



RADIOGRAPHY EXAMINING BOARD
Room 121C, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
December 1, 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

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A) Adoption of Agenda (1-3)

B) Approval of Minutes of August 4, 2015 (4-6)

C) Administrative Updates

- 1) Department and Staff Updates
- 2) Board Membership Updates
 - a) New Board Member – Michele Goodweiler
 - b) Outgoing Board Member – James Lemerond
- 3) Appointments/Reappointments/Confirmations
- 4) Board Members – Term Expiration Dates
 - a) Gregg Bogost – 07/01/2015
 - b) Donald Borst – 07/01/2017
 - c) Tracy Marshall – 07/01/2016
 - d) Susan Sanson – 07/01/2016
 - e) Michele Goodweiler – 07/01/2018

D) Nominations, Elections, and Appointments

E) Legislative/Administrative Rule Matters (7)

- 1) RAD 4 – Scope of Practice – Preliminary Rule Draft **(8-10)**
- 2) Research Related to Nursing Students
- 3) Current and Future Rule Making and Legislative Initiatives
- 4) Administrative Rules Report

F) Physician Assistants, Nurse Practitioners and Fluoroscopy – Board Review of Correspondence Received (11-14)

G) Education and Examination Matters

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

- I) Items Added After Preparation of Agenda:
- 1) Introductions, Announcements and Recognition
 - 2) Administrative Updates
 - 3) Education and Examination Matters
 - 4) Credentialing Matters
 - 5) Practice Matters
 - 6) Legislation/Administrative Rule Matters
 - 7) Liaison Report(s)
 - 8) Informational Item(s)
 - 9) Disciplinary Matters
 - 10) Presentations of Petition(s) for Summary Suspension
 - 11) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
 - 12) Presentation of Proposed Decisions
 - 13) Presentation of Interim Order(s)
 - 14) Petitions for Re-Hearing
 - 15) Petitions for Assessments
 - 16) Petitions to Vacate Order(s)
 - 17) Petitions for Designation of Hearing Examiner
 - 18) Requests for Disciplinary Proceeding Presentations
 - 19) Motions
 - 20) Petitions
 - 21) Appearances from Requests Received or Renewed
 - 22) Speaking Engagement(s), Travel, or Public Relation Request(s), and reports
- J) 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.).

K) Deliberation on Division of Legal Services and Compliance (DLSC) Matters

- 1) Monitoring
- 2) **Administrative Warnings**
 - a) 13 RAD 005 **(15-16)**
 - b) 15 RAD 003 **(17-18)**
- 3) Proposed Stipulations, Final Decisions and Orders
- 4) Case Closures

L) 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) Petition(s) for Summary Suspensions
- 7) Proposed Stipulations, Final Decisions and Orders
- 8) Administrative Warnings
- 9) Proposed Decisions

- 10) Matters Relating to Costs
- 11) Complaints
- 12) Case Closings
- 13) Case Status Report
- 14) Petition(s) for Extension of Time
- 15) Proposed Interim Orders
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

M) Consult with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- N) Open Session Items Noticed Above not Completed in the Initial Open Session
- O) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate
- P) Ratification of Licenses and Certificates

ADJOURNMENT

NEXT MEETING DATE APRIL 5, 2016

RADIOGRAPHY EXAMINING BOARD

MEETING MINUTES

August 4, 2015

PRESENT: Gregg Bogost (*via GoToMeeting, joined the meeting at 9:08 a.m. and was excused from the meeting at 10:02 a.m.*), Donald Borst (*via GoToMeeting*), James Lemerond, Tracy Marshall (*via GoToMeeting*), Susan Sanson

STAFF: Tom Ryan, Executive Director; and Nilajah Madison-Head, Bureau Assistant

CALL TO ORDER

Susan Sanson, Chair, called the meeting to order at 9:00 A.M. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: James Lemerond moved, seconded by Tracy Marshall, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: James Lemerond moved, seconded by Tracy Marshall, to approve the minutes of April 21, 2015 as published. Motion carried unanimously.

NOMINATIONS, ELECTIONS, AND APPOINTMENTS

Election of Officers

Secretary

NOMINATION: Susan Sanson nominated Donald Borst for the Office of Secretary.

Tom Ryan called for other nominations three (3) times.

