

## PLAIN LANGUAGE

# A pox on *pursuant to*

BY IAN LEWENSTEIN

In June 2004, this column emphatically declared a pox on *prior to*.<sup>1</sup> Almost 20 years later, it's long past time to extend the pox to the ubiquitous *pursuant to*.<sup>2</sup>

## References

Michèle M. Asprey, *Plain Language for Lawyers* (Leichhardt, NSW: The Federation Press, 4th ed, 2013), p 183: *Pursuant to* "is an expression we are so used to that we barely notice we are using it. Yet to most non-lawyers it is one of the hallmarks of legalese. Ordinary people say *under* if they mean to refer loosely to something . . . Or, if they are being more specific, they say *according to*. . . . There is no reason why lawyers cannot do the same."

Australian Government, *Style Manual*, <https://www.stylemanual.gov.au/writing-and-designing-content/clear-language-and-writing-style/plain-language-and-word-choice>: recommends using *under*.

Peter Butt, *The Lawyer's Style Guide* (Oxford, UK: Hart Publishing, 2021), p 658: "Usually, *pursuant to* is a habitual legalism, meaning simply *under* or *by* . . . ." (The author goes on to discuss the term's potential ambiguity.)

Peter Butt, *Modern Legal Drafting* (Port Melbourne, Victoria: Cambridge University Press, 3d ed, 2013), p 242: recommends using *under*.

Bryan A. Garner, *The Elements of Legal Style* (New York: Oxford University Press, 2d ed, 2002), p 136: "Write *under*, *in accordance with*, *as required by*, *in response to*, or *in carrying out*. These are ordinary English words and phrases; *pursuant to* is pure legalese."

Bryan A. Garner, *Garner's Modern English Usage* (New York: Oxford University Press, 5th ed, 2022), p 905: "*Pursuant to* (= in ac-

cordance with; under; in carrying out) is rarely — if ever — useful. Lawyers are the main users of the phrase, and they have used it only since about 1800 — often imprecisely."

Bryan A. Garner, *The Redbook, A Manual on Legal Style* (St. Paul: West Academic, 5th ed, 2023), pp 255, 609: "This is one of the worst instances of legalese because it's the most common."

"[*P*ursuant to can always be replaced with a preposition (*under*) or a more precise phrase (*in accordance with* — concededly longer, but universally intelligible in a way that *pursuant to* is not)."

Joseph Kimble, *Seeing Through Legalese* (Durham: Carolina Academic Press, 2017), p 5: *pursuant to* is "hardcore legalese."

Uniform Laws Commission, *Drafting Rules and Style Manual* (2023), p 64: recommends using *under*.

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## ENDNOTES

1. Kimble, *A Pox on Prior To*, 83 Mich B J 48 (June 2004).
2. This pox should extend to Minnesota, where the noxious phrase appears in 4,190 documents (not per instance) in *Minnesota Statutes* and in 1,301 documents in *Minnesota Rules*. Online search conducted May 15, 2023. <<https://www.revisor.mn.gov/search/?stat=1&laws=1&rule=1>>.

"Plain Language," edited by Joseph Kimble, has been a regular feature of the *Michigan Bar Journal* for nearly 40 years. To contribute an article, contact Prof. Kimble at WMU-Cooley Law School, 300 S. Capitol Ave., Lansing, MI 48933, or at [kimblej@cooley.edu](mailto:kimblej@cooley.edu). For an index of past columns, visit [www.michbar.org/plainlanguage](http://www.michbar.org/plainlanguage).