Wisconsin Department of Safety and Professional Services
Division of Policy Development
4822 Madison Yards Way, 2nd Floor
PO Box 8366
Madison WI 53708-8366

Phone: 608-266-2112
Web: http://dsps.wi.gov
Email: dsps@wisconsin.gov

Tony Evers, Governor
Dawn B. Crim, Secretary

CHIROPRACTIC EXAMINING BOARD
Room N206, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Valerie Payne (608) 266-2112
November 21, 2019

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.

AGENDA

8:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-4)

B. Approval of Minutes of August 29, 2019 (5-10)

C. Conflicts of Interest

D. Introductions, Announcements and Recognition
1. New Member:
   a. Carl Kugler, Public Member

E. Administrative Matters – Discussion and Consideration
1. Department, Staff, and Board Updates
2. Board Members – Term Expiration Dates

F. 8:30 AM PUBLIC HEARING: Scope Statement SS 068-19 – Chir 5 Relating to Approval of Continuing Education Programs (11-12)
1. Review and Respond to Public Comments

G. 8:30 AM PUBLIC HEARING: CR 19-130 – Chir 5, Relating to Continuing Education (13-26)
1. Review and Respond to Public Comments and Clearinghouse Report

H. 8:30 AM PUBLIC HEARING: CR 19-129 – Chir 6, Relating to Standards of Conduct (27-36)
1. Review and Respond to Public Comments and Clearinghouse Report

I. Administrative Rule Matters – Discussion and Consideration
1. Adoption Orders: CR 18-071, Relating to Chiropractic Practice and CR 18-103, Relating to Chiropractic Preceptorship **(37-54)**
2. Germane Modification to CR 18-105, Relating to Delegation of Services to Health Care Professionals **(55-70)**

3. Proposals for Chir 5, Relating to Approval of Continuing Education Programs; and Chir 10, Relating to Courses of Study for and Delegation to Chiropractic Technicians and Chiropractic Radiological Technicians **(71-77)**
4. Practice of Dry Needling
5. Pending and Possible Rulemaking Projects

J. PACE Precheck of Continuing Education Courses

K. 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

L. 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.).

M. Deliberation on Division of Legal Services and Compliance Matters

1. Proposed Stipulations, Final Decisions and Orders

a. 17 CHI 005 – Jeremy Bria, D.C. **(78-82)**

b. 17 CHI 021 – Robert R. Anderson, D.C. **(83-88)**

c. 17 CHI 026 – Andrew D. Klefert, D.C. **(89-95)**

2. Case Closings

a. 17 CHI 005 – R.J.G. **(96-104)**

b. 18 CHI 003 – B.M.M. **(105-107)**

c. 18 CHI 037 – M.A.C. **(108-111)**

N. 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

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

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

ADJOURNMENT

NEXT MEETING: JANUARY 30, 2020 (TENTATIVE)

****

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 at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person.

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. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

CHIROPRACTIC EXAMINING BOARD
MEETING MINUTES
AUGUST 29, 2019

PRESENT: James Damrow, D.C.; James Fortier; Bryan Gerondale, D.C.; Jeffrey King, D.C.

EXCUSED: Scott Bautch, D.C.

STAFF: Yolanda McGowan, Administrator-Division of Policy Development; Jameson Whitney, Board Legal Counsel; Dale Kleven, Administrative Rules Coordinator; Kimberly Wood, Program Assistant Supervisor-Advanced; Gayle Nimmerguth, Bureau Assistant; and other Department Staff

CALL TO ORDER

Jeffrey King, Vice Chairperson, called the meeting to order at 8:31 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

Adoption of the Agenda*:*

- Open Session: After item "F. Legislative and Administrative Rule Matters" **ADD:**
  - "Speaking Engagements, Travel or Public Relation Requests, and Reports; 1) Designation of Examiner for National Boards of Chiropractic Examiners (NBCE) National Boards – November 15-17, 2019"
- Closed Session: **REMOVE** item "I. Deliberation on DLSC Matters; 2. Case Closings; b. 17 CHI 020 – C.S.W."

MOTION: Bryan Gerondale moved, seconded by James Fortier, to adopt the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF JUNE 27, 2019

MOTION: James Damrow moved, seconded by James Fortier, to approve the Minutes of June 27, 2019 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Election of Officers

Chairperson

NOMINATION: Bryan Gerondale nominated Jeffrey King for the Office of Chairperson.

Yolanda McGowan, Administrator-Division of Policy Development, called for nominations three (3) times.

Jeffrey King was elected as Chairperson by unanimous voice vote.

Vice Chairperson

NOMINATION: James Fortier nominated Bryan Gerondale for the Office of Vice Chairperson.

DRAFT

Yolanda McGowan, Administrator-Division of Policy Development, called for nominations three (3) times.

Bryan Gerondale was elected as Vice Chairperson by unanimous voice vote.

Secretary

NOMINATION: Bryan Gerondale nominated James Damrow for the Office of Secretary.

Yolanda McGowan, Administrator-Division of Policy Development, called for nominations three (3) times.

James Damrow was elected as Secretary by unanimous voice vote.

ELECTION RESULTS	
Chairperson	Jeffrey King
Vice Chairperson	Bryan Gerondale
Secretary	James Damrow

Appointment of Liaisons and Alternates

LIAISON APPOINTMENTS	
Credentialing Liaison	Bryan Gerondale *Alternate*: Scott Bautch
Exams, Education and Continuing Education Liaison	Scott Bautch, James Damrow, Bryan Gerondale, Jeffrey King *(Rotate CE Approvals to D.C. Members)*
Monitoring Liaison	Bryan Gerondale *Alternate*: James Damrow
Professional Assistance Procedure (PAP) Liaison	James Fortier *Alternate*: James Damrow
Legislative Liaison	Jeffrey King *Alternate:* Bryan Gerondale
Travel Liaison	James Damrow *Alternate*: Bryan Gerondale
Preceptor Liaison	Scott Bautch *Alternate*: Jeffrey King
Rules Liaison	Scott Bautch *Alternate*: Jeffrey King
SCREENING PANEL APPOINTMENTS	
Screening Panel	James Fortier, Bryan Gerondale, Jeffrey King

DRAFT

	Alternate: Scott Bautch

PUBLIC HEARING: CLEARINGHOUSE RULE CR 19-100 – CHIR 12 RELATING TO NUTRITIONAL COUNSELING CERTIFICATION

Review and Respond to Public Comments and Clearinghouse Report

MOTION: Bryan Gerondale moved, seconded by James Fortier, to accept all Clearinghouse comments for Clearinghouse Rule 19-100, relating to nutritional counseling certification. Motion carried unanimously.

MOTION: Bryan Gerondale moved, seconded by James Damrow, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule 19-100, relating to nutritional counseling certification, for submission to the Governor's Office and Legislature. Motion carried unanimously.

LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

Review of Draft Rules for Chir 5, Relating to Continuing Education

MOTION: James Damrow moved, seconded by James Fortier, to authorize the Chairperson to approve the preliminary rule draft of Chir 5, relating to continuing education, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Review of Draft Rules for Chir 6, Relating to Standards of Conduct

MOTION: Bryan Gerondale moved, seconded by James Damrow, to approve the preliminary rule draft of Chir 6, relating to standards of conduct, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

SPEAKING ENGAGEMENTS, TRAVEL OR PUBLIC RELATION REQUESTS, AND REPORTS

Designation of Examiner for National Boards of Chiropractic Examiners (NBCE) National Boards – November 15-17, 2019

MOTION: Bryan Gerondale moved, seconded by James Damrow, to designate Scott Bautch as the Wisconsin Chiropractic Examining Board Representative for the NBCE Health Sciences University Part IV Exam Administration on November 15-16, 2019 in Minneapolis, MN. Motion carried unanimously.

CLOSED SESSION

MOTION: Jeffrey King moved, seconded by James Fortier, 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

DRAFT

disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). Jeffrey King, 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; James Fortier-yes; Bryan Gerondale-yes; and Jeffrey King-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:46 a.m.

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE MATTERS

Administrative Warnings

17 CHI 020 – C.S.W.

MOTION: Bryan Gerondale moved, seconded by James Fortier, to issue an Administrative Warning in the matter of C.S.W., DLSC Case Number 17 CHI 020. Motion carried unanimously.

Case Closings

MOTION: James Damrow moved, seconded by Bryan Gerondale, to close the following DLSC Cases for the reasons outlined below:

1. 17 CHI 008 – C.C.W. – Prosecutorial Discretion (P5)
2. 18 CHI 001 – T.G.S. – Prosecutorial Discretion (P6)
3. 18 CHI 005 – R.G.R. – No Violation
4. 18 CHI 020 – D.D.M. – No Violation
5. 18 CHI 021 – T.T.L. – Prosecutorial Discretion (P2)

Motion carried unanimously.

18 CHI 003 – B.M.M.

MOTION: James Fortier moved, seconded by James Damrow, to table the DLSC Case Number 18 CHI 003, against B.M.M., until the next meeting. Motion carried unanimously.

RECONVENE TO OPEN SESSION

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

The Board reconvened into Open Session at 11:02 a.m.

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

MOTION: James Fortier moved, seconded by James Damrow, 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.)

DRAFT

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

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

ADJOURNMENT

MOTION: Bryan Gerondale moved, seconded by James Fortier, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:06 a.m.

DRAFT

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:
Dale Kleven Administrative Rules Coordinator	11/11/19 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Chiropractic Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
11/21/19	☒ Yes ☐ No	8:30 A.M. Public Hearing: Scope Statement SS 068-19 – Chir 5, Relating to Approval of Continuing Education Programs 1. Review and Respond to Public Comments 8:30 A.M. Public Hearing: CR 19-130 – Chir 5, Relating to Continuing Education 1. Review and Respond to Public Comments and Clearinghouse Report 8:30 A.M. Public Hearing: CR 19-129 – Chir 6, Relating to Standards of Conduct 1. Review and Respond to Public Comments and Clearinghouse Report Administrative Rule Matters – Discussion and Consideration 1. Adoption Orders: CR 18-071, Relating to Chiropractic Practice and CR 18-103, Relating to Chiropractic Preceptorship 2. Germane Modification to CR 18-105, Relating to Delegation of Services to Health Care Professionals 3. Proposals for Chir 5, Relating to Approval of Continuing Education Programs; and Chir 10, Relating to Courses of Study for and Delegation to Chiropractic Technicians and Chiropractic Radiological Technicians 4. Pending and Possible Rulemaking Projects

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session ☐ Both	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

11) Authorization

Dale Kleven — *November 11, 2019*

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.

Revised 8/13

STATEMENT OF SCOPE

Chiropractic Examining Board

Rule No.: Chapter Chir 5

Relating to: Approval of Continuing Education Programs

Rule Type: Permanent

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

N/A

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

The Chiropractic Examining Board will establish requirements for approval of continuing education programs recognized by the Providers of Approved Continuing Education (PACE) of the Federation of Chiropractic Licensing Boards.

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:

Current rules provide requirements for approval of continuing education programs. The Board has determined that continuing education programs that meet the standards established by PACE should not be subject to the same requirements for approval as continuing education programs that are not. The proposed rules will establish separate requirements for approval of continuing education programs recognized by PACE.

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, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, . . ."

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:

80 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: Dale Kleven, Administrative Rules Coordinator, DSPSAdminRules@wisconsin.gov, (608) 261-4472

Approved for publication:

Authorized Signature

04/02/2019

Date Submitted

Approved for implementation:

Authorized Signature

Date Submitted

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

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

PROPOSED ORDER

An order of the Chiropractic Examining Board to **repeal** Chir 5.02 (3); to **amend** Chir 5.01 (1) (a), (1g) (a), (1r) (a), (2) (b), and (3), 5.02 (1) (intro.), (a), (b), (bm), (c), (f), and (h), (2) (a), and (4) (a) 4., 5., and 6., and 5.03 (intro.); and to **create** Chir 5.01 (1) (g), (1g) (c), (1r) (c), (4), and (5), 5.02 (1) (i), and 5.03 (6), relating to continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 446.025 (3) (b), 446.026 (3) (b), and 446.028, 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 an examining board, 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 the 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 5 to ensure consistency with current practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- The date referenced in s. Chir 5.01 (1) (a), (1g) (a), (1r) (a), and (2) (b) is revised from December 14 to December 15 to align with the renewal date under s. 440.08 (2) (a) 24., Stats.

- Section Chir 5.01 (1) (g), (1g) (c), and (1r) (c) are created to allow a chiropractor, chiropractic radiological technician, or chiropractic technician to acquire a portion of their required continuing education credit hours by participating in online continuing education programs approved by the Board. This provision first applies to the renewal period ending on December 15, 2022.
- Section Chir 5.01 (3) is revised and s. Chir 5.01 (5) is created to comply with s. 440.03 (4m), Stats., as created by 2017 Wisconsin Act 59. Under this provision, the Board may require a credential holder to submit proof of completing continuing education programs or courses only if a complaint is made against the credential holder.
- Section Chir 5.02 (1) (a) is revised to remove the American Chiropractic Association (ACA) as an approved program sponsor, as the ACA is not included in the definition of "program sponsor" under s. 446.028, Stats.
- The requirement under s. Chir 5.02 (1) (b) and (2) (a) that program subject matter relates to improving the clinical skills of a chiropractor and is generally taught at the undergraduate or postgraduate level of a chiropractic college meeting the requirements of s. Chir 2.02 (6) (b) 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.
- Section Chir 5.02 (1) (i) is created to require an online continuing education program to include a written assessment instrument that is designed to ensure active participation in the program and that a measurable benefit was derived from participation, and also include means to furnish each participant with evidence of having attended the program.
- Section Chir 5.03 is revised to require the Board to deny approval of a continuing education program for any of the enumerated reasons. Current rules allow the Board to exercise discretionary authority in issuing a denial.
- Other provisions throughout ch. Chir 5 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: Rules of the Illinois Department of Financial and Professional Regulation address continuing medical education (CME) for persons licensed to practice chiropractic in Illinois (68 Ill. Adm. Code 1285.110). A CME program must be sponsored by one of the following:

- The Accreditation Council on Continuing Medical Education (ACCME) and organizations accredited by ACCME as sponsors of CME.
- The Illinois State Medical Society or its affiliates.
- The Illinois Chiropractic Society or its affiliates.

