



**TELECONFERENCE/VIRTUAL MEETING
PODIATRY AFFILIATED CREDENTIALING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
June 5, 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 October 7, 2014 (4-5)**
- C) Administrative Updates**
 - 1) Department and Staff Updates
 - 2) Appointments/Reappointments/Confirmations
 - 3) Wis. Stat. s 15.085 (3)(b) – Biannual Meeting with the Medical Examining Board
- D) Election of Board Officers and Appointment of Liaisons and Delegated Authorities (6-9)**
- E) Legislative/Administrative Rule Matters**
 - 1) **9:00 A.M. – Public Hearing on Clearinghouse Rule 14-065 Relating to Biennial Registration of Podiatrists (10-18)**
 - a) Review and Respond to Clearinghouse Report and Public Hearing Comments
 - 2) **Adoption Order for CR 14-035 Relating to Continuing Education Audits of Podiatrists (19-25)**
 - 3) **Review of Scope Statement for Pod 1 Relating to Examination Requirements (26-28)**
 - 4) **Review of Preliminary Rule Draft of Pod 2 Relating to the Overtreatment of Patients (29-32)**
 - 5) **Review of Preliminary Rule Draft of Pod 1, 4, 8 Relating to the Duty to Obtain Informed Consent (33-39)**
 - 6) **Possible Scope Statement Regarding Podiatrist Supervision of Hyperbaric Oxygen Treatment (40)**
 - 7) Current and Future Rule Making and Legislative Initiatives
 - 8) Administrative Rules Report
- F) Supreme Court Decision, Federal Trade Commission v. North Carolina Dentistry Board – Consult with Legal Counsel (41-42)**

- G) Speaking Engagement(s), Travel, or Public Relation Request(s)
- H) Informational Items
- I) 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) Education and Examination Matters
 - 6) Credentialing Matters
 - 7) Practice Matters
 - 8) Legislation/Administrative Rule Matters
 - 9) Liaison Report(s)
 - 10) Informational Item(s)
 - 11) Disciplinary Matters
 - 12) Presentations of Petition(s) for Summary Suspension
 - 13) Petitions for Designation of Hearing Examiner
 - 14) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
 - 15) Presentation of Proposed Final Decisions and Orders
 - 16) Presentation of Interim Order(s)
 - 17) Petitions for Re-Hearing
 - 18) Petitions for Assessments
 - 19) Petitions to Vacate Order(s)
 - 20) Requests for Disciplinary Proceeding Presentations
 - 21) Motions
 - 22) Petitions
 - 23) Appearances from Requests Received or Renewed
 - 24) Speaking Engagement(s), Travel, or Public Relation Request(s)
 - 25) Reports from Speaking Engagement(s) and Travel
- 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) Proposed Stipulation and Final Decision and Order for Remedial Education in the matter of case number 13 POD 022 – Edward VanBeek, D.P.M. (43-49)**
- L) Credentialing Matters**
 - 1) Application Review
 - a) Gary Hoberman, D.P.M. (50-101)
- M) Continuing Education Waiver Request (102-107)**
- N) Case Status Report (108)**
- O) 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) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Administrative Warnings
- 10) Proposed Final Decisions and Orders
- 11) Matters Relating to Costs
- 12) Case Closings
- 13) Case Status Report
- 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

P) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

S) Ratification of Licenses and Certificates

ADJOURNMENT

**PODIATRY AFFILIATED CREDENTIALING BOARD
WEB/VIRTUAL MEETING MINUTES
October 7, 2014**

PRESENT Gary Brown; Jeffery Giesking, D.P.M.; Thomas Komp, D.P.M. (*arrived at 9:27 AM*); William Weis, D.P.M.

EXCUSED:

STAFF: Tom Ryan, Executive Director; Taylor Thompson, Bureau Assistant; and other Department staff

CALL TO ORDER

William Weis, Chair, called the meeting to order at 9:02 A.M. A quorum of three (3) members was confirmed.

