Wisconsin Department of Safety and Professional Services
Division of Policy Development
1400 E Washington Ave
PO Box 8366
Madison WI 53708-8366

Phone: 608-266-2112
Web: http://dsps.wi.gov
Email: dsps@wisconsin.gov

Scott Walker, Governor
Dave Ross, Secretary

TELECONFERENCE/VIRTUAL MEETING
PODIATRY AFFILIATED CREDENTIALING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
November 6, 2015

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

12:00 P.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A) Adoption of Agenda (1-3)

B) Approval of Minutes of June 5, 2015 (4-8)

C) Administrative Updates
1) Department and Staff Updates
2) Board Member Updates
   a) Gary Brown Resignation – 10/22/2015
3) Appointments/Reappointments/Confirmations

D) Election of Board Officers and Appointment of Liaisons and Delegated Authorities

E) 12:00 P.M.- PUBLIC HEARING: CR15-075 – Pod 2 Relating to the Overtreatment of Patients
1) Review and Respond to Clearinghouse Report and Public Hearing Comments **(9-16)**

F) 12:00 P.M.- PUBLIC HEARING: CR15-076 – Pod 1, 4, and 8 Relating to the Duty to Obtain Informed Consent
1) Review and Respond to Clearinghouse Report and Public Hearing Comments **(17-28)**

G) Legislative/Administrative Rule Matters (29-46)
1) Pod 3 – Effective Date **(29-36)**
2) Pod 4 – End of Legislative Review Period **(37-41)**
3) Pod 1 – Review of Preliminary Rule Draft **(42-46)**
4) Update on Pending and Possible Legislation and Rulemaking Projects

H) Speaking Engagement(s), Travel, or Public Relation Request(s)

I) Informational Items

J) Items Added After Preparation of Agenda:

1) Introductions, Announcements and Recognition
2) Election of Board Officers
3) Appointment of Board Liaison(s)
4) Administrative Updates
5) Nominations, Elections, and Appointments
6) Education and Examination Matters
7) Credentialing Matters
8) Practice Matters
9) Legislation/Administrative Rule Matters
10) Liaison Reports
11) Informational Items
12) Disciplinary Matters
13) Presentations of Petitions for Summary Suspension
14) Petitions for Designation of Hearing Examiner
15) Presentation of Proposed Stipulations, Final Decisions and Orders
16) Presentation of Proposed Final Decisions and Orders
17) Presentation of Interim Orders
18) Petitions for Re-Hearing
19) Petitions for Assessments
20) Petitions to Vacate Orders
21) Requests for Disciplinary Proceeding Presentations
22) Motions
23) Petitions
24) Appearances from Requests Received or Renewed
25) Speaking Engagement(s), Travel, or Public Relation Request(s)

K) Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

L) Credentialing Matters

1) Board Review – Alan Tajerstein **(47-92)**

M) Case Closing

1) 14 POD 003 **(93-95)**
2) 14 POD 004 **(96-99)**

N) Deliberation of Items Added After Preparation of the Agenda

1) Education and Examination Matters
2) Credentialing Matters
3) Disciplinary Matters
4) Monitoring Matters
5) Professional Assistance Procedure (PAP) Matters
6) Petitions for Summary Suspensions
7) Petitions for Designation of Hearing Examiner

8) Proposed Stipulations, Final Decisions and Orders
9) Administrative Warnings
10) Review of Administrative Warnings
11) Proposed Final Decisions and Orders
12) Matters Relating to Costs/Orders Fixing Costs
13) Case Closings
14) Proposed Interim Orders
15) Petitions for Assessments and Evaluations
16) Petitions to Vacate Orders
17) Remedial Education Cases
18) Motions
19) Petitions for Re-Hearing
20) Appearances from Requests Received or Renewed

O) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

P) Open Session Items Noticed Above not Completed in the Initial Open Session

Q) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

R) Ratification of Licenses and Certificates

ADJOURNMENT

PODIATRY AFFILIATED CREDENTIALING BOARD
VIRTUAL/TELECONFERENCE MEETING MINUTES
June 5, 2015

PRESENT: Gary Brown *(via GoToMeeting)*; Jeffery Giesking, DPM *(via GoToMeeting)*; William Weis, DPM

ABSENT: Thomas Komp, DPM

STAFF: Brittany Lewin - Executive Director; Nilajah Madison-Head - Bureau Assistant; and other Department staff

CALL TO ORDER

The Chair called the meeting to order at 9:00 a.m. A quorum of three (3) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda:

- *Add Closed Session Item: "Proposed Stipulation and Final Decision and Order in the Matter of Case Number 13 POD 011, Alan Balkansky"*

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF OCTOBER 7, 2014

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to approve the minutes of October 7, 2014 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Election of Officers

Slate of Officers

NOMINATION: Jeffery Giesking nominated the 2014 Slate of Officers to continue in 2015.

William Weis called for nominations three (3) times.

Nomination carried by unanimous consent.

The 2014 Slate of Officers was reelected to continue in 2015.

2015 OFFICER ELECTION RESULTS	
Board Chair	**William Weis**
Vice Chair	**Thomas Komp**
Secretary	**Gary Brown**

Appointment Of Liaisons, Alternates, and Delegates

The Chair appoints the following members:

2015 LIAISON APPOINTMENTS	
Credentialing Liaison	**William Weis** ***Alternate:* Thomas Komp**
Monitoring Liaison	**Thomas Komp** ***Alternate:* Jeffery Giesking**
Education and Exams Liaison	**Jeffery Giesking** ***Alternate:* Thomas Komp**
Legislative Liaison	**William Weis** ***Alternate:* Jeffery Giesking**
Travel Liaison	**Jeffery Giesking** ***Alternate:* Thomas Komp**
Rules Liaison	**William Weis** ***Alternate:* Thomas Komp**
Professional Assistance Procedure Liaison	**Jeffery Giesking** ***Alternate:* William Weis**
Screening Panel	**Thomas Komp, William Weis, Gary Brown** ***Alternate:* Jeffery Giesking**

MOTION: Jeffery Giesking moved, seconded Gary Brown, to affirm the Chair's appointments of liaisons. Motion carried unanimously.

Delegation of Authority

MOTION: Jeffery Giesking moved, seconded by Gary Brown, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters, make appointments to vacant liaison, panel and committee positions, and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director or designee to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

MOTION: Jeffery Giesking moved, seconded by Gary Brown, that Board Counsel or another Department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin. Code § SPS 1.08(1). Motion carried unanimously.

