of the appropriate data are retained for on-line entry as soon as the computer system is again available for use.

(b) A record of all prescriptions dispensed shall be maintained for a period of 5 years after the date of the last refill.

(c) All systems used for maintaining a record of any prescription dispensing shall contain all items required in the medical profile record system.

(d) Electronic prescription records may be maintained instead of paper records if the prescription is scanned into the record.

(2) **MEDICATION PROFILE RECORD SYSTEM.** (a) An individual medication profile record system shall be maintained in all pharmacies for humans and non-humans for whom prescriptions, original or renewal, are dispensed. This section does not apply to prescriptions which are administered in a health care facility. The system shall be capable of permitting the retrieval of information.

(b) The following minimum information shall be retrievable:

1. Full patient name, or if not human name of pet, species and last name of owner.
2. Address of the patient.
3. Birth date of the patient or if not human birthdate of the owner.
4. Name of the drug product dispensed.
5. Strength of the drug product dispensed.
6. Dosage form of the drug product dispensed.
7. Quantity of the drug product dispensed.
8. Directions for use.
9. Prescription identification number or institution unit number
10. Date of all instances of dispensing, for original and renewal prescriptions.
11. Prescriber NPI.

(c) The pharmacist shall be responsible for attempting to ascertain and record any patient allergies, adverse drug reactions, drug idiosyncrasies, and any chronic conditions which may affect drug therapy as communicated by the patient or agent of the patient. If none, this should be indicated.

(d) At the time a prescription order is reviewed by the pharmacist for dispensing, the pharmacist shall review the medication profile record of the patient for the previously dispensed medication history and shall determine whether the prescription order presented should be dispensed.

(e) Medication profile records shall be maintained for a period of not less than 5 years following the date of the last entry.

**Phar 7.13 Delegation by a Physician.** The pharmacist shall document the delegation. The delegated act may be started prior to the documentation. Documentation of the delegated act may be in a contract or agreement.

{Insert Product Verification Pilots }

### **Subchapter III — Central Fill**

**7.30 Definitions.** In this section:

(1) “Central fill pharmacy” means a pharmacy licensed in this state acting as an agent of an originating pharmacy to fill or refill a prescription.

(2) “Originating pharmacy” means a pharmacy licensed in this state that uses a central fill pharmacy to fill or refill a prescription order.

**7.31 Requirements.** A central fill pharmacy and originating pharmacy may process a request for the filling or refilling of a prescription order received by an originating pharmacy only pursuant to the following requirements:

(1) The central fill pharmacy either has the same owner as the originating pharmacy or has a written contract with the originating pharmacy outlining the services to be provided and the responsibilities of each pharmacy in fulfilling the terms of the contract in compliance with federal and state law.

(2) The central fill pharmacy shall maintain a record of all originating pharmacies, including name, address and DEA number, for which it processes a request for the filling or refilling of a prescription order received by the originating pharmacy. The record shall be made available upon request for inspection by the board or its agent.

(3) The central fill pharmacy and originating pharmacy maintain a written filling protocol delineating each pharmacy’s assumption of responsibility for compliance with the prescription drug compounding and dispensing requirements of this chapter and ch. Phar 8.

(4) The originating pharmacy shall remain responsible for compliance with the prescription drug compounding and dispensing requirements of this chapter and ch. Phar 8, and which are not assumed in writing by the central fill pharmacy pursuant to a written filling protocol.

(5) The originating pharmacy shall at all times remain solely responsible to perform and comply with the requirements of s. Phar 7.08.

(6) Unless the central fill pharmacy shares a common central processing unit with the originating pharmacy, it may not perform processing functions such as the medication profile record review of the patient, drug utilization review, refill authorizations, interventions and drug interactions.

(7) The prescription label attached to the container shall contain the name and address of the originating pharmacy as the licensed facility from which the prescribed drug or device was dispensed for purposes of s. 450.11 (4) (a) 1., Stats. The date on which the prescription was dispensed for purposes of s. 450.11 (4) (a) 2., Stats., shall be the date on which the central fill pharmacy filled the prescription order.