Donald Borst was elected as Secretary by unanimous consent.

| 2015 ELECTION OF OFFICERS | |
|----------------------------------|---------------------|
| Secretary | Donald Borst |

Appointment of Liaisons

| 2015 LIAISON APPOINTMENTS | |
|--|---|
| Credentialing Liaison | Susan Sanson, Donald Borst |
| Legislative Liaison | Gregg Bogost, Susan Sanson |
| Monitoring Liaison | Tracy Marshall |
| Education and Exams Liaison | Tracy Marshall <i>Alternate: Donald Borst</i> |
| Professional Assistance Procedure Liaison | Tracy Marshall <i>Alternate: Donald Borst</i> |
| Practice Question Liaison | Susan Sanson, Donald Borst |
| Travel Liaison | Susan Sanson |
| Website Liaison | Donald Borst |
| Rules Liaison | Susan Sanson <i>Alternate: Tracy Marshall</i> |
| Screening Panel | Donald Borst, Tracy Marshall |

MOTION: James Lemerond moved, seconded by Donald Borst, to affirm the Chair's appointment of liaisons. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Gregg Bogost joined the meeting at 9:08 a.m.

Review of ASRT Practice Standards and Board Administrative Rules

MOTION: James Lemerond moved, seconded by Tracy Marshall, to direct DSPTS staff to research the administrative rule and statute language involved with students enrolled in a Nursing program who are actively training in the healthcare field. Motion carried unanimously.

MOTION: James Lemerond moved, seconded by Donald Borst, to request DSPTS staff draft a Scope Statement relating to updating the scope of practice reference to the 2013 standards. Motion carried unanimously.

Gregg was excused from the meeting at 10:02 a.m.

MOTION: James Lemerond moved, seconded by Tracy Marshall, to authorize the Chair to approve the Scope Statement relating to scope of practice standards 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.

DELEGATION OF RATIFICATION OF EXAMINATION RESULTS AND RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: James Lemerond moved, seconded by Tracy Marshall, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: James Lemerond moved, seconded by Donald Borst, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:21 A.M.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

| | | | |
|--|---|---|--|
| 1) Name and Title of Person Submitting the Request: Sharon Henes Administrative Rules Coordinator | | 2) Date When Request Submitted: 11/10/2015 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: Radiography Examining Board | | | |
| 4) Meeting Date: 12/1/2015 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? 1) RAD 4 – Scope of Practice – Preliminary Rule Draft 2) Research Related to Nursing Students | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session | 8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: N/A | |
| 10) Describe the issue and action that should be addressed: The Board will review the preliminary rule draft for RAD 4 relating to scope of practice. | | | |
| 11) Authorization | | | |
| Sharon Henes | | 11/10/2015 | |
| 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
RADIOGRAPHY EXAMINING BOARD

| | | |
|-----------------------------|---|-----------------------|
| IN THE MATTER OF RULEMAKING | : | PROPOSED ORDER OF THE |
| PROCEEDINGS BEFORE THE | : | RADIOGRAPHY EXAMINING |
| | : | BOARD |
| RADIOGRAPHY EXAMINING | : | ADOPTING RULES |
| BOARD | : | (CLEARINGHOUSE RULE) |

PROPOSED ORDER

An order of the Radiography Examining Board to amend RAD 4.01 (2) and 4.02 (2) relating to scope of practice.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

None.

Statutory authority: Sections 15.08 (5) (b) and 227.11 (2) (a), 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. . .”

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency’s rule-making authority, stating 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.”

Related statute or rule:

None.

Plain language analysis:

The current rule defines the scope of practice for radiographers and limited X-ray machine operators by reference to the standards set by the American Society of Radiologic Technologists (ASRT) in 2010. ASRT updated the standards in 2013. The proposed rule would amend the administrative code to reference the 2013 standards.

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

None.

Comparison with rules in adjacent states:

Illinois:

The standards of practice in Illinois Administrative Code do not reference the American Society of Radiologic Technologist standards.

Iowa:

The standards of practice in Iowa Administrative Code do not reference the American Society of Radiologic Technologist standards.

Michigan:

The standards of practice in Michigan Administrative Code do not reference the American Society of Radiologic Technologist standards.

Minnesota:

The standards of practice in Minnesota Administrative Code do not reference the American Society of Radiologic Technologist standards.

Summary of factual data and analytical methodologies:

This rule updates the applicable scope of practice standards to reference the current 2013 American Society of Radiologic Technologists standards. Neighboring states requirements were also 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 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.

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:

Sharon Henes, 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 608-261-2377; email at Sharon.Henes@wisconsin.gov.

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

Comments may be submitted to Sharon Henes, 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 Sharon.Henes@wisconsin.gov. ~~Comments must be received on or before * to be included in the record of rule-making proceedings.~~

TEXT OF RULE

SECTION 1. RAD 4.01 (2) is amended to read:

RAD 4.01 (2) The scope of practice of a licensed radiography is defined in the Radiography Standards, Practice Standards for Medical Imaging and Radiation Therapy, ~~2010~~ 2013 American Society of Radiologic Technologists.

SECTION 2. RAD 4.02 (2) is amended to read:

RAD 4.02 (2) The scope of practice of a LXMO is defined in the Limited X-ray Machine Operator Practice Standards, ~~2010~~ 2013 American Society of Radiologic Technologists.