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to adopt the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Public Hearing on Clearinghouse Rule 14-065 Relating to Biennial Registration of Podiatrists

Review and Respond to Clearinghouse Report and Public Hearing Comments

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to authorize William Weis to approve the Legislative Report and Draft for clearinghouse rule 14-065, relating to biennial registration of podiatrists for submission to the Governor's Office and Legislature. Motion carried unanimously.

Adoption Order for CR 14-035 Relating to Continuing Education Audits of Podiatrists

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to approve the Adoption Order for clearinghouse rule 14-035 relating to continuing education audits of podiatrists. Motion carried unanimously.

Review of Scope Statement for Pod 1 Relating to Examination Requirements

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to approve the Scope Statement on Pod 1 relating to examination requirements for submission to the Governor's Office and publication, and to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

Review of Preliminary Rule Draft of Pod 2 Relating to the Overtreatment of Patients

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to designate William Weis to serve as liaison to DSPS staff for drafting Pod 2.01 (24) relating to overtreatment of patients and authorize the draft for posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Review of Preliminary Rule Draft of Pod 1, 4, 8 Relating to the Duty to Obtain informed Consent

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to approve the draft of Pod 1, 4, 8 relating to the duty to obtain informed consent for posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Possible Scope Statement Regarding Podiatrist Supervision of Hyperbaric Oxygen Treatment

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to acknowledge and thank Tony Driessen and Dr. David Hesse from the WPMA for their presentation regarding hyperbaric oxygen therapy (HBOT). The Board recognizes the WPMA's position of best practices of qualified podiatrists supervising hyperbaric oxygen therapy. The Board will not be proceeding with rule making on the topic of HBOT in the affirmative or negative. Motion carried unanimously.

CLOSED SESSION

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Gary Brown - yes; Jeffery Giesking - yes, William Weis - yes. Motion carried unanimously.

The Board convened into Closed Session at 10:20 A.M.

RECONVENE TO OPEN SESSION

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to reconvene in Open Session at 11:30 A.M. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to affirm all Motions made and Votes taken in Closed Session. Motion carried unanimously.

PROPOSED STIPULATION AND FINAL DECISION AND ORDER FOR REMEDIAL EDUCATION

13 POD 022 – Edward VanBeek, D.P.M.

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to adopt the Findings of Fact, Conclusions of Law and Order for Remedial Education in the matter of disciplinary proceedings against Edward VanBeek, D.P.M., DLSC case number 13 POD 022. Motion carried unanimously.

PROPOSED STIPULATION AND FINAL DECISION AND ORDER

13 POD 011 – Alan L. Balkansky, D.P.M.

MOTION: Gary Brown moved, seconded by Jeffery Giesking, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Alan L. Balkansky, D.P.M., DLSC case number 13 POD 011. Motion carried unanimously.

CREDENTIALING MATTERS

Application Review

Gary Hoberman, D.P.M.

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to approve the Podiatrist application of Gary Hoberman, D.P.M., once all requirements are met. Motion carried unanimously.

CONTINUING EDUCATION WAIVER REQUEST

MOTION: William Weis moved, seconded by Jeffery Giesking, to deny the request of R.R.J. # 292-25 for a waiver of the CME credits requirement for license renewal. The Board instead grants an extension of time to complete the outstanding CME credit requirements (for the 2012-2014 biennium) until December 7, 2015. The continuing education credits shall not be counted towards the current license renewal period. Should the licensee fail to complete the required continuing education by December 7, 2015, the Board shall refer this matter to the DSPS Division of Legal Services and Compliance for further investigation. Motion carried unanimously.

ADJOURNMENT

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:33 A.M.

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Katie Vieira Administrative Rules Coordinator	10/22/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Podiatry Affiliated Credentialing Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
11/6/2015	☒ Yes ☐ No	Public Hearing CR15-075 – Pod 2 relating to the overtreatment of patients A. Board will review and respond to public hearing comments B. Board will review and respond to Clearinghouse comments

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	N/A

10) Describe the issue and action that should be addressed:

Public Hearing for CR15-075 – Pod 2 relating to the overtreatment of patients will be held at 12:00pm. The Board will review and respond to public hearing comments. The Board will review and respond to Clearinghouse comments

11) Authorization

Katie Vieira **10/22/2015**

Signature of person making this request Date

Supervisor (if required) Date

Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	PODIATRY AFFILIATED
PODIATRY AFFILIATED	:	CREDENTIALING BOARD
CREDENTIALING BOARD	:	ADOPTING RULES
	:	CLEARINGHOUSE RULE

PROPOSED ORDER

An order of the Podiatry Affiliated Credentialing Board to create Pod 2.01 (24) relating to overtreatment of patients.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.695 (1) (a), Stats.

Statutory authority:

Sections 15.085 (5) (b), 227.11 (2) (a), and 448.695 (1) (a), Stats.

Explanation of agency authority:

Pursuant to ss. 15.085 (5) (b) and 227.11 (2) (a), Stats., the Podiatry Affiliated Board is generally empowered by the legislature to promulgate rules that will provide guidance within the profession and interpret the statutes it administers. Section 448.695 (1) (a), Stats., grants express rule-writing authority to the board to promulgate rules that identify acts that constitute unprofessional conduct. This proposed rule seeks to add a provision to the unprofessional conduct rule. Therefore, the Podiatry Affiliated Credentialing Board is generally and specifically empowered to promulgate these proposed rules.

Related statute or rule:

Section 448.675, Stats.

Plain language analysis:

An issue that is prevalent in the health care system is overtreatment and excessive diagnostic testing of patients by health care professionals. Overtreatment and excessive use of diagnostic testing and surgical procedures result in increased costs to patients as

well as exposure to increased risk of infection, diseases, and complications. The Podiatry Affiliated Credentialing Board recognized this issue and decided to address it with these proposed rules. The proposed rule seeks to add a provision to the Unprofessional Conduct chapter Wisconsin Administrative Code Chapter Pod 2.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: Illinois does not list excessive evaluation or treatment of a patient as conduct that would be considered grounds for disciplinary action under 225 ILCS 100/4.

Iowa: Iowa does not list excessive evaluation or treatment as conduct that would subject a podiatrist to discipline under 645 IAC 224.2.

Michigan: Michigan does not list excessive evaluation or treatment as conduct that would subject a podiatrist to discipline under MCLS § 333.16221.

