CERTIFICATE

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

I, Tom Ryan, Executive Director, Division of Policy Development in the Wisconsin Department of Safety and Professional Services and custodian of the official records of the Medical Examining Board, do hereby certify that the annexed emergency rules were duly approved and adopted by the Medical Examining Board on the 7th day of November, 2016.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand at 1400 East Washington Avenue, Madison, Wisconsin this 7th day of November, 2016.

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

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	MEDICAL EXAMINING BOARD
MEDICAL EXAMINING BOARD	:	ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 016-16, was approved by the Governor on February 12, 2016, published in Register 722A4 on February 22, 2016, and approved by the Medical Examining Board on March 16, 2016.

This emergency rule was approved by the Governor on November 3, 2016

ORDER

An order of the Medical Examining Board to amend Med 13.02 (1) and to create Med 13.02 (1g) and (1r) and 13.03 (3), relating to continuing medical education for prescribing opioids.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Medical Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

This rule will establish continuing education requirements for physicians relating to the opioid prescribing guidelines issued by the Board. These requirements will be another component to the current statewide initiatives addressing prescription drug abuse, and are in the best interest of public health and safety.

As normal rule-making procedures will not allow these requirements to be established until mid-2017, an expeditious promulgation of this rule is needed to ensure public health and safety.

ANALYSIS

Statutes interpreted:

Section 448.13, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), and 448.40 (1), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides examining boards, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . ."

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."

Section 448.40 (1), Stats., provides that the Medical Examining Board "may promulgate rules to carry out the purposes of this subchapter, including rules requiring the completion of continuing education, professional development, and maintenance of certification or performance improvement or continuing medical education programs for renewal of a license to practice medicine and surgery."

Related statute or rule:

None.

Plain language analysis:

The rules establish requirements for the completion of continuing education relating to the opioid prescribing guidelines issued by the Board as a portion of the biennial training requirements for physicians, and for Board approval of educational courses and programs.

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

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation establish continuing medical education requirements for physicians licensed in Illinois (68 Ill. Adm. Code 1285.110). The rules do not require continuing education for prescribing opioids.

Iowa:

Rules of the Iowa Board of Medicine establish continuing education requirements for physicians licensed in Iowa (653 IAC 11). The rules do not require continuing education for prescribing opioids.

Michigan:

Rules of the Michigan Department of Licensing and Regulatory Affairs establish continuing medical education requirements for physicians licensed in Michigan (Mich Admin Code, R 338.2371 to R 338.2382). The rules do not require continuing education for prescribing opioids.

Minnesota:

Rules of the Minnesota Board of Medical Practice establish continuing education requirements for physicians licensed in Minnesota (Minnesota Rules, chapter 5605). The rules do not require continuing education for prescribing opioids.

Summary of factual data and analytical methodologies:

The rules were developed by obtaining input and feedback from the Medical Examining Board.

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

These rules do not require additional hours of continuing medical education. The purpose of the rules is to require a portion of the continuing medical education hours currently required relate to the opioid prescribing guidelines issued by the Medical Examining Board. The cost of attending the 2 hours of continuing medical education for 2 renewal periods as required by the rules is anticipated to be comparable to that of other courses and programs currently available to physicians.

Fiscal estimate:

These rules will not have a fiscal impact.

Effect on small business:

These 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 Dale2.Kleven@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, Wisconsin 53708, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted by the date and time at which the public hearing on these rules is conducted. Information as to the place, date, and time of the public hearing will be published on the Department of Safety and Professional Services' website and in the Wisconsin Administrative Register.

TEXT OF RULE

SECTION 1. Med 13.02 (1) is amended to read:

Med 13.02 Continuing medical education required; waiver. (1) Each physician required to complete the biennial training requirements provided under s. 448.13, Stats., shall, in each second year at the time of making application for a certificate of registration as required under s. 448.07, Stats., sign a statement on the application for registration certifying that the physician has completed at least 30 hours of acceptable continuing medical educational programs within the ~~2 calendar years immediately preceding the calendar year for which application for registration is made~~ biennial registration period.

SECTION 2. Med 13.02 (1g) and (1r) are created to read:

Med 13.02 (1g) (a) Except as provided in par. (b), for a renewal date occurring in 2017 or 2018, a minimum of 2 of the 30 hours of continuing medical education required under sub. (1) shall be an educational course or program related to the guidelines issued by the board under s. 440.035 (2m), Stats., that is approved under s. Med 13.03 (3) at the time of the physician's attendance.

(b) This subsection does not apply to a physician who, at the time of making application for a certificate of registration, does not hold a U.S. Drug Enforcement Administration number to prescribe controlled substances.

(1r) (a) Except as provided in par. (b), for a renewal date occurring in 2019 or 2020, a minimum of 2 of the 30 hours of continuing medical education required under sub. (1) shall be an educational course or program related to the guidelines issued by the board under s. 440.035 (2m), Stats., that is approved under s. Med 13.03 (3) at the time of the physician's attendance.

(b) This subsection does not apply to a physician who, at the time of making application for a certificate of registration, does not hold a U.S. Drug Enforcement Administration number to prescribe controlled substances.

SECTION 3. Med 13.03 (3) is created to read:

Med 13.03 (3) (a) Only educational courses and programs approved by the board may be used to satisfy the requirement under s. Med 13.02 (1g) (a) and (1r) (a). To apply for approval of a continuing education course or program, a provider shall submit to the board an application on forms provided by the department. The application shall include all of the following concerning the course or program:

1. The title.

2. A general description and a detailed outline of the content.

3. The dates and locations.

4. The name and qualifications of the instructor.

5. The sponsor.

Note: An application for continuing education course or program approval may be obtained from the board at the Department of Safety and Professional Services, Office of Education and Examinations, P.O. Box 8366, Madison, Wisconsin, 53708, or from the department's website at http://dsps.wi.gov.

(b) A continuing education course or program must meet all of the following criteria to be approved:

1. The course or program is accepted by the board under sub. (1) (b).

2. The subject matter of the course pertains to the guidelines issued by the board under s. 440.035 (2m), Stats.

3. The provider agrees to monitor the attendance and furnish a certificate of attendance to each participant. The certificate of attendance shall certify successful completion of the course or program.

4. The provider is approved by the board.

5. The course or program content and instructional methodologies are approved by the board.

(c) A separate application shall be submitted for each continuing education course or program approval request.

(d) A course or program sponsor may repeat a previously approved course or program without application, if the subject matter and instructor has not changed.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect upon publication in the official state newspaper, pursuant to s. 227.22 (2) (c), Stats.

(END OF TEXT OF RULE)

Dated 11/7/2016 Agency Timothy Westlake, MD
Vice Chairperson
Medical Examining Board