- The Illinois Prairie State Chiropractic Association or its affiliates.
- The International Chiropractic Association or its affiliates.
- The American Chiropractic Association or its affiliates.
- Any other accredited school, college or university, state agency, or any other person, firm, or association that has been approved and authorized by the Department.

A CME program must meet all of the following requirements:

- Contributes to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee.
- Fosters the enhancement of general or specialized practice and values.
- Is developed and presented by persons with education, experience, or both in the subject matter of the program.
- Specifies the course objectives, course content and teaching methods to be used.
- Specifies the number of CME hours that may be applied to fulfilling the Illinois CME requirements for license renewal.
- Provides a mechanism for evaluation of the program and instructor by the participants.
- Provides each participant in the program with a certificate of attendance or participation.

As the rules do not expressly allow or prohibit online CME programs, an online CME program meeting the above requirements may be used to satisfy the CME requirement.

Iowa: Rules of the Iowa Board of Chiropractic address continuing education for chiropractic physicians (645 IAC 44.1 to 44.11). A continuing education program must meet all of the following requirements:

- Constitutes an organized program of learning which contributes directly to the professional competency of the licensee.
- Pertains to subject matters which integrally relate to the practice of the profession.
- Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.
- Fulfills stated program goals, objectives, or both.
- Provides proof of attendance to licensees in attendance.

Of the 60 hours of continuing education during a renewal period, 20 hours relating to clinical case management of chiropractic patients must be earned by completing a program in which an instructor conducts the class employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as the instructor.

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs address continuing education for persons licensed to practice chiropractic in Michigan (Mich Admin Code, R 338.12006 to R 338.12008a). A continuing education program must be accredited by the Commission on Accreditation of the Council on Chiropractic Education or approved by another state's board of chiropractic.

Fifteen of the 30 required hours of continuing education may be from online programs, excluding the required 2 hours of continuing education on physical measures, the 2 required hours of continuing education on the performance and ordering of tests, and any continuing education program in which a participant performs a chiropractic manipulation or adjustment on another individual.

Minnesota: Rules of the Minnesota Board of Chiropractic Examiners address continuing education for persons licensed to practice chiropractic in Minnesota (Minnesota Rules, parts 2500.1100 to 2500.2000). The Board registers and approves continuing education sponsors. A program sponsor must use the following criteria to determine if a continuing education program is approved and the number of continuing education units for which approval is granted:

- Whether the material to be presented is likely to enhance the practitioner's knowledge and skill in the practice of chiropractic.
- Whether the instructors or speakers presenting the program, and those persons preparing the program, are sufficiently qualified in the field of their instruction, either by practical or academic experience or both.
- Whether the classes will be held in a suitable setting, or under suitable conditions, that are considered by the Board to be conducive to the learning process.
- Whether the program may improve the practitioner's ability to keep records necessary to substantiate the need for chiropractic care.

A chiropractor may obtain the annual continuing education requirement through alternatives to traditional classroom presentations. The programs must be approved by the Board or a Board-approved sponsor. An online program approved for continuing education credit must include a written assessment instrument, designed to ensure that the chiropractor actively participated in the presentation of material and derived a measurable benefit from participation.

Summary of factual data and analytical methodologies:

The rules were developed by reviewing the provisions of ch. Chir 5 to ensure the rules are consistent with current 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 November 21, 2019, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chir 5.01 (1) (a) is amended to read:

Chir 5.01 (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 ~~14~~ 15 of each even-numbered year, except as specified in s. Chir 3.02 (1) (c).

SECTION 2. Chir 5.01 (1) (g) is created to read:

Chir 5.01 (1) (g) Beginning with the license registration period ending on December 15, 2022, up to 8 of the continuing education credit hours required under par. (a) may be acquired through participation in online continuing education programs approved under s. Chir 5.02.

SECTION 3. Chir 5.01 (1g) (a) is amended to read:

Chir 5.01 (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 ~~14~~ 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.

SECTION 4. Chir 5.01 (1g) (c) is created to read:

Chir 5.01 (1g) (c) Beginning with the certificate registration period ending on December 15, 2022, up to 4 of the continuing education credit hours required under par. (a) may be acquired through participation in online continuing education programs approved under s. Chir 5.02.

SECTION 5. Chir 5.01 (1r) (a) is amended to read:

Chir 5.01 (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 ~~14~~ 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.

SECTION 6. Chir 5.01 (1r) (c) is created to read:

Chir 5.01 (1r) (c) Beginning with the certificate registration period ending on December 15, 2022, up to 2 of the continuing education credit hours required under par. (a) may be acquired through participation in online continuing education programs approved under s. Chir 5.02.

SECTION 7. Chir 5.01 (2) (b) and (3) are amended to read:

Chir 5.01 (2) (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 ~~14~~ 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 ~~his or her~~ the application for credential renewal that ~~he or she has completed~~ all continuing education credits have been completed as required ~~in~~ under this section ~~for the previous 2-year credential registration period. A chiropractor, chiropractic radiological technician, or chiropractic technician shall retain for a minimum period of 4 years, and shall make available to the board or its agent upon request, certificates of attendance issued by the program sponsor for all continuing education programs for which he or she claims credit for purposes of renewal of his or her credential. Chiropractors, chiropractic radiological technicians, or chiropractic technicians attending a program for credit shall be present in the room where a program is being presented in order to claim credit. A chiropractor, chiropractic radiological technician, or chiropractic technician may claim credit hours for continuing education for which he or she was in actual attendance in the room, except for authorized break periods or to attend to personal hygiene needs~~.

SECTION 8. Chir 5.01 (4) to (6) are created to read:

Chir 5.01 (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 shall 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.

(6) Except as provided under subs. (1) (g), (1g) (c), and (1r) (c), credit may only be claimed for completing a program in which an instructor employs an in person, classroom-type presentation and the chiropractor, chiropractic radiological technician, or chiropractic technician is in attendance in the same room as the instructor. A home study or other distance learning program may be approved for credit only in cases of extreme hardship, as determined by the board.

SECTION 9. Chir 5.02 (1) (intro.), (a), (b), (bm), (c), (f), and (h) are amended to read:

Chir 5.02 (1) (intro.) The board may approve a continuing education program ~~which~~ that meets all of the following ~~minimum~~ requirements:

(a) The program is sponsored by the Wisconsin ~~chiropractic association~~ Chiropractic Association, ~~the American chiropractic association,~~ the ~~international chiropractors association~~ International Chiropractors Association, a college of chiropractic approved by the board, or a college of medicine or osteopathy accredited by an agency recognized by the United States department of education.

(b) ~~*Chiropractors.* The~~ For a continuing education program required under s. Chir 5.01 (1) (a), the program subject matter ~~relates~~ contributes to ~~improving the clinical skills of a chiropractor and is generally taught at the undergraduate or postgraduate level of a chiropractic college meeting the requirements of s. Chir 2.02 (6) (b)~~ the advancement, extension, and enhancement of the clinical skills of a chiropractor and fosters the enhancement of general or specialized practice and values. ~~The board will not approve credit for continuing education regarding a technique or practice which the board has determined to be unsafe or ineffective.~~

(bm) ~~*Chiropractic radiological technician and chiropractic technician.* The~~ 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 ~~radiologic~~ radiological technician, or chiropractic technician, as applicable, ~~at~~ participating in 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. This paragraph does not apply to an online continuing education program.

(f) ~~When~~ 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 standards of the ~~council~~ Council on ~~chiropractic education~~ Chiropractic Education, and that the chiropractic college exercises sufficient supervision over a faculty member's course content.

(h) ~~The~~ A course instructor ~~is qualified to present~~ of the program has qualifications appropriate for presenting the course.

SECTION 10. Chir 5.02 (1) (i) is created to read:

Chir 5.02 (1) (i) For an online continuing education program, the program includes a written assessment instrument that is designed to ensure the chiropractor, chiropractic radiological technician, or chiropractic technician, as applicable, actively participated in the presentation of material and derived a measurable benefit from participation, and also includes means to furnish each participant with evidence of having attended the program.

SECTION 11. Chir 5.02 (2) (a) is amended to read:

Chir 5.02 (2) (a) Continuing education programs may include subject material ~~other than that which relates to improving the clinical skills of a chiropractor and is generally taught at the undergraduate or postgraduate level of a chiropractic college, meeting the requirements of s. Chir 2.02 (6) (b)~~ that does not meet the requirements under sub. (1) (b). However, only the parts of the program ~~which relate to improving the clinical skills of a chiropractor and are generally taught at the undergraduate or postgraduate level of a chiropractic college~~ that include subject material that meets the requirements under sub. (1) (b) are eligible for credit.

SECTION 12. Chir 5.02 (3) is repealed.

SECTION 13. Chir 5.02 (4) (a) 4., 5., and 6. are amended to read:

Chir 5.02 (4) (a) 4. Be complete as prescribed in this subsection and filed with the board no later than 75 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 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 evidence of the program sponsor's verification showing to the satisfaction of the board that the subject matter ~~is generally taught at the undergraduate or postgraduate level of a chiropractic college meeting the requirements of s. Chir 2.02 (6) (b) and relates to improving the clinical skills of a chiropractor~~ meets the requirements under sub. (1) (b). 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 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 ~~(CCE)~~ or by an agency approved by the United States ~~Office of Education or its successor~~ department of education.

SECTION 14. Chir 5.03 (intro.) is amended to read:

Chir 5.03 (intro.) Application denials. The board ~~may~~ shall deny approval of an application for any of the following reasons:

SECTION 15. Chir 5.03 (6) is created to read:

Chir 5.03 (6) The program subject matter relates to practice that is prohibited under s. Chir 4.05.

SECTION 16. 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)

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Chir 5

3. Subject
Continuing education

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 5 to ensure consistency with current practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- The date referenced in s. Chir 5.01 (1) (a), (1g) (a), (1r) (a), and (2) (b) is revised from December 14 to December 15 to align with the renewal date under s. 440.08 (2) (a) 24., Stats.
- Section Chir 5.01 (1) (g), (1g) (c), and (1r) (c) are created to allow a chiropractor, chiropractic radiological technician, or chiropractic technician to acquire a portion of their required continuing education credit hours by participating in online continuing education programs approved by the Board. This provision first applies to the renewal period ending on December 15, 2022.
- Section Chir 5.01 (3) is revised and s. Chir 5.01 (5) is created to comply with s. 440.03 (4m), Stats., as created by 2017 Wisconsin Act 59. Under this provision, the Board may require a credential holder to submit proof of completing continuing education programs or courses only if a complaint is made against the credential holder.
- Section Chir 5.02 (1) (a) is revised to remove the American Chiropractic Association (ACA) as an approved program sponsor, as the ACA is not included in the definition of "program sponsor" under s. 446.028, Stats.
- The requirement under s. Chir 5.02 (1) (b) and (2) (a) that program subject matter relates to improving the clinical skills of a chiropractor and is generally taught at the undergraduate or postgraduate level of a chiropractic college meeting the requirements of s. Chir 2.02 (6) (b) 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.
- Section Chir 5.02 (1) (i) is created to require an online continuing education program to include a written assessment instrument that is designed to ensure active participation in the program and that a measurable benefit was derived from participation, and also include means to furnish each participant with evidence of having attended the program.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

- Section Chir 5.03 is revised to require the Board to deny approval of a continuing education program for any of the enumerated reasons. Current rules allow the Board to exercise discretionary authority in issuing a denial.
- Other provisions throughout ch. Chir 5 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.

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 $3,023.08, and ongoing annual costs of $371.56. 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 practices and applicable Wisconsin statutes. If the rule is not implemented, it will continue to not allow online continuing education courses.

14. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is consistency with current 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: Rules of the Illinois Department of Financial and Professional Regulation address continuing medical education (CME) for persons licensed to practice chiropractic in Illinois (68 Ill. Adm. Code 1285.110). A CME program must be sponsored by one of the following:

- The Accreditation Council on Continuing Medical Education (ACCME) and organizations accredited by ACCME as sponsors of CME.
- The Illinois State Medical Society or its affiliates.
- The Illinois Chiropractic Society or its affiliates.
- The Illinois Prairie State Chiropractic Association or its affiliates.
- The International Chiropractic Association or its affiliates.
- The American Chiropractic Association or its affiliates.
- Any other accredited school, college or university, state agency, or any other person, firm, or association that has been approved and authorized by the Department.

A CME program must meet all of the following requirements:

- Contributes to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee.
- Fosters the enhancement of general or specialized practice and values.
- Is developed and presented by persons with education, experience, or both in the subject matter of the program.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

- Specifies the course objectives, course content and teaching methods to be used.
- Specifies the number of CME hours that may be applied to fulfilling the Illinois CME requirements for license renewal.
- Provides a mechanism for evaluation of the program and instructor by the participants.
- Provides each participant in the program with a certificate of attendance or participation.

As the rules do not expressly allow or prohibit online CME programs, an online CME program meeting the above requirements may be used to satisfy the CME requirement.

Iowa: Rules of the Iowa Board of Chiropractic address continuing education for chiropractic physicians (645 IAC 44.1 to 44.11). A continuing education program must meet all of the following requirements:

- Constitutes an organized program of learning which contributes directly to the professional competency of the licensee.
- Pertains to subject matters which integrally relate to the practice of the profession.
- Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.
- Fulfills stated program goals, objectives, or both.
- Provides proof of attendance to licensees in attendance.

Of the 60 hours of continuing education during a renewal period, 20 hours relating to clinical case management of chiropractic patients must be earned by completing a program in which an instructor conducts the class employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as the instructor.