Minnesota: Minnesota does not list excessive evaluation or treatment as conduct that would subject a podiatrist to discipline under Minn. Stat. § 153.19.

Summary of factual data and analytical methodologies:

The methodologies used in developing the proposed rule included reviewing statutes and administrative rules in other states and comparing them to the current unprofessional conduct provisions for podiatrists in Wisconsin.

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

The rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals for a period of 14 days. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

The proposed rule does 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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone (608) 261-4472; email at Kathleen.Paff@wisconsin.gov.

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

Comments may be submitted to Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov**.** Comments must be received on or before the public hearing to be held on November 6, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Pod 2.01 (24) is created to read:

Pod 2.01 (24) Performing deceptive, misleading, or fraudulent treatment, evaluation, or medical or surgical services.

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)

Dated _____ Agency _____

Chairperson
Podiatry Affiliated Credentialing Board

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

Pod 2

3. Subject

Overtreatment of patients

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☐ No

9. Policy Problem Addressed by the Rule

An issue that is prevalent in the health care system is overtreatment and excessive diagnostic testing of patients by health care professionals. Overtreatment and excessive use of diagnostic testing and surgical procedures result in increased costs to patients as well as exposure to increased risk of infection, diseases, and complications. The Podiatry Affiliated Credentialing Board recognized this issue and decided to address it with these proposed rules. The proposed rule seeks to add a provision to the Unprofessional Conduct chapter Wisconsin Administrative Code Chapter Pod 2.

10. 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 proposed rule was posted on the Department of Safety and Professional Services website and on the Wisconsin government website for 14 business days to solicit comments from the public. No businesses, business sectors, associations representing business, local governmental units, or individuals contacted the department about the proposed rule during that time period

11. Identify the local governmental units that participated in the development of this EIA.

None. This rule does not affect local government units.

12. 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 proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

Implementing this rule will result in better patient protection from overtreatment and excessive diagnostic testing.

14. Long Range Implications of Implementing the Rule

Implementing this rule will result in better patient protection from overtreatment and excessive diagnostic testing.

15. Compare With Approaches Being Used by Federal Government

None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois does not list excessive evaluation or treatment of a patient as conduct that would be considered grounds for disciplinary action under 225 ILCS 100/4.

Iowa does not list excessive evaluation or treatment as conduct that would subject a podiatrist to discipline under 645 IAC 224.2.

Michigan does not list excessive evaluation or treatment as conduct that would subject a podiatrist to discipline under MCLS § 333.16221.

Minnesota does not list excessive evaluation or treatment as conduct that would subject a podiatrist to discipline under Minn. Stat. § 153.19.

17. Contact Name	18. Contact Phone Number
Katie Paff	(608) 261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.

LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
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 **15-075**

AN ORDER to create Pod 2.01 (24), relating to overtreatment of patients.

Submitted by **PODIATRY AFFILIATED CREDENTIALING BOARD**

09-23-2015 RECEIVED BY LEGISLATIVE COUNCIL.

10-14-2015 REPORT SENT TO AGENCY.

SG:BL

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701–2536
(608) 266–1304 • Fax: (608) 266–3830 • Email: leg.council@legis.wisconsin.gov
http://legis.wisconsin.gov/lc/

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 ☑

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Katie Vieira Administrative Rules Coordinator	10/22/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Podiatry Affiliated Credentialing Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
11/6/2015	☒ Yes ☐ No	Public Hearing CR15-076 – Pod 1, 4, and 8 relating to the duty to obtain informed consent A. Board will review and respond to public hearing comments B. Board will review and respond to Clearinghouse comments

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	N/A

10) Describe the issue and action that should be addressed:

Public Hearing for CR15-076 – Pod 1, 4, and 8 relating to the duty to obtain informed consent will be held at 12:00pm. The Board will review and respond to public hearing comments. The Board will review and respond to Clearinghouse comments

11) Authorization

Katie Vieira	**10/22/2015**
Signature of person making this request	Date
Supervisor (if required)	Date
Executive Director signature (indicates approval to add post agenda deadline item to agenda)	Date

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE PODIATRY AFFILIATED CREDENTIALING BOARD	:	PROPOSED ORDER OF THE PODIATRY AFFILIATED CREDENTIALING BOARD ADOPTING RULES (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Podiatry Affiliated Credentialing Board to amend Pod 4.03 (2) (b) and create Pod 1.02 (9), 4.04, and Chapter 8 relating to the duty to obtain informed consent.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.697, Stats.

Statutory authority:

Sections 15.085 (5) (b), 227.11 (2) (a), 448.675 (4), and 448.695 (1) (b), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats., provides that affiliated credentialing boards, such as the Podiatry Affiliated Credentialing Board, "[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . ." The proposed rule will provide guidance within the profession as to how podiatrists are to inform patients about treatment options.

Section 227.11 (2) (a), Stats., provides that "[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation."

Section 448.675 (4), Stats., states that "[t]he affiliated credentialing board may restore a license which has been voluntarily surrendered or revoked under this subchapter on such terms and conditions as it considers appropriate."

Section 448.695 (1) (b), Stats., provides that the Podiatry Affiliated Credentialing Board shall promulgate "rules implementing s. 448.697". Section 448.697, Stats., requires podiatrists to inform patients of their treatment options.

Related statute or rule:

Sections 448.08 and 447.40, Stats.

Plain language analysis:

The duty of certain health care professionals, other than physicians, to obtain informed consent from their patients before conducting treatment had not been codified as a statutory duty prior to the passage of 2013 Wisconsin Act 345. Act 345 sets forth the podiatrists' duty to obtain informed consent from their patients and institutes the reasonable podiatrist standard as the standard for informing patients regarding their treatment options. The reasonable podiatrist standard requires disclosure only of the information that a reasonable podiatrist would know and disclose under the circumstances. The proposed rule will incorporate the new standard into the current rules governing podiatric practice and make any additional changes necessary to create consistency with the newly enacted legislation. The proposed rule will also provide clarity to the process of renewing a license after 5 years by updating provisions regarding licensure reinstatement.

Summary of, and comparison with, existing or proposed federal regulation:

Although several federal agencies require investigators to obtain informed consent of human subjects participating in investigative trials, there are no specific federal regulations regarding podiatrists obtaining informed consent from their patients or the reasonable podiatrist standard.

