



**HYBRID (IN-PERSON/VIRTUAL)
CHIROPRACTIC EXAMINING BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Tom Ryan (608) 266-2112
June 30, 2022**

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 description of the actions of the Board. Be advised that board members may attend meetings designated as "Hybrid" in-person or virtually.

AGENDA

8:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-4)**
- B. Approval of Minutes of March 31, 2022 (5-7)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. Introductions, Announcements and Recognition
- E. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff, and Board Updates
 - 2) Board Members – Term Expiration Dates
 - a. Damrow, James M. – 7/1/2023
 - b. Erlandson, Kris N. – 7/1/2025
 - c. Heffernan, Amy L. – 7/1/2025
 - d. Hendrickson, Kathleen A. – 7/1/2024
 - e. Meschefske, Daniel – 7/1/2025
 - f. Yellen-Shiring, Eugene – 7/1/2023
- F. Education and Examination Matters – Discussion and Consideration**
 - 1) Process and Procedure Updates for 2021 Wisconsin Act 253, Relating to Sponsors of Chiropractic Continuing Education Programs and Nutritional Counseling Education Programs **(8-11)**
 - 2) Implementation of Changes Resulting from Revisions to Chir 5, Relating to Continuing Education **(12-13)**
- G. Public Agenda Request: Approved CPR Courses – Discussion and Consideration (14)**
- H. Legislation and Policy Matters – Discussion and Consideration

- I. Administrative Rule Matters – Discussion and Consideration (15)**
 - 1) Germane Modification: Chir 12, Relating to Nutritional Counseling Certification **(16-30)**
 - 2) Drafting Proposals: Chir 3 and 5, Relating to Professional Boundaries Education Requirement **(31-39)**
 - 3) Pending and Possible Rulemaking Projects **(40)**
- J. Board Chair Meeting and Options to Address Department Resources – Discussion and Consideration**
- K. Speaking Engagements, Travel, Public Relation Requests, and Reports**
 - 1) Consideration of Attendance: NBCE Part IV Examination Administration – November 12-13, 2022 **(41-42)**
 - 2) Travel Report: FCLB 95th Annual Educational Congress on May 4, 2022-May 7, 2022 and NBCE Annual Meeting on May 6, 2022 – Denver, CO
- L. COVID-19 – Discussion and Consideration**
- M. Discussion and Consideration of Items Added After Preparation of Agenda**
 - 1) Introductions, Announcements and Recognition
 - 2) Administrative Matters
 - 3) Election of Officers
 - 4) Appointment of Liaisons and Alternates
 - 5) Delegation of Authorities
 - 6) Education and Examination Matters
 - 7) Credentialing Matters
 - 8) Practice Matters
 - 9) Legislative and Policy Matters
 - 10) Administrative Rule Matters
 - 11) Preceptor Approvals
 - 12) Liaison Reports
 - 13) Board Liaison Training and Appointment of Mentors
 - 14) Informational Items
 - 15) Division of Legal Services and Compliance (DLSC) Matters
 - 16) Presentations of Petitions for Summary Suspension
 - 17) Petitions for Designation of Hearing Examiner
 - 18) Presentation of Stipulations, Final Decisions and Orders
 - 19) Presentation of Proposed Final Decisions and Orders
 - 20) Presentation of Interim Orders
 - 21) Petitions for Re-Hearing
 - 22) Petitions for Assessments
 - 23) Petitions to Vacate Orders
 - 24) Requests for Disciplinary Proceeding Presentations
 - 25) Motions
 - 26) Petitions
 - 27) Appearances from Requests Received or Renewed
 - 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports
- N. Public Comments**

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider

closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

O. Credentialing Matters

1) Application Reviews

- a. Kevin M. Servi – Chiropractor Re-Registration Applicant **(43-85)**

P. Deliberation on Division of Legal Services and Compliance Matters

1) Administrative Warning

- a. 21 CHI 026 – J.A.R. **(86-87)**

2) Proposed Stipulations and Final Decisions and Orders

- a. 21 CHI 013 – Donna J. Brown, D.C. **(88-94)**

Q. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

R. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

S. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

T. Open Session Items Noticed Above Not Completed in the Initial Open Session

U. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

ADJOURNMENT

NEXT MEETING: AUGUST 4, 2022

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED
WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board's agenda, please visit the Department website at <https://dsps.wi.gov>. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer at 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
CHIROPRACTIC EXAMINING BOARD
MEETING MINUTES
MARCH 31, 2022**

PRESENT: James Damrow, Kris Erlandson, Amy Heffernan, Kathleen Hendrickson, Daniel Meschefske, Eugene Yellen-Shiring

STAFF: Tom Ryan, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Katlin Schwartz, Bureau Assistant; and other Department Staff

CALL TO ORDER

Kris Erlandson, Chairperson, called the meeting to order at 8:31 a.m. A quorum was confirmed with six (6) members present.

ADOPTION OF AGENDA

MOTION: Eugene Yellen-Shiring moved, seconded by Amy Heffernan, to adopt the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF FEBRUARY 3, 2022

MOTION: Amy Heffernan moved, seconded by Eugene Yellen-Shiring, to approve the Minutes of February 3, 2022 as published. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Adoption Order: Chir 4, Relating to Chiropractic Practice

MOTION: James Damrow moved, seconded by Amy Heffernan, to approve the Adoption Order for Clearinghouse Rule 20-085 (Chir 4), relating to chiropractic practice. Motion carried unanimously.

Pending and Possible Rulemaking Projects

MOTION: James Damrow moved, seconded by Amy Heffernan, to designate the Chairperson to approve the Adoption Order for Clearinghouse Rule 21-065 (Chir 5), relating to continuing education. Motion carried unanimously.

BOARD CHAIR MEETING AND OPTIONS TO ADDRESS DEPARTMENT RESOURCES

MOTION: Amy Heffernan moved, seconded by Kathleen Hendrickson, to respectfully convey to the Legislature that the Chiropractic Examining Board is aware of the Legislature's limitations on the Department of Safety and Professional Services' (DSPS) ability to increase spending authority and add sufficient staff from its fee revenue. These limitations have created backlogs in licensing timelines and unnecessary delays in chiropractors, chiropractic technicians and chiropractic radiologic technicians being licensed in a timely manner. This has resulted in delays in employers' ability to hire, professionals' ability to treat patients, and to

earn income. These limitations have increased the number of complaints to DSPS and others about the slow pace of application processing. The Board requests that the legislature increase the staffing and spending authority of DSPS without delay and discontinue its practice of lapsing physician license fee program revenue away from DSPS and the Chiropractic Examining Board. Motion carried unanimously.

MOTION: Amy Heffernan moved, seconded by Daniel Meschefske, to authorize Kris Erlandson and James Damrow to discuss with the Chiropractic Society of Wisconsin and the Wisconsin Chiropractic Association cooperative initiatives involving the state legislature, its Joint Finance Committee and the state budget aimed at increasing the number of DSPS staff positions and the spending authority of DSPS. Reports will be provided at future meetings, with this topic listed as a standing item on Board agendas. Motion carried unanimously.

CLOSED SESSION

MOTION: Amy Heffernan moved, seconded by Kathleen Hendrickson, to 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), 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.). Kris Erlandson, Chairperson, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: James Damrow-yes; Kris Erlandson-yes; Amy Heffernan-yes; Kathleen Hendrickson-yes; Daniel Meschefske-yes; and Eugene Yellen-Shiring-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:47 a.m.

CREDENTIALING MATTERS

Application Reviews

Alecia Arn – Chiropractic Applicant

MOTION: Kris Erlandson moved, seconded by Daniel Meschefske, to designate Amy Heffernan to investigate and make a final determination regarding the licensure application of Dr. Alecia Arn. Motion carried unanimously.

EDUCATION AND EXAMINATION MATTERS

Continuing Education (CE) Waiver Request – T.Z.

MOTION: Kris Erlandson moved, seconded by Amy Heffernan, to approve the CE waiver request of T.Z. for the 2019-2020 and 2021-2022 biennia. Motion carried unanimously.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Case Closings

21 CHI 018 – D.R.

MOTION: Amy Heffernan moved, seconded by Daniel Meschefske, to close DLSC Case Number 21 CHI 018, against D.R., for No Violation. Motion carried unanimously.

21 CHI 020 – S.G.F.

MOTION: James Damrow moved, seconded by Kris Erlandson, to close DLSC Case Number 21 CHI 020, against S.G.F., for No Violation. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: James Damrow moved, seconded by Kris Erlandson, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 11:50 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Kris Erlandson moved, seconded by Eugene Yellen-Shiring, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the Closed Session motions stand for the purposes of the affirmation vote.)

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

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

ADJOURNMENT

MOTION: Amy Heffernan moved, seconded by Kathleen Hendrickson, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:52 a.m.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Peter Schramm, Licensing Examination Specialist		2) Date when request submitted: 6/17/2022 <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: Chiropractic Examining Board			
4) Meeting Date: 6/30/2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Process and Procedure Updates for 2021 Wisconsin Act 253 – Relating to Sponsors of Chiropractic Continuing Education Programs and Nutritional Counseling Education Programs	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPP Staff)</i> <input type="checkbox"/> Yes <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Updates on implementation of 2021 WI Act 253; effects on incoming continuing education applications and future process changes for new providers and applications			
11) Authorization			
Pete Schramm		6/17/2022	
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**

State of Wisconsin



2021 Senate Bill 115

Date of enactment: April 15, 2022
Date of publication*: April 16, 2022

2021 WISCONSIN ACT 253

AN ACT *to renumber and amend* 446.02 (2) (c) and 446.028; *to amend* 440.05 (intro.) and 446.02 (6m); and *to create* 446.02 (2) (c) 2., 446.028 (1) (a) 5. and 446.028 (3) of the statutes; **relating to:** sponsors of chiropractic continuing education programs and nutritional counseling education programs and repealing and modifying administrative rules related to sponsors of nutritional counseling education programs.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 440.05 (intro.) of the statutes is amended to read:

440.05 Standard fees. (intro.) Subject to s. 440.052, the following standard fees apply to all initial credentials, except as provided in ss. 440.51, 444.03, 444.11, 446.02 (2) (c) 1., 447.04 (2) (c) 2., 448.07 (2), 449.17 (1m) (d), and 449.18 (2) (d):

SECTION 2. 446.02 (2) (c) of the statutes is renumbered 446.02 (2) (c) 1. and amended to read:

446.02 (2) (c) 1. The examining board shall issue a certificate to a chiropractor who is licensed under this chapter, who submits satisfactory evidence that the chiropractor has completed 48 hours of postgraduate study in nutrition that is approved by the examining board, and who pays a one-time ~~certification~~ certificate fee of \$25, except that no certificate fee is required under this ~~paragraph~~ subdivision for an individual who is eligible for the veterans fee waiver program under s. 45.44.