- (8) The originating pharmacy shall maintain the original of all prescription orders received for purposes of filing and recordkeeping as required by state and federal law.
- (9) The central fill pharmacy shall maintain all original fill and refill requests received from the originating pharmacy and shall treat them as original and refill prescription orders for purposes of filing and recordkeeping as required by state and federal law.
- (10) In addition to meeting the other recordkeeping requirements required by state and federal law, the central fill pharmacy and originating pharmacy shall each maintain records to identify each of its pharmacists responsible for receiving and reviewing prescription orders and compounding and dispensing pursuant to a prescription order and track the prescription order during each step in the dispensing process.
- (11) The central fill pharmacy and originating pharmacy shall adopt a written quality assurance program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, resolve identified problems and insure compliance with this section.
- (12) The originating pharmacy shall provide the patient with the name and address of the central fill pharmacy and obtain consent as required by applicable state and federal law.

#### **Subchapter IV — Delivery Systems and Remote Dispensing**

**Phar 7.40 Definition.** In this subchapter: “Delivery system” means a structure, located outside of the pharmacy, that a prescription is placed in for patient pick-up. Delivery system does not include delivery by vehicle to the patient’s place of choice.

**Phar 7.41 Delivery System. (1)** Prescription is filled by the dispensing pharmacy.

**(2)** Prescription shall be stored in a secure delivery system immediately upon delivery to the location of the delivery system. Only the patient or patient’s designee shall be able to open the door or locker containing the individual’s prescription bag.

**(3)** The delivery system shall be designed in a manner which does not disclose protected health information or reveals contents of the prescription.

**(4)** The delivery system shall maintain appropriate environmental controls, including temperature and humidity, to prevent drug adulteration.

**(5)** The use of a delivery system does not create an exemption to s. 450.11 (1b), Stats.

**(6)** A log shall be maintained by the dispensing pharmacy of all prescriptions delivered to the delivery system.

**(7)** The prescription shall be inventoried at least weekly and a list of unclaimed prescriptions shall be provided to the dispensing pharmacy.

**(8)** The managing pharmacist shall establish written policies and procedures for all of the following:

- (a) Stocking of the delivery system, including identifying the responsible pharmacist.
- (b) Determining access to the delivery system.
- (c) Detection and mitigation of controlled substance diversion.

**Phar 7.42 Automated direct-to-patient dispensing system. (1)** A pharmacy may utilize an automated direct-to-patient dispensing system in a secure and professionally appropriate environment in any of the locations under s. 450.062 (1) to (4), Stats.

**(2)** An automated direct-to-patient dispensing system shall be associated with a pharmacy. A prescriber may not dispense utilizing an automated direct-to-patient dispensing system. A prescriber may authorize the dispensing of a drug utilizing an automated direct-to-patient dispensing system.

**(3)** Individuals with access to the automated direct-to-patient dispensing system for the purpose of stocking, inventory, and monitoring shall be limited to pharmacist or a pharmacist delegate.

- (4) The automated direct-to-patient dispensing system shall label the prescription in compliance with Phar 7.06.
- (5) The automated direct-to-patient dispensing system shall maintain prescription records in compliance with s. Phar 7.12 (1).
- (6) The pharmacist shall do a prospective drug use review before a prescription can be dispensed by a automated direct-to-direct patient dispensing system.
- (7) The managing pharmacist is responsible for maintaining records of the automated direct-to-patient dispensing system.

**Phar 7.43 Remote Dispensing.** (1) A pharmacist or a person engaged in the practice of pharmacy under s. 450.03 (1) (f), (g), or (i) may dispense at any of the locations under s. 450.062 (1) to (4), Stats.