Comparison with rules in adjacent states:

Illinois: Illinois administrative rules are silent with regards to podiatrists' duty to inform patients of their treatment options (68 il admin 1360). A person seeking to restore a podiatric physician license after it has been expired or placed on inactive status for more than 5 years must interview before the board and submit evidence of either (1) certification of active practice in another jurisdiction and proof of 100 hours continuing education during the 2 years prior to restoration. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the applicant was authorized to practice during the term of active practice; or (2) proof of successful completion of the PM Lexis examination within one year before applying for restoration (68 il admin 1360.60).

Iowa: Iowa administrative rules are silent with regards to podiatrists' duty to inform patients of their treatment options (645 IAC 220, 222, 223, and 224). A person seeking to reactivate a podiatry license that has been on inactive status for more than five years,

must provide the following: (1) verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office, and (2) verification of completion of 80 hours of continuing education within two years of application for reactivation (645 IAC 220.15 (3) (b)). A licensee whose license has been revoked, suspended, or voluntarily surrendered must reinstate their license in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the license is permanently revoked. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. If the board determines that the license can be reinstated, then the license reactivation process is followed (645 IAC 220.16, 645 IAC 11.31)

Michigan: Michigan administrative rules are silent with regards to podiatrists' duty to inform patients of their treatment options (mich admin code r 338.8101 - 338.8136). "Reinstatement" is defined as the granting of a license or registration, with or without limitations or conditions, to a person whose license or registration has been revoked. "Relicensure" or "reregistration" is defined as the granting of a registration or license to a person whose license or registration has lapsed for failure to renew within 60 days after the expiration date (Michigan Statutes 339.402). An applicant for relicensure whose license has lapsed for 3 years or more and who holds a current license as a podiatrist in another state may be relicensed by completing 150 hours of continuing podiatric medical education credit within the 3 year period immediately preceding the date of application and taking and achieving a converted score of not less than 75 on the podiatric jurisprudence examination (mich admin code r 338.8111 (1)). An applicant for relicensure whose license has lapsed for 3 years or more and who does not hold a current license as a podiatrist in another state may be relicensed by taking and achieving a score of pass on part III of the examination developed and scored by the NBPME and taking and achieving a score of not less than 75 on the podiatric jurisprudence examination (mich admin code r 338.8111 (2)).

Minnesota: Minnesota administrative rules are silent with regards to podiatrists' duty to inform patients of their treatment options (mn r 6900.0010 – 6900.0500). To reinstate a podiatrist license, the applicant must submit: (1) verification of licensure status from each state in which the podiatrist has held an active license during the five years preceding application; (2) for each year the license has been inactive, evidence of participation in one-half the number of hours of acceptable continuing education required for biennial renewal up to five years, (3) if the license has been inactive for more than five years, the continuing education must be obtained during the five years immediately before application; and (4) other evidence as the board may reasonably require. No license that has been suspended or revoked by the board will be reinstated unless the former licensee

provides evidence of full rehabilitation from the cause for which the license was suspended or revoked and complies with the other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license will not be reinstated until the former licensee has successfully completed the requirements (mn r 6900.0210).

Summary of factual data and analytical methodologies:

No factual data or analytical methodologies, aside from reviewing adjacent states' requirements, were used in drafting the proposed rule due to the majority of the proposed rule being prompted by the passage of 2013 WI Act 345.

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

The rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document 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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Vieira (Paff), Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

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

Comments may be submitted to Katie Vieira (Paff), Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Vieira@wisconsin.gov. Comments must be received on or before the public hearing on November 6, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Pod 1.02 (9) is created to read:

Pod 1.02 (9) "Reinstatement" means the process by which a licensee who has unmet disciplinary requirements and failed to renew a license within 5 years of the renewal date or whose license has been surrendered or revoked, shall apply to have the license reinstated.

SECTION 2. Pod 4.03 (2) (b) is amended to read:

Pod 4.03 (2) (b) If the licensee applies for renewal of the license more than 5 years after its expiration, the board shall make an inquiry to determine whether the applicant is competent to practice under the license in this state, and shall impose any reasonable conditions on ~~reinstatement~~ the renewal of the license, including oral examination, as the board deems appropriate. All applicants under this paragraph shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants. This section does not apply to licensees who have unmet disciplinary requirements or whose licenses have been surrendered or revoked.

SECTION 3. Pod 4.04 is created to read:

Pod 4.04 License reinstatement. A licensee who has unmet disciplinary requirements and failed to renew a license within 5 years of the renewal date or whose license has been surrendered or revoked may apply to have their license reinstated in accordance with all of the following:

1. Evidence of completion of requirements in s. 4.03 (2) (b) if the licensee has not held an active Wisconsin license within the last 5 years.

2. Evidence of completion of disciplinary requirements, if applicable.

3. Evidence of rehabilitation or a change in circumstances, warranting reinstatement of the license.

SECTION 4. Chapter Pod 8 is created to read:

CHAPTER POD 8

INFORMED CONSENT

Pod 8.01 Authority and purpose. (1) AUTHORITY. The rules in this chapter adopted pursuant to the authority delegated in ss. 15.085 (5) (b), 227.11 (2) (a), and 448.695 (1) (b), Stats.

(2) PURPOSE. The purpose of the rules is to define the obligation of a podiatrist to communicate alternate modes of treatment to a patient.

Pod 8.02 Informed consent. Any podiatrist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable podiatrist standard is the standard for informing a patient under this section. The reasonable podiatrist standard requires disclosure only of information that a reasonable podiatrist would know and disclose under the circumstances.

Pod 8.03 Exceptions to communication of alternate modes of treatment. The podiatrist's duty to inform the patient under this section does not require disclosure of any of the following:

(1) Detailed technical information that in all probability a patient would not understand.

(2) Risks apparent or known to the patient.

(3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

(4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

(5) Information in cases where the patient is incapable of consenting.

(6) Information about alternate modes of treatment for any condition the podiatrist has not included in his or her diagnosis at the time the podiatrist informs the patient.

Pod 8.04 Recordkeeping. A podiatrist's patient record shall include documentation that alternate modes of treatment have been communicated to the patient and informed consent has been obtained from the patient in keeping with s. Pod 6.01.