SECTION 3. 446.02 (2) (c) 2. of the statutes is created to read:

446.02 (2) (c) 2. The examining board shall approve under subd. 1. a program of postgraduate study in nutrition provided by a program sponsor, as defined in s.

446.028 (1), if the program of postgraduate study in nutrition satisfies all of the requirements established by the examining board by rule for such a program.

SECTION 4. 446.02 (6m) of the statutes is amended to read:

446.02 (6m) No chiropractor may provide counsel, direction, guidance, advice, or a recommendation to a patient regarding the health effects of vitamins, herbs, or nutritional supplements unless the chiropractor has been issued a certificate under sub. (2) (c) 1. This subsection does not apply to a chiropractor licensed under this chapter who is certified as a dietician under subch. V of ch. 448.

SECTION 5. 446.028 of the statutes is renumbered 446.028 (2) and amended to read:

446.028 (2) Each program sponsor of a continuing education program required to be completed by a chiropractor as a condition of license renewal, or by a chiropractic radiological technician or a chiropractic technician as a condition of certificate renewal, shall submit the program to the examining board for approval. A sponsor of a continuing education program approved by the examining board shall notify the examining board of any information or change to information related to satisfying the requirements under this section.

(1) In this section, ~~“program;~~

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”

(a) “Program sponsor” means any of the following:

1. The Wisconsin Chiropractic Association, the
2. The International Chiropractors Association, a
3. A college of chiropractic approved by the examining board, and a
4. A college of medicine or osteopathy accredited by an accrediting body listed as nationally recognized by the secretary of the federal department of education.

(b) “Program sponsor” does not include an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide instruction in the use of an automated external defibrillator.

SECTION 6. 446.028 (1) (a) 5. of the statutes is created to read:

446.028 (1) (a) 5. A member-based state or national chiropractic organization that satisfies all of the following:

a. The organization is an entity that is described in section 501 (c) of the Internal Revenue Code and that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code and has existed as an entity that is described in section 501 (c) of the Internal Revenue Code for at least 5 years.

b. The purpose of the organization is not solely providing continuing education programs.

c. The organization engages in measurable advocacy efforts to promote the chiropractic profession.

SECTION 7. 446.028 (3) of the statutes is created to read:

446.028 (3) No program sponsor may delegate the tasks of monitoring or recording attendance, providing evidence of attendance, verifying required course content, or providing information on instructors for a continuing education program. A person who intentionally violates this subsection may be punished as provided in s. 446.07.

SECTION 8. Chir 12.03 (1) (a) of the administrative code is repealed.

SECTION 9. Chir 12.03 (2) (a) 2. of the administrative code is amended to read:

Chir 12.03 (2) (a) 2. Identify the name and address of the program sponsor ~~and describe how the program sponsor qualifies under s. Chir 12.03 (1) (a).~~

SECTION 10. Effective dates. This act takes effect on the day after publication, except as follows:

(1) ADMINISTRATIVE RULES. The repeal and modification of administrative rules take effect as provided in s. 227.265.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Peter Schramm, Licensing Examination Specialist		2) Date when request submitted: 6/17/2022 <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: Chiropractic Examining Board			
4) Meeting Date: 6/30/2022	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Implementation of Changes Resulting from Revisions to Chir 5, Relating to Continuing Education	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Updates on implementation of Chir 5; new forms and process for approving online programs			
11) Authorization			
Pete Schramm		6/17/2022	
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**

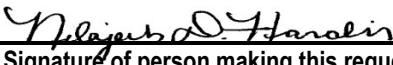
**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Steve Conway, Chiropractic Society of Wisconsin		2) Date when request submitted: 6/3/2022 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: Chiropractic Examining Board			
4) Meeting Date: 6/30/2022	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Approved CPR Courses – Board Discussion	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: <p>Chir 1.02 Definitions. As used in chs. Chir 1 to 13:</p> <p>(1m) “Current proficiency in the use of an automated external defibrillator” means that a person has successfully completed a course of instruction in the use of an automated external defibrillator provided by an individual, organization or institution of higher education approved to provide the instruction under s. 46.03 (38), Stats., within the 24 months immediately prior to application.</p>			
11) Authorization			
Signature of person making this request		Date	
Supervisor (Only required for post agenda deadline items)		Date	
Executive Director signature (Indicates approval for post agenda deadline items)		Date	
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the Agenda Items folders. 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: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 06/16/22 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: Chiropractic Examining Board			
4) Meeting Date: 06/30/22	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Germane Modification: Chir 12, Relating to Nutritional Counseling Certification 2. Drafting Proposals: Chir 3 and 5, Relating to Professional Boundaries Education Requirement 3. Pending or Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <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: Attachments: <ul style="list-style-type: none"> • Chir 12 Legislative Report and Final Rule Draft • 2021 WI Act 253 • Chir 3 and 5 Scope Statement • Wis. Admin Code Chapter Chir 3 • Wis. Admin Code Chapter Chir 5 (effective 07/01/22) • Boundary Related Complaints Report • Rule Project Chart (Board Rule projects can be Viewed Here if Needed: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx)			
11) Authorization			
 Signature of person making this request		06/16/22 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
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 19-100
CHIROPRACTIC EXAMINING :
BOARD :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The Board conducted an evaluation and update of ch. Chir 12 to ensure the definitions under s. Chir 12.01, the criteria for granting a certificate for nutritional counseling under s. Chir 12.02, and the criteria for approval of nutritional counseling educational programs under s. Chir 12.03 are consistent with current professional and academic practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- A definition of “patient” is added to the definitions under s. Chir 12.01.
- The requirement under s. Chir 12.03 (2) (a) 5. that program subject matter is generally taught at the undergraduate or postgraduate level of a chiropractic college and relates to improving the clinical skills of a chiropractor is revised. The revised requirement is that program subject matter contributes to the advancement, extension, and enhancement of the clinical skills of a chiropractor and fosters the enhancement of general or specialized practice and values.
- Other provisions throughout ch. Chir 12 have been revised to provide clarity and conform to current drafting standards.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Chiropractic Examining Board held a public hearing on August 29, 2019. The Chiropractic Society of Wisconsin submitted written comments. The comments submitted and the Board’s response are summarized as follows:

- The language found in s. Chir 12.03 (1) (a), which limits the organizations that may sponsor a nutritional counseling program to those who are permitted by statute to sponsor a continuing education program, exceeds rule making authority and excludes organizations that can otherwise create acceptable nutritional counseling programs. As such, the provision should be removed.

The Board did not modify the proposed rules in response to this comment. The Board has authority under s. 446.02 (2) (c), Stats., to establish requirements for approval of a nutritional counseling program, including requirements concerning sponsorship of the program. In addition, as the Board believes the expectation of a chiropractor is that continuing education credit may be claimed for completing a nutritional counseling program, the Board did not want to create situations where that expectation would not be met.

- As a nutritional certification program does not have to be offered for continuing education credit, the language in s. Chir 12.03 (2) (a) that specifies an application for approval of a nutritional counseling program must be submitted no later than 75 days prior to the program date is not required and should be removed.

The Board did not modify the proposed rules in response to this comment. Given the number of continuing education programs and nutritional counseling programs submitted to the Board for approval, the Board believes the deadline specified in s. Chir 12.03 (2) (a) is appropriate.

- As the proposed rules provide a definition of “patient” that includes a patient-chiropractor relationship, the language in s. Chir 12.06 (2) should be removed or revised to clarify the ability for chiropractors to participate in nutritional programs or businesses that do not involve a patient-chiropractor relationship.

In response to this comment, the Board revised s. Chir 12.06 (2) to clarify that a chiropractor may not sell, barter, trade, or give away nutritional supplements to a patient unless the chiropractor holds a certificate for nutritional counseling.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All Legislative Council recommendations have been incorporated into the proposed rules.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	CHIROPRACTIC EXAMINING
CHIROPRACTIC EXAMINING	:	BOARD
BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 19-100)

PROPOSED ORDER

An order of the Chiropractic Examining Board to **repeal** Chir 12.01 (1) (a) and (b) and 12.03 (1) (k); to **renumber and amend** Chir 12.01 (1) (intro.) and (4), 12.02 (1) (intro.), (a), (a) (Note), (b), and (c), and 12.03 (1) (c); to **amend** Chir 12.01 (2) and (3), 12.03 (1) (intro.), (b) 3., 4., 5., 9., 10., 11., 13., 15., 17., 19., 21., 22., 24., and 25., (d), (e), (f), (i), and (j), (2) (a) 1., (Note), and 2. to 9., and (3), 12.04 (intro.), 12.05 (1), and 12.06 (1) to (3); and to **create** Chir 12.01 (4) (a) to (e) and (5) and 12.03 (1) (am), (b) 10. (Note), and (c) 1. to 3., relating to nutritional counseling certification.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 446.02 (2) (c), Stats.

Statutory authority:

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that examining boards, such as the Chiropractic Examining Board, “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains . . .”

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency’s rule-making authority, stating an agency “may promulgate rules interpreting provisions of any statute enforced or administered by the agency. . .but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Related statute or rule:

None.

