



**TELECONFERENCE/VIRTUAL MEETING
RADIOGRAPHY EXAMINING BOARD
Room N208, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
December 12, 2018**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda (1-3)**
- B) Approval of Minutes of August 1, 2018 (4-5)**
- C) Administrative Updates**
 - 1) Department and Staff Updates
 - 2) Board Members – Term Expiration Dates
 - a) Donald Borst – 7/1/2021
 - b) Thomas Frenn – 7/1/2019 (*appointed, not yet confirmed*)
 - c) Michele Goodweiler – 7/1/2018
 - d) Tracy Marshall – 7/1/2020
 - e) Heidi Nichols – 7/1/2020
 - f) Vacant – Radiologist Member
 - g) Vacant – Public Member
- D) Conflicts of Interest**
- E) 9:00 A.M. PUBLIC HEARING: Clearinghouse Rule 18-073 – RAD 5 Relating to Continuing Education (6-17)**
 - 1) Review and Respond to Public Comments and Clearinghouse Report
- F) Legislative/Administrative Rule Matters (6)**
 - 1) Review of Draft Rules for RAD 1 and 4 Relating to Scope of Practice (**17-21**)
 - 2) Update on Other Legislation and Pending or Possible Rulemaking Projects
- G) Credentialing Matters**
 - 1) **APPEARANCE:** Tamie Buckingham, Credentialing Specialist: License Verification –Discussion
 - 2) Continuing Qualification Requirements (CQR)
 - 3) License Renewal Processes and Procedures (**22**)

H) Informational Items

I) Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Nominations, Elections, and Appointments
- 3) Administrative Updates
- 4) Education and Examination Matters
- 5) Credentialing Matters
- 6) Practice Matters
- 7) Legislative/Administrative Rule Matters
- 8) Board Liaison Training and Appointment of Mentors
- 9) Liaison, Panel, and Committee Reports
- 10) Informational Items
- 11) Division of Legal Services and Compliance (DLSC) Matters
- 12) Presentations of Petitions for Summary Suspension
- 13) Presentation of Proposed Stipulations, Final Decisions and Orders
- 14) Presentation of Proposed Final Decisions and Orders
- 15) Presentation of Interim Orders
- 16) Petitions for Re-Hearing
- 17) Petitions for Assessments
- 18) Petitions to Vacate Orders
- 19) Petitions for Designation of Hearing Examiner
- 20) Requests for Disciplinary Proceeding Presentations
- 21) Motions
- 22) Petitions
- 23) Appearances from Requests Received or Renewed
- 24) Speaking Engagements, Travel, or Public Relation Requests, and Reports

J) Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

K) Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Board Liaison Training
- 4) DLSC Matters
- 5) Monitoring Matters
- 6) Professional Assistance Procedure (PAP) Matters
- 7) Petitions for Summary Suspensions
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Administrative Warnings
- 10) Proposed Final Decisions and Orders
- 11) Matters Relating to Costs/Order Fixing Costs
- 12) Complaints
- 13) Case Closings
- 14) Case Status Report
- 15) Petitions for Extension of Time
- 16) Proposed Interim Orders
- 17) Petitions for Assessments and Evaluations

- 18) Petitions to Vacate Orders
- 19) Remedial Education Cases
- 20) Motions
- 21) Petitions for Re-Hearing
- 22) Appearances from Requests Received or Renewed

L) Consult with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

M) Open Session Items Noticed Above Not Completed in the Initial Open Session

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

O) Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

ADJOURNMENT

NEXT SCHEDULED MEETING: MARCH 6, 2019

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.

**TELECONFERENCE/VIRTUAL
RADIOGRAPHY EXAMINING BOARD
MEETING MINUTES
AUGUST 1, 2018**

PRESENT: *(All via teleconference)* Donald Borst, Thomas Frenn, Michele Goodweiler, Heidi Nichols

EXCUSED: Tracy Marshall

STAFF: Tom Ryan, Executive Director; Dale Kleven, Rule Coordinator; Kate Stolarzyk, Bureau Assistant; and other Department staff

CALL TO ORDER

Donald Borst, Chair, called the meeting to order at 9:25 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: Michele Goodweiler moved, seconded by Heidi Nichols, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Michele Goodweiler moved, seconded by Heidi Nichols, to approve the minutes of February 28, 2018 as published. Motion carried unanimously.

LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

Adoption Order for RAD 4, Relating to Scope of Practice

MOTION: Thomas Frenn moved, seconded by Michele Goodweiler, to approve the Adoption Order for Clearinghouse Rule CR 17-082, relating to scope of practice. Motion carried unanimously.

Scope Statement for RAD 7, Relating to Requirements for License and Permit Renewal and Reinstatement

MOTION: Michele Goodweiler moved, seconded by Donald Borst, to approve the Scope Statement creating RAD 7, relating to requirements for license and permit renewal and reinstatement, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chair to approve the Scope Statement for implementation no less than 10 days after publication. Motion carried unanimously.

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

MOTION: Michele Goodweiler moved, seconded by Donald Borst, to approve the preliminary rule draft of RAD 5, relating to continuing education, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108

MOTION: Michele Goodweiler moved, seconded by Donald Borst, to designate Donald Borst to serve as liaison to DSPS staff for drafting the Act 108 report, relating to administrative rules, and to authorize the Chair, or highest-ranking officer, or longest serving member of the board, in order of succession, to approve the report for submission to the Joint Committee for Review of Administrative Rules. Motion carried unanimously.

RATIFICATION OF EXAMINATION RESULTS AND RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: Michele Goodweiler moved, seconded by Donald Borst, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Michele Goodweiler moved, seconded by Thomas Frenn, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:24 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 11/30/18 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: Radiography Examining Board			
4) Meeting Date: 12/12/18	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 9:00 A.M. Public Hearing: CR 18-073 – RAD 5 Relating to Continuing Education 1. Review and Respond to Public Comments and Clearinghouse Report Legislative and Administrative Rule Matters – Discussion and Consideration 1. Review of Draft Rules for RAD 1 and 4 Relating to Scope of Practice 2. Update on Other Legislation and Pending or Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed: _____ _____ _____			
11) Authorization			
<i>Dale Kleven</i>		<i>November 30, 2018</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
RADIOGRAPHY EXAMINING BOARD

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

PROPOSED ORDER

An order of the Radiography Examining Board to repeal RAD 5.01 (intro.) and 5.02 (1) and (2); to renumber RAD 5.05 (1) (a); to renumber and amend RAD 5.02 (intro.) and 5.05 (1) (intro.) and (b); to amend RAD 5.01 (1) and (2), 5.03, 5.04, and 5.05 (2); and to create RAD 5.01 (3) to (5), relating to continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 440.03 (4m), Stats.

Statutory authority: Sections 15.08 (5) (b) and 462.06 (1) (c), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 462.06 (1) (c), Stats., provides the Radiography Examining Board shall promulgate rules that “[e]stablish continuing education standards for renewal of licenses and limited X-ray machine operator permits issued under this chapter.”

Related statute or rule:

None.

Plain language analysis:

Section RAD 5.04 is revised 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. Other provisions throughout ch. MTBT 5 have been revised to better organize the content of the chapter and ensure consistency with current style and format standards for drafting administrative rules and applicable Wisconsin statutes.

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

None.

Comparison with rules in adjacent states:

Illinois:

32 Ill. Admin. Code 401.140 b) 4) to 6) provide the requirements for retention and production of evidence of compliance with the continuing education requirements for renewal of accreditation in the practice of medical radiation technology. All technologists accredited by the Illinois Emergency Management Agency are required to maintain proof of participation in continuing education activities. Technologists seeking renewal are required to attest they have acquired the required number of continuing education credits. Within 30 days after receipt of this attestation, the Agency may perform an audit in which the individual will be asked to provide copies of documentation. Failure to respond to the Agency's audit request or failure to provide acceptable documentation may result in a refusal to renew accreditation.