ADOPTION OF AGENDA

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

APPROVAL OF MINUTES

MOTION: Jeff Giesking moved, seconded by Gary Brown, to approve the minutes of June 17, 2014 as published. Motion carried unanimously.

ADMINISTRATIVE UPDATES

**WIS. STAT. S 15.085 (3)(B) – BIENNIAL MEETING WITH
THE MEDICAL EXAMINING BOARD**

MOTION: Gary Brown moved, seconded by Jeff Giesking, the Board considered the possibility to meet with the Medical Examining Board to discuss matters of joint interest, and decided there are none at this time. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS:

**REVIEW OF SCOPE STATEMENT REGARDING THE PODIATRIST'S DUTY
TO OBTAIN INFORMED CONSENT**

MOTION: Jeff Giesking moved, seconded by Gary Brown, to approve of the Scope Statement on POD 6 relating to the Podiatrist's duty to obtain informed consent from their patients for submission to the Governor's Office and publication in the register and to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

Thomas Komp joined the meeting at 9:27 AM.

**2013 WISCONSIN ACT 114 AND ITS IMPACT ON
WIS. ADMIN. CODE CH. POD 1**

MOTION: Jeff Giesking moved, seconded by Gary Brown, to request staff draft a Scope Statement to modify Pod 1.05 to make it consistent with Act 114. Motion carried unanimously.

SCOPE STATEMENT FOR OVERTREATMENT

MOTION: Tom Komp moved, seconded by Gary Brown, to approve the Scope Statement as amended for POD 2 relating to overtreatment of patients for submission to the Governor's Office and publication in the Register and to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

ADJOURNMENT

MOTION: Jeff Giesking moved, seconded by Tom Komp, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 9:39 A.M.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Nilajah Madison-Head, Bureau Assistant		2) Date When Request Submitted: 05/26/15	
		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: 06/05/15	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Election of Board Officers and Appointment of Liaisons and Delegated Authorities	
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: Board is to Elect Officers and have the Chair appoint liaisons and delegated authorities			
11) Authorization			
<i>Nilajah Madison-Head</i>		05/26/15	
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.			

2014 OFFICERS	
Board Chair	William Weis
Vice Chair	Thomas Komp
Secretary	Gary Brown

2014 LIAISON APPOINTMENTS	
Credentialing Liaison	William Weis <i>Alternate: Thomas Komp</i>
Monitoring Liaison	Thomas Komp <i>Alternate: Jeffery Giesking</i>
Education and Exams Liaison	Jeffery Giesking <i>Alternate: Thomas Komp</i>
Legislative Liaison	William Weis <i>Alternate: Jeffery Giesking</i>
Travel Liaison	Jeffery Giesking <i>Alternate: Thomas Komp</i>
Rules Liaison	William Weis <i>Alternate: Thomas Komp</i>
Professional Assistance Procedure Liaison	Jeffery Giesking <i>Alternate: William Weis</i>
Screening Panel	Thomas Komp, William Weis, Gary Brown <i>Alternate: Jeffery Giesking</i>

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Ashley Horton Department Monitor Division of Legal Services and Compliance		2) Date When Request Submitted: January 13, 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:			
4) Meeting Date:	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Delegation to Monitoring Liaison and Department Monitor	
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? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Delegated Authority Motion: <p style="text-align: center;"><i>“_____ moved, seconded by _____ to adopt/reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today’s agenda packet.”</i></p>			
11) Authorization <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;">  </div> <div style="width: 30%; text-align: center;"> January 13, 2015 </div> <div style="width: 30%;"></div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Signature of person making this request</div> <div style="width: 20%; text-align: center;">Date</div> <div style="width: 20%;"></div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Supervisor (if required)</div> <div style="width: 20%; text-align: center;">Date</div> <div style="width: 20%;"></div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</div> <div style="width: 20%; text-align: center;">Date</div> <div style="width: 20%;"></div> </div>			
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.			

Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. **Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.**

Monitoring Liaison currently has the authority to grant an extension up to 90 days. This change will allow the Liaison to grant payment plans and longer extensions on a case-by-case basis, which will be particularly helpful for Board/Sections that do not meet every month.