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs address continuing education for persons licensed to practice chiropractic in Michigan (Mich Admin Code, R 338.12006 to R 338.12008a). A continuing education program must be accredited by the Commission on Accreditation of the Council on Chiropractic Education or approved by another state's board of chiropractic.

Fifteen of the 30 required hours of continuing education may be from online programs, excluding the required 2 hours of continuing education on physical measures, the 2 required hours of continuing education on the performance and ordering of tests, and any continuing education program in which a participant performs a chiropractic manipulation or adjustment on another individual.

Minnesota: Rules of the Minnesota Board of Chiropractic Examiners address continuing education for persons licensed to practice chiropractic in Minnesota (Minnesota Rules, parts 2500.1100 to 2500.2000). The Board registers and approves continuing education sponsors. A program sponsor must use the following criteria to determine if a continuing education program is approved and the number of continuing education units for which approval is granted:

- Whether the material to be presented is likely to enhance the practitioner's knowledge and skill in the practice of chiropractic.
- Whether the instructors or speakers presenting the program, and those persons preparing the program, are sufficiently qualified in the field of their instruction, either by practical or academic experience or both.
- Whether the classes will be held in a suitable setting, or under suitable conditions, that are considered by the Board to be conducive to the learning process.
- Whether the program may improve the practitioner's ability to keep records necessary to substantiate the need for chiropractic care.

A chiropractor may obtain the annual continuing education requirement through alternatives to traditional classroom presentations. The programs must be approved by the Board or a Board-approved sponsor. An online program approved for continuing education credit must include a written assessment instrument, designed to ensure that the chiropractor actively participated in the presentation of material and derived a measurable benefit from participation.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

17. Contact Name	18. Contact Phone Number
Dale Kleven	(608) 261-4472

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

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 19-130

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

In s. Chir 5.02 (1) (b), the underscored material that begins with the phrase "the advancement" should be moved to follow all of the stricken material, including the next sentence that is stricken. The placement of the stricken period would also be moved to the end of the first sentence rather than the end of the final sentence, accordingly.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Chir 5.01 (6), the phrase "as determined by the board" injects an element of ambiguity into the hardship provision, because it implies that a determination of hardship might differ, depending on context. However, the provision does not provide any criteria for the board to follow in distinguishing situations that meet the standard from those that do not. Consider adding criteria and procedures that the board should apply in making determinations regarding this issue.

b. In s. Chir 5.02 (4) (a) 4., the meaning of the added language is not clear. Consider separating the new information out as a stand-alone sentence, so that the general provision is stated first, and the exception (or rather, alternate deadline) for online programs is stated next, as a separate sentence.

One East Main Street, Suite 401 • Madison, WI 53703–3382
(608) 266–1304 • Email: leg.council@legis.wisconsin.gov
http://www.legis.wisconsin.gov/lc

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

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

PROPOSED ORDER

An order of the Chiropractic Examining Board to **amend** Chir 6.01, 6.015 (title) and (1), 6.02 (intro.), (1), (4), (5), (6), (9), (10), (11), (15) (intro.), (f) (intro.) and 1. to 3., (g) (intro.) and 1. to 3., and (h), (16), (18), (19), (21), (22), (26), (27), (29), and (30), and 6.03 (1) and (3); and to **create** Chir 6.015 (2) and (3), relating to standards of conduct.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 446.04, 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 the 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:

Chapter Chir 4 provides criteria for determining if the use of an instrument or a practice system, analysis, method, or protocol is beyond the scope of the practice of chiropractic.

Plain language analysis:

The Board conducted an evaluation and update of ch. Chir 6 to ensure consistency with current professional practices and standards and applicable Wisconsin statutes. As a result, the following updates have been made:

- The definition of "advertisement" under s. Chir 6.015 (1) is revised to remove references to specific advertising medium. The definition as revised specifies an advertisement may be in any public medium.
- A definition of "patient" is added to the definitions under s. Chir 6.015.
- A provision is created under s. Chir 6.02 (15) (f) (intro.) and (g) (intro.) that permits a chiropractor to advertise specialization or advanced training if the chiropractor has a postgraduate degree in the area of specialty or advanced training conferred by an institution accredited by either the Council on Chiropractic Education or an accrediting agency recognized by the United States department of education.
- Other provisions throughout ch. Chir 6 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 statutes specify conduct that may subject a chiropractor to disciplinary action (225 ILCS 60/22). Rules of the Illinois Department of Financial and Professional Regulation (68 Ill. Adm. Code 1285.240) set forth standards to be used in determining:

- What constitutes dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.
- What constitutes immoral conduct in the commission of any act, including commission of an act of sexual misconduct related to a licensee's practice.
- What constitutes gross negligence in the practice of medicine.

Iowa: Iowa statutes specify conduct that may lead to the suspension or revocation of a chiropractic license, or may subject the licensee to discipline (Iowa Code 2017, sections 147.55 and 151.9). The following are identified:

- Fraud in procuring a license.
- Professional incompetency.
- Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public.
- Habitual intoxication or addiction to the use of drugs.
- Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice as a professional chiropractor.
- Fraud in representations as to skill or ability.
- Use of untruthful or improbable statements in advertisements.

- Willful or repeated violations of the provisions of chapter 1088 or 272C of the Iowa statutes.
- Other acts or offenses as specified by board rule.

Rules of the Iowa Board of Chiropractic specify acts and offenses that may subject a chiropractor to disciplinary action (645 IAC 45.2). The Board has also by rule adopted 10 principles of chiropractic ethics relative to the practice of chiropractic in Iowa (645 IAC 43.2).

Michigan: Michigan statutes specify conduct that may subject a chiropractor to disciplinary action (MCL 333.16221). The statutes also provide an individual may not perform or order tests or use analytical instruments or adjustment apparatus that do not meet nationally recognized standards or that are not approved by the Michigan Board of Chiropractic (MCL 333.16423).

Rules of the Michigan Department of Licensing and Regulatory Affairs specify what is considered fraudulent, false, deceptive, or misleading advertising (Mich Admin Code, R 338.12014).

Minnesota: Minnesota statutes specify conduct that may subject a chiropractor to disciplinary action (Minnesota Statutes 2016, section 148.10).

Rules of the Minnesota Board of Chiropractic Examiners specify standards for advertising, including prohibited advertisements and the use of professional designations (Minnesota Rules, parts 2500.0200 to 2500.0600).

Summary of factual data and analytical methodologies:

The methodologies used to develop this proposed rule include reviewing the current definition of advertising and the provisions for unprofessional conduct in ch. Chir 6, and obtaining input and feedback from the Chiropractic Examining Board.

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 53708-8306; 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 November 21, 2019, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chir 6.01 is amended to read:

Chir 6.01 Authority. The rules in ~~ch. Chir 6~~ this chapter are adopted under the authority in ss. 15.08 (5) (b), 227.11, and 446.04, Stats.

SECTION 2. Chir 6.015 (title) and (1) are amended to read:

Chir 6.015 (title) ~~Definition~~ Definitions.

(1) "Advertisement" means ~~any~~ a communication disseminated or intended to be disseminated ~~to the~~ in any public ~~which~~ medium that is likely to or intended to induce, directly or indirectly, the rendering of professional services by the chiropractor named in or identified by the communication. ~~"Advertisement" includes professional business cards, professional announcement cards, office signs, letterhead, telephone directory listings, directories or listings of health care practitioners, and communications which are likely to or intended to induce, directly or indirectly, the rendering of professional services by the chiropractor named in or identified by the communication in newspapers, broadsides, flyers, radio, television, books, magazines, or motion pictures.~~

SECTION 3. Chir 6.015 (2) and (3) are created to read:

Chir 6.015 (2) "Co-payment or deductible provision" means any term in a contract of insurance with a third party whereby the patient remains financially obligated to the chiropractor for payment.

(3) "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 4. Chir 6.02 (intro.), (1), (4), (5), (6), (9), (10), (11), (15) (intro.), (f) (intro.) and 1. to 3., (g) (intro.) and 1. to 3., and (h), (16), (18), (19), (21), (22), (26), (27), (29), and (30) are amended to read:

Chir 6.02 (intro.) Unprofessional conduct. Unprofessional conduct by a chiropractor includes all of the following:

(1) Engaging in any practice which constitutes a substantial danger to the health, welfare, or safety of a patient or the public.

(4) Practicing or attempting to practice beyond the scope of a license issued by the board, including ~~but not limited to~~ acts prohibited under s. Chir 4.05 ~~(1)~~.

(5) Practicing or attempting to practice while the ability to perform is impaired by a physical, mental, or emotional disorder, or by drugs or alcohol.

(6) Performing professional services inconsistent with training, education, or experience.

(9) Failing to conduct a competent assessment, evaluation, or diagnosis as a basis for treatment or consultation.

(10) Revealing confidential patient information without the consent of ~~a~~ the patient or person authorized by the patient to provide consent, except that information shall be revealed to the board or its representatives pursuant to investigation of a licensee or as otherwise authorized by law.

(11) Refusing to render services to a person because of race, color, sex, or religion.

(15) (intro.) Advertising in a manner which is false, deceptive, or misleading. An advertisement ~~which~~ that does any of the following is false, deceptive, or misleading:

(f) (intro.) Includes reference to or implies specialization ~~or advanced training~~ , unless the chiropractor has a postgraduate degree in the area of specialty conferred by an institution accredited by either the Council on Chiropractic Education or an accrediting agency recognized by the United States department of education, or unless all of the following ~~are true~~ apply to the chiropractor's specialty:

1. The specialty is recognized by a council of the American ~~chiropractic association~~ Chiropractic Association or the ~~international chiropractors association~~ International Chiropractors Association.

2. The specialty requires at least 300 hours of postgraduate credit hours and passage of a written examination approved by the American ~~chiropractic association~~ Chiropractic Association or the ~~international chiropractors association~~ International Chiropractors Association.

3. The title applied to the specialty by the chiropractor is the title applied by the American ~~chiropractic association~~ Chiropractic Association or the ~~international chiropractors association~~ International Chiropractors Association.

(g) (intro.) Includes reference to or implies advanced training, unless the chiropractor has a postgraduate degree in the area of specialty conferred by an institution accredited by either the Council on Chiropractic Education or an accrediting agency recognized by the United States department of education, or unless the chiropractor has successfully completed a postgraduate training program meeting all of the following ~~are true~~ requirements:

1. The ~~postgraduate training was received in~~ program is one, unified program approved by the American ~~chiropractic association~~ Chiropractic Association or the ~~international chiropractors association~~ International Chiropractors Association, or

~~through~~ one, unified program at a college accredited by the ~~council~~ Council on ~~chiropractic education~~ Chiropractic Education and approved by the board.

2. The ~~chiropractor has completed~~ program consists of at least 100 hours of ~~postgraduate~~ training in the area in which the chiropractor claims advanced training.

3. The ~~postgraduate training~~ program ~~includes~~ requires successful completion of a written examination ~~as a requirement for successful completion of the training program~~.

(h) Appears in any classified directory, listing, or other compendium under a heading~~, which~~ that, when considered together with the advertisement, has the capacity or tendency to be deceptive or misleading with regard to the profession or professional status of the chiropractor.

(16) Aiding, ~~or~~ abetting, or permitting unlicensed persons in the practice of chiropractic.

(18) Obtaining or attempting to obtain a license through fraud or misrepresentation, or making any material misstatement, omission, or falsification in connection with an application for a license, registration, or renewal.

(19) Refusing upon request to cooperate in a timely manner with the board's investigation of a complaint lodged against a licensee. Licensees taking longer than 30 days to respond to a request from the board or its representative shall have the burden of demonstrating that they have acted in a timely manner.

(21) Failing to notify the board of having a chiropractic license, certificate, permit, or registration granted by any other jurisdiction subject to disciplinary action.

(22) Having a license, certificate, permit, or registration granted by another jurisdiction to practice as a chiropractor limited, suspended, ~~or~~ revoked, or subject to any other disciplinary action.

(26) Violating ~~a law~~, or aiding or abetting the violation of, any law substantially related to the practice of chiropractic.

(27) Failing to maintain patient records for a minimum period of 7 years after the last treatment or after the patient reaches the age of majority, whichever is ~~greater~~ longer.

(29) Negating the co-payment or deductible provisions of a contract of insurance by agreeing to forgive any or all of the patient's obligation for payment under the contract, unless the chiropractor reduces the chiropractor's claim to the insurance carrier in regard to that patient by an equal proportion. ~~In this section, "co-payment or deductible provisions" means any terms in a contract of insurance with a third party whereby the patient remains financially obligated to the chiropractor for payment.~~

(30) Giving or receiving unauthorized assistance, violating rules of conduct, or otherwise cheating or acting dishonestly ~~respecting~~ with regard to any examination required for the granting of a license or registration to practice chiropractic.

SECTION 5. Chir 6.03 (1) and (3) are amended to read:

Chir 6.03 (1) A chiropractor shall evaluate each presenting patient to determine whether ~~the patient presents~~ a condition exists that is treatable through chiropractic means. An evaluation shall be based upon an examination appropriate to the presenting

patient. In conducting an evaluation, a chiropractor shall utilize chiropractic science, as ~~described~~ defined in s. Chir 4.02 (1), and the principles of education and training of the chiropractic profession.

(3) If an evaluation indicates a condition ~~which~~ that is not treatable through chiropractic means, the chiropractor shall inform the patient ~~that~~ the condition is not treatable through chiropractic means and recommend ~~that~~ the patient seek additional advice or care.

SECTION 6. 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)

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Chir 6

3. Subject
Standards of conduct

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 6 to ensure consistency with current professional practices and standards and applicable Wisconsin statutes. As a result, the following updates have been made:

- The definition of "advertisement" under s. Chir 6.015 (1) is revised to remove references to specific advertising medium. The definition as revised specifies an advertisement may be in any public medium.
- A definition of "patient" is added to the definitions under s. Chir 6.015.
- A provision is created under s. Chir 6.02 (15) (f) (intro.) and (g) (intro.) that permits a chiropractor to advertise specialization or advanced training if the chiropractor has a postgraduate degree in the area of specialty or advanced training conferred by an institution accredited by either the Council on Chiropractic Education or an accrediting agency recognized by the United States department of education.
- Other provisions throughout ch. Chir 6 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.