Plain language analysis:

The Board conducted an evaluation and update of ch. Chir 12 to ensure the definitions under s. Chir 12.01, the criteria for granting a certificate for nutritional counseling under s. Chir 12.02, and the criteria for approval of nutritional counseling educational programs under s. Chir 12.03 are consistent with current professional and academic practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- A definition of “patient” is added to the definitions under s. Chir 12.01.
- The requirement under s. Chir 12.03 (2) (a) 5. that program subject matter is generally taught at the undergraduate or postgraduate level of a chiropractic college and relates to improving the clinical skills of a chiropractor is revised. The revised requirement is that program subject matter contributes to the advancement, extension, and enhancement of the clinical skills of a chiropractor and fosters the enhancement of general or specialized practice and values.
- Other provisions throughout ch. Chir 12 have been revised to provide clarity and conform to current drafting standards.

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

None.

Comparison with rules in adjacent states:

Illinois: Illinois does not certify chiropractors in nutritional counseling. The statutory definition of chiropractic physician provides a chiropractor is not prohibited from providing advice regarding the use of non-prescription products (225 ILCS 60/2).

Iowa: Iowa does not certify chiropractors in nutritional counseling. Iowa statutes provide that licensed chiropractors who make dietetic or nutritional assessments or give dietetic or nutritional advice in the normal practice of their profession are exempted from the requirement to be licensed to practice dietetics (Iowa Code 2017, section 152A.3).

Michigan: Michigan does not certify chiropractors in nutritional counseling. By statutory definition, the practice of chiropractic includes the use of nutritional advice (MCL 333.16401).

Minnesota: Minnesota does not certify chiropractors in nutritional counseling. Minnesota statutes provide no person may engage in dietetics or nutrition practice unless the person is licensed as a dietitian or nutritionist (Minnesota Statutes 2016, section 148.630).

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of ch. Chir 12 to ensure the rules are consistent with current professional and academic practices and applicable Wisconsin statutes. No additional factual data or analytical methodologies were used to develop the proposed rules.

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@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, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 8:30 a.m. on August 29, 2019, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chir 12.01 (1) (intro.) is renumbered Chir 12.01 (1) and amended to read:

Chir 12.01 (1) ~~"Administering"~~ "Administer" means ~~the direct application of a product to directly apply a nutritional supplement or direct the self-application of a nutritional supplement,~~ whether by ingestion or any other means, to the body of a patient or research subject ~~by any of the following:~~

SECTION 2. Chir 12.01 (1) (a) and (b) are repealed.

SECTION 3. Chir 12.01 (2) and (3) are amended to read:

Chir 12.01 (2) ~~"Dispensing"~~ "Dispense" means ~~delivering a product to deliver a nutritional supplement~~ to an ultimate user or research subject ~~by a chiropractor.~~

(3) "Nutritional counseling" means providing counsel, direction, guidance, advice, or a recommendation to a patient regarding the health effects of vitamins, herbs or nutritional supplements.

SECTION 4. Chir 12.01 (4) is renumbered Chir 12.01 (4) (intro.) and amended to read:

Chir 12.01 (4) (intro.) "Nutritional supplement" means a product, other than tobacco, that is labeled as a nutritional or dietary supplement or intended to supplement the diet and that contains or is a concentrate, metabolic, constituent, or extract of one or more of the following dietary ingredients: ~~a vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by man to supplement the diet by increasing the total daily intake, or concentrate, metabolics, constituent, extract or combination of these ingredients; or is labeled as a nutritional or dietary supplement.~~

SECTION 5. Chir 12.01 (4) (a) to (e) and (5) are created to read:

Chir 12.01 (4) (a) A vitamin.

(b) A mineral.

(c) An herb or other botanical.

(d) An amino acid.

(e) A dietary substance for use by an individual to supplement the diet by increasing total daily intake.

(5) "Patient" means an individual with whom a chiropractor has an established chiropractor-patient relationship or who, based on the actions of the chiropractor, has a reasonable belief that an established chiropractor-patient relationship exists.

SECTION 6. Chir 12.02 (1) (intro.), (a), (a) (Note), (b), and (c) are renumbered Chir 12.02 (intro.), (1), (1) (Note), (2), and (3) and amended to read:

Chir 12.02 (intro.) The board shall grant a certificate for nutritional counseling to a ~~licensed~~ chiropractor licensed under ch. 446, Stats., who does all of the following:

(1) Submits an application ~~for a certificate~~ to the department on a form provided by the department.

(Note) Application forms are available on the department's website at dsps.wi.gov, or by request to from the board office located at 1400 East Washington Avenue Department of Safety and Professional Services, P.O. Box 8935, Madison, Wisconsin 53708, or from the department's website at: <http://dsps.wi.gov> call (608) 266-2112.

(2) Pays the fee specified ~~in~~ under s. 446.02 (2) (c), Stats., unless the applicant is eligible for the veterans fee waiver program under s. 45.44, Stats.

(3) Submits evidence satisfactory to the board that ~~he or she~~ the applicant has ~~completed~~ received any of the following:

(a) ~~Received a~~ A postgraduate degree in human nutrition, nutrition education, food and nutrition, or dietetics conferred by a college or university that is accredited by an accrediting body ~~listed as nationally recognized by the secretary of the federal~~ United States department of education.

(b) ~~Received diplomate~~ Diplomate status in human nutrition conferred by a college of chiropractic accredited by the Council on Chiropractic Education, ~~(CCE)~~ or approved by the board, or accredited by an accrediting agency approved recognized by the United States ~~office~~ department of education ~~or its successor.~~

~~(c) Received a A postgraduate degree in human nutrition conferred by a foreign school determined to be equivalent to an accredited college of chiropractic by the CCE Council on Chiropractic Education or approved by the board or another board approved accrediting agency, indicating that the applicant has graduated from a program that is substantially equivalent to a postgraduate or diplomate program under subd. 1. or 2. par. (a) or (b).~~

~~(d) Received a A degree from or otherwise successfully completed other recognition of successful completion of a postgraduate program after December 1, 2006 consisting of a minimum of 48 hours in human nutrition that is approved by the board as provided in under s. Chir 12.03, after December 1, 2006 at the time the program is completed.~~

SECTION 7. Chir 12.03 (1) (intro.) is amended to read:

Chir 12.03 (1) (intro.) To qualify for board approval as a nutritional counseling education program under s. Chir 12.02 (1) (e) 4., a program shall meet all of the following minimum requirements:

SECTION 8. Chir 12.03 (1) (am) is created to read:

Chir 12.03 (1) (am) The program consists of a minimum of 48 hours of study in human nutrition.

SECTION 9. Chir 12.03 (1) (b) 3., 4., 5., 9., and 10. are amended to read:

Chir 12.03 (1) (b) 3. Analysis of laboratory data including hair, saliva, urine, and blood samples.

4. Symptoms of severe vitamin and nutritional deficiencies, and the toxicity of excess vitamin and mineral supplementation, herbals, or other nutritional supplements.

5. Protein, carbohydrates, and fat macronutrient needs, and symptoms of deficiencies of any of these nutrients.

9. The Codex Alimentarius Commission.

10. The Dietary supplement health Supplement Health and education act Education Act of 1994, P.L. 103-417 and related regulations.

SECTION 10. Chir 12.03 (1) (b) 10. (Note) is created to read:

Chir 12.03 (1) (b) 10. (Note) The Dietary Supplement Health and Education Act of 1994 is also known as Public Law 103-417.

SECTION 11. Chir 12.03 (1) (b) 11., 13., 15., 17., 19., 21., 22., 24., and 25. are amended to read:

Chir 12.03 (1) (b) 11. Etiology of organ system dysfunction; and internal medicine diseases and conditions.

13. The efficacy, safety, risks, and benefits of glandular products, chelation therapy, and therapeutic enzymes.

15. Sports nutrition, endurance, body building, and exercise physiology.

17. Contraindications, side effects, and toxic effects of botanicals, nutritional supplements, and diet products.

19. Nutrition relating to infants, pregnancy, and lactation.

21. Adolescent ~~nutrition~~ nutritional needs.

22. Male and female ~~nutrition~~ nutritional needs.

24. Food, drug, and nutritional supplements supplement interactions.

25. ~~Safety and~~ The safety, efficacy, – risks, and benefits of nutritional supplements.

SECTION 12. Chir 12.03 (1) (c) is renumbered Chir 12.03 (1) (c) (intro.) and amended to read:

Chir 12.03 (1) (c) (intro.) ~~The program sponsor agrees to provide a responsible person to monitor and verify the attendance of each registered chiropractor at the program, and the program sponsor agrees to keep the records of attendance for 3 years from the date of the program and to furnish each participant with evidence of having attended the program.~~ agrees to do all of the following:

SECTION 13. Chir 12.03 (1) (c) 1. to 3. are created to read:

1. Provide a responsible person to monitor and verify attendance at the program.
2. Keep records of attendance for at least 3 years from the date of the program.
3. Furnish each participant with evidence of having attended the program.

SECTION 14. Chir 12.03 (1) (d), (e), (f), (i), and (j) are amended to read:

Chir 12.03 (1) (d) ~~The program sponsor shall not assign or delegate its~~ Any assignment or delegation of a program sponsor's responsibilities to monitor or record attendance, provide evidence of attendance, compare course content with subject matter content required under sub. (1) (b), or provide information on instructors or other aspects of the program ~~unless the assignment or delegation is specifically identified in the application for approval under sub. (2) and approved by the board.~~

(e) ~~The program sponsor has reviewed and validated the program's content to insure~~ ensure its compliance with par. (b).

(f) ~~When a~~ Any course instructor ~~of the program that is on the undergraduate or postgraduate faculty of a chiropractic college, the program sponsor has provided written verification that the course instructor has been appointed in accordance with the accreditation standards of the Council on Chiropractic Education.~~

(i) ~~The program shall include~~ includes a written assessment instrument, ~~that is~~ designed to ensure ~~that~~ the chiropractor actively participated in the presentation of material and derived a measurable benefit from participation. There shall be an assessment or test at the conclusion of each 12 hours of ~~education~~ study. A score of 75% or higher shall be considered a passing score.