7. **Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.**

This addition was initiated and approved by the Medical Examining Board in October 2014. The Liaison may choose to defer a particular request to the full Board/Section for review if needed.

Current Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff Administrative Rules Coordinator		2) Date When Request Submitted: 3/26/2015 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: June 5, 2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Public Hearing on Clearinghouse Rule 14-065 relating to biennial registration of podiatrists. Review and respond to Clearinghouse Report and Public Hearing comments.	
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: Hold Public Hearing at 9:00 am. Discuss any public hearing comments. Review, discuss, and respond to any Clearinghouse Comments. The Board will authorize the Chair, or another member of the Board, to approve the Legislative Report and Final Rule for CR14-065 for submission to the Governor's Office and Legislature.			
11) Authorization			
Kathleen Paff		3/26/2015	
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 14-065)

PROPOSED 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.

ANALYSIS

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 are 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 53708-8366; 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, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to Kathleen.Paff@wisconsin.gov. Comments must be received on or before June 16, 2015 to be included in the record of rule-making proceedings.

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~~ 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

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 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

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.

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

Katie Paff

18. Contact Phone Number

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 and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
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 14-065

AN ORDER to amend Pod 4.01 and 4.03 (2), relating to biennial registration of podiatrists.

Submitted by **DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

11-24-2014 RECEIVED BY LEGISLATIVE COUNCIL.

12-11-2014 REPORT SENT TO AGENCY.

SG:JEO

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

[Redacted]
[Redacted]
[Redacted]

Subject: Proposed rule regarding biennial registration of podiatrists (CR 14-065)
Date: Wednesday, April 22, 2015 1:47:56 PM

The Wisconsin Podiatric Medical Association (WPMA) supports this rule-making by the Podiatry Affiliated Credentialing Board. The change proposed appropriately corrects an inconsistency regarding the license renewal date for podiatrists. The relevant statute, of course, controls over the administrative rules.

Thank you for this opportunity to express the WPMA's support for this rule-making initiative.

Tony Driessen
On behalf of the WPMA

Anthony H. Driessen
Attorney

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]



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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff, Administrative Rules Coordinator		2) Date When Request Submitted: 5/13/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Podiatry Affiliated Credentialing Board			
4) Meeting Date: 6/5/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Adoption Order for CR 14-035 relating to continuing education audits of podiatrists	
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 and approve the Adoption Order for CR14-035 relating to continuing education audits of podiatrists.			
11) Authorization			
Kathleen Paff		5/13/2015	
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	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	PODIATRY AFFILIATED
	:	CREDENTIALING BOARD
PODIATRU AFFILIATED	:	ADOPTING RULES
CREDENTIALING BOARD	:	(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 _____

Agency _____

Chairperson
Podiatry Affiliated Credentialing Board

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

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
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff, Administrative Rules Coordinator		2) Date When Request Submitted: 2/16/2015 <small>Items will be considered late if submitted after 12:00 p.m. and less than: ▪ 8 work days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Podiatry Affiliated Credentialing Board			
4) Meeting Date: 6/16/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Review of Scope Statement for Pod 1 relating to Examination Requirements	
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? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: <p>The Board will review and approve the scope statement for Pod 1 relating to examination requirements for submission to the Governor’s Office of Regulatory Compliance, publication in the register, and to authorize the chair to approve the scope for implementation no less than 10 days after publication.</p>			
11) Signature of person making this request Katie Paff Supervisor (if required)		Authorization	Date February 16, 2015 Date
Bureau 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 Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATEMENT OF SCOPE

Podiatry Affiliated Credentialing Board

Rule No.: Pod 1

Relating to: Examination requirements

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

None.

2. Detailed description of the objective of the proposed rule:

The purpose of the proposed rule is to bring current Wisconsin Administrative Code in line with recent legislation, specifically 2013 Wisconsin Act 114.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

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.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

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."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Rev. 3/6/2012

State employees will spend approximately 50 hours developing the proposed rule.