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.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

The Department estimates one-time administrative costs of $3,406.75. 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 practices and standards and applicable Wisconsin statutes. If the rule is not implemented, it will continue to reflect outdated practices and standards.

14. Long Range Implications of Implementing the Rule

The long-range implication of implementing the rule is consistency with current professional practices and standards 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 statutes specify conduct that may subject a chiropractor to disciplinary action (225 ILCS 60/22). Rules of the Illinois Department of Financial and Professional Regulation (68 Ill. Adm. Code 1285.240) set forth standards to be used in determining:

- What constitutes dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.
- What constitutes immoral conduct in the commission of any act, including commission of an act of sexual misconduct related to a licensee's practice.
- What constitutes gross negligence in the practice of medicine.

Iowa: Iowa statutes specify conduct that may lead to the suspension or revocation of a chiropractic license, or may subject the licensee to discipline (Iowa Code 2017, sections 147.55 and 151.9). The following are identified:

- Fraud in procuring a license.
- Professional incompetency.
- Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public.
- Habitual intoxication or addiction to the use of drugs.
- Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice as a professional chiropractor.
- Fraud in representations as to skill or ability.
- Use of untruthful or improbable statements in advertisements.
- Willful or repeated violations of the provisions of chapter 1088 or 272C of the Iowa statutes.
- Other acts or offenses as specified by board rule.

Rules of the Iowa Board of Chiropractic specify acts and offenses that may subject a chiropractor to disciplinary action (645 IAC 45.2). The Board has also by rule adopted 10 principles of chiropractic ethics relative to the practice of chiropractic in Iowa (645 IAC 43.2).

Michigan: Michigan statutes specify conduct that may subject a chiropractor to disciplinary action (MCL 333.16221). The statutes also provide an individual may not perform or order tests or use analytical instruments or adjustment apparatus that do not meet nationally recognized standards or that are not approved by the Michigan Board of Chiropractic (MCL 333.16423).

Rules of the Michigan Department of Licensing and Regulatory Affairs specify what is considered fraudulent, false, deceptive, or misleading advertising (Mich Admin Code, R 338.12014).

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

Minnesota: Minnesota statutes specify conduct that may subject a chiropractor to disciplinary action (Minnesota Statutes 2016, section 148.10).

Rules of the Minnesota Board of Chiropractic Examiners specify standards for advertising, including prohibited advertisements and the use of professional designations (Minnesota Rules, parts 2500.0200 to 2500.0600).

17. Contact Name	18. Contact Phone Number
Dale Kleven	(608) 261-4472

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

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE CHIROPRACTIC EXAMINING BOARD	:	ORDER OF THE CHIROPRACTIC EXAMINING BOARD ADOPTING RULES (CLEARINGHOUSE RULE 18-071)

ORDER

An order of the Chiropractic Examining Board to **repeal** Chir 4.03, 4.04 (Note), and 4.05 (1) (a) to (d) and (2) (intro.), (a) to (d), and (e) 1.; to **renumber and amend** Chir 4.05 (1) (intro.) and (2) (e) (intro.) and (f) to (h); to **amend** Chir 4.01, 4.02 (2), 4.04 (2) (a) and (Note), and 4.07 (1); to **repeal and recreate** Chir 4.02 (1); and to **create** Chir 4.02 (1m) and (3) to (5), relating to chiropractic practice.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 446.02 (7d) (a), Stats.

Statutory authority:

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

Explanation of agency authority:

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

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

Related statute or rule:

Chapter Chir 6 establishes standards of conduct for chiropractors. Section Chir 6.02 (4) provides that unprofessional conduct includes "[p]racticing or attempting to practice beyond the scope of a license issued by the board, including but not limited to acts prohibited under s. Chir 4.05 (1)."

Plain language analysis:

The Board conducted an evaluation and update of ch. Chir 4 to ensure consistency with current professional practices and standards and applicable Wisconsin statutes. As a result, the following updates have been made:

- Section Chir 4.01 is revised to accurately describe the purpose of ch. Chir 4 as revised.
- The definition of "chiropractic science" under s. Chir 4.02 (1) was created in 1985 and has not been substantively revised since that time. The proposed rules revise the definition to reflect current chiropractic practice.
- Definitions of "examination," "physiotherapy," and "treatment" are created to achieve consistency and clarity of that terminology as it is used in ch. Chir 4.
- The meaning of "practice of chiropractic" under s. Chir 4.03 is replaced with the meaning given in s. 446.01 (2), Stats.
- The rules remove the references under s. Chir 4.05 (1) and (2) to specific techniques, procedures, and instruments that are beyond the scope of chiropractic or prohibited. The section as revised provides criteria for determining if the use of an instrument or a practice system, analysis, method, or protocol is beyond the scope of the practice of chiropractic.

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

None.

Comparison with rules in adjacent states:

Illinois: The Illinois Medical Practice Act specifies the scope of chiropractic practice through a definition of "chiropractic physician" (225 ILCS 60/2). The Act defines a chiropractic physician as "a person licensed to treat human ailments without the use of drugs and without operative surgery. Nothing in this Act shall be construed to prohibit a chiropractic physician from providing advice regarding the use of non-prescription products or from administering atmospheric oxygen. Nothing in this Act shall be construed to authorize a chiropractic physician to prescribe drugs."

Iowa: Iowa statutes specify the scope of chiropractic practice through a definition of "chiropractic" (Iowa Code 2017, section 151.1). The following activities are identified:

- Treating human ailments by the adjustment of the neuromusculoskeletal structures, primarily, by hand or instrument, through spinal care.
- Utilizing differential diagnosis and related procedures.
- Withdrawing or ordering withdrawal of a patient's blood for diagnostic purposes.
- Performing or utilizing routine laboratory tests.
- Performing physical examinations.
- Rendering nutritional advice.
- Utilizing chiropractic physiotherapy procedures.

A license to practice chiropractic does not authorize the licensee to practice operative surgery or administer or prescribe prescription drugs or controlled substances (Iowa Code 2017, section 151.5).

Rules of the Iowa Board of Chiropractic include acupuncture in the scope of chiropractic practice. A chiropractic physician who engages in the practice of acupuncture must maintain documentation that shows successful completion of a course in acupuncture consisting of at least 100 hours of traditional, in-person classroom instruction with the instructor on site (645 IAC 43.5).

Michigan: Michigan statutes specify the scope of chiropractic practice through a definition of "practice of chiropractic" (MCL 333.16401). The following activities are identified:

- The diagnosis of human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions.
- The evaluation of conditions or symptoms related to subluxations, misalignments, and joint dysfunction.
- The chiropractic adjustment of subluxations, misalignments, and joint dysfunction and the treatment of related bones and tissues for the establishment of neural integrity and structural stability.
- The use of physical measures, analytical instruments, nutritional advice, rehabilitative exercise, and adjustment apparatus.

The practice of chiropractic does not include any of the following:

- The performance of any procedure that cuts or punctures the skin.
- The dispensing or prescribing of drugs or medicine.
- Except for diagnostic purposes only, the use of x-ray.
- The performance of an invasive procedure involving a body orifice or cavity unless allowed by rule and limited to examinations involving the ears, nose, and throat.
- The treatment of fractures or dislocations.

Rules of the Michigan Department of Licensing and Regulatory Affairs specify the criteria and requirements for adjustment apparatus, analytical instruments, performance or ordering of tests, and performance of invasive procedure (Mich Admin Code, R 338.12010, R 338.12011, R 338.12011a, and R 338.12011b).

Minnesota: Minnesota statutes address the scope of chiropractic practice through a definition of "chiropractic services" (Minnesota Statutes 2016, subdivision 1 of section 148.01). Chiropractic services are defined as "the evaluation and facilitation of structural, biomechanical, and neurological function and integrity through the use of adjustment, manipulation, mobilization, or other procedures accomplished by manual or mechanical forces applied to bones or joints and their related soft tissues for correction of vertebral subluxation, other abnormal articulations, neurological disturbances, structural alterations, or biomechanical alterations, and includes, but is not limited to, manual therapy and mechanical therapy as defined in section 146.23."

An individual licensed to practice chiropractic is authorized to perform chiropractic services, acupuncture, and therapeutic services, and to provide diagnosis and to render opinions pertaining to those services for the purpose of determining a course of action in the best interests of the patient, such as a treatment plan, appropriate referral, or both. The practice of chiropractic is not the practice of medicine, surgery, osteopathic medicine, or physical therapy. (Minnesota Statutes 2016, subdivisions 3 and 4 of section 148.01).

Rules of the Minnesota Board of Chiropractic Examiners provide a chiropractor is engaged in the practice of chiropractic when the chiropractor provides examination or treatment services and the patient, or a person authorized to act for the patient, accepts the services provided (Minnesota Rules, part 2500.6000).

Summary of factual data and analytical methodologies:

The rules were developed by reviewing the provisions of ch. Chir 4 to ensure the rules are consistent with current professional practices and standards and applicable Wisconsin statutes. No additional factual data or analytical methodologies were used to develop the rules.

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

The 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 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, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 8:30 a.m. on November 29, 2018, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chir 4.01 is amended to read:

Chir 4.01 Authority and purpose. This chapter is adopted under authority in ss. 15.08 (5) (b)~~,~~ and 227.11, Stats., and ch. 446, Stats., to ~~interpret the statutory definition of chiropractic practice specified in s. 446.01 (2), Stats.~~ establish standards for the practice of chiropractic.

SECTION 2. Chir 4.02 (1) is repealed and recreated to read:

Chir 4.02 (1) "Chiropractic science" means the body of organized knowledge related to identifying the cause of departure from health of the patient and the treatment of such conditions without use of drugs or surgery. "Chiropractic science" includes using patient examination to create a diagnosis that serves as a basis for forming clinical judgments of a patient's condition, degree or nature of treatment needed, and management and rehabilitation necessary for the restoration and preservation of health.

SECTION 3. Chir 4.02 (1m) is created to read:

Chir 4.02 (1m) "Examination" includes any of the following:

(a) Patient history.

(b) Evaluation techniques.

(c) Lab analysis.

(d) Use of analytical instruments to determine vital signs and screen health status.

(e) Orthopedic and neurological testing.

(f) Range of motion and muscle testing.

(g) Diagnostic evaluation or imaging of the body.

SECTION 4. Chir 4.02 (2) is amended to read:

Chir 4.02 (2) "Instrument" means a device employed or applied in accordance with the principles and techniques of chiropractic science, which is used in the practice of chiropractic to diagnose, analyze, treat, or prevent the cause of departure from complete health and proper condition of the ~~human~~ patient.

SECTION 5. Chir 4.02 (3) to (5) are created to read:

Chir 4.02 (3) "Physiotherapy" has the meaning given "physiotherapy treatment" in s. Chir 10.01 (1r).

(4) "Practice of chiropractic" has the meaning given in s. 446.01 (2), Stats.

(5) "Treatment" includes any of the following:

(a) Adjustment or manipulation of the spinal column, skeletal articulations, and adjacent tissue.

(b) Physiotherapy and exercise rehabilitation.

(c) Education, lifestyle modification, and counseling.

SECTION 6. Chir 4.03 is repealed.

SECTION 7. Chir 4.04 (2) (a) is amended to read:

Chir 4.04 (2) (a) X-ray procedures that require introduction of drugs, clinical dyes, or radioactive substances~~;~~.

SECTION 8. Chir 4.04 (Note) is repealed.

SECTION 9. Chir 4.05 (1) (intro.) is renumbered Chir 4.05 (intro.) and amended to read:

Chir 4.05 (intro.) ~~SCOPE OF PRACTICE.~~ A person ~~who holds a license to practice chiropractic~~ licensed under ch. 446, Stats., may engage in the practice of chiropractic~~, as described in s. Chir 4.03~~. A license to practice chiropractic does not authorize the license holder to engage in practice beyond the scope of ~~chiropractic~~ the practice~~, as described in s. Chir 4.03~~ of chiropractic. Practice beyond the scope of the practice of chiropractic includes~~, but is not limited to,~~ all of the following:

SECTION 10. Chir 4.05 (1) (a) to (d) and (2) (intro.) and (a) to (d) are repealed.

SECTION 11. Chir 4.05 (2) (e) (intro.) is renumbered Chir 4.05 (1m) and amended to read:

Chir 4.05 (1m) The use of any ~~device~~ instrument in the practice of chiropractic to diagnose, analyze, treat, or prevent the cause of departure from complete health and proper condition of the ~~human~~ patient, which is not employed or applied in accordance with the principles and techniques of chiropractic science ~~is prohibited. Such devices include, but are not limited to:~~.

SECTION 12. Chir 4.05 (2) (e) 1. is repealed.

SECTION 13. Chir 4.05 (2) (f) to (h) are renumbered Chir 4.05 (2m) to (4) and amended to read:

Chir 4.05 (2m) Any practice system, analysis, method, or protocol ~~which~~ that does not include the competent assessment, evaluation, or diagnosis of the condition to be treated before beginning treatment ~~of the patient~~.

(3) Any practice system, analysis, method, or protocol ~~which~~ that relies upon diagnostic methods that are not generally recognized or accepted within the profession or ~~which~~ do not have scientific validity.

(4) Any practice system, analysis, method, or protocol ~~which~~ that is represented as a means of attaining spiritual growth, spiritual comfort, or spiritual well-being.

SECTION 14. Chir 4.07 (1) is amended to read:

Chir 4.07 (1) ~~Perform any of the functions in s. Chir 4.03~~ Engage in the practice of chiropractic.