(j) The program ~~shall contain~~ contains a reasonable security procedure to assure that ensure the chiropractor enrolled is the actual participant.

SECTION 15. Chir 12.03 (1) (k) is repealed.

SECTION 16. Chir 12.03 (2) (a) 1., (Note), and 2. to 9. and (3) are amended to read:

Chir 12.03 (2) (a) 1. ~~Be~~ The application shall be on a form provided by the board.

(Note) Application forms are available on the department's website at dsps.wi.gov, or by request to the board office located at 1400 East Washington Avenue Department of Safety and Professional Services, P.O. Box 8935, Madison, Wisconsin 53708, or ~~from the department's website at: <http://dsps.wi.gov>~~ call (608) 266-2112.

2. ~~Identify~~ The application shall identify the name and address of the program sponsor and describe how the program sponsor qualifies under ~~s. Chir 12.03 sub. (1) (a).~~

3. ~~Describe~~ The application shall identify the time and ~~place~~ location of the program.

4. ~~Be~~ The application shall be complete as prescribed in this subsection and filed with the board no later than 75 days prior to the program date. An application is not considered complete until such time as all information required to be submitted with the application, and any supplementary information requested by the board, is received by the board.

5. ~~Include~~ The application shall include satisfactory evidence of the program sponsor's verification showing to the satisfaction of, as determined by the board, that the program subject matter is generally taught at the undergraduate or postgraduate level of a chiropractic college and relates to improving contributes to the advancement, extension, and enhancement of the clinical skills of a chiropractor and fosters the enhancement of general or specialized practice and values. A detailed course outline or syllabus describing the subject matter of the program; and the amount of time devoted to each section of the outline or syllabus shall be attached to the application.

6. ~~Describe~~ The application shall describe the names and qualifications of all instructors, and if applicable, whether an instructor ~~of the program~~ who is an undergraduate or postgraduate faculty member of a sponsoring college was appointed in accordance with accreditation standards of the Council on Chiropractic Education.

7. ~~Identify~~ The application shall identify whether the program sponsor intends to assign or delegate any of its responsibilities to another person or entity, and if so, include all of the following:

a. A specific description of the ~~assignment or delegation~~ assigned or delegated responsibility.

b. The name, address, and qualifications of the person or entity who is assigned or delegated to perform the responsibility, including name, address and qualification to perform the responsibility.

c. ~~The~~ A description of the method by which the program sponsor intends to assure that ensure the delegated or assigned responsibility is performed.

8. ~~Include~~ The application shall include a description of the written assessment instrument; that is designed to ensure that ~~the~~ a chiropractor has actively participated in the presentation of material and derived a measurable benefit from participation.

9. ~~Include~~ The application shall include a reasonable description of the security procedure that will be used to assure that ~~the~~ ensure a chiropractor enrolled in the program is the actual participant.

(3) Programs shall be approved for one hour of study for every 50 minutes of instruction. ~~Continuing education credit may not be awarded for~~ For purposes of the approval of hours of study, meals, breaks, and testing or assessment periods may not be included as time devoted to instruction.

SECTION 17. Chir 12.04 (intro.) is amended to read:

Chir 12.04 (intro.) The board may deny approval of an application submitted under s. Chir 12.03 (2) for any of the following reasons:

SECTION 18. Chir 12.05 (1) is amended to read:

Chir 12.05 (1) The program sponsor, an instructor, or a person or entity delegated or assigned a responsibility has a financial, personal, or professional interest ~~which that~~ conflicts directly with the performance of responsibilities in under this chapter.

SECTION 19. Chir 12.06 (1) to (3) are amended to read:

Chir 12.06 (1) A chiropractor ~~shall~~ may not delegate to any chiropractic assistant or other person any recommendations, analysis, advice, consultation, or dispensing with respect to ~~vitamins, herbs, or~~ nutritional supplements. Nothing in this subsection may be construed to prevent chiropractic assistants or administrative employees from processing sales of ~~vitamins, herbs, or~~ nutritional supplements.

(2) ~~After December 1, 2008 a~~ A chiropractor ~~shall~~ may not sell, barter, trade, or give away ~~vitamins, herbs or~~ nutritional supplements to a patient unless the chiropractor holds a certificate for nutritional counseling and except as consistent with the provisions of this chapter.

(3) A chiropractor ~~shall~~ may not deliver, dispense, administer, transfer, or sell a ~~product~~ nutritional supplement unless ~~that product~~ the nutritional supplement is prepackaged for use by consumers and labeled in accordance with the requirements of state and federal law.

SECTION 20. 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)

This Proposed Order of the Chiropractic Examining Board is approved for submission to the Governor and Legislature.

Dated 9/3/2019

Agency Jeffrey King/c.A
Chairperson
Chiropractic Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Chir 12

3. Subject

Nutritional counseling certification

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165(1)(g)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues 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 Board conducted an evaluation and update of ch. Chir 12 to ensure the definitions under s. Chir 12.01, the criteria for granting a certificate for nutritional counseling under s. Chir 12.02, and the criteria for approval of nutritional counseling educational programs under s. Chir 12.03 are consistent with current professional and academic practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- A definition of "patient" is added to the definitions under s. Chir 12.01.
- The requirement under s. Chir 12.03 (2) (a) 5. that program subject matter is generally taught at the undergraduate or postgraduate level of a chiropractic college and relates to improving the clinical skills of a chiropractor is revised. The revised requirement is that program subject matter contributes to the advancement, extension, and enhancement of the clinical skills of a chiropractor and fosters the enhancement of general or specialized practice and values.
- Other provisions throughout ch. Chir 12 have been revised to provide clarity and conform to current drafting standards.

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.

The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.

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.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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

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

The Department estimates one-time administrative costs of \$63.99. These costs may be absorbed in the agency budget.

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

The benefit to implementing the rule is providing consistency with current professional and academic practices and applicable Wisconsin statutes. If the rule is not implemented, it will continue to not provide a definition of "patient."

14. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is consistency with current professional and academic practices and applicable Wisconsin statutes.

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: Illinois does not certify chiropractors in nutritional counseling. The statutory definition of chiropractic physician provides a chiropractor is not prohibited from providing advice regarding the use of non-prescription products (225 ILCS 60/2).

Iowa: Iowa does not certify chiropractors in nutritional counseling. Iowa statutes provide that licensed chiropractors who make dietetic or nutritional assessments or give dietetic or nutritional advice in the normal practice of their profession are exempted from the requirement to be licensed to practice dietetics (Iowa Code 2017, section 152A.3).

Michigan: Michigan does not certify chiropractors in nutritional counseling. By statutory definition, the practice of chiropractic includes the use of nutritional advice (MCL 333.16401).

Minnesota: Minnesota does not certify chiropractors in nutritional counseling. Minnesota statutes provide no person may engage in dietetics or nutrition practice unless the person is licensed as a dietitian or nutritionist (Minnesota Statutes 2016, section 148.630).

17. Contact Name

Dale Kleven

18. Contact Phone Number

(608) 261-4472

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

State of Wisconsin



2021 Senate Bill 115

Date of enactment: April 15, 2022
Date of publication*: April 16, 2022

2021 WISCONSIN ACT 253

AN ACT *to renumber and amend* 446.02 (2) (c) and 446.028; *to amend* 440.05 (intro.) and 446.02 (6m); and *to create* 446.02 (2) (c) 2., 446.028 (1) (a) 5. and 446.028 (3) of the statutes; **relating to:** sponsors of chiropractic continuing education programs and nutritional counseling education programs and repealing and modifying administrative rules related to sponsors of nutritional counseling education programs.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 440.05 (intro.) of the statutes is amended to read:

440.05 Standard fees. (intro.) Subject to s. 440.052, the following standard fees apply to all initial credentials, except as provided in ss. 440.51, 444.03, 444.11, 446.02 (2) (c) 1., 447.04 (2) (c) 2., 448.07 (2), 449.17 (1m) (d), and 449.18 (2) (d):

SECTION 2. 446.02 (2) (c) of the statutes is renumbered 446.02 (2) (c) 1. and amended to read:

446.02 (2) (c) 1. The examining board shall issue a certificate to a chiropractor who is licensed under this chapter, who submits satisfactory evidence that the chiropractor has completed 48 hours of postgraduate study in nutrition that is approved by the examining board, and who pays a one-time ~~certification~~ certificate fee of \$25, except that no certificate fee is required under this ~~paragraph~~ subdivision for an individual who is eligible for the veterans fee waiver program under s. 45.44.

SECTION 3. 446.02 (2) (c) 2. of the statutes is created to read:

446.02 (2) (c) 2. The examining board shall approve under subd. 1. a program of postgraduate study in nutrition provided by a program sponsor, as defined in s.

446.028 (1), if the program of postgraduate study in nutrition satisfies all of the requirements established by the examining board by rule for such a program.

SECTION 4. 446.02 (6m) of the statutes is amended to read:

446.02 (6m) No chiropractor may provide counsel, direction, guidance, advice, or a recommendation to a patient regarding the health effects of vitamins, herbs, or nutritional supplements unless the chiropractor has been issued a certificate under sub. (2) (c) 1. This subsection does not apply to a chiropractor licensed under this chapter who is certified as a dietician under subch. V of ch. 448.

SECTION 5. 446.028 of the statutes is renumbered 446.028 (2) and amended to read:

446.028 (2) Each program sponsor of a continuing education program required to be completed by a chiropractor as a condition of license renewal, or by a chiropractic radiological technician or a chiropractic technician as a condition of certificate renewal, shall submit the program to the examining board for approval. A sponsor of a continuing education program approved by the examining board shall notify the examining board of any information or change to information related to satisfying the requirements under this section.