{DISCUSS}

### **Subchapter V — Institutional Pharmacies**

**Phar 7.50 Definitions.** In this subchapter:

- (1) “Chart order” means an order entered on the chart or a medical record of an inpatient or resident of an institutional facility by a practitioner or delegate for a drug or device
- (2) “Institutional facility” means a facility, as defined in s. 647.01 (4), Stats.; any hospital, nursing home, community-based residential facility, county home, county infirmary, county hospital, county mental health complex, or other placed 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, Stats.; a facility under s. 45.50, 51.05, 51.06, 233.40, 233.41, 233.42, or 252.10, Stats.; and a hospice facility under s. 50.90 (1) (c), Stats.
- (3) “Institutional pharmacy” means a pharmacy that provides pharmacy services to an institutional facility.

**Phar 7.51 Chart orders.** A chart order shall contain all of the following:

- (1) Full name of the patient.
- (2) Date of issuance.
- (3) Name, strength, and dosage form of the drug prescribed.
- (4) Directions for use.
- (5) Practitioner’s written signature, or electronic or digital signature.
- (6) Prescriptions written by a delegate of the practitioner shall include the name and signature of the delegate and the name of the practitioner.

**Phar 7.52 Labels.** All prescribed drugs and devices for prescriptions or devices for use by inpatients of a hospital, or health care facility shall have a label attached to the container disclosing all of the following:

- (1) Patient’s legal name.
- (2) Drug name.
- (3) Route of administration, if not oral.
- (4) Drug Strength.
- (5) Prescriber name.
- (6) Date of dispensing.
- (7) Dispensing pharmacy.
- (8) If the drug was repackaged, the name of the person who repackaged it.
- (9) Special storage conditions, if required.

**Phar 7.53 Cabinets.** (1) Arrangements shall be made in advance by the managing pharmacist for a provision of drugs to the health care staff of the institutional facility for use of night cabinets.

(2) In the absence of a pharmacist, drugs shall be stored in a locked cabinet or other enclosure constructed and located outside of the pharmacy area, to which only specifically authorized personnel may obtain access and is sufficiently secure to deny access to unauthorized persons.

(3) The managing pharmacist shall develop inventory listings of those drugs to be included in the cabinet, determine who may have access and have systems in place to prevent diversion.

**7.54 Return or exchange of health items.** (1) In this section:

(a) "Health item" means drugs, devices, hypodermic syringes, needles or other objects for injecting a drug, medicines, or items of personal hygiene.

(b) "Inpatient health care facility" means any hospital, nursing home, county home, county mental hospital, tuberculosis sanitarium or similar facility, but does not include community-based residential facilities, jails or prison facilities.

(c) "Original container" means the container in which a health item was sold, distributed, or dispensed.

(d) "Resident health care patient" means a patient residing in a community-based residential facility that controls a resident's prescribed and over-the-counter medications as specified by s. DHS 83.37

(e) "Secured institutional health care patient" means any of the following:

1. A jail inmate patient whose dispensed health items are maintained under the custody and control of the jail pursuant to an approved policy and procedure manual under s. DOC 350.17, containing policies and procedures for the control and administration of medications complying with s. DOC 350.20.

2. A juvenile patient who resides in a juvenile correctional facility, as defined in s. 938.02 (10p), Stats.; a secured residential care center for children and youth, as defined in s. 938.02 (15g), Stats.; a juvenile detention facility, as defined in s. 938.02 (10r), Stats.; or a juvenile portion of a county jail whose dispensed health items are maintained under the custody and control of the health services staff as defined in s. DOC 316.02 (6) and provided to a juvenile patient under the provisions of s. DOC 316.03.

(f) "Tamper-resistant package" means a container bearing a beyond use date that is sealed so that the contents cannot be used without obvious destruction of the seal.

(2) No health items after taken from a pharmacy where sold, distributed or dispensed, may be returned to that pharmacy, except for a reason under Phar 7.10 (2) or any of the following:

(a) From an inpatient health care facility, provided they are in their original containers and the pharmacist determines the contents are not adulterated or misbranded.