SECTION 15. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____ Agency _____

Chairperson
Chiropractic Examining Board

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Chir 4

3. Subject
Chiropractic practice

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

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule
The Board conducted an evaluation and update of ch. Chir 4 to ensure consistency with current professional practices and standards and applicable Wisconsin statutes. As a result, the following updates have been made:

- Section Chir 4.01 is revised to accurately describe the purpose of ch. Chir 4 as revised.
- The definition of "chiropractic science" under s. Chir 4.02 (1) was created in 1985 and has not been substantively revised since that time. The proposed rules revise the definition to reflect current chiropractic practice.
- Definitions of "examination," "physiotherapy," and "treatment" are created to achieve consistency and clarity of that terminology as it is used in ch. Chir 4.
- The meaning of "practice of chiropractic" under s. Chir 4.03 is replaced with the meaning given in s. 446.01 (2), Stats.
- The proposed rules remove the references under s. Chir 4.05 (1) and (2) to specific techniques, procedures, and instruments that are beyond the scope of chiropractic or prohibited. The section as revised provides criteria for determining if the use of an instrument or a practice system, analysis, method, or protocol is beyond the scope of the practice of chiropractic.

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.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

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

The benefit to implementing the rule is providing updated references and terminology and reflecting current chiropractic practice. If the rule is not implemented, it will continue to provide outdated references and terminology and reflect practices that are no longer current.

14. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is updated references and terminology and reflecting current chiropractic practice.

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: The Illinois Medical Practice Act specifies the scope of chiropractic practice through a definition of "chiropractic physician" (225 ILCS 60/2). The Act defines a chiropractic physician as "a person licensed to treat human ailments without the use of drugs and without operative surgery. Nothing in this Act shall be construed to prohibit a chiropractic physician from providing advice regarding the use of non-prescription products or from administering atmospheric oxygen. Nothing in this Act shall be construed to authorize a chiropractic physician to prescribe drugs."

Iowa: Iowa statutes specify the scope of chiropractic practice through a definition of "chiropractic" (Iowa Code 2017, section 151.1). The following activities are identified:

- Treating human ailments by the adjustment of the neuromusculoskeletal structures, primarily, by hand or instrument, through spinal care.
- Utilizing differential diagnosis and related procedures.
- Withdrawing or ordering withdrawal of a patient's blood for diagnostic purposes.
- Performing or utilizing routine laboratory tests.
- Performing physical examinations.
- Rendering nutritional advice.
- Utilizing chiropractic physiotherapy procedures.

A license to practice chiropractic does not authorize the licensee to practice operative surgery or administer or prescribe prescription drugs or controlled substances (Iowa Code 2017, section 151.5).

Rules of the Iowa Board of Chiropractic include acupuncture in the scope of chiropractic practice. A chiropractic physician who engages in the practice of acupuncture must maintain documentation that shows successful completion of a course in acupuncture consisting of at least 100 hours of traditional, in-person classroom instruction with the instructor on site (645 IAC 43.5).

Michigan: Michigan statutes specify the scope of chiropractic practice through a definition of "practice of chiropractic" (MCL 333.16401). The following activities are identified:

- The diagnosis of human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions.
- The evaluation of conditions or symptoms related to subluxations, misalignments, and joint dysfunction.
- The chiropractic adjustment of subluxations, misalignments, and joint dysfunction and the treatment of related bones and tissues for the establishment of neural integrity and structural stability.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

- The use of physical measures, analytical instruments, nutritional advice, rehabilitative exercise, and adjustment apparatus.

The practice of chiropractic does not include any of the following:

- The performance of any procedure that cuts or punctures the skin.
- The dispensing or prescribing of drugs or medicine.
- Except for diagnostic purposes only, the use of x-ray.
- The performance of an invasive procedure involving a body orifice or cavity unless allowed by rule and limited to examinations involving the ears, nose, and throat.
- The treatment of fractures or dislocations.

Rules of the Michigan Department of Licensing and Regulatory Affairs specify the criteria and requirements for adjustment apparatus, analytical instruments, performance or ordering of tests, and performance of invasive procedure (Mich Admin Code, R 338.12010, R 338.12011, R 338.12011a, and R 338.12011b).

Minnesota: Minnesota statutes address the scope of chiropractic practice through a definition of "chiropractic services" (Minnesota Statutes 2016, subdivision 1 of section 148.01). Chiropractic services are defined as "the evaluation and facilitation of structural, biomechanical, and neurological function and integrity through the use of adjustment, manipulation, mobilization, or other procedures accomplished by manual or mechanical forces applied to bones or joints and their related soft tissues for correction of vertebral subluxation, other abnormal articulations, neurological disturbances, structural alterations, or biomechanical alterations, and includes, but is not limited to, manual therapy and mechanical therapy as defined in section 146.23."

An individual licensed to practice chiropractic is authorized to perform chiropractic services, acupuncture, and therapeutic services, and to provide diagnosis and to render opinions pertaining to those services for the purpose of determining a course of action in the best interests of the patient, such as a treatment plan, appropriate referral, or both. The practice of chiropractic is not the practice of medicine, surgery, osteopathic medicine, or physical therapy. (Minnesota Statutes 2016, subdivisions 3 and 4 of section 148.01).

Rules of the Minnesota Board of Chiropractic Examiners provide a chiropractor is engaged in the practice of chiropractic when the chiropractor provides examination or treatment services and the patient, or a person authorized to act for the patient, accepts the services provided (Minnesota Rules, part 2500.6000).

17. Contact Name	18. Contact Phone Number
Dale Kleven	(608) 261-4472

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

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE CHIROPRACTIC EXAMINING BOARD	:	ORDER OF THE CHIROPRACTIC EXAMINING BOARD ADOPTING RULES (CLEARINGHOUSE RULE 18-103)

ORDER

An order of the Chiropractic Examining Board to **repeal** Chir 9.03 (5), 9.04, and 9.05 (1) (intro.); to **renumber and amend** Chir 9.03 (1) and (4) and 9.05 (1) (a) to (f); to **amend** Chir 9.01 (2), 9.02, 9.03 (intro.), (2), (3) (intro.), (a), and (b), (Note), and (6), 9.05 (intro.) and (Note), and 9.06 (2); and to **create** Chir 9.03 (1) (a) and (b) and (3) (am) and 9.05 (7), relating to chiropractic preceptorship.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 446.02 (9) (a), Stats.

Statutory authority:

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that an examining board, such as the Chiropractic Examining Board, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains . . ."

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

Related statute or rule:

None.

Plain language analysis:

The Board conducted an evaluation and update of ch. Chir 9 to ensure consistency with current professional and academic practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- Section Chir 9.03 (1) is revised to include the Councils on Chiropractic Education International as an approved accreditor of chiropractic colleges.

- As most of the criteria for approval of chiropractic college preceptorship programs under s. Chir 9.03 and postgraduate preceptorship programs under s. Chir 9.04 are identical, the sections have been consolidated.
- Other provisions throughout ch. Chir 9 have been revised to update notes, 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: Rules of the Illinois Department of Financial and Professional Regulation relating to chiropractic physician preceptorship were repealed effective February 15, 2000. (68 Ill. Adm. Code 1285.105, repealed at 24 Ill. Reg. 3620).

Iowa: Rules of the Iowa Board of Chiropractic administer chiropractic preceptorship programs (645 IAC 42.1 to 42.6). A program is established by a Board-approved chiropractic college and allows a chiropractic intern or resident from the college to practice under the supervision of a chiropractic preceptor (a chiropractic physician licensed and practicing in Iowa). The rules specify the criteria for Board approval of chiropractic colleges, preceptorship programs, and chiropractic preceptors, and the conditions under which a preceptorship program must be terminated.

Michigan: Michigan statutes permit a chiropractic student to apply for a limited license to engage in the practice of chiropractic under the supervision of a licensed chiropractor (MCL 333.16412). The applicant must have successfully completed 2 years of education in a college of arts and sciences and 2 years, 4 semesters, or 6 quarter terms in a chiropractic college approved by the Michigan Board of Chiropractic. The limited license is valid for not more than 6 months and is nonrenewable.

Minnesota: Rules of the Minnesota Board of Chiropractic Examiners administer graduate preceptorship programs (Minnesota Rules, parts 2500.2500 to 2500.2530). A program allows an extern (a graduate of an accredited chiropractic college) to work under the supervision of a preceptor (a chiropractic physician licensed and in active private practice in Minnesota) for a period of up to 12 months. The rules specify the role of the preceptor, the eligibility and responsibilities of the preceptor and the extern, the minimum requirements of a preceptorship training program, and the conditions under which a preceptorship program must be terminated.

Summary of factual data and analytical methodologies:

The rules were developed by reviewing the provisions of ch. Chir 9 to ensure the rules are consistent with current practices and applicable Wisconsin statutes. No additional factual data or analytical methodologies were used to develop the rules.

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

The 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 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:

The deadline for submitting comments was April 4, 2019.

TEXT OF RULE

SECTION 1. Chir 9.01 (2) is amended to read:

Chir 9.01 (2) "Chiropractor preceptor" means a chiropractor licensed and practicing in Wisconsin pursuant to ch. 446, Stats., who accepts a chiropractic student into ~~his or her~~ the chiropractor's practice for the purpose of providing the chiropractic student with ~~a~~ clinical experience ~~of~~ in the practice of chiropractic.

SECTION 2. Chir 9.02 is amended to read:

Chir 9.02 Unlicensed practice by chiropractic students and graduate chiropractors. ~~The board may approve the unlicensed practice of chiropractic in this state by a bona fide~~ As provided under s. 446.02 (9) (a), Stats., a chiropractic student ~~of a chiropractic college which offers an approved~~ or graduate chiropractor participating in a preceptorship program approved under s. Chir 9.03~~, if the chiropractic college preceptorship program,~~ under the direct, on-premises supervision of a chiropractor preceptor ~~and the practice of chiropractic by the student meet the criteria established by the board~~ approved under s. Chir 9.05 is not required to hold a license under ch. 446, Stats. ~~The board may approve the unlicensed practice of chiropractic in this state by a graduate chiropractor in an approved postgraduate chiropractic preceptorship program, if the postgraduate chiropractic preceptorship program, the chiropractor preceptor and the practice of chiropractic by the graduate chiropractor meet the criteria established by the board.~~

SECTION 3. Chir 9.03 (intro.) is amended to read:

Chir 9.03 (intro.) Approved chiropractic college and postgraduate preceptorship programs. The board shall approve a chiropractic college preceptorship program ~~which includes~~ or postgraduate preceptorship program that meets all of the following ~~criteria~~ requirements:

SECTION 4. Chir 9.03 (1) is renumbered Chir 9.03 (1) (intro.) and amended to read:

Chir 9.03 (1) (intro.) ~~Is~~ The program is operated by a chiropractic college ~~approved~~ accredited by ~~the board.~~ one of the following: ~~The board shall consider whether the college is accredited by the council on chiropractic education, and shall also consider the degree of consumer protection provided by the defined standards and practices of the chiropractic college's preceptor program, as well as degree of consumer protection demonstrated by the actual operation of the chiropractic college's preceptor program.~~

SECTION 5. Chir 9.03 (1) (a) and (b) are created to read:

Chir 9.03 (1) (a) The Council on Chiropractic Education or a successor organization.

(b) The Councils on Chiropractic Education International or a successor organization.

SECTION 6. Chir 9.03 (2) and (3) (intro.) and (a) are amended to read:

Chir 9.03 (2) ~~Is~~ The program is an established component of the curriculum of the chiropractic college.

(3) (intro.) ~~Certifies~~ An authorized representative of the program certifies to the board, on forms supplied by the department, all of the following:

(a) ~~That all students who participate in the~~ If the program is a chiropractic college preceptorship program, ~~are in the last semester, trimester, or quarter of their education, and have met~~ prior to participating in the program students shall have met all requirements for graduation from the chiropractic college except for completion of the preceptorship period~~,~~. ~~and~~

SECTION 7. Chir 9.03 (3) (am) is created to read:

Chir 9.03 (3) (am) If the program is a postgraduate preceptorship program, graduate chiropractors shall have graduated from a college of chiropractic approved by the board.

SECTION 8. Chir 9.03 (3) (b) is amended to read:

Chir 9.03 (3) (b) ~~That no~~ No chiropractor ~~who is a~~ preceptor shall supervise more than one chiropractic student or graduate chiropractor at any one time.

SECTION 9. Chir 9.03 (4) is renumbered Chir 9.03 (3) (c) and amended to read:

Chir 9.03 (3) (c) ~~Certifies to the board, on forms supplied by the department, that all chiropractors~~ Chiropractors who participate as chiropractor preceptors ~~are~~ shall be faculty of the chiropractic college.

SECTION 10. Chir 9.03 (5) is repealed.

SECTION 11. Chir 9.03 (Note) and (6) are amended to read:

Chir 9.03 (Note) Forms may be obtained ~~upon request from the Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708~~ from the department of safety and professional services' website at dsps.wi.gov.

(6) ~~Provides~~ An authorized representative of the program provides a list to the board at least 45 days prior to every trimester or academic quarter of the chiropractors in ~~Wisconsin~~ this state who will be acting as preceptors in the program.

SECTION 12. Chir 9.04 is repealed.

SECTION 13. Chir 9.05 (intro.) is amended to read:

Chir 9.05 (intro.) Approved chiropractor preceptors. The board shall approve a chiropractor to be a chiropractor preceptor if the chiropractor ~~meets~~ certifies to the board, on forms supplied by the department, all of the following ~~conditions~~:

SECTION 14. Chir 9.05 (1) (intro.) is repealed.

SECTION 15. Chir 9.05 (1) (a) to (f) are renumbered Chir 9.05 (1) to (6) and amended to read:

Chir 9.05 (1) The chiropractor ~~preceptor~~ has been continuously licensed in Wisconsin for the previous 5 years, and ~~that~~ there are no pending disciplinary actions or malpractice claims against the chiropractor ~~preceptor~~ in any ~~state or country~~ jurisdiction. If ~~any~~ discipline has ever been imposed in any ~~state or country~~ jurisdiction on any professional license held by the ~~preceptor~~ chiropractor, the ~~preceptor~~ chiropractor shall provide details of the discipline for the board's review.