(1) In this section, ~~“program;~~

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”

(a) "Program sponsor" means any of the following:

1. ~~The Wisconsin Chiropractic Association, the~~
2. ~~The International Chiropractors Association, a~~
3. ~~A college of chiropractic approved by the examining board, and a~~

4. ~~A college of medicine or osteopathy accredited by an accrediting body listed as nationally recognized by the secretary of the federal department of education.~~

(b) "Program sponsor" does not include an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide instruction in the use of an automated external defibrillator.

SECTION 6. 446.028 (1) (a) 5. of the statutes is created to read:

446.028 (1) (a) 5. A member-based state or national chiropractic organization that satisfies all of the following:

a. The organization is an entity that is described in section 501 (c) of the Internal Revenue Code and that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code and has existed as an entity that is described in section 501 (c) of the Internal Revenue Code for at least 5 years.

b. The purpose of the organization is not solely providing continuing education programs.

c. The organization engages in measurable advocacy efforts to promote the chiropractic profession.

SECTION 7. 446.028 (3) of the statutes is created to read:

446.028 (3) No program sponsor may delegate the tasks of monitoring or recording attendance, providing evidence of attendance, verifying required course content, or providing information on instructors for a continuing education program. A person who intentionally violates this subsection may be punished as provided in s. 446.07.

SECTION 8. Chir 12.03 (1) (a) of the administrative code is repealed.

SECTION 9. Chir 12.03 (2) (a) 2. of the administrative code is amended to read:

Chir 12.03 (2) (a) 2. Identify the name and address of the program sponsor ~~and describe how the program sponsor qualifies under s. Chir 12.03 (1) (a).~~

SECTION 10. Effective dates. This act takes effect on the day after publication, except as follows:

(1) ADMINISTRATIVE RULES. The repeal and modification of administrative rules take effect as provided in s. 227.265.

STATEMENT OF SCOPE

CHIROPRACTIC EXAMINING BOARD

Rule No.: Chir 3 and 5

Relating to: Professional Boundaries Education Requirements

Rule Type: Permanent

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

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

The objective of the proposed rule is for the Board to review the requirements relating to education in Wisconsin Administrative Code Chapters Chir 3 and 5 to determine if a requirement on the topic of professional boundaries should be included.

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:

Wisconsin Administrative Code Chapters Chir 3 and 5 cover the education requirements for licensure and renewal respectively. Neither of these chapters currently includes a requirement of education on the topic of professional boundaries. Other jurisdictions in the US require this topic as part of Chiropractor licensure, and the Board has determined that requiring this education will help protect the health and safety of the public of Wisconsin. The alternative to this change is to not require such education, which the Board believes will result in not reducing the number of incidents of professional misconduct related to the subject of professional boundary violations.

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

Section 15.08 (5) (b), Stats., provides that examining boards, such as the Chiropractic Examining Board, “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains . . .”

Section 446.02 (2) (b), Stats., provides “the examining board shall promulgate rules establishing educational requirements for obtaining a license under par (a).”

Section 446.02 (3g) (b), Stats., provides “the examining board shall promulgate rules establishing additional requirements for obtaining a license under par. (a),...”

Section 446.025 (3) (b), Stats., provides “[a] chiropractic radiological technician shall, at the time that he or she applies for renewal of a certificate ...submit evidence satisfactory to the examining board that he or she has completed at least 12 continuing educational credit hours in programs established by rules promulgated by the examining board.”

Section 446.026 (3) (b), Stats., provides “[a] chiropractic technician shall, at the time that he or she applies for renewal of a certificate ...submit evidence satisfactory to the examining board that he or she has completed at least 6 continuing educational credit hours in programs established by rules promulgated by the examining board.”

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

60 hours

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

Wisconsin credentialed chiropractors, chiropractic radiological technicians, and chiropractic technicians, as well as sponsors and providers of continuing education required to be completed by persons with these credentials.

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 will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Nilajah Hardin, (608) 267-7139, DSPSAdminRules@wisconsin.gov

Approved for publication:


Authorized Signature

02/11/2022

Date Submitted

Approved for implementation:


Authorized Signature

03/30/2022

Date Submitted

Chapter Chir 3

LICENSURE

Chir 3.02	License renewal.	Chir 3.05	Change of name and address.
Chir 3.025	Reciprocal credentials for service members, former service members, and their spouses.	Chir 3.06	Professional title.
Chir 3.03	Licensure by endorsement.	Chir 3.07	Professional liability insurance.
Chir 3.035	Temporary chiropractic permits.	Chir 3.08	Limited liability entities.
Chir 3.04	Display of license.	Chir 3.09	Cardiopulmonary resuscitation certification.

Note: Chapter Chir 3 as it existed on December 31, 1984 was repealed and a new chapter Chir 3 was created effective January 1, 1985.

Chir 3.02 License renewal. (1) REQUIREMENTS FOR RENEWAL. To renew and obtain a new license a licensee shall, by December 15 of the even-numbered year following initial licensure and every 2 years thereafter, file with the department all of the following:

- An application for renewal on a form prescribed by the department.
- The fee required under s. 440.08 (2) (a), Stats.
- Verification that the licensee has, during the biennial period immediately preceding application, completed the continuing education requirement specified in s. 446.02 (1) (b), Stats., except that the requirement may be waived if the licensee was not practicing in Wisconsin during that period. Licensees shall retain original documents showing attendance at programs for at least 4 years from the time that credit is claimed for the continuing education program. Licensees shall deliver their original documents or copies to the board upon request.
- Evidence that the licensee is certified in cardiopulmonary resuscitation or has been granted a waiver of the requirement by the board.
- Evidence that the applicant has current proficiency in the use of an automated external defibrillator.

(2) REQUIREMENTS FOR LATE RENEWAL. A licensee who fails to meet the requirements in sub. (1) by the renewal date shall cease and desist from practice as a chiropractor until all requirements for renewal are met. Within 5 years following the renewal date, a licensee may renew and obtain a new license by filing with the department the materials specified in sub. (1) and a late renewal fee specified in s. 440.08 (3) (a), Stats.

(3) REQUIREMENTS FOR REINSTATEMENT. (a) *Reinstatement following failure to renew.* A licensee who fails to renew within 5 years of the renewal date may be reinstated by meeting requirements in sub. (2), completing continuing education requirements for the previous biennium, and may be required to take an examination prescribed by the board.

(b) *Reinstatement following disciplinary action.* An applicant for reinstatement of license following disciplinary action shall meet requirements in sub. (1) and may be required to successfully complete an examination as the board prescribes.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; am. (1) (intro.), (a), (b), (2) and (3) (a), Register, January, 1993, No. 445, eff. 2-1-93; am. (1) (b), Register, September, 1999, No. 525, eff. 10-1-99; correction in (2) made under s. 13.93 (2m) (b) 7., Stats; cr. (1) (d), Register, June, 2001, No. 546, eff. 7-1-01; CR 03-082; am. (1) (intro.), (c), (d), (2) and (3) (a) Register July 2004 No. 583, eff. 8-1-04; CR 08-093; cr. (1) (e) Register October 2009 No. 646, eff. 11-1-09; 2017 Wis. Act 180; am. (1) (intro.) Register April 2018 No. 748, eff. 5-1-18; CR 17-058; am. (1) (intro.) Register August 2018 No. 752, eff. 9-1-18.

Chir 3.025 Reciprocal credentials for service members, former service members, and their spouses. A reciprocal license to practice chiropractic shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines

meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this section.

History: CR 20-037; cr. Register June 2021 No. 786, eff. 7-1-21.

Chir 3.03 Licensure by endorsement. (1) QUALIFICATIONS. The board shall grant a license to a chiropractor who holds a valid license by the proper authorities of any other state or country provided the applicant:

(a) Does not have an arrest or conviction record subject to ss. 111.321, 111.322 and 111.335, Stats.

(b) Has graduated from a college of chiropractic accredited by the Council on Chiropractic Education (CCE) or by an agency approved by the United States Office of Education or its successor, or from a foreign school determined to be equivalent to an accredited college of chiropractic by the CCE or another approved accredited agency.

(c) 1. If the applicant first applied for a license to practice chiropractic in any state or country before July 1, 1960, the applicant must have graduated from a reputable college of chiropractic.

2. If the applicant first applied for a license to practice chiropractic in any state or country between July 1, 1960 and June 30, 1998, the applicant must have completed at least a minimum of 60 credits in post-secondary academic education at a college or university accredited by the Council on Chiropractic Education (CCE) or by an agency approved by the United States Office of Education or its successor, or from a foreign school determined to be equivalent to an accredited college of chiropractic by the CCE or another approved accrediting agency.

3. If the applicant first applied for a license to practice chiropractic in any state or country on or after July 1, 1998, the applicant must have graduated with a baccalaureate degree from a college or university accredited by the Council on Chiropractic Education (CCE) or by an agency approved by the United States Office of Education or its successor, or from a foreign school determined to be equivalent to an accredited college of chiropractic by the CCE or another approved accrediting agency.

Note: Accrediting bodies nationally recognized by the secretary of the federal Department of Education include the New England Association of Schools and Colleges, the Middle States Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Northwest Association of Schools and Colleges, the Southern Association of Colleges and Schools, and the Western Association of Schools and Colleges.

(d) Has been engaged in clinical chiropractic case management at least 24 hours per week in one or more jurisdictions in which the applicant has a current license for at least 3 of the 5 years immediately preceding application in Wisconsin.

(e) Has successfully completed a practical examination demonstrating clinical competence which is acceptable to the board. The board will find acceptable any one of the following as an equivalent to a practical examination: Part IV of the examination administered by the National Board of Chiropractic Examiners, the state practical exam from the endorsement candidate's jurisdiction, or the special purpose examination in chiropractic under par. (f).

(f) Has successfully completed the special purpose examination in chiropractic, if the applicant has not completed one of the following:

1. Passed Parts I and II of the examination administered by the National Board of Chiropractic Examiners and a state practical exam from the endorsement candidate's jurisdiction.