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)

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

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| 1) Name and Title of Person Submitting the Request: Susan Sanson | | 2) Date When Request Submitted: 11/6/2015 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others | |
| 3) Name of Board, Committee, Council, Sections: Radiography Examining Board | | | |
| 4) Meeting Date: 12/1/2015 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? Physician Assistants, Nurse Practitioners and Fluoroscopy – Board Review of Correspondence Received | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: Discuss correspondence received: Hi Steph I will ask that this topic be added to the December meeting. I cannot speak for the state board. The board will review and get back to you. I am learning that to make changes, even small ones, they need to go back to the legislators. Sorry about the confusion. Susan Sanson 777-3586 From: Dybul, Stephanie Sent: Monday, November 09, 2015 11:56 AM To: Sanson, Susan Subject: FW: NPs and Fluoro Hi Sue: I am back to square one here with respect to Nurse Practitioner use of fluoroscopy issue. See the email below, but I was directed to speak to you, as the Radiography Licensing Board Chairperson. My understanding is that the letter of the law states NPs cannot operate fluoro, while PAs can . My question to you what would it take to have this reviewed by the Radiology Licensing Board? All the of the conversations I have had with compliance is that NPs and PAs are really interchangeable in every way, from a practice perspective. I probably wouldn't be asking this questions if PAs were restricted, but this seem inconsistent. Please let me know your thoughts. Thanks, Stephanie Stephanie Dybul, MBA RT(R)(VI) CIRCC Division Administrator – Vascular & Interventional Radiology | | | |

From: Yoss, Robert
Sent: Wednesday, October 21, 2015 1:28 PM
To: Dybul, Stephanie
Subject: FW: Rule/Statute interpretation

From: Balke, William G - DHS
Sent: Tuesday, October 20, 2015 4:54 PM
To: Schmidt, Paul S - DHS; James, Lauren
Subject: RE: Rule/Statute interpretation

Lauren

You've seen **DSPS 462.02 Practice, use of title restricted.**

(2) Subsection (1) does not apply to any of the following:

[462.02\(2\)\(a\)](#) (a) A physician.

[462.02\(2\)\(b\)](#) (b) A person enrolled as a student in a radiography program approved by the board, if the person is directly supervised by a physician or a person licensed under s. [462.03 \(2\)](#).

[462.02\(2\)\(c\)](#) (c) A chiropractor licensed under s. [446.02](#) or a person under the direct supervision of such a chiropractor, if the person has successfully completed a course of instruction comprising at least 48 hours of instruction approved by the chiropractic examining board related to X-ray examinations.

[462.02\(2\)\(d\)](#) (d) A dentist licensed under s. [447.04 \(1\)](#), a dental hygienist licensed under s. [447.04 \(2\)](#), or a person under the direct supervision of a dentist.

[462.02\(2\)\(e\)](#) (e) A physician assistant licensed under s. [448.04 \(1\) \(f\)](#).

[462.02\(2\)\(f\)](#) (f) A podiatrist licensed under s. [448.63](#) or a person under the direct supervision of such a podiatrist, if the person has successfully completed a course of instruction approved by the podiatrists affiliated credentialing board related to X-ray examinations under s. [448.695 \(3\)](#).

The DSPS Administrative Code "Wisconsin Administrative Code 717" added this

(http://docs.legis.wisconsin.gov/code/admin_code)
http://docs.legis.wisconsin.gov/code/admin_code/rad

http://docs.legis.wisconsin.gov/code/admin_code/rad/1

RAD 1.01 Authority. The rules in this chapter are adopted pursuant to ss. [15.08 \(5\)](#), [440.08 \(2\) \(a\) 39m](#), and [64g](#)., and [462.06](#), Stats.

History: [CR 11-016](#): cr. [Register August 2011 No. 668](#), eff. 9-1-11; correction made under s. [13.92 \(4\) \(b\) 7](#)., Stats., [Register August 2011 No. 668](#).

RAD 1.02 RAD 1.02 Definitions.

12) "Licensed independent practitioner" means a physician licensed under s. [448.04 \(1\)](#), Stats., a dentist licensed under s. [447.04 \(1\)](#), Stats., a podiatrist licensed under s. [448.63](#), Stats., a chiropractor licensed under s. [446.02](#), Stats., an **advance practice nurse prescriber certified under s. [441.16 \(2\)](#)**, Stats., or a physician assistant licensed under s. [448.04 \(1\) \(f\)](#), Stats., or other health care provider who is defined as an independent practitioner.