(2) The chiropractor ~~preceptor~~ is a member of the faculty of the chiropractic college from which the chiropractor ~~preceptor~~ will accept a chiropractic student or graduate chiropractor into a preceptorship practice.

(3) The chiropractor ~~preceptor~~ is responsible for the practice of the chiropractic student or graduate chiropractor the chiropractor ~~preceptor~~ accepts into a preceptorship practice.

(4) The chiropractor ~~preceptor~~ will identify the chiropractic student or graduate chiropractor to the patients of the preceptorship practice in such a way that no patient will tend to be misled as to the status of the chiropractic student or graduate chiropractor, and that each patient or parent or guardian of each patient will be required to provide informed consent to treatment of that patient by the chiropractic student or graduate chiropractor.

(5) The chiropractor ~~preceptor~~ will supervise no more than one chiropractic student or graduate chiropractor at any one time.

(6) The chiropractor ~~preceptor~~ will exercise direct, on-premises supervision of the chiropractic student or graduate chiropractor at all times during which the chiropractic

student or graduate chiropractor is engaged in any facet of patient care in the ~~chiropractor preceptor's~~ chiropractor's clinic.

SECTION 16. Chir 9.05 (7) is created to read:

Chir 9.05 (7) The chiropractor and the chiropractic student or graduate chiropractor have agreed on the goals of the preceptor program to be completed by the chiropractic student or graduate chiropractor.

SECTION 17. Chir 9.05 (Note) is amended to read:

Chir 9.05 (Note) Forms may be obtained ~~upon request from the Department of Safety and Professional Services, Chiropractic Examining Board, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708~~ from the department of safety and professional services' website at dsps.wi.gov.

SECTION 18. Chir 9.06 (2) is amended to read:

Chir 9.06 (2) If a preceptorship is terminated under sub. (1) (d), (e), or (f), the board may approve a replacement chiropractor preceptor proposed by the chiropractic student or graduate chiropractor. ~~who satisfies~~ To be approved by the board, the proposed replacement chiropractor preceptor shall satisfy the requirements ~~in~~ under s. Chir 9.05 ~~(1) (a) and (c) to (f)~~. The proposed chiropractor preceptor ~~need~~ is not required to have been ~~listed~~ named by the chiropractic college operating the preceptorship program on the most recent list provided to the board under s. Chir 9.03 (6).

SECTION 19. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____ Agency _____

Chairperson
Chiropractic Examining Board

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Chir 9

3. Subject
Chiropractic preceptorship

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

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule
The Board conducted an evaluation and update of ch. Chir 9 to ensure consistency with current professional and academic practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- Section Chir 9.03 (1) is revised to include the Councils on Chiropractic Education International as an approved accreditor of chiropractic colleges.
- As most of the criteria for approval of chiropractic college preceptorship programs under s. Chir 9.03 and postgraduate preceptorship programs under s. Chir 9.04 are identical, the sections have been consolidated.
- Other provisions throughout ch. Chir 9 have been revised to update notes, 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.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
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 include the CCEI as an approved accreditor of chiropractic colleges.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

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: Rules of the Illinois Department of Financial and Professional Regulation relating to chiropractic physician preceptorship were repealed effective February 15, 2000. (68 Ill. Adm. Code 1285.105, repealed at 24 Ill. Reg. 3620).

Iowa: Rules of the Iowa Board of Chiropractic administer chiropractic preceptorship programs (645 IAC 42.1 to 42.6). A program is established by a Board-approved chiropractic college and allows a chiropractic intern or resident from the college to practice under the supervision of a chiropractic preceptor (a chiropractic physician licensed and practicing in Iowa). The rules specify the criteria for Board approval of chiropractic colleges, preceptorship programs, and chiropractic preceptors, and the conditions under which a preceptorship program must be terminated.

Michigan: Michigan statutes permit a chiropractic student to apply for a limited license to engage in the practice of chiropractic under the supervision of a licensed chiropractor (MCL 333.16412). The applicant must have successfully completed 2 years of education in a college of arts and sciences and 2 years, 4 semesters, or 6 quarter terms in a chiropractic college approved by the Michigan Board of Chiropractic. The limited license is valid for not more than 6 months and is nonrenewable.

Minnesota: Rules of the Minnesota Board of Chiropractic Examiners administer graduate preceptorship programs (Minnesota Rules, parts 2500.2500 to 2500.2530). A program allows an extern (a graduate of an accredited chiropractic college) to work under the supervision of a preceptor (a chiropractic physician licensed and in active private practice in Minnesota) for a period of up to 12 months. The rules specify the role of the preceptor, the eligibility and responsibilities of the preceptor and the extern, the minimum requirements of a preceptorship training program, and the conditions under which a preceptorship program must be terminated.

17. Contact Name	18. Contact Phone Number
Dale Kleven	(608) 261-4472

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

Wisconsin Department of Safety and Professional Services
Division of Policy Development
4822 Madison Yards Way
PO Box 8366
Madison WI 53708-8366

Phone: 608-266-2112
Web: http://dsps.wi.gov
Email: dsps@wisconsin.gov

Tony Evers, Governor
Dawn B. Crim, Secretary

November 21, 2019

Wisconsin State Senate Chief Clerk
Wisconsin State Assembly Chief Clerk

Dear Chief Clerks:

On August 12, 2019, the Chiropractic Examining Board submitted CR 18-105, relating to delegation of services to health care professionals, to the Legislature. On November 21, 2019, the Chiropractic Examining Board approved a germane modification to CR 18-105. The germane modification revises ss. Chir 4.04 (3) and 10.03 to reflect s. 446.02 (7) (d), Stats., which provides a chiropractor may delegate x-ray services only to a chiropractic radiological technician or a health care professional acting within the scope of the health care professional's license, registration, or certification.

Accordingly, this letter serves as notice of the Chiropractic Examining Board recalling CR 18-105 from the chief clerk of each house of the legislature and resubmitting it with a germane modification.

Sincerely,

Jeffrey King
Chairperson
Chiropractic Examining Board

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE CHIROPRACTIC EXAMINING BOARD	**:** **:** **:** **:**	**REPORT TO THE LEGISLATURE** **CR 18-105**

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 proposed rules make the following changes to reflect the provisions of 2017 Wisconsin Act 180, relating to a chiropractor's authority to delegate adjunctive services and x-ray services to certain health care professionals:

- Adds the definition of "health care professional" under s. 446.01 (1v), Stats., to the definitions in ch. Chir 1.
- Revises ss. Chir 4.04 (3) and 10.03 to reflect ~~s. 446.025 (1) (a), Stats., which provides no person may provide x=ray services on behalf of a chiropractor in connection with the practice of chiropractic unless the person is a chiropractic radiological technician and is under the direct supervision of a chiropractor licensed under ch. 446, Stats.~~ s. 446.02 (7) (d), Stats., which provides a chiropractor may delegate x-ray services only to a chiropractic radiological technician or a health care professional acting within the scope of the health care professional's license, registration, or certification.
- Creates s. Chir 10.023 to, as required under s. 446.02 (7) (c), Stats., establish standards and procedures a chiropractor must use to verify a health care professional has adequate education, training, and experience to perform a delegated adjunctive service safely.
- As use of the term "health care professionals" in s. Chir 11.02 (4) is no longer appropriate based on its statutory definition, the proposed rules replace it with the term "healthcare providers."

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 April 4, 2019. Steven Conway, representing the Chiropractic Society of Wisconsin, registered neither for nor against the proposed rules, but to provide information to the Board. Mr. Conway asked the Board to consider the following:

- The number of hours of the course of study required for certification as a chiropractic technician. As this subject matter is outside the scope of the rulemaking project, the Board could not address this issue in the proposed rules.
- The number of health care professionals to whom a chiropractor may delegate services at any given time. The Board discussed this issue at its June 27, 2019 meeting, and determined changes to the proposed rules are not necessary.
- The extent a health care professional could be held responsible for services performed that are delegated by a chiropractor. The Board discussed this issue at its June 27, 2019 meeting, and determined changes to the proposed rules are not necessary.

The Board also received written comments from the Wisconsin Society of Radiologic Technologists in support of the proposed rules.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

~~**Comment 1:**~~

~~Although under s. 446.02 (7) (d), Stats., a chiropractor may delegate x-ray services to a health care professional, s. 446.025 (1) (a), Stats., prohibits the health care professional from performing the x-ray services unless the health care professional is a chiropractic radiological technician. Under these circumstances, the Board believes specifying a health care professional may be delegated x-ray services would add confusion to the proposed rules.~~

Comment 5.b:

The intended meaning of the term “healthcare providers” in s. Chir 11.02 (4) is clear from the context and is not more specific than the generally recognized meaning. Therefore, a definition of the term is not necessary.

All other 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 PROCEEDINGS BEFORE THE CHIROPRACTIC EXAMINING BOARD	:	PROPOSED ORDER OF THE CHIROPRACTIC EXAMINING BOARD ADOPTING RULES (CLEARINGHOUSE RULE 18-105)

PROPOSED ORDER

An order of the Chiropractic Examining Board to repeal Chir 10.03 (Note); to amend Chir 1.02 (3), 4.04 (3), ch. Chir 10 (title), 10.015 (1) (a) (intro.), 10.02 (intro.) and (4), 10.03, and 11.02 (4); and to create Chir 1.02 (4) and 10.023, relating to delegation of services to health care professionals.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 446.02 (7), 446.025 (1) (a), and 446.026 (1) (a), Stats.

Statutory authority:

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides 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 proposed rules make the following changes to reflect the provisions of 2017 Wisconsin Act 180, relating to a chiropractor's authority to delegate adjunctive services and x-ray services to certain health care professionals:

- Revises the term "direct supervision" to "direct, on-premises supervision" in ss. Chir 1.02 (3) and 10.02 (4) to align with statutory requirements for supervision.

- Adds the definition of "health care professional" under s. 446.01 (1v), Stats., to the definitions in ch. Chir 1.
- Revises ss. Chir 4.04 (3) and 10.03 to reflect ~~s. 446.025 (1) (a), Stats., which provides no person may provide x-ray services on behalf of a chiropractor in connection with the practice of chiropractic unless the person is a chiropractic radiological technician and is under the direct, on-premises supervision of a chiropractor licensed under ch. 446, Stats.~~ s. 446.02 (7) (d), Stats., which provides a chiropractor may delegate x-ray services only to a chiropractic radiological technician or a health care professional acting within the scope of the health care professional's license, registration, or certification.
- Creates s. Chir 10.023 to, as required under s. 446.02 (7) (c), Stats., establish standards and procedures a chiropractor must use to verify a health care professional has adequate education, training, and experience to perform a delegated adjunctive service safely.
- As use of the term "health care professionals" in s. Chir 11.02 (4) is no longer appropriate based on its statutory definition, the proposed rules replace it with the term "healthcare providers."

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

None.

Comparison with rules in adjacent states:

Illinois: Illinois statutes (Section 54.2, Medical Practice Act) allow physicians, including chiropractic physicians, to delegate authority to certain individuals:

- Physicians may delegate patient care tasks to a physician assistant, licensed practical nurse, registered professional nurse, advanced practice nurse, or other licensed person practicing within the scope of their license.
- In an office or practice setting and within a physician-patient relationship, a physician may delegate patient care tasks or duties to an unlicensed person who possesses appropriate training and experience provided a health care professional practicing within the scope of their license is on site to provide assistance.
- A physician may not delegate any patient care task or duty that is statutorily or by rule mandated to be performed by a physician.

Iowa: Rules of the Iowa Board of Chiropractic address the delegation of chiropractic services to a chiropractic assistant (645 IAC 43.12):

- A supervising chiropractic physician must ensure at all times that a chiropractic assistant has the necessary training and skills to competently perform a delegated service.
- A supervising chiropractic physician may delegate services to a chiropractic assistant that are within the scope of practice of the chiropractic physician.
- A chiropractic physician may not delegate any of the following services:

- Services outside the chiropractic physician's scope of practice.
- Initiation, alteration, or termination of chiropractic treatment programs.
- Chiropractic manipulation and adjustments.
- Diagnosis of a condition.

- A supervising chiropractic physician must ensure a chiropractic assistant is informed of the supervisor and chiropractic assistant relationship and is responsible for all services performed by the chiropractic assistant.

Michigan: Michigan statutes allow a chiropractor to delegate to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience the performance of selected acts, tasks, or functions where the acts, tasks, or functions fall within the scope of practice of the chiropractor's profession and will be performed under the chiropractor's supervision. A chiropractor may not delegate an act, task, or function if the act, task, or function, under standards of acceptable and prevailing practice, requires the level of education, skill, and judgment required of the chiropractor (Section 333.16215, Public Health Code).

Minnesota: Minnesota statutes specify grounds for the Board of Chiropractic Examiners to refuse to grant or revoke, suspend, condition, limit, restrict, or qualify a license to practice chiropractic. These provisions permit a doctor of chiropractic to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of the license or registration or delegated authority (Section 148.10, Subdivision 1, Chiropractic Practice Act).

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of 2017 Wisconsin Act 180 in conjunction with current rules relating to chiropractic practice under chs. Chir 1 to 13 and obtaining input and feedback from the Chiropractic Examining Board.

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:

The deadline for submitting comments was April 4, 2019.

TEXT OF RULE

SECTION 1. Chir 1.02 (3) is amended to read:

Chir 1.02 (3) "Direct, on-premises supervision" means that the treating chiropractor has ordered a specific patient care function to be performed by a specific person, and is present in the treatment facility while the patient care function is being performed, and is immediately available to exercise personal supervision of the patient care function if the person performing the function requests.

SECTION 2. Chir 1.02 (4) is created to read:

Chir 1.02 (4) "Health care professional" has the meaning given in s. 446.01 (1v), Stats.