SECTION 5. 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)

Dated _____ Agency _____

Chairperson
Podiatry Affiliated Credentialing Board

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

Pod 1, 4, 8

3. Subject

Duty to obtain informed Consent

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

This proposed rule is a result of recent legislation. 2013 Wisconsin Act 345 instituted a new standard regarding how podiatrists are to obtain informed consent from their patients. As a result of Act 345, podiatrists must obtain informed consent from their patients by advising them of reasonable alternate medical modes of treatment and the benefits and risks of those treatments in a manner consistent with the reasonable podiatrist standard. The reasonable podiatrist standard requires disclosure only of information that a reasonable podiatrist would know and disclose under the circumstances. The proposed rule will incorporate this new standard into the current podiatrist rules.

10. 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 proposed rule was posted on the Department of Safety and Professional Services website and on the Wisconsin government website for 14 business days to solicit comments from the public. No businesses, business sectors, associations representing business, local governmental units, or individuals contacted the department about the proposed rule during that time period

11. Identify the local governmental units that participated in the development of this EIA.

None. This rule does not affect local government units.

12. 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 proposed rule will have no economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

Podiatrists will advise their patients in a manner that is consistent with current law. There is no alternative to implementing the proposed rule due to the changes being necessitated by passage of legislation.

14. Long Range Implications of Implementing the Rule

Podiatrists consistently advising patients of reasonable alternate medical modes of treatment options will result in chiropractors upholding their duty to inform patients in accordance with the statutes.

15. Compare With Approaches Being Used by Federal Government

None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois administrative rules are silent with regards to podiatrists' duty to inform patients of their treatment options (68 il admin 1360). A person seeking to restore a podiatric physician license after it has been expired or placed on inactive status for more than 5 years must interview before the board and submit evidence of either (1) certification of active practice in another jurisdiction and proof of 100 hours continuing education during the 2 years prior to restoration. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the applicant was authorized to practice during the term of active practice; or (2) proof of successful completion of the PM Lexis examination within one year before applying for restoration (68 il admin 1360.60).

Iowa: Iowa administrative rules are silent with regards to podiatrists' duty to inform patients of their treatment options (645 IAC 220, 222, 223, and 224). A person seeking to reactivate a podiatry license that has been on inactive status for more than five years, must provide the following: (1) verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office, and (2) verification of completion of 80 hours of continuing education within two years of application for reactivation (645 IAC 220.15 (3) (b)). A licensee whose license has been revoked, suspended, or voluntarily surrendered must reinstate their license in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the license is permanently revoked. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. If the board determines that the license can be reinstated, then the license reactivation process is followed (645 IAC 220.16, 645 IAC 11.31)

Michigan: Michigan administrative rules are silent with regards to podiatrists' duty to inform patients of their treatment options (mich admin code r 338.8101 - 338.8136). "Reinstatement" is defined as the granting of a license or registration, with or without limitations or conditions, to a person whose license or registration has been revoked. "Relicensure" or "reregistration" is defined as the granting of a registration or license to a person whose license or registration has lapsed for failure to renew within 60 days after the expiration date (Michigan Statutes 339.402). An applicant for relicensure whose license has lapsed for 3 years or more and who holds a current license as a podiatrist in another state may be relicensed by completing 150 hours of continuing podiatric medical education credit within the 3 year period immediately preceding the date of application and taking and achieving a converted score of not less than 75 on the podiatric jurisprudence examination (mich admin code r 338.8111 (1)). An applicant for relicensure whose license has lapsed for 3 years or more and who does not hold a current license as a podiatrist in another state may be relicensed by taking and achieving a score of pass on part III of the examination developed and scored by the NBPME and taking and achieving a score of not less than 75 on the podiatric jurisprudence examination (mich admin code r 338.8111 (2)).

Minnesota: Minnesota administrative rules are silent with regards to podiatrists' duty to inform patients of their treatment options (mn r 6900.0010 – 6900.0500). To reinstate a podiatrist license, the applicant must submit: (1) verification of licensure status from each state in which the podiatrist has held an active license during the five years preceding application; (2) for each year the license has been inactive, evidence of participation in one-half the number of hours of acceptable continuing education required for biennial renewal up to five years, (3) if the license has been inactive for more than five years, the continuing education must be obtained

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

during the five years immediately before application; and (4) other evidence as the board may reasonably require. No license that has been suspended or revoked by the board will be reinstated unless the former licensee provides evidence of full rehabilitation from the cause for which the license was suspended or revoked and complies with the other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license will not be reinstated until the former licensee has successfully completed the requirements (mn r 6900.0210).

17. Contact Name	18. Contact Phone Number
Katie Vieira (Paff)	608-261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 15-076

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 December 2014.]

2. Form, Style and Placement in Administrative Code

a. The provision in s. Pod 1.02 (9) which states that a licensee must use the reinstatement process in order to renew a license under certain circumstances is substantive in nature and therefore should not be included as part of the definition. [s. 1.01 (7) (b), Manual.]

b. In s. Pod 4.03 (2) (b), the phrase "Except as provided in s. Pod 4.04," should be inserted before the newly added sentence, to account for the cross-reference to s. Pod 4.03 (2) (b) that is contained in the first subunit of s. Pod 4.04.

c. The numbering of the subunits in s. Pod 4.04 do not conform to proper drafting format and should be revised. [s. 1.03 (1) (Example) and (2), Manual.]

d. The introductory material in s. Pod 4.04, read in combination with the third subunit of that section, states that a licensee may apply to have a license reinstated in accordance with evidence of rehabilitation or a change of circumstances warranting reinstatement of the license. It appears that this provision should be rewritten to clarify that an individual may apply for reinstatement and must provide certain information to the board, for the board to then make the determination as to whether the information provided is sufficient to warrant reinstatement.

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

a. In the rule summary's deadline to submit comments, either the month or year for the deadline should be corrected.

b. The rule should provide an explanation for how the board will determine whether an applicant has provided sufficient evidence of rehabilitation or change in circumstances to warrant reinstatement of a license. The rule should also provide a process by which an applicant may appeal a determination by the board that the applicant has not provided sufficient evidence to warrant reinstatement.

c. The introductory material in s. Pod 4.04 refers to a person whose license has been surrendered or revoked as a "licensee". This is in conflict with s. Pod 1.02 (4), which defines a "licensee" as "any person validly possessing any license granted and issued to that person by the board". The board should consider revising the terminology used in s. Pod 4.04. For example, the board could consider creating definitions for phrases such as a "lapsed licensee", "disciplined licensee", or "former licensee".

d. Also, in the introductory material in s. Pod 4.04, the phrase "may apply to have their license reinstated in accordance with all of the following:" should be changed to "may apply to have a license reinstated if the applicant provides all of the following:".

e. There is an inherent contradiction in the rule that should be corrected. Specifically, the introductory material in s. Pod 4.04, when read along with the second subunit of that section, states that a licensee with **unmet** disciplinary requirements may apply to have a license reinstated if the applicant provides evidence of **completion** of disciplinary requirements.

f. In s. Pod 8.01 (2), the word "define" should be changed to "set forth".

g. In s. Pod 8.04, the phrase "in keeping with" should be changed to "as required under".

