STATE OF WISCONSIN
RADIOGRAPHY EXAMINING BOARD

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

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PROPOSED ORDER

An order of the Radiography Examining Board to amend RAD 1.02 (12), relating to
definition of licensed independent practitioner.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

Statutes interpreted:
Section 448.56 (7) (a), Stats.

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

Explanation of agency authority:
Section 15.08 (5) (b), Stats., provides an examining board “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 statutes or rules:
None.

Plain language analysis:
The proposed rules reflect the provisions of 2015 Wisconsin Act 375, which grants
qualified physical therapists the authority to order X-rays. Current rules provide the scope
of practice for radiographers involves the production of images for the interpretation by,
or at the request of, a licensed independent practitioner. “Licensed independent
practitioner” as defined in current rules does not include a physical therapist. The
proposed rules amend the definition of “licensed independent practitioner” to include a
physical therapist who is licensed under s. 448.53, Stats., and satisfies one of the
qualifications under s. 448.56 (7) (a), Stats.
Summary of, and comparison with, existing or proposed federal regulation:
None.

Comparison with rules in adjacent states:
The following rules governing the practice of physical therapy in Illinois, Iowa, Michigan, and Minnesota do not explicitly authorize or prohibit the ordering of X-rays by physical therapists:

**Illinois**: 68 Ill. Adm. Code 1340
**Iowa**: 645 IAC 200 to 203
**Michigan**: Mich Admin Code, R 338.7101 to R 338.7150
**Minnesota**: Minnesota Rules, Chapter 5601

32 Ill. Admin. Code 401, which provides for accreditation in the practice of medical radiation technology in Illinois; 645 IAC 42, which provides for permits to operate ionizing radiation producing machines or administer radioactive materials in Iowa; and Minn. Stat. 144.21, which provides requirements for X-ray operators, do not address qualifications for ordering X-rays. Michigan does not have requirements for the licensure or credentialing of X-ray machine operators.

Summary of factual data and analytical methodologies:
The proposed rules were developed by reviewing the provisions of 2015 Wisconsin Act 375 in conjunction with current rules relating to the definition of licensed independent practitioner under s. RAD 1.02 (12).

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. 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 Jeffrey.Weigand@wisconsin.gov, or by calling (608) 267-2435.
Agency contact person:
Dale Kleven, 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 DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:
Comments may be submitted to Dale Kleven, 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 DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 9:00 a.m. on March 1, 2017, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RAD 1.02 (12) is amended to read:

RAD 1.02 (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.; a physician assistant licensed under s. 448.04 (1) (f), Stats.; subject to s. 448.56 (7) (a), Stats., a physical therapist licensed under s. 448.53, Stats.; or other health care provider who is defined as a independent practitioner.

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)
**Administrative Rules**  
**Fiscal Estimate & Economic Impact Analysis**

1. **Type of Estimate and Analysis**  
   - Original  
   - Updated  
   - Corrected

2. **Administrative Rule Chapter, Title and Number**  
   RAD 1

3. **Subject**  
   Definition of licensed independent practitioner

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

5. **Chapter 20, Stats. Appropriations Affected**  
   20.165(1)(g)

6. **Fiscal Effect of Implementing the Rule**  
   - No Fiscal Effect  
   - Increase Existing Revenues  
   - Decrease Existing Revenues  
   - Increase Costs  
   - Could Absorb Within Agency's Budget  
   - Decrease Costs

7. **The Rule Will Impact the Following (Check All That Apply)**  
   - State's Economy  
   - Local Government Units  
   - Specific Businesses/Sectors  
   - 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 reflects the provisions of 2015 Wisconsin Act 375, which grants qualified physical therapists the authority to order X-rays. Current rules provide the scope of practice for radiographers involves the production of images for the interpretation by, or at the request of, a licensed independent practitioner. “Licensed independent practitioner” as defined in current rules does not include a physical therapist. The proposed rule amends the definition of “licensed independent practitioner” to include a physical therapist who is licensed under s. 448.53, Stats., and satisfies one of the qualifications under s. 448.56 (7) (a), Stats.

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.**  
    No local governmental units participated in the development of this EIA. No local governmental units participated in the development of this EIA.

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)**  
    The 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**  
    The benefit to implementing the rule is providing clarity and updated definitions. If the rule is not implemented, the definition of licensed independent practitioner will remain outdated.

14. **Long Range Implications of Implementing the Rule**  
    The long range implication of implementing the rule is clarity and updated definitions.

15. **Compare With Approaches Being Used by Federal Government**  
    None
16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The following rules governing the practice of physical therapy in Illinois, Iowa, Michigan, and Minnesota do not explicitly authorize or prohibit the ordering of X-rays by physical therapists:

**Illinois**: 68 Ill. Adm. Code 1340

**Iowa**: 645 IAC 200 to 203

**Michigan**: Mich Admin Code, R 338.7101 to R 338.7150

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