2. Passed Parts I, II, III and IV of the examination administered by the National Board of Chiropractic Examiners.

(g) Has successfully completed a state law examination on the provisions of the Wisconsin statutes and administrative rules relating to chiropractic.

(h) Has not had a license or other credential limited, suspended or revoked by a licensing or regulatory authority in Wisconsin or other state or country.

(i) Has current proficiency in the use of an automated external defibrillator.

(2) APPLICATION PROCEDURE. Each applicant shall file a completed application on forms provided by the board. The application shall include all of the following:

(a) The signature of the applicant.

(b) The fee required under s. 440.05 (1), Stats.

(d) A certified transcript from a chiropractic college accredited by the Commission on Accreditation of the Council on Chiropractic Education (CCE) or by an agency approved by the United States Office of Education or its successor, or from a foreign school determined to be equivalent to an accredited college of chiropractic by the CCE or another approved accrediting agency, sent directly to the board by the college.

(e) A certified transcript verifying that the applicant has a bachelor's degree from a college or university accredited by an accrediting body nationally recognized by the United States Department of Education, or from a foreign school determined to be equivalent to an accredited college or university by an approved accrediting agency, if the applicant first applies for any license to practice chiropractic in any jurisdiction on or after July 1, 1998. The transcript shall be sent directly to the board by the college or university.

(f) Verification of successful completion of a practical examination, or its equivalent, demonstrating clinical competence which is accepted by the board. The verification shall be forwarded directly to the board from the state that administered the examination or from the national board.

(g) Proof of successful completion of the special purpose examination in chiropractic or Parts I, II, III, and IV of the examination of the national board of chiropractic examiners. The proof of completion shall be forwarded directly to the board from the institution that administered the examination.

(h) Proof of successful completion of the state law examination.

(i) Verification of licensure status in all states in which the applicant is or has been licensed to practice chiropractic.

(j) Information requested by the board relating to any convictions or pending charges for criminal offenses.

Note: Applications are available upon request from the Department of Safety and Professional Services, 1400 East Washington Avenue, P. O. Box 8935, Madison, Wisconsin 53708.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; r. and recr., Register, September, 1995, No. 477, eff. 10-1-95; am. (1) (e), (f), (2) (intro.), (b), (e) to (h), r. (2) (c), cr. (2) (k), Register, September, 1999, No. 525, eff. 10-1-99; CR 03-082: am. (1) (intro.), (b), (c), (e), (h) and (2) (d) to (g), r. (2) (k) Register July 2004 No. 583, eff. 8-1-04; CR 08-093: cr. (1) (i) Register October 2009 No. 646, eff. 11-1-09; CR 14-068: am. (1) (e), r. and recr. (1) (f), am. (2) (f) and (g) Register July 2015 No. 715, eff. 8-1-15; correction in (1) (e) made under s. 35.17, Stats., Register July 2015 No. 715.

Chir 3.035 Temporary chiropractic permits. (1) The board may grant a temporary permit to practice chiropractic to any chiropractor who files an application prescribed by the board,

pays the fee required under s. 440.05 (6), Stats., and meets all of the following conditions:

(a) The applicant has a chiropractic license in good standing in another jurisdiction and has no disciplinary action pending in connection with any chiropractic license the applicant holds.

(b) The applicant will be practicing chiropractic only as a chiropractor for participants in an athletic or performing arts event, or as an instructor in a specific chiropractic education seminar approved for continuing education by the board.

(c) The applicant has current proficiency in the use of an automated external defibrillator.

Note: Applications are available upon request from the Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(2) The board may issue a temporary permit to practice chiropractic to an individual who is licensed to practice chiropractic in another state or country. The applicant for a temporary permit shall inform the board, in writing, of the locations at which and the dates on which the applicant or holder of the temporary permit requests to practice under the temporary permit and shall request the issuance of a temporary permit. The board may issue a temporary permit for a reasonable time period based on the activity.

(3) A chiropractor holding a temporary permit to practice chiropractic may not use the temporary permit to provide relief services or practice coverage for the practice of any chiropractor licensed in this state. All temporary permits issued by the board shall bear the legend "limited to sporting or performing arts events and approved educational purposes."

(4) A temporary permit may be denied or revoked for any of the following reasons:

(a) Violation of any provision of ch. 446, Stats., or ch. Chir 6.

(b) Failure to pay the fees required under s. 440.05 (6), Stats.

(c) Provision of fraudulent or misrepresented information on the application for a temporary permit.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; am (1) (intro.), (b) and (3), Register, September, 1999, No. 525, eff. 10-1-99; CR 03-082: am. (2) Register July 2004 No. 583, eff. 8-1-04; CR 08-093: cr. (1) (c) Register October 2009 No. 646, eff. 11-1-09.

Chir 3.04 Display of license. The license shall be displayed in a prominent place by every person licensed and currently registered by the board.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; CR 03-082: am. Register July 2004 No. 583, eff. 8-1-04.

Chir 3.05 Change of name and address. Every licensee shall report his or her address to the department and shall notify the board of a change of name or address within 30 days of the change.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; am. Register, October, 1988, No. 394, eff. 11-1-88.

Chir 3.06 Professional title. A licensee shall use the suffix "D.C." or "Chiropractor" immediately following his or her surname for proper identification. The title "Doctor" or "Dr." may be used if "Chiropractor" is used following the name.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; am. Register, June, 1993, No. 450, eff. 7-1-93; CR 03-082: am. Register July 2004 No. 583, eff. 8-1-04.

Chir 3.07 Professional liability insurance. Every chiropractor practicing in the state of Wisconsin shall have professional liability insurance coverage in effect at all times in the amount of at least \$100,000 for each occurrence and \$300,000 for all occurrences in one year. The board may conduct random audits of chiropractors licensed and practicing in this state, and institute disciplinary proceedings against any chiropractor who fails to submit proof that he or she has insurance coverage meeting the minimum limits required by this section.

History: Cr. Register, May, 1994, No. 461, eff. 6-1-94; CR 03-082: am. Register July 2004 No. 583, eff. 8-1-04.

Chir 3.08 Limited liability entities. (1) A chiropractor may practice with or in a business that is organized as a limited liability organization under the laws of this state, including a limited liability partnership, a service corporation, and limited liability company.

(2) A chiropractor may not practice with or in a business organized so that a person other than a chiropractor has the right to direct or control the professional judgment of the chiropractor. This restriction does not prohibit a chiropractor from working with or in a business organized so that someone other than the patient pays the chiropractor's fee or salary, provided the fee or salary arrangements do not modify the chiropractor's obligation to his or her patient.

(3) Nothing in this section shall relieve a chiropractor from

personal liability for any acts, errors or omissions of the chiropractor arising out of the performance of professional services.

(4) Nothing in this section shall relieve a chiropractor from the requirement that every practicing chiropractor shall have in effect professional liability insurance in the amounts required by the board in s. Chir 3.07.

History: Cr. Register, February, 2000, No. 530, eff. 3-1-00.

Chir 3.09 Cardiopulmonary resuscitation certification. Every chiropractor shall obtain certification in cardiopulmonary resuscitation at least every 2 years. The board may grant a waiver of this requirement in cases of hardship or retirement from practice.

History: Cr. Register, June, 2001, No. 546, eff. 7-1-01; CR 03-082: am. Register July 2004 No. 583, eff. 8-1-04.

Chapter Chir 5

CONTINUING EDUCATION

Chir 5.01	Continuing education requirements for credential renewal.	Chir 5.05	Application for expedited approval of a continuing education program.
Chir 5.02	Approval of continuing education programs.		
Chir 5.04	Application for approval of a continuing education program.		

Note: Chapter Chir 5 as it existed on February 29, 1996, was repealed and a new chapter Chir 5 was created effective March 1, 1996.

Chir 5.01 Continuing education requirements for credential renewal. (1) (a) Every chiropractor shall complete at least 40 continuing education credit hours in approved continuing education programs during each 2-year license registration period ending on December 15 of each even-numbered year, except as specified in s. Chir 3.02 (1) (c). Completion of course work and teaching or presenting courses or programs may be counted toward the requirement under this paragraph as provided under pars. (d), (f), and (h).

(b) Continuing education requirements for license renewal apply to the first full 2-year period in which a chiropractor is licensed.

(c) The board may grant a waiver, partial waiver, or postponement of the continuing education requirements in cases of hardship.

(d) Course work completed in pursuit of the educational requirements of ch. Chir 12 may be counted on an hour-for-hour basis as continuing education credit hours.

(e) Of the 40 continuing education credit hours in par. (a), a chiropractor holding a nutritional counseling certificate issued under ch. Chir 12 shall complete at least 4 continuing education credit hours in approved continuing education programs relating to nutrition.

(f) Up to 2 credits of course work completed to become proficient in cardiopulmonary resuscitation certification as required in s. Chir 3.09 and the use of an automated external defibrillator as required in ss. Chir 2.02 (6) (c), 3.02 (1) (e), and 3.03 (1) (i), may be counted as 2 continuing education credit hours.

(g) No more than 8 of the 40 continuing education credit hours required under par. (a) may be acquired through participation in online continuing education programs approved under s. Chir 5.02.

(h) Continuing education credit hours may be counted for teaching or presenting a course or program whose subject matter contributes to the advancement, extension, and enhancement of the clinical skills of a chiropractor and fosters the enhancement of general or specialized practice. One hour of continuing education credit may be claimed for every 50 minutes of instruction or presentation, except continuing education credit hours may not be counted for subsequent presentations of the same course or program.

(1g) (a) Every chiropractic radiological technician shall complete at least 12 continuing education credit hours in approved continuing education programs during each 2-year certificate registration period ending on December 15 of each even-numbered year. A chiropractic radiological technician who receives an initial certificate during a licensing biennium is not required to satisfy the continuing education requirement from the date of that certificate to the end of that licensing biennium.

(b) The board may grant a waiver, partial waiver, or postponement of the continuing education requirements in cases of hardship.

(c) No more than 2 of the 12 continuing education credit hours required under par. (a) may be acquired through participation in online continuing education programs approved under s. Chir 5.02.