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Katie Vieira Administrative Rules Coordinator	10/22/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Podiatry Affiliated Credentialing Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
11/6/2015	☒ Yes ☐ No	**1) Pod 3 – Effective Date** **2) Pod 4 – End of Legislative Review Period** **3) Pod 1 – Review of Preliminary Rule Draft** **4) Update on Pending and Possible Legislation and Rulemaking Projects**

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	N/A

10) Describe the issue and action that should be addressed:

1) Pod 3 relating to continuing education requirements of podiatrists went into effect on August 1, 2015.

2) Pod 4 relating to the biennial registration of podiatrists was submitted to the Legislature on July 7, 2015. The legislative review period ended on September 26, 2015. The Board can adopt the rule.

3) The Board will review and discuss approval of the preliminary rule draft of Pod 1 relating to examination requirements.

11) Authorization

Katie Vieira	**10/22/2015**
Signature of person making this request	Date
Supervisor (if required)	Date
Executive Director signature (indicates approval to add post agenda deadline item to agenda)	Date

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

CERTIFICATE

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

I, Tom Ryan, Executive Director, Division of Policy Development in the Wisconsin Department of Safety and Professional Services and custodian of the official records of the Podiatry Affiliated Credentialing Board, do hereby certify that the annexed rules were duly approved and adopted by the Podiatry Affiliated Credentialing Board on the 5th day of June, 2015.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue, Madison, Wisconsin this 5th day of June, 2015.

Tom Ryan, Executive Director
Division of Policy Development
Department of Safety & Professional Services

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE PODIATRU AFFILIATED CREDENTIALING BOARD	: : : : :	ORDER OF THE PODIATRY AFFILIATED CREDENTIALING BOARD ADOPTING RULES (CLEARINGHOUSE RULE 14-035)

ORDER

An order of the Podiatry Affiliated Credentialing Board to amend Pod 3.01 and 3.04, relating to continuing education audits of podiatrists.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

s. 448.665, Stats.

Statutory authority:

s. 227.11 (2) (a) and 448.665, Stats.

Explanation of agency authority:

Pursuant to s. 227.11 (2) (a), Stats., the Podiatry Affiliated Credentialing Board (Board) is generally empowered by the legislature to promulgate rules that will provide guidance within the profession and rules that interpret the statutes it enforces or administers. Section 448.665, Stats., empowers the Board to, "promulgate rules establishing requirements and procedures for licensees to complete continuing education programs or courses of study in order to qualify for renewal of a license granted under this subchapter." The proposed rule seeks to carry out this mandate by promulgating rules setting forth the time period for conducting continuing education audits and by specifying the time period for retaining documentary evidence of continuing education compliance.

Related statute or rule:

None.

Plain language analysis:

This proposed rule is focused on specifying the time period for conducting audits of licensee's compliance with the continuing education requirement in Wis. Admin. Code § Pod 3 and specifying the time period licensees must maintain evidence of compliance. Currently, the Wis. Admin. Code § Pod 3.04 requires, "any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium." The rule does not state when audits are to take place or how long a licensee must maintain evidence of compliance with the continuing education requirement. This proposed rule identifies when audits of continuing education will take place and how long evidence of compliance with the required continuing education must be maintained.

SECTION 1. Adjusts the two-year period for which an applicant must report at the time of credential renewal.

SECTION 2. Identifies when audits are to take place and how long certificates of completion of continuing education must be kept.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: Illinois does not set a specific time frame for conducting audits or maintaining certificates of compliance with continuing education. It is the responsibility of each licensee to maintain evidence of compliance with continuing education requirements and provide evidence of such upon request pursuant to a random audit. ILL. ADMIN. CODE tit. 68 §. 1360.70 d) 2).

Iowa: Even though Iowa defines the term "audit" in 645 IAC 225, the code is silent with regards to a specific time period for auditing continuing education compliance and maintaining evidence of compliance.

Michigan: The Department of Licensing and Regulatory Affairs, Bureau of Health Care Services conducts an audit at the conclusion of each renewal period to verify compliance with continuing education requirements. In accordance with Mich. Admin. Code r. 338.3711 (2), licensees are responsible for maintaining evidence of compliance.

Minnesota: Licensees must provide the board with proof of attendance in a continuing education program within the renewal period. The evidence must be in the form of a certificate, descriptive receipt, or affidavit. MINN. Rules 6900.0300 Subp. 4.

Summary of factual data and analytical methodologies:

The Board reviewed its rules and determined that a set time was required for auditing licensees' compliance with continuing education requirements. No other factual data or

analytical methodologies were used. The Board ensures the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis.

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

The rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

TEXT OF RULE

SECTION 1. Pod 3.01 is amended to read:

Pod 3.01 Continuing podiatric medical education required; waiver. (1) Each podiatrist required to complete the biennial training requirement under s. 448.665, Stats., shall, in each second year at the time of making application for a certificate of registration as required under s. 448.665, Stats., sign a statement on the application for registration certifying that the podiatrist has completed at least 50 hours of acceptable continuing educational programs relevant to the practice of podiatric medicine within ~~the 2 calendar years immediately preceding the calendar year for which application for registration is made~~ each 2-year period immediately preceding the renewal date specified under s. 440.08 (2) (a) 60., Stats.

SECTION 2. Pod 3.04 is amended to read:

Pod 3.04 The board may conduct a random audit of any licensee on a biennial basis to determine compliance with continuing education requirements. The board may require any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium for the purpose of conducting an audit. Licensees shall retain certificates of continuing education attendance for a minimum period of 4 years.