6. List with description of all entities that may be affected by the proposed rule:

The proposed rule will affect applicants for licensure as a podiatrist.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule is likely to have minimal or no economic impact on small businesses.

Contact Person: Katie Paff, (608) 261-4472, Kathleen.Paff@wisconsin.gov

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff, Administrative Rules Coordinator		2) Date When Request Submitted: 2/16/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting									
3) Name of Board, Committee, Council, Sections: Podiatry Affiliated Credentialing Board											
4) Meeting Date: 6/16/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Review of Preliminary Rule Draft of Pod 2 relating to the Overtreatment of Patients									
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:									
10) Describe the issue and action that should be addressed: The Board will review and discuss potential draft language for Pod 2.01 (24) and will authorize the chair, or another member of the Board, to approve the revisions to Pod 2.01 relating to overtreatment of patients for posting for EIA comments and submission to Clearinghouse.											
11) Authorization <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; border-bottom: 1px solid black;">Kathleen Paff</td> <td style="width: 30%; border-bottom: 1px solid black; text-align: right;">2/16/2015</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Signature of person making this request</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (if required)</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				Kathleen Paff	2/16/2015	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	
Kathleen Paff	2/16/2015										
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 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 are 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 * 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)

(Example 1) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests, or medical or surgical services.

(Example 2) Performing or attempting to perform health care services that are medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition.

(Example 3) Engaging in excessive evaluation or treatment of a patient.

(Example 4) Consistent improper utilization of services; consistent use of non-accepted procedures which have a consistent detrimental effect upon patients.

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 Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff, Administrative Rules Coordinator		2) Date When Request Submitted: 2/24/2015 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Podiatry Affiliated Credentialing Board			
4) Meeting Date: 6/16/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Review Preliminary Rule Draft of Pod 1, 4, 8 relating to the duty to obtain informed consent	
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 and authorize the Chair to approve the preliminary rule draft for posting for economic impact comments and submission to the Clearinghouse.			
11) Authorization			
Kathleen Paff		2/24/2015	
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
	:	CREDENTIALING BOARD
PODIATRY AFFILIATED	:	ADOPTING RULES
CREDENTIALING BOARD	:	(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 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 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 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 * 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 Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff Administrative Rules Coordinator		2) Date When Request Submitted: 5/14/2015 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: June 5, 2015	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Possible Scope Statement regarding podiatrist supervision of hyperbaric oxygen treatment	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? Wisconsin Podiatric Medical Association <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: The Wisconsin Podiatric Medical Association will discuss podiatrist supervision of hyperbaric oxygen treatment.			
11) Authorization			
Kathleen Paff		5/14/2015	
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
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Taylor Thompson, Bureau Assistant on behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 3/30/15 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Podiatrists Affiliated Credentialing Board			
4) Meeting Date: 6/5/15	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Supreme Court Decision Involving NC Dentistry Board	
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? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Taylor Thompson		3/30/15	
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.			

1. The Department is aware that on February 25, 2015, the U.S. Supreme Court issued a decision in North Carolina State Board of Dental Examiners v. Federal Trade Commission.
2. The Department, while continuing to analyze this decision, has developed preliminary opinions and guidance to regulatory boards.
 - a. This decision should not affect regulatory boards who are acting within their regulatory authority. For example, when a regulatory board disciplines a credential holder for unprofessional conduct, such board action is within the acceptable parameters of the board's authority and should not trigger anti-trust issues.
 - b. The investigation and discipline of unlicensed practice should be left to the Department. This has been the Department's long-standing position and should not trigger anti-trust issues.
 - c. The Department is, and has been, aware of potential anti-trust issues concerning regulatory boards. As such, this decision is not a surprise.
 - d. The Department has consistently advised regulatory boards to act within their powers set out in the statutes. This advice remains the same following this decision.
 - e. The Department will continue to analyze the decision and to monitor discussions about the decision especially in areas with potential anti-trust implications such as unlicensed practice, scope of practice and advertising. The Department will update the boards on any important developments.