(1r) (a) Every chiropractic technician shall complete at least 6 continuing education credit hours in approved continuing education programs during each 2-year certificate registration period ending on December 15 of each even-numbered year. A chiropractic technician who receives an initial certificate during a licensing biennium is not required to satisfy the continuing education requirement from the date of that certificate to the end of that licensing biennium.

(b) The board may grant a waiver, partial waiver, or postponement of the continuing education requirements in cases of hardship.

(c) No more than 2 of the 6 continuing education credit hours required under par. (a) may be acquired through participation in online continuing education programs approved under s. Chir 5.02.

(d) Up to one credit of course work completed to become proficient in cardiopulmonary resuscitation certification and the use of an automated external defibrillator may be counted as one continuing education credit hour.

(2) Continuing education credit hours may apply only to the 2-year license period in which the credit hours are acquired, unless either of the following applies:

(a) The continuing education credit hours required of a particular chiropractor, chiropractic radiological technician, or chiropractic technician as a consequence of a disciplinary proceeding, informal settlement conference, or resolution of an investigation into the conduct or competence of the chiropractor, chiropractic radiological technician, or chiropractic technician may not be counted towards the fulfillment of generally applicable continuing education requirements.

(b) If the chiropractor, chiropractic radiological technician, or chiropractic technician has failed to meet the credential renewal requirement during the period, continuing education hours acquired on or after December 15 of any even-numbered year will apply to the preceding period only if the chiropractor, chiropractic radiological technician, or chiropractic technician has failed to meet the credential renewal requirement during that period, and will not apply to any other period or purpose.

(3) To obtain credit for completion of continuing education programs, a chiropractor, chiropractic radiological technician, or chiropractic technician shall certify on the application for credential renewal that all continuing education credits have been completed as required under this section.

(4) A chiropractor, chiropractic radiological technician, or chiropractic technician shall retain a certificate or other evidence of attendance issued by the program sponsor for a minimum of 4 years from the date of completion of a continuing education program.

(5) The board may require any chiropractor, chiropractic radiological technician, or chiropractic technician who is under investigation by the board for alleged misconduct to submit evidence

of compliance with the continuing education requirements under this section.

History: Cr. Register, February, 1996, No. 482, eff. 3-1-96; am. (1), (2) (intro.), (a) and (3), Register, March, 1998, No. 507, eff. 4-1-98; renum. (1) to be (1) (a), cr. (1) (b) to (d), Register, June, 2001, No. 546, eff. 7-1-01; CR 03-082: cr. (1) (e) Register July 2004 No. 583, eff. 8-1-04; CR 06-051: cr. (1) (f) and (g) Register November 2006 No. 611, eff. 12-1-06; CR 08-093: cr. (1) (h) Register October 2009 No. 646, eff. 11-1-09; CR 11-019: am. (title), (1) (a), (2) (a), (b), (3), r. and recr. (1) (c), (d), (e), (f), r. (1) (g), (h), cr. (1g), (1r) Register September 2011 No. 669, eff. 10-1-11; **CR 21-065: am. (1) (a), (d) to (f), cr. (1) (g), (h), am. (1g) (a), cr. (1) (c), am. (1r) (a), cr. (1r) (c), (d), am. (2) (b), (3), cr. (4), (5) Register June 2022 No. 798, eff. 7-1-22; correction in (1) (f) made under s. 35.17, Stats., Register June 2022 No. 798.**

Chir 5.02 Approval of continuing education programs. (1) The board may approve a continuing education program that meets all of the following requirements:

(a) The program is sponsored by one of the following:

1. The Wisconsin Chiropractic Association.
2. The International Chiropractors Association.
3. A college of chiropractic with accreditation that is in good standing from the Council on Chiropractic Education or another accrediting agency whose recognition by the United States department of education is current.
4. A college of medicine or osteopathy with accreditation that is in good standing from an accrediting agency whose recognition by the United States department of education is current.

(b) For a continuing education program required under s. Chir 5.01 (1) (a), the program subject matter contributes to the advancement, extension, and enhancement of the clinical skills of a chiropractor and fosters the enhancement of general or specialized practice.

(bm) For a continuing education program required under s. Chir 5.01 (1g) (a) or (1r) (a), the program subject matter relates to improving the clinical skills of a chiropractic radiological technician or chiropractic technician, as applicable.

(c) The program sponsor agrees to provide a responsible person to monitor and verify the attendance of each registered chiropractor, chiropractic radiological technician, or chiropractic technician, as applicable, participating in the program, and the program sponsor agrees to assume responsibility for the accuracy of the continuing education credit awarded to each participant, to keep the records of attendance for 4 years from the date of the program, and to furnish each participant with evidence of having attended the program.

(cm) For an online continuing education program, the program meets all of the following requirements:

1. The program is at least 50 percent synchronous and provides interactive communication between the participant and the instructor.
2. The program includes an instrument that is designed to ensure the chiropractor, chiropractic radiological technician, or chiropractic technician, as applicable, actively participated in the presentation of material.
3. The program includes means to furnish each participant with evidence of having attended the program.

(d) A program sponsor shall not assign or delegate its responsibilities to monitor or record attendance, provide evidence of attendance, validate course content, or provide information on instructors or other aspects of the program unless the assignment or delegation is specifically identified in the application for approval and approved by the board.

(e) The program sponsor has reviewed and validated the program's course content to ensure its compliance with pars. (b) and (bm).

(f) If a course instructor of the program is on the undergraduate or postgraduate faculty of a chiropractic college, the program sponsor has provided written verification that the course instructor has been appointed in accordance with the accreditation stan-

dards of the Council on Chiropractic Education, and that the chiropractic college exercises sufficient supervision over a faculty member's course content.

(g) The program offers significant professional educational benefit for participants, as determined by the board.

(h) A course instructor of the program has qualifications appropriate for presenting the course.

(1m) The board shall approve a continuing education program that is approved under s. 46.03 (38), Stats., to provide instruction in the use of an automated external defibrillator. Subsections (1), (2), and (6) do not apply to programs approved under this section.

(2) (a) Continuing education programs may include subject material that does not meet the requirements under sub. (1) (b). However, only the parts of the program that include subject material that meets the requirements under sub. (1) (b) are eligible for credit.

(am) Continuing education programs may include subject material other than that which relates to improving the clinical skills of a chiropractic radiological technician or chiropractic technician. However, only the parts of the program which relate to improving the clinical skills of a chiropractic radiological technician or chiropractic technician, as applicable, are eligible for credit.

(b) Any presentation, program content, materials or displays for the advertising, promotion, sale or marketing of equipment, devices, instruments or other material of any kind or purpose shall be kept separate from the program content and presentation for which approval is applied and granted.

(c) Programs shall be approved for one hour of continuing education for every 50 minutes of instruction.

(5) Continuing education credit may not be awarded for meals or break periods.

(6) The sponsor of an approved program shall ensure that the program is carried out and presented as represented to and approved by the board, and that all responsibilities of the program sponsor, an instructor, and any person or entity delegated or assigned a responsibility relating to a program approved by the board are fulfilled.

History: Cr. Register, February, 1996, No. 482, eff. 3-1-96; am. (1) (a) to (c), renum. (1) (d) to be (1) (g) and am., cr. (1) (d) to (f), r. and recr. (2) and (4), cr. (6), Register, March, 1998, No. 507, eff. 4-1-98; CR 03-082: am. (1) (b) and (4) (a) 6., cr. (1) (h) Register July 2004 No. 583, eff. 8-1-04; CR 08-093: cr. (1m) Register October 2009 No. 646, eff. 11-1-09; CR 11-019: cr. (1) (b) (title), (bm), (2) (am), (4) (a) 5m., am. (1) (c), (e) Register September 2011 No. 669, eff. 10-1-11; **CR 21-065: am. (1) (intro.), renum. (1) (a) to (1) (a) (intro.) and am., cr. (1) (a) 1. to 4., r. (1) (b) (title), am. (1) (b), r. (1) (bm) (title), am. (1) (bm), (c), cr. (1) (cm), am. (1) (f), (h), (2) (a), r. (3), (4) Register June 2022 No. 798, eff. 7-1-22; correction in (1m) made under s. 13.92 (4) (b) 7., Stats., Register June 2022 No. 798.**

Chir 5.04 Application for approval of a continuing education program. (1) An application for approval of a continuing education program shall be on a form provided by the board and include all of the following:

(a) The name and address of the program sponsor and a description of how the program sponsor qualifies under s. Chir 5.02.

(b) A description of the time and place of the program.

(c) Evidence of the program sponsor's verification showing to the satisfaction of the board that the subject matter meets the requirements under s. Chir 5.02 (1) (b) or (bm), as applicable.

(d) A detailed course outline or syllabus describing the subject matter of the program, and the amount of time devoted to each section of the outline or syllabus.

(e) The names and a description of the qualifications of all instructors including, if applicable, whether an instructor of the program who is an undergraduate or postgraduate faculty member of a sponsoring college was appointed in accordance with accredi-

tation standards of the Council on Chiropractic Education or by an agency approved by the United States department of education.

(f) If the program sponsor intends to assign or delegate any of its responsibilities to another person or entity, all of the following:

1. A specific description of the assignment or delegation.
2. The name and address of the person or entity who is assigned or delegated to perform the responsibility, and a description of the qualifications of that person or entity to perform the responsibility.
3. A description of the method by which the program sponsor intends to assure that the delegated or assigned responsibility is performed.

Note: Application forms are available on the department's website at <http://dsps.wi.gov>, or by request from the Department of Safety and Professional Services, P. O. Box 8935, Madison, Wisconsin 53708, or call (608) 266-2112.

(2) An application shall be complete as required under sub. (1) and filed with the board no later than 60 days prior to the program date or, for an online continuing education program, the date on which the program will first be eligible for continuing education credit. An application is considered complete when all information required to be submitted with the application is received by the board.

(3) The board may require an applicant to submit information in addition to that described in sub. (1) that is necessary to determine if the applicant meets the requirements of this chapter.