SECTION 3. 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)

Dated 6/6/16

Agency _____
Chairperson
Podiatry Affiliated Credentialing Board

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
165- Pod 3.01, 3.04

3. Subject
Continuing Education Audit

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule
The proposed rule addresses the Podiatry Affiliated Credentialing Board's concern that licensees were not being audited for compliance with the continuing education requirements as specified in Wis. Admin. Code § Pod 3.01. To alleviate this concern, the Board seeks to amend Wis. Admin. Code § Pod 3.01 and 3.04 to allow audits to take place every two years and to require that licensees maintain evidence of continuing education compliance for four years. The proposed rule would accomplish these two goals.

10. 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 proposed rule was posted on the Department of Safety and Professional Services website and on the Wisconsin government website for 14 business days to solicit comments from the public. No businesses, business sectors, associations representing business, local governmental units, or individuals contacted the department about the proposed rule during that time period.

11. Identify the local governmental units that participated in the development of this EIA.
No local governmental units participated in developing this EIA.

12. 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 have no economic or fiscal impact on specific business, business sectors, public utility rate payers, local government units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit of implementing the proposed rule is greater uniformity in the process of determining whether licensees are complying with continuing education requirements.

14. Long Range Implications of Implementing the Rule
A consistent audit of licensee's compliance with the continuing education requirement will, over a period of time, act as a deterrent to non-compliance.

15. Compare With Approaches Being Used by Federal Government

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

None.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois does not set a specific time frame for conducting audits or maintaining certificates of compliance with continuing education. It is the responsibility of each licensee to maintain evidence of compliance with continuing education requirements and provide evidence of such upon request pursuant to a random audit. ILL. ADMIN. CODE tit. 68 §. 1360.70 d) 2).

Iowa: Even though Iowa defines the term "audit" in 645 IAC 225., the code is silent with regards to a specific time period for auditing continuing education compliance and maintaining evidence of compliance.

Michigan: The Department of Licensing and Regulatory Affairs, Bureau of Health Care Services conducts an audit at the conclusion of each renewal period to verify compliance with continuing education requirements. In accordance with Mich. Admin. Code r. 338.3711 (2) licensees are responsible for maintaining evidence of compliance.

Minnesota: Licensees must provide the board with proof of attendance in a continuing education program within the renewal period. The evidence must be in the form of a certificate, descriptive receipt, or affidavit. MINN. Rules 6900.0300 Subp. 4. The rules are silent with regards to conducting audits.

17. Contact Name	18. Contact Phone Number
Katie Paff	608-261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE PODIATRY AFFILIATED CREDENTIALING BOARD	: : : : :	ORDER OF THE PODIATRY AFFILIATED CREDENTIALING BOARD ADOPTING RULES (CLEARINGHOUSE RULE14-065)

ORDER

An order of the Podiatry Affiliated Credentialing Board to amend Pod 4.01 and 4.03(2), relating to biennial registration of podiatrists.

Analysis prepared by the Department of Safety and Professional Services.

Statutes interpreted:

Section 448.65 (2), Stats.

Statutory authority:

Sections 15.085 (b), 227.11 (2) (a) and 448.65 (2), Stats.

Explanation of agency authority:

Affiliated credentialing boards such as the Podiatry Affiliated Credentialing Board have the authority to promulgate rules that provide guidance within their profession pursuant to s. 15.085 (b), Stats. Boards are also authorized by s. 227.11 (2) (a), Stats., to set forth rules interpreting the provisions of any statute it enforces or administers. Section 448.65 (2), Stats., is administered by the Podiatry Affiliated Credentialing Board and provides guidance in the profession with regards to the requirements for podiatrists seeking renewal of their credential. The proposed rule seeks to amend the rules regarding renewal of a podiatrist's credential. Therefore, the Podiatry Affiliated Credentialing Board is empowered both generally and specifically to promulgate the proposed rules.

Related statute or rule:

Section 440.08 (2) (a) 60, Stats.

Plain language analysis:

The sole purpose of this proposed rule is to correct an inconsistency regarding the renewal date for podiatrists. Currently, s. Pod 4.01 and 4.03 state the renewal date for podiatrists is November 1 of each odd-numbered year while s. 440.08 (2) (a) 60, Stats.,

states that the renewal date is November 1 of each even-numbered year. The statute is controlling. Therefore, the proposed rule seeks to correct s. Pod 4.01 and 4.03 to reflect the correct date. There are no new policies proposed by the rule.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: Licenses issued in Illinois expire on January 31st of each odd-numbered year. A podiatrist may renew their license during the month preceding the expiration date. ILL. ADMIN. CODE tit. 68 §1360.55 a).

Iowa: Biennial license renewal for podiatrists is June 30th of each even-numbered year. Iowa Admin. Code r. 645-220.09 (1).

Michigan: Licensees must renew on an annual basis. MICH. ADMIN. CODE R 338.3701.

Minnesota: The renewal term begins on July 1st in odd-numbered years for a licensee whose license number is an odd number and in even-numbered years for a licensee whose license number is an even number. Minn. Rules. 6900.0200.

Summary of factual data and analytical methodologies:

None.

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

This rule will have a minimal or no effect on small businesses.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document 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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Vieira, Administrative Rules Coordinator Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151,

P.O. Box 8366 Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at Kathleen.Vieira@wisconsin.gov.

TEXT OF RULE

SECTION 1. Pod 4.01 is amended to read:

Pod 4.01 Registration required; method of registration. Each licensee shall register biennially with the board. Prior to November 1 of each ~~odd-numbered~~ even-numbered year the department shall mail to each licensee at his or her last known address an application form for registration. Each licensee shall complete the application form and return it with the required fee prior to November 1 of that year. The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied

SECTION 2. Pod. 4.03 (2) is amended to read:

Pod 4.03 (2) Failure to renew a license by November 1 of ~~odd-numbered years~~ an even-numbered year shall cause the license to lapse. A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows:

SECTION 3. 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)

Dated _____ Agency _____

Chairperson
Podiatry Affiliated Credentialing Board

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Pod 4.01 and 4.03(2)

3. Subject
Biennial registration of podiatrists

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

The proposed rule seeks to correct the biennial registration date found in ch. Pod 4.01 and Pod 4.03 (2) by substituting November 1st of each odd-numbered year with November 1st of each even-numbered year.

10. 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 proposed rule was posted on the Department of Safety and Professional Services website and on the Wisconsin government website for 14 business days to solicit comments from the public. No business, business sectors, associations representing business, local government units, or individuals contacted the department about the proposed rule during that time period.

11. Identify the local governmental units that participated in the development of this EIA.
No local governmental units participated in the development of this EIA.

