

CERTIFICATE

STATE OF WISCONSIN

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

I, Tom Ryan, Executive Director, Division of Policy Development in the Wisconsin Department of Safety and Professional Services and custodian of the official records of the Podiatry Affiliated Credentialing Board, do hereby certify that the annexed rules relating to overtreatment of patients were duly approved and adopted by the Podiatry Affiliated Credentialing Board.

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 29th day of June, 2016.



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

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	PODIATRY AFFILIATED
PODIATRY AFFILIATED	:	CREDENTIALING BOARD
CREDENTIALING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 15-075)

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

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

The 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 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 8935, Madison, Wisconsin 53708; telephone (608) 261-4472; email at Dale2.Kleven@wisconsin.gov.

TEXT OF RULE

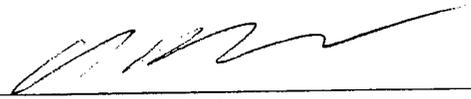
SECTION 1. Pod 2.01 (24) is created to read:

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

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated 6/28/16

Agency 

Chairperson
Podiatry Affiliated Credentialing Board
William W. S. DPM

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Pod 2

3. Subject

Overtreatment of patients

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

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

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

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

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

None. This rule does not affect local government units.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

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

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

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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

14. Long Range Implications of Implementing the Rule

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

15. Compare With Approaches Being Used by Federal Government

None

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

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

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

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

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

17. Contact Name

Katie Paff

18. Contact Phone Number

(608) 261-4472

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

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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