(b) For a secured institutional health care patient or resident health care patient where all of the following apply:

1. The health item was never in the possession and control of the patient.

2. The health item was sold, distributed or dispensed in a tamper-resistant package and, for a drug, includes the beyond use date and manufacturer's lot number.

3. The health item is not commingled with a different health item unless the health item will be repackaged and redispensed to the same patient.

4. The health item is in its original container and the pharmacist determines the contents are not adulterated or misbranded.

(3) Health items returned from a secured institutional health care patient to a pharmacy pursuant to sub. (2) (b), must be segregated in the pharmacy and may not be sold, resold, or repackaged

and sold or resold, given away, or otherwise sold, distributed or redispensed other than to a secured institutional health care patient.

## **Subchapter VI — Unlicensed Persons**

**7.60 Direct Supervision. (1)** A person practicing pharmacy under s. 450.03 (1) (f) or (g), Stats. is limited to performing duties under the direct supervision of a person licensed as a pharmacist by the board.

**(2)** Direct supervision means immediate availability to continually coordinate, direct and inspect in real time the practice of another.

**7.61 Unlicensed Persons (1)** This section does not apply to a person practicing pharmacy under s. 450.03 (1) (f) or (g), Stats.

**(2)** A pharmacist shall provide direct supervision of unlicensed personnel. A pharmacist shall be available to the unlicensed person for consultation either in person or contact by telecommunication means.

**(3)** An unlicensed person may not perform any of the following:

(a) Provide the final verification for the accuracy, validity, completeness of a filled prescription or medication order unless the person is validated for technician-check-technician.

(b) Perform any of the following tasks:

1. Complete the drug utilization review under Phar 7.03.

2. Administer any prescribed drug products, devices or vaccines under s. 450.035, Stats.

(c) Provide patient specific counseling or consultation.

**(4)** The prohibitions in sub. (3), do not apply to a person completing an internship under ch. Phar 17 for purposes of meeting the internship requirement under s. 450.03 (2) (b).

**(5)** A pharmacist who delegates to an unlicensed person shall first provide training to or verify competency of the person in performing the delegated act.

**(6)** The pharmacist shall document the responsibilities delegated to an unlicensed person. This record shall be provided to the board upon request.

# Memorandum

**To:** Interested Stakeholders  
**From:** Robert J. Marchant, President, Michael Best Strategies  
**Date:** August 13, 2019  
**Subject:** Concerns with Proposed Rewrite of Administrative Rule Phar 7

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## Introduction

Pursuant to Statement of Scope 069-13 (filed by the Pharmacy Examining Board (PEB) on May 23, 2013, and approved by Governor Walker on June 19, 2013), a committee of the PEB has been drafting a proposed package of changes to Phar 7, dealing generally with the practice of pharmacy. The approved scope statement indicates that the PEB:

Intends to modernize Phar 7 to bring it in line with current pharmacy standards and practice. The Board will evaluate reducing the regulatory impact on pharmacies without negatively impacting public safety. In addition, the proposed changes would also reduce the necessity for pharmacies to request variances from the rules.

The committee has yet to forward the proposed rewrite of Phar 7 to the full PEB for consideration. Although the proposed rules that have been released to the public contain many positive changes, two of the proposed changes will have a significantly negative impact on the practice of pharmacy in Wisconsin and on Wisconsin consumers. In addition, these two changes directly conflict with the approved scope of the proposed rulemaking.

## **New Regulations on the Central Fill Process [Proposed Sections 7.08 and 7.21 (5)]**

Section 7.08 of the proposed rules require a final check on the accuracy and correctness of all prescriptions before the prescription is dispensed. This final check includes a review of label requirements, whether it is the correct product, whether the directions are correct, and whether the drug utilization review has been completed. The rule further requires the prescription order record to identify the pharmacist responsible for the final check of the prescription. All of this is appropriate and is standard operating procedure for reputable pharmacies throughout the United States.