RAD 4.01 Radiographer scope of practice. (1) The practice of a radiographer involves the performance of radiography and radiographic procedures and related techniques to produce **images for the interpretation by, or at the request of, a licensed independent practitioner.** Radiographers perform the radiographic examination to create the images needed for medical diagnosis and apply scientific knowledge, technical skills, patient

interaction, and care necessary to obtain diagnostic information. Radiographers may apply radiation to any part of the human body, may administer contrast agents and related substances for diagnostic purposes.

What it means is a nurse practitioner can order x-rays but they can't make the exposure. This was discussed at an early meeting (Summer/Fall 2010) and the board took no action and the wording and definition stand as is. 462 was written and passed into law after 157 was last updated. I have received repeated questions regarding this issue. The rule, DHS 157, cannot supersede the statute. Further requests for clarification would need to be directed to the Radiography Licensing Board. FYI, Susan Sanson, Executive Director Organizational Learning at Froedtert is the Radiography Licensing Board Chairperson.

This isn't as clear a conflict as it appears on the surface. DHS 157 tells registrants what the minimums are to operate the unit; the License permits them to do so (ex. a car has to meet certain standards to be on a highway but unless the owner is licensed they can't drive it on the road). Unless the Radiography Licensing Board or the Legislature decides to address the issue somehow, a Nurse Practitioner cannot run a fluoroscopy unit. If the Nurse Practitioner were to conduct a procedure where fluoroscopic imaging is used, for example insertion of a PIC line, they would need a Licensed Radiographer or a Licensed Physician who has had the fluoro training outlined in DHS 157.76(11) there to operator the fluoroscope.

Bill Balke

William Balke
Radiation Engineering Specialist Supervisor
Wisconsin Division of Public Health

From: Schmidt, Paul S - DHS
Sent: Tuesday, October 20, 2015 10:56 AM
To: 'James, Lauren'
Cc: Balke, William G - DHS
Subject: RE: Rule/Statute interpretation

Lauren: Yes, Bill Balke can answer this question. I have cc'ed him on this e-mail. He will respond directly.

From: James, Lauren **Sent:** Tuesday, October 20, 2015 9:35 AM
To: Schmidt, Paul S - DHS
Subject: Rule/Statute interpretation

Hi Paul,

I have a rule/statute interpretation question for you. We have come across an area where DHS 157 and Chapter 462 of the State Statute conflict. It is regarding who is able to operate fluoroscopy machines, specifically, if nurse practitioners can operate them. The rule reference is DHS 157.76(11) and 157.03(191) which specifically lists nurse practitioners as being able to operate them. Chapter 462.02(2) of the statutes, however, omits nurse practitioners. Would you be able to help us interpret the discrepancy or point us to someone who could?

Thanks!

Lauren James
Office of Radiation Safety
Medical College of Wisconsin

From: Dybul, Stephanie
Sent: Thursday, October 22, 2015 6:12 AM
To: Yoss, Robert
Subject: RE: NPs and Fluoro

Hi Bob:

Could you please forward me your email so I can circle back with Sue Sanson. Here is one of the links that we received from compliance that led us to believe otherwise.

[NGS Medicare – Non-physician Practitioner scope of Practice for Radiology Services](#)

Thanks,
Stephanie

From: Yoss, Robert
Sent: Wednesday, October 21, 2015 9:35 AM
To: Dybul, Stephanie
Subject: NPs and Fluoro

This is to follow up our conversation this morning. I spoke before I read the email from Bill Balke. Radiation Engineering Specialist Supervisor, Wisconsin Division of Public Health. It appears that NPs cannot do fluoro. Below is an excerpt from him.

What it means is a nurse practitioner can order x-rays but they can't make the exposure. This was discussed at an early meeting (Summer/Fall 2010) and the board took no action and the wording and definition stand as is. 462 was written and passed into law after 157 was last updated. I have received repeated questions regarding this issue. The rule, DHS 157, cannot supersede the statute. Further requests for clarification would need to be directed to the Radiography Licensing Board. FYI, Susan Sanson, Executive Director Organizational Learning at Froedtert is the Radiography Licensing Board Chairperson.

This isn't as clear a conflict as it appears on the surface. DHS 157 tells registrants what the minimums are to operate the unit; the License permits them to do so (ex. a car has to meet certain standards to be on a highway but unless the owner is licensed they can't drive it on the road). Unless the Radiography Licensing Board or the Legislature decides to address the issue somehow, a Nurse Practitioner cannot run a fluoroscopy unit. If the Nurse Practitioner were to conduct a procedure where fluoroscopic imaging is used, for example insertion of a PIC line, they would need a Licensed Radiographer or Licensed Physician who has had the fluoro training outlined in DHS 157.76(11) there to operator the fluoroscope.

| | |
|---|------|
| 11) Authorization | |
| Signature of person making this request | Date |
| Supervisor (if required) | Date |
| Bureau Director signature (indicates approval to add post agenda deadline item to agenda) | Date |