12. 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 have no economic of fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit of implementing the rule is providing the correct information regarding the biennial registration date for licensed podiatrists in a manner in which licensees may find the information with ease.

14. Long Range Implications of Implementing the Rule
Consistency between the statute, s. 440.08 (2) (a) 60, Stats. and the rules ch. Pod 4.01 and 4.03 (2).

15. Compare With Approaches Being Used by Federal Government
None.

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Licenses issued in Illinois expire on January 31st of each odd-numbered year. A podiatrist may renew their license during the month preceding the expiration date. ILL. ADMIN. CODE tit. 68 §1360.55 a).

Iowa: Biennial license renewal for podiatrist is June 30th of each even-numbered year. Iowa Admin. Code r. 645-220.09 (1).

Michigan: Licensees must renew on an annual basis. MICH. ADMIN. CODE R 338.3701.

Minnesota: The renewal term begins on July 1 in odd-numbered years for a licensee whose license number is an odd number and in even-numbered years for a licensee whose license number is an even numbered. Minn. Rules. 6900.0200.

17. Contact Name	18. Contact Phone Number
Katie Paff	608-261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE PODIATRY AFFILIATED CREDENTIALING BOARD	: : : : :	PROPOSED ORDER OF THE PODIATRY AFFILIATED CREDENTIALING BOARD ADOPTING RULES (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Podiatry Affiliated Credentialing Board to *

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 440.071, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), and 440.071 (1), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides examining boards, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . ." The proposed rule seeks to provide guidance within the profession on applicant's eligibility for licensure examination.

Section 227.11 (2) (a), Stats., discuss the parameters of an agency's rule-making authority by stating that an agency, "may promulgate rules interpreting provisions of any statute enforced or administered by the agency . . . .but a rule is not valid if the rule exceeds the bounds of correct interpretation. . ." This section allows an agency to promulgate administrative rules which interpret the statute it enforces or administers as long as the proposed rule does not exceed proper interpretation of the statute.

Section 440.071 (1), Stats., provides that, "the department or a credentialing board or other board in the department may not require a person to complete any postsecondary education or other program before the person is eligible to take an examination for a credential the department or credentialing board or other board in the department grants or issues."

Related statute or rule:

None.

Plain language analysis:

Pursuant to the enactment of 2013 Wisconsin Act 114, the Department of Safety and Professional Services and its attached boards may no longer require any person to complete any postsecondary education before the person is eligible to take an examination for a credential. In accordance with this legislation, the Podiatry Affiliated Credentialing Board must revise the administrative rules to allow applicants seeking licensure as a podiatrist to take their credentialing exam before completing any postsecondary education. The proposed rule will implement this change by amending Wisconsin Administrative Code Chapter Pod 1.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

An applicant for the National Board of Podiatric Medical Examiners (NBPME) PM Lexis examination for licensure as a podiatric physician must file an application at least 60 days prior to an examination date. The application must include: (1) A complete work history indicating all employment since graduation from an approved podiatric medical program; (2) Certification of graduation from an approved podiatric medical program; (3) Proof of passage of Part I and Part II of the examination given by the National Board of Podiatric Medical Examiners (NBPME) by NBPME standards; (4) Certification from the jurisdictions of the United States in which the applicant was originally licensed and is currently licensed, if applicable, stating: (a) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license; and (b) Whether the file on the applicant contains any record of disciplinary actions taken or pending; and (5) The required fee (Ill. Admin. Code tit. 68, pt. 1360.45).

Iowa:

Iowa Administrative Code does not explicitly state that an applicant for a license as a podiatrist must complete the required education prior to taking the examination for licensure (Iowa Admin. Code r. 645-220.2 and 220.3).

Michigan:

To be eligible for part III of the podiatric examination administered by the NBPME, an applicant must submit an application for licensure together with the requisite fee. To

assure eligibility to sit for the nbpme examination, an applicant must submit his or her completed application not less than 30 days before the date of the examination (Mich. Admin. Code r. 338.8104).

Minnesota:

Minnesota Statutes and Administrative code do not explicitly state that an applicant for a license as a podiatrist must complete the required education prior to taking the examination for licensure (Minn. R 6900.0020, Minn. Stat. s. 153.16)

Summary of factual data and analytical methodologies:

No analytical methodologies were used in drafting this rule project as it was prompted by the enactment of 2013 Wisconsin Act 114. Adjacent states requirements were reviewed.

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

The rule will be posted for a period of 14 days for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document 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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Vieira, Administrative Rules Coordinator Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Vieira@wisconsin.gov.

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

Comments may be submitted to Katie Vieira, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Vieira@wisconsin.gov. ~~Comments must be received on or before * to be included in the record of rule-making proceedings.~~

TEXT OF RULE

SECTION 1. Pod 1.03 (title), (intro.), and (1) are amended to read:

Pod 1.03 ~~Application and credentials~~ Licensure requirements. Every person applying for a license to practice podiatric medicine and surgery shall ~~make application on forms provided by the board and shall~~ submit all of the following:

(1) A completed and verified application form on forms provided by the board and the required fee under s. 440.05 (1), Stats.

SECTION 2. Pod 1.03 (3) is created to read:

Pod 1.03 (3) Evidence of successful completion of the examination requirements specified in s. Pod 1.06.

SECTION 3. Pod 1.05 is repealed.

SECTION 4. Pod 1.08 (2) is renumbered Pod 1.08 (1) (d) and amended to read:

Pod 1.08 (1) (d) ~~An applicant shall complete~~ Evidence of successful completion of an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin.

SECTION 5. Pod 1.09 (2) is renumbered Pod 1.09 (1) (e) and amended to read:

Pod 1.09 (1) (e) ~~An applicant shall complete~~ Evidence of successful completion of an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin.

SECTION 6. Pod 1.10 (1) (a) is amended to read:

Pod 1.10 (1) (a) An applicant for a license to practice podiatric medicine and surgery who is a graduate of a school of podiatric medicine and surgery approved by the board may apply to the board for a temporary license to practice podiatric medicine and surgery. An applicant for a temporary license shall submit to the board the documentary evidence and credentials required under ss. Pod 1.04 and 1.05, a completed application for a temporary license, and the required fees under s. 440.05 (1), Stats. ~~An application for a temporary license shall be made not less than 30 days before the date set by the board for the holding of its next examinations for licensure.~~

SECTION 7. 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)

Dated _____ Agency _____

Board Chairperson
Podiatry Affiliated Credentialing Board