However, the interplay between proposed Section 7.08 and 7.21(5) is problematic. It is a widespread practice throughout the pharmacy industry for some pharmacies to use central fill partners to fulfill prescriptions in the most efficient, cost-effective manner possible. This practice is well regulated. A central fill partner is a fully regulated pharmacy that operates under contract with another pharmacy, called an originating pharmacy, to fill and dispense certain prescriptions. This service is often performed by mail order pharmacies, which have invested in the necessary technology and practices to provide this central fill service safely and at a competitive cost. This process is efficient, safe and widespread.

As proposed, Section 7.21 (5) indicates that “The originating pharmacy shall at all times remain solely responsible to perform and comply with the requirements of s. Phar 7.08.” If the originating pharmacy is

solely responsible to “perform” the final check requirements of Section 7.08, that will necessitate the central fill pharmacy sending the filled prescription to the originating pharmacy, which will then perform the final check and send the prescription to the consumer. Obviously, this new regulatory burden would be inefficient, costly for the originating pharmacy and the central fill pharmacy, and pointless, given that the central fill pharmacy is fully regulated, competent, and is performing the final check currently. If adopted, this proposed regulation could likely eliminate the use of central fill pharmacies in Wisconsin, which would increase costs to consumers.

In addition, contrary to the approved scope statement for this rulemaking, the proposed interplay between the final check rule and the central fill rule would not bring Phar 7 “in line with current pharmacy standards and practice.” The proposed rule does exactly the opposite. Not a single neighboring state has regulated central fill in this manner. In fact, Iowa explicitly allows a central fill pharmacy to “deliver a filled prescription directly to the patient and shall not be required to return the filled prescription to the originating pharmacy.” Michigan and Minnesota explicitly allow either pharmacy to dispense and Illinois is silent on the matter, leaving it to the professional discretion of the licensed pharmacies.

Proposed Section 7.21(5) should be removed from the proposed Phar 7.

#### **Making Wisconsin an Outlier on Counseling Requirements [Proposed Section 7.09]**

For many years, Wisconsin’s rules have allowed pharmacies to provide all required counselling information via written materials that include a toll-free telephone number for patients if they have additional questions. Wisconsin’s current approach largely mirrors the rest of the country and matches our Midwestern neighbors. Proposed Section 7.09(2) would eliminate this practice and institute a first-of-its kind requirement that all pharmacies hold a conversation with every patient for all new and renewal prescriptions, changes in patient therapy, and the first refill after a new prescription or change in therapy, prior to delivery of the prescription, regardless of the method of delivery.

This new requirement would significantly and needlessly inconvenience consumers, delay the receipt of needed medications pending the required conversation, and severely impair the ability of mail order pharmacies to provide a safe, cost-effective, convenient and consumer-friendly delivery channel. A growing segment of Wisconsin’s consumers have come to expect the convenience of mail order pharmacy for receipt of maintenance medications. If this new requirement is put in place, consumers will be told that they are no longer able to have their renewed medications until they take time out of their day to speak with the mail order pharmacy and have a conversation about the information they’ve always received, without any issue or concern, in writing.

In addition, the approved scope statement for this rulemaking indicates that the new rules will bring Wisconsin “in line with current pharmacy standards and practice.” This new counselling requirement will do just the opposite, making Wisconsin an outlier within the Midwest and the practice of pharmacy more generally throughout the country. In addition, the scope statement indicates that the proposed changes “would also reduce the necessity for pharmacies to request variances from the rules.” To the contrary, this proposed counselling requirement will necessitate mail order pharmacies in particular petitioning for a variance to the proposed rule, in order to ensure that their consumer-friendly and cost-effective service can continue in Wisconsin.

Proposed Section 7.09 (2) should be modified to preserve Wisconsin’s use of written materials and an offer of one-on-one counseling.