SECTION 3. Chir 4.04 (3) is amended to read:

Chir 4.04 (3) ~~A chiropractor may delegate the operation of x-ray equipment only to a chiropractic radiological technician certified under ch. 446, Stats. A chiropractic radiological technician shall operate x-ray equipment under the direct supervision and direction of a licensee.~~ ~~As provided under s. 446.025 (1) (a), Stats., no person may provide x-ray services on behalf of a chiropractor in connection with the practice of chiropractic unless the person is a chiropractic radiological technician and is under the direct, on-premises supervision of a chiropractor licensed under ch. 446, Stats.~~ As provided under s. 446.02 (7) (d), Stats., a chiropractor may delegate x-ray services only to a chiropractic radiological technician or a health care professional acting within the scope of the health care professional's license, registration, or certification. ~~The~~ A chiropractor shall maintain records or ensure the chiropractor's employer maintains records that verify ~~the~~ a chiropractic radiological technician delegated the performance of x-ray services is certified under ~~ch. 446~~ s. 446.025, Stats., and that the license, registration, or certification of a health care professional delegated the performance of x-ray services is current.

SECTION 4. Chapter Chir 10 (title) is amended to read:

CHAPTER CHIR 10

DELEGATION TO CHIROPRACTIC TECHNICIANS, ~~AND~~ CHIROPRACTIC RADIOLOGICAL TECHNICIANS, AND HEALTH CARE PROFESSIONALS

SECTION 5. Chir 10.015 (1) (a) (intro.) is amended to read:

Chir 10.015 (1) (a) (intro.) The course of study shall include a prerequisite **4** ~~hour~~ 4-hour therapeutic overview course covering chiropractic technician scope of practice, anatomy, and contraindications followed by all of the following:

SECTION 6. Chir 10.02 (intro.) and (4) are amended to read:

Chir 10.02 (intro.) Delegation of adjunctive services to a chiropractic technician. A chiropractor may delegate the performance of ~~adjunctive services only to a chiropractic technician certified under ch. 446, Stats. An~~ an adjunctive service ~~may be delegated~~ to a chiropractic technician ~~only~~ if all of the following conditions are met:

(4) The chiropractor exercises direct, on-premises supervision of the chiropractic technician performing the delegated service.

SECTION 7. Chir 10.023 is created to read:

Chir 10.023 Delegation of adjunctive services to a health care professional. A chiropractor may delegate the performance of an adjunctive service to a health care professional if all of the following conditions are met:

(1) The performance of the adjunctive service is within the scope of the health care professional's license, registration, or certification.

(2) The chiropractor maintains records or ensures the chiropractor's employer maintains records that verify the health care professional's license, registration, or certification is current.

(3) The chiropractor exercises direct, on-premises supervision of the health care professional performing the delegated adjunctive service.

(4) The chiropractor retains ultimate responsibility for the manner and quality of the service.

SECTION 8. Chir 10.03 is amended to read:

Chir 10.03 X-ray services. ~~A chiropractor may delegate x-ray examination procedures only to a chiropractic radiological technician certified under ch. 446, Stats. As provided under s. 446.025 (1) (a), Stats., no person may provide x-ray services on behalf of a chiropractor in connection with the practice of chiropractic unless the person is a chiropractic radiological technician and is under the direct, on-premises supervision of a chiropractor licensed under ch. 446, Stats.~~ As provided under s. 446.02 (7) (d), Stats., a chiropractor may delegate x-ray services only to a chiropractic radiological technician or a health care professional acting within the scope of the health care professional's license, registration, or certification. ~~The~~ A chiropractor shall comply with s. Chir 4.04 before delegating the performance of x-ray services to a chiropractic radiological technician or a health care professional.

SECTION 9. Chir 10.03 (Note) is repealed.

SECTION 10. Chir 11.02 (4) is amended to read:

Chir 11.02 (4) Patient records shall be complete and sufficiently legible to be understandable to ~~health care professionals~~ healthcare providers generally familiar with chiropractic practice, procedures, and nomenclature.

SECTION 11. 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)

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE CHIROPRACTIC EXAMINING BOARD	**:** **:** **:** **:**	**REPORT TO THE LEGISLATURE** **CR 18-105**

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 proposed rules make the following changes to reflect the provisions of 2017 Wisconsin Act 180, relating to a chiropractor's authority to delegate adjunctive services and x-ray services to certain health care professionals:

- Adds the definition of "health care professional" under s. 446.01 (1v), Stats., to the definitions in ch. Chir 1.
- Revises ss. Chir 4.04 (3) and 10.03 to reflect s. 446.02 (7) (d), Stats., which provides a chiropractor may delegate x-ray services only to a chiropractic radiological technician or a health care professional acting within the scope of the health care professional's license, registration, or certification.
- Creates s. Chir 10.023 to, as required under s. 446.02 (7) (c), Stats., establish standards and procedures a chiropractor must use to verify a health care professional has adequate education, training, and experience to perform a delegated adjunctive service safely.
- As use of the term "health care professionals" in s. Chir 11.02 (4) is no longer appropriate based on its statutory definition, the proposed rules replace it with the term "healthcare providers."

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 April 4, 2019. Steven Conway, representing the Chiropractic Society of Wisconsin, registered neither for nor

against the proposed rules, but to provide information to the Board. Mr. Conway asked the Board to consider the following:

- The number of hours of the course of study required for certification as a chiropractic technician. As this subject matter is outside the scope of the rulemaking project, the Board could not address this issue in the proposed rules.
- The number of health care professionals to whom a chiropractor may delegate services at any given time. The Board discussed this issue at its June 27, 2019 meeting, and determined changes to the proposed rules are not necessary.
- The extent a health care professional could be held responsible for services performed that are delegated by a chiropractor. The Board discussed this issue at its June 27, 2019 meeting, and determined changes to the proposed rules are not necessary.

The Board also received written comments from the Wisconsin Society of Radiologic Technologists in support of the proposed rules.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 5.b:

The intended meaning of the term "healthcare providers" in s. Chir 11.02 (4) is clear from the context and is not more specific than the generally recognized meaning. Therefore, a definition of the term is not necessary.

All other 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 PROCEEDINGS BEFORE THE CHIROPRACTIC EXAMINING BOARD	:	PROPOSED ORDER OF THE CHIROPRACTIC EXAMINING BOARD ADOPTING RULES (CLEARINGHOUSE RULE 18-105)

PROPOSED ORDER

An order of the Chiropractic Examining Board to repeal Chir 10.03 (Note); to amend Chir 1.02 (3), 4.04 (3), ch. Chir 10 (title), 10.015 (1) (a) (intro.), 10.02 (intro.) and (4), 10.03, and 11.02 (4); and to create Chir 1.02 (4) and 10.023, relating to delegation of services to health care professionals.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 446.02 (7), 446.025 (1) (a), and 446.026 (1) (a), Stats.

Statutory authority:

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides 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 proposed rules make the following changes to reflect the provisions of 2017 Wisconsin Act 180, relating to a chiropractor's authority to delegate adjunctive services and x-ray services to certain health care professionals:

- Revises the term "direct supervision" to "direct, on-premises supervision" in ss. Chir 1.02 (3) and 10.02 (4) to align with statutory requirements for supervision.

- Adds the definition of "health care professional" under s. 446.01 (1v), Stats., to the definitions in ch. Chir 1.
- Revises ss. Chir 4.04 (3) and 10.03 to reflect s. 446.02 (7) (d), Stats., which provides a chiropractor may delegate x-ray services only to a chiropractic radiological technician or a health care professional acting within the scope of the health care professional's license, registration, or certification.
- Creates s. Chir 10.023 to, as required under s. 446.02 (7) (c), Stats., establish standards and procedures a chiropractor must use to verify a health care professional has adequate education, training, and experience to perform a delegated adjunctive service safely.
- As use of the term "health care professionals" in s. Chir 11.02 (4) is no longer appropriate based on its statutory definition, the proposed rules replace it with the term "healthcare providers."

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

None.

Comparison with rules in adjacent states:

Illinois: Illinois statutes (Section 54.2, Medical Practice Act) allow physicians, including chiropractic physicians, to delegate authority to certain individuals:

- Physicians may delegate patient care tasks to a physician assistant, licensed practical nurse, registered professional nurse, advanced practice nurse, or other licensed person practicing within the scope of their license.
- In an office or practice setting and within a physician-patient relationship, a physician may delegate patient care tasks or duties to an unlicensed person who possesses appropriate training and experience provided a health care professional practicing within the scope of their license is on site to provide assistance.
- A physician may not delegate any patient care task or duty that is statutorily or by rule mandated to be performed by a physician.

Iowa: Rules of the Iowa Board of Chiropractic address the delegation of chiropractic services to a chiropractic assistant (645 IAC 43.12):

- A supervising chiropractic physician must ensure at all times that a chiropractic assistant has the necessary training and skills to competently perform a delegated service.
- A supervising chiropractic physician may delegate services to a chiropractic assistant that are within the scope of practice of the chiropractic physician.
- A chiropractic physician may not delegate any of the following services:
    - Services outside the chiropractic physician's scope of practice.
    - Initiation, alteration, or termination of chiropractic treatment programs.
    - Chiropractic manipulation and adjustments.

- Diagnosis of a condition.

- A supervising chiropractic physician must ensure a chiropractic assistant is informed of the supervisor and chiropractic assistant relationship and is responsible for all services performed by the chiropractic assistant.

Michigan: Michigan statutes allow a chiropractor to delegate to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience the performance of selected acts, tasks, or functions where the acts, tasks, or functions fall within the scope of practice of the chiropractor's profession and will be performed under the chiropractor's supervision. A chiropractor may not delegate an act, task, or function if the act, task, or function, under standards of acceptable and prevailing practice, requires the level of education, skill, and judgment required of the chiropractor (Section 333.16215, Public Health Code).

Minnesota: Minnesota statutes specify grounds for the Board of Chiropractic Examiners to refuse to grant or revoke, suspend, condition, limit, restrict, or qualify a license to practice chiropractic. These provisions permit a doctor of chiropractic to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of the license or registration or delegated authority (Section 148.10, Subdivision 1, Chiropractic Practice Act).

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of 2017 Wisconsin Act 180 in conjunction with current rules relating to chiropractic practice under chs. Chir 1 to 13 and obtaining input and feedback from the Chiropractic Examining Board.

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:

The deadline for submitting comments was April 4, 2019.

TEXT OF RULE

SECTION 1. Chir 1.02 (3) is amended to read:

Chir 1.02 (3) "Direct, on-premises supervision" means that the treating chiropractor has ordered a specific patient care function to be performed by a specific person, and is present in the treatment facility while the patient care function is being performed, and is immediately available to exercise personal supervision of the patient care function if the person performing the function requests.

SECTION 2. Chir 1.02 (4) is created to read:

Chir 1.02 (4) "Health care professional" has the meaning given in s. 446.01 (1v), Stats.

SECTION 3. Chir 4.04 (3) is amended to read:

Chir 4.04 (3) ~~A chiropractor may delegate the operation of x-ray equipment only to a chiropractic radiological technician certified under ch. 446, Stats. A chiropractic radiological technician shall operate x-ray equipment under the direct supervision and direction of a licensee.~~ As provided under s. 446.02 (7) (d), Stats., a chiropractor may delegate x-ray services only to a chiropractic radiological technician or a health care professional acting within the scope of the health care professional's license, registration, or certification. ~~The~~ A chiropractor shall maintain records or ensure the chiropractor's employer maintains records that verify ~~the~~ a chiropractic radiological technician delegated the performance of x-ray services is certified under ~~ch. 446~~ s. 446.025, Stats., and that the license, registration, or certification of a health care professional delegated the performance of x-ray services is current.

SECTION 4. Chapter Chir 10 (title) is amended to read:

CHAPTER CHIR 10

DELEGATION TO CHIROPRACTIC TECHNICIANS, ~~AND~~ CHIROPRACTIC RADIOLOGICAL TECHNICIANS, AND HEALTH CARE PROFESSIONALS

SECTION 5. Chir 10.015 (1) (a) (intro.) is amended to read:

Chir 10.015 (1) (a) (intro.) The course of study shall include a prerequisite ~~4 hour~~ 4-hour therapeutic overview course covering chiropractic technician scope of practice, anatomy, and contraindications followed by all of the following:

SECTION 6. Chir 10.02 (intro.) and (4) are amended to read:

Chir 10.02 (intro.) Delegation of adjunctive services to a chiropractic technician. A chiropractor may delegate the performance of ~~adjunctive services only to a chiropractic technician certified under ch. 446, Stats. An~~ an adjunctive service ~~may be delegated~~ to a chiropractic technician ~~only~~ if all of the following conditions are met:

(4) The chiropractor exercises direct, on-premises supervision of the chiropractic technician performing the delegated service.

SECTION 7. Chir 10.023 is created to read:

Chir 10.023 Delegation of adjunctive services to a health care professional. A chiropractor may delegate the performance of an adjunctive service to a health care professional if all of the following conditions are met:

(1) The performance of the adjunctive service is within the scope of the health care professional's license, registration, or certification.

(2) The chiropractor maintains records or ensures the chiropractor's employer maintains records that verify the health care professional's license, registration, or certification is current.

(3) The chiropractor exercises direct, on-premises supervision of the health care professional performing the delegated adjunctive service.

(4) The chiropractor retains ultimate responsibility for the manner and quality of the service.

SECTION 8. Chir 10.03 is amended to read:

Chir 10.03 X-ray services. ~~A chiropractor may delegate x-ray examination procedures only to a chiropractic radiological technician certified under ch. 446, Stats.~~ As provided under s. 446.02 (7) (d), Stats., a chiropractor may delegate x-ray services only to a chiropractic radiological technician or a health care professional acting within the scope of the health care professional's license, registration, or certification. ~~The~~ A chiropractor shall comply with s. Chir 4.04 before delegating the performance of x-ray services to a chiropractic radiological technician or a health care professional.