(4) The board shall grant approval of an application if the board determines the program and program sponsor materially meet the requirements under this chapter. If the board does not take action within 50 days of submission of a completed application, the course shall be approved for the first scheduled date that it is eligible for continuing education credit and shall remain approved unless the board takes further action.

(5) The board shall deny approval of an application for any of the following reasons:

- (a) The program or program sponsor does not meet requirements established in this chapter.
- (b) The emphasis of the program is on the business, management, or insurance aspects of a chiropractic practice rather than on improving the clinical skills of the chiropractor, chiropractic radiological technician, or chiropractic technician, as applicable.
- (c) The board determines the program sponsor has not provided adequate assurance that responsibilities delegated or assigned to others will be satisfactorily performed.
- (d) The program sponsor, an instructor, or a person delegated or assigned a responsibility has a financial, personal or professional interest which conflicts directly with the performance of responsibilities in this chapter.
- (e) Failure on the part of a program sponsor, an instructor, or a person delegated or assigned a responsibility to carry out a pro-

gram as represented to and approved by the board or as provided in this chapter.

(f) The program subject matter relates to practice that is prohibited under s. Chir 4.05.

History: CR 21-065: cr. Register June 2022 No. 798, eff. 7-1-22.

Chir 5.05 Application for expedited approval of a continuing education program. **(1)** A program sponsor under s. Chir 5.02 (1) (a) may submit an application for expedited approval of a continuing education program if the program sponsor had a minimum of 20 continuing education programs approved for the previous 2-year registration period and one of the following requirements is met:

(a) A review by the board of a random selection of 10 percent of the program sponsor's continuing education programs approved for the previous 2-year registration period found that all of the selected programs materially meet all of the requirements under s. Chir 5.02 (1) and were awarded continuing education credit as provided under s. Chir 5.02 (2) and (5). The review by the board shall occur within the first 6 months following the 2-year registration period.

(b) A review by the board of a random selection of 10 percent of the program sponsor's continuing education programs approved for the previous 2-year registration period found that one or more of the selected programs do not materially meet all of the requirements under s. Chir 5.02 (1) or did not award continuing education credit as provided under s. Chir 5.02 (2) and (5), and all of the following requirements are met:

1. The application is submitted at least 6 months after the beginning date of the current 2-year registration period.

(2) An application for expedited approval of a continuing education program shall be on a form provided by the board and include all of the following:

(a) The name and address of the program sponsor and a description of how the program sponsor qualifies under s. Chir 5.02 (1) (a).

(b) A description of the time and place of the program.

(c) An attestation by the program sponsor that the program materially meets all of the requirements under s. Chir 5.02 (1) and (6) and will award continuing education credit as provided under s. Chir 5.02 (2) and (5).

(3) An application for expedited approval shall be filed with the board no later than 60 days prior to the program date or, for an online continuing education program, the date on which the program will first be eligible for continuing education credit.

(4) The board shall grant approval of an application that meets the requirements of this section.

History: CR 21-065: cr. Register June 2022 No. 798, eff. 7-1-22; correction in (1) (a) made under s. 35.17, Stats., Register June 2022 No. 798.

CHIROPRACTIC EXAMINING BOARD BOUNDARY RELATED COMPLAINTS

Information based on a review of 128 chiropractic complaints received that were closed from 01/01/2019 - 03/25/2022.

Of the 128 complaints, 14 (11%) were associated with allegations of boundary issues.


CASE NUMBER	CLOSURE TYPE / RESULT	INITIAL INTAKE DESCRIPTION / ALLEGATION(S)
Case 1	Closed Formal - Suspended / Limited	Respondent had an emotional and sexual relationship with the patient.
Case 2	Closed after Investigation - Insufficient Evidence	Respondent engaged in intimate sexual relationship with the patient.
Case 3	Closed after Investigation - No Violation	The complaint alleges sexual misconduct during treatment.
Case 4	Closed after Legal Action - Administrative Warning	Not available - contents of the Administrative Warning are private and confidential pursuant to § 440.205, Wis. Stats.
Case 5	Closed after Investigation - No Violation	The Respondent told the patient she looked younger than she was and stroked her leg from her ankle to bottom and placed his hand near the patient's genitals. Possible billing fraud.
Case 6	Closed after Investigation - Insufficient Evidence	The Complainant alleges that he was touched inappropriately by an "administrator" during a urine screen.
Case 7	Closed after Legal Action - Administrative Warning	Not available - contents of the Administrative Warning are private and confidential pursuant to § 440.205, Wis. Stats.
Case 8	Closed at Screening - Screening Decision	The Respondent engaged in personal contact, sexual in nature with a client. The Respondent has exhibited paranoid and delusion behavior. The Complainant has concerns for unethical behavior, HIPAA violations, and public safety.
Case 9	Closed at Screening - Screening Decision	Complainant is alleging assault by the Respondent.
Case 10	Closed at Screening - No Violation	Respondent allegedly had a personal relationship with the patient and when respondent's spouse found out the Respondent began cancelling appointments and refused to see the patient or her daughter.
Case 11	Closed after Investigation - Insufficient Evidence	The Respondent allegedly drugged and raped the Complainant.
Case 12	Closed after Investigation - Prosecutorial Discretion - 6	Respondent made inappropriate sexual comments to patient and inappropriately touched patient. Respondent may have practiced while he was ineligible to practice.
Case 13	Closed Formal - Voluntary Surrender	Respondent made inappropriate comments to Complainant and engaged in inappropriate sexual contact of Complainant.
Case 14	Closed Formal - Surrender	Respondent was arrested and tentatively charged with 8 counts of child pornography.

**Chiropractic Examining Board
Rule Projects (updated 06/16/22)**

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
Not Assigned Yet	019-22	09/14/2024	Chir 3 and 5	Professional Boundaries Education Requirements	Drafting	Board Approval of Preliminary Rule Draft
20-085	022-20	10/20/2022	Chir 4	Chiropractic Practice	Rule Effective 06/01/22	N/A
21-065	006-20	09/02/2022	Chir 5	Continuing Education	Rule Effective 07/01/22	N/A
19-100	061-17	N/A	Chir 12	Nutritional Counseling Certification	Germane Modification based on 2021 WI Act 253 presented at 06/30/22 Meeting	Submission of Germane Modification to the Legislature for Review and Approval

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request:		2) Date when request submitted: 5/17/2022	
		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: Chiropractic Examining Board			
4) Meeting Date: 6/30/2022	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? National Board of Chiropractic Examiners Request for State Board Representative(s) to Participate in the November 2022 Part IV Exam Administration	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? (If yes, please complete Appearance Request for Non-DSPS Staff) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
<p>10) Describe the issue and action that should be addressed: From the NBCE:</p> <p>The NBCE is in agreeance to support the attendance of one or two board members from each participating state at the November 2022 Part IV exam administration. You are cordially invited to recommend one or two of your state board members to represent your state and its chiropractic licensing agency as examiners at the NBCE's upcoming November 12-13th, 2022, Part IV Practical Examination administration.</p> <p>Nominees must be licensed chiropractors (for more than 5 years) and appointed, active members of your board; or the executive director (licensed chiropractor) of your board. Recommended appointees are individuals who are willing to follow explicit directions and instructions given by the National Board of representatives pertaining to the evaluation of each candidate's clinical competence with the ability to participate the full exam weekend.</p> <p>The NBCE will reimburse and/or arrange for your state's representative(s):</p> <ol style="list-style-type: none"> 1. Lowest round-trip coach airfare (if needed) arranged by the NBCE's Travel Consultant; any flight upgrades will be reimbursed at the lowest coach airfare rate; 2. Hotel (room and tax; at the rate of the contracted hotel provided by the NBCE) ; 3. Reasonable ground transportation expenses; such as: UBER (basic), LYFT (basic), Taxi and Shuttles. NO Limousines, town cars, ride shares over the cost of UBER/LYFT/Taxi/Shuttles. 4. Rotational payment provided to all examiners-\$165 per exam rotation examiner is available; \$75 for the Friday Evening Orientation (NOTE: WISCONSIN'S GUIDELINES LIMIT PER DIEM TO \$25 PER DIEM: https://dpm.wi.gov/Documents/BCER/Compensation/PocketTravelGuide_2_2022.pdf). <p>The NBCE will also request hard copy receipts (not credit card statements) of any reimbursable travel expenses to be sent to Dani Veltri-Rosales within two weeks (and no later than 30 days) following the November 2022 Part IV examination in order to process timely reimbursements. Please remind your nominees to keep all receipts and to turn them in timely as requested, if no receipt is available the NBCE's Accounting Department will issue a 1099 tax form for the reimbursable expense.</p> <p>Recommended state appointee(s) will be asked to submit an AppleOne Time Sheet at the test site. New Examiners will complete the AppleOne processing requirements for payment prior to the exam.</p>			
			
<p>Dani M. Veltri-Rosales Administrative Assistant NBCE</p>			

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

11)	Authorization							
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 2px 5px;">Signature of person making this request</td> <td style="width: 30%; text-align: right; padding: 2px 5px;">Date</td> </tr> <tr> <td style="padding: 2px 5px;">Supervisor (Only required for post agenda deadline items)</td> <td style="text-align: right; padding: 2px 5px;">Date</td> </tr> <tr> <td style="padding: 2px 5px;">Executive Director signature (Indicates approval for post agenda deadline items)</td> <td style="text-align: right; padding: 2px 5px;">Date</td> </tr> </table>			Signature of person making this request	Date	Supervisor (Only required for post agenda deadline items)	Date	Executive Director signature (Indicates approval for post agenda deadline items)	Date
Signature of person making this request	Date							
Supervisor (Only required for post agenda deadline items)	Date							
Executive Director signature (Indicates approval for post agenda deadline items)	Date							
<p>Directions for including supporting documents:</p> <ol style="list-style-type: none"> 1. This form should be saved with any other documents submitted to the Agenda Items folders. 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. 								