SECTION 9. Chir 10.03 (Note) is repealed.

SECTION 10. Chir 11.02 (4) is amended to read:

Chir 11.02 (4) Patient records shall be complete and sufficiently legible to be understandable to ~~health care professionals~~ healthcare providers generally familiar with chiropractic practice, procedures, and nomenclature.

SECTION 11. 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)

Chapter Chir 5

CONTINUING EDUCATION

Chir 5.01 Continuing education requirements for credential renewal.
Chir 5.02 Approval of continuing education programs.
Chir 5.03 Application denials.

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 14 of each even–numbered year, except as specified in s. Chir 3.02 (1) (c).

(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.

(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 hours in nutrition.

(f) One credit of course work completed to become proficient in 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 a continuing education credit hour.

(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 14 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.

(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 14 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.

(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 14 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 his or her application for credential renewal that he or she has completed all continuing education credits as required in this section for the previous 2–year credential registration period. A chiropractor, chiropractic radiological technician, or chiropractic technician shall retain for a minimum period of 4 years, and shall make available to the board or its agent upon request, certificates of attendance issued by the program sponsor for all continuing education programs for which he or she claims credit for purposes of renewal of his or her credential. Chiropractors, chiropractic radiological technicians, or chiropractic technicians attending a program for credit shall be present in the room where a program is being presented in order to claim credit. A chiropractor, chiropractic radiological technician, or chiropractic technician may claim credit hours for continuing education for which he or she was in actual attendance in the room, except for authorized break periods or to attend to personal hygiene needs.

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.

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

(a) The program is sponsored by the Wisconsin chiropractic association, the American chiropractic association, the international chiropractors association, a college of chiropractic approved by the board, or a college of medicine or osteopathy accredited by an agency recognized by the United States department of education.

(b) *Chiropractors.* The program subject matter relates to improving the clinical skills of a chiropractor and is generally taught at the undergraduate or postgraduate level of a chiropractic college meeting the requirements of s. Chir 2.02 (6) (b). The board will not approve credit for continuing education regarding a technique or practice which the board has determined to be unsafe or ineffective.

(bm) *Chiropractic radiological technician and chiropractic technician*. 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 radiologic technician, or chiropractic techni-

cian, as applicable, 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.

(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) When 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 standards 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) The instructor is qualified to present 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) to (4) and (6) do not apply to programs approved under this section.

(2) (a) Continuing education programs may include subject material other than that which relates to improving the clinical skills of a chiropractor and is generally taught at the undergraduate or postgraduate level of a chiropractic college, meeting the requirements of s. Chir 2.02 (6) (b). However, only the parts of the program which relate to improving the clinical skills of a chiropractor and are generally taught at the undergraduate or postgraduate level of a chiropractic college 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.

(3) Home study programs may be approved for credit only in cases of extreme hardship, as determined by the board.

(4) (a) An application for approval of a continuing education program shall:

1. Be on a form provided by the board.

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

2. Identify the name and address of the program sponsor and describe how the program sponsor qualifies under this section.

3. Describe the time and place of the program.

4. 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 evidence of the program sponsor's verification showing to the satisfaction of the board that the subject matter is generally taught at the undergraduate or postgraduate level of a chiropractic college meeting the requirements of s. Chir 2.02 (6) (b) and relates to improving the clinical skills of a chiropractor. 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.

5m. Include evidence of the program sponsor's verification showing to the satisfaction of the board that the subject matter relates to improving the clinical skills of a chiropractic radiological technician or a chiropractic technician, as applicable. 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 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 (CCE) or by an agency approved by the United States Office of Education or its successor.

7. Identify whether the program sponsor intends to assign or delegate any of its responsibilities to another person or entity, and if so, include each of the following:

a. A specific description of the assignment or delegation.

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

c. The method by which the program sponsor intends to assure that the delegated or assigned responsibility is performed.

(b) If necessary in order to determine whether an applicant meets the requirements of this chapter, the board may require that the applicant submit information in addition to that described in this section.

(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.

Note: Continuing education approval request forms 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, 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.

Chir 5.03 Application denials. The board may deny approval of an application for any of the following reasons:

(1) The program or program sponsor does not meet requirements established in this chapter.

(2) 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.

(3) The board determines that the program sponsor has not provided adequate assurance that responsibilities delegated or assigned to others will be satisfactorily performed.

(4) 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.

(5) 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.

History: Cr. Register, March, 1998, No. 507, eff. 4–1–98; CR 11–019: am. (2) Register September 2011 No. 669, eff. 10–1–11.

STATEMENT OF SCOPE

Chiropractic Examining Board

Rule No.: Chir 10

Relating to: Courses of study for and delegation to chiropractic technicians and chiropractic radiological technicians

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 to review and possibly update ch. Chir 10, related to courses of study for and delegation to chiropractic technicians and chiropractic radiological technicians.

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:

Current rules specify the required course of study for certification as a chiropractic technician, the required course of study for certification as a chiropractic radiological technician, and the requirements for delegation of adjunctive and x-ray services to these technicians. The Board will review these requirements to determine if they are appropriate given the nature of the services a chiropractic technician and a chiropractic radiological technician may perform. Changes to the requirements may be proposed based on the Board's review.

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

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

Section 446.02 (7) (c), Stats., provides "[a] chiropractor who delegates the performance of a service that is adjunctive to the practice of chiropractic to a person who is not licensed under this chapter shall verify, according to standards and procedures established by the examining board by rule, that the person has adequate education, training and experience to perform the delegated service safely, and is responsible for that person's performance of the delegated service."

Section 446.025 (2) (a) 3., Stats., provides the Board shall certify as a chiropractic radiological technician an individual who, among other requirements, "[s]ubmits evidence satisfactory to the examining board that the individual has completed a course of study approved by the examining board."

Section 446.026 (2) (a) 3., Stats., provides the Board shall certify as a chiropractic technician an individual who, among other requirements, "[s]ubmits evidence satisfactory to the examining board that the individual has completed a course of study approved 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:

State employees will spend approximately 80 hours developing this proposed rule.

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

The proposed rule may affect applicants for chiropractic radiological technician and chiropractic technician certification, chiropractors who delegate adjunctive and x-ray services and the technicians who are delegated those services, as well as sponsors and providers of the courses of study and didactic and clinical training programs enumerated under ss. Chir 10.015, 10.02, and 10.025.

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):

This rule is likely to have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Dale Kleven, Administrative Rules Coordinator, DSPSAdminRules@wisconsin.gov, (608) 261-4472

Approved for publication:

Patricia Schmeichel

Authorized Signature

6/27/2019

Date

Approved for implementation:

Authorized Signature

Date

Chapter Chir 10

DELEGATION TO CHIROPRACTIC TECHNICIANS AND CHIROPRACTIC RADIOLOGICAL TECHNICIANS

Chir 10.01 Definitions.
Chir 10.015 Chiropractic technician course of study.
Chir 10.02 Delegation of adjunctive services to a chiropractic technician.
Chir 10.025 Chiropractic radiological technician course of study.
Chir 10.03 X–ray services.

Chir 10.01 Definitions. In this chapter:

(1) "Adjunctive services" means services which are preparatory or complementary to the practice of chiropractic. "Adjunctive services" include the taking and preparation of a preliminary patient history and providing physiotherapy treatment. "Adjunctive services" does not include making a chiropractic diagnosis, analyzing a diagnostic test, or performing a chiropractic adjustment.

(1g) "Massage therapy" or "bodywork therapy" has the meaning given in s. 460.01 (4), Stats.

(1r) "Physiotherapy treatment" means the therapeutic use of physical agents or means, including heat, cold, light, air, water, sound, electricity, massage therapy or bodywork therapy, and physical exercise with and without assistive devices, to treat or manage injury, disease, bodily defects, or bodily weaknesses.

(2) "Preliminary patient history" means the process of taking patient vitals and gathering baseline data regarding a patient, including the nature of the chief complaint, family history, and medical history. The "preliminary patient history" is intended to provide a starting point for further inquiry by the chiropractor into the patient's condition.

History: Cr. Register, January, 1995, No. 469, eff. 2–1–95; CR 03–082: am. (1) and (2) Register July 2004 No. 583, eff. 8–1–04; 2017 Wis. Act 180: am. (3) Register April 2018 No. 748, eff. 5–1–18; **CR 17–010: am. (1), cr. (1g), (1r), am. (2), r. (3) Register July 2018 No. 751, eff. 8–1–18.**

Chir 10.015 Chiropractic technician course of study. The board shall grant certification as a chiropractic technician to an applicant who satisfies the requirements under s. 446.026 (2) (a), Stats. The course of study required under s. 446.026 (2) (a) 3., Stats., shall be one of the following:

(1) A course of study meeting all of the following requirements:

(a) The course of study shall include a prerequisite 4 hour therapeutic overview course covering chiropractic technician scope of practice, anatomy, and contraindications followed by all of the following:

1. Four hours of instruction in gathering baseline data regarding a patient.

2. Four hours of instruction in taking patient vitals.

(b) The course of study shall include a final assessment of competency of the didactic and clinical components of the program.

(c) The course of study shall be conducted by individuals who have specialized education, training, or experience by reason of which the individuals should be considered qualified concerning chiropractic technician scope of practice, anatomy, contraindications, and taking and preparing a preliminary patient history.

(2) A course of study the board determines is reasonably equivalent to the course of study under sub. (1).

History: CR 17–010: cr. Register July 2018 No. 751, eff. 8–1–18.

Chir 10.02 Delegation of adjunctive services to a chiropractic technician. A chiropractor may delegate the performance of adjunctive services only to a chiropractic technician certified under ch. 446, Stats. An adjunctive service may be delegated to a chiropractic technician only if all of the following conditions are met:

(1) The chiropractor maintains records or ensures the chiropractor's employer maintains records that verify the chiropractic technician is certified under ch. 446, Stats.

(2) For the delegation of massage therapy or bodywork therapy, the chiropractor maintains records or ensures the chiropractor's employer maintains records that verify the chiropractic technician is licensed under ch. 460, Stats.

(3) For the delegation of adjunctive services other than massage therapy or bodywork therapy and taking and preparing preliminary patient histories, the chiropractor maintains records or ensures the chiropractor's employer maintains records that verify the chiropractic technician has successfully completed a didactic and clinical training program approved by the board and covering the performance of the delegated service. Successful completion of a training program is demonstrated by attaining proficiency in the delivery of that service to minimally competent chiropractic practice standards as measured by objective knowledge and skills testing. The didactic and clinical training program shall meet or be determined by the board to be reasonably equivalent to all of the following criteria:

(a) The program constitutes an organized program of learning that contributes directly to the professional competency of a chiropractic technician to perform the delegated service.

(b) The program pertains to subject matters that integrally relate to the performance of the delegated service.

(c) The program is conducted by individuals who have specialized education, training, or experience by reason of which the individuals should be considered qualified concerning the performance of the delegated service.

(d) The program fulfills pre–established goals and objectives.

(e) The program provides proof of attendance.

(f) The program includes a final assessment of competency of the didactic and clinical components of the program.

(g) If the program includes instruction in one or more of the subject matters under subds. 1. to 7., the instruction shall meet the following requirements:

1. Instruction in the performance of thermotherapy and cryotherapy shall comprise one hour.

2. Instruction in the performance of electrotherapy shall comprise 3 hours.

3. Instruction in the performance of therapeutic ultrasound shall comprise 3 hours.

4. Instruction in the performance of light therapy shall comprise 3 hours.

5. Instruction in the performance of surface electromyography shall comprise 3 hours.

6. Instruction in the performance of mechanical therapy and decompression shall comprise 4 hours and may not include instruction in manual traction or manipulation.

7. Instruction in exercise and rehabilitation shall comprise 24 hours and include all of the following topics:

a. Basic functional anatomy.

b. Kinesiology and joint movement.

c. Indications and contraindications.

d. Recordkeeping and reporting.

e. Scope of practice.

f. Baselines assessment, outcomes, and goals.

(4) The chiropractor exercises direct supervision of the chiropractic technician performing the delegated service.

(5) The chiropractor retains ultimate responsibility for the manner and quality of the service.

History: Cr. Register, January, 1995, No. 469, eff. 2–1–95; CR 03–082: cr. (3) Register July 2004 No. 583, eff. 8–1–04; **CR 17–010: r. and recr. Register July 2018 No. 751, eff. 8–1–18.**

Chir 10.025 Chiropractic radiological technician course of study. The board shall grant certification as a chiropractic radiological technician to an applicant who satisfies the requirements under s. 446.025 (2) (a), Stats. The course of study required under s. 446.025 (2) (a) 3., Stats., shall be one of the following:

(1) A course of study meeting all of the following requirements:

(a) The course of study shall comprise 48 hours, including all of the following topics:

1. Introduction to x–ray examination.

2. Physics of x–ray examination.

3. Anatomy.

4. Patient position.

5. Safety measures.

6. Machine operation.

7. Exposure techniques and accessories.

8. Processing and dark room techniques.

9. Film critique and quality assurance.

10. Professionalism.

11. Recordkeeping.

12. Emergency procedures summary.

(b) The course of study shall include a final assessment of competency of the didactic and clinical components of the program.

(c) The certification program shall have a chiropractor licensed under ch. 446, Stats., present in the facility and available to the students of the course of study.

(2) A course of study the board determines is reasonably equivalent to the course of study under sub. (1).

History: CR 17–010: cr. Register July 2018 No. 751, eff. 8–1–18.

Chir 10.03 X–ray services. A chiropractor may delegate x–ray examination procedures only to a chiropractic radiological technician certified under ch. 446, Stats. The chiropractor shall comply with s. Chir 4.04 before delegating the performance of x–ray services to a chiropractic radiological technician.

Note: The coursework specified in s. Chir 10.03 provides the training required by s. Chir 4.04. A list of board–approved programs is 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, January, 1995, No. 469, eff. 2–1–95; **CR 17–010: am. Register July 2018 No. 751, eff. 8–1–18.**