Iowa:

641 IAC 42.18 provides the requirements for production of evidence of compliance with the continuing education requirements for renewal or reinstatement of a permit to operate ionizing radiation producing machines or administer radioactive materials. A permit holder must either 1) have a current American Registry of Radiologic Technologists (ARRT) or Nuclear Medicine Technology Certification Board (NMTCB) registration that has been renewed within 60 days prior to the submission of a permit renewal application or 2) submit proof of completion of continuing education activities recognized by ARRT or NMTCB or, in the case of a podiatric x-ray equipment operator permit holder, sponsored by the American Podiatric Medical Association or the Iowa Podiatric Medical Society.

Michigan:

The State of Michigan does not license operators of x-ray machines, nor does it have any requirements relative to the licensure or credentialing of x-ray machine operators except for radiologic technologists who perform mammographic examinations (Mich Admin Code, R 333.5630). The rules require compliance with the continuing education requirements under 21 C.F.R. 900.12(a)(2), "Radiologic technologists" (2000).

A mammography facility is required to maintain records documenting the qualifications of all personnel who work at the facility, including radiologic technologists who perform mammographic examinations. The Department of Licensing and Regulatory Affairs may review these records during an inspection of the facility (Mich Admin Code, R 333.5635).

Minnesota:

Minn. Stat. 144.121, Subd. 5., provides the requirements for practicing as a limited x-ray machine operator. The statutes do not require continuing education.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of ch. RAD 5 to ensure consistency with current style and format standards for drafting administrative rules and applicable Wisconsin statutes.

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 the economic impact of the proposed rule, including how this proposed rule 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 NathanielL.Ristow@wisconsin.gov, or by calling (608) 266-3445.

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 9:00 a.m. on December 12, 2018, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RAD 5.01 (intro.) is repealed.

SECTION 2. RAD 5.01 (1) and (2) are amended to read:

RAD 5.01 (1) RADIOGRAPHERS. Radiographers Except as provided under sub. (3), during the 2-year period immediately preceding the renewal date under s. 440.08 (2) (a) 64g., Stats., a radiographer shall complete 24 credit hours of continuing education credit each biennium, except for the first renewal of the permit related to the practice of radiography.

(2) LXMO PERMIT HOLDERS. Except as provided under sub. (3), during the 2-year period immediately preceding the renewal date under s. 440.08 (2) (a) 39m., Stats., an LXMO permit holders holder shall complete 12 credit hours of continuing education credit each biennium, except for the first renewal of the permit related to the practice of radiography.

SECTION 3. RAD 5.01 (3) to (5) are created to read:

RAD 5.01 (3) EXEMPTION FOR NEW LICENSEES AND PERMIT HOLDERS.
Subsections (1) and (2) do not apply to the first renewal following the date a license or permit is initially issued.

(4) CREDIT FOR ARRT CERTIFICATION. The board shall accept active certification from the ARRT or a board-approved successor organization as meeting the requirements under subs. (1) and (2).

(5) RECORDKEEPING. Licensees and permit holders shall maintain records of continuing education credit hours required under subs. (1) and (2) for at least 3 years from the date of the continuing education activity. The records for each continuing education activity shall include all of the following:

- (a) The name and address of the sponsor or provider.
- (b) The date, time, and location of the activity.
- (c) A brief statement of the subject matter.
- (d) A program schedule, registration receipt, or certificate of attendance.
- (e) Number of credit hours completed.

SECTION 4. RAD 5.02 (intro.) is renumbered RAD 5.02 and amended to read:

RAD 5.02 ~~Verification~~ Certification of compliance. A licensee or permit holder shall, at the time of making application for renewal of a license or permit ~~under this chapter~~, sign a statement on the application for renewal ~~verifying that the licensee or permit holder has satisfied~~ certifying the continuing education requirement requirements under s. RAD 5.01 (1) or (2) have been satisfied.

SECTION 5. RAD 5.02 (1) and (2) are repealed.

SECTION 6. RAD 5.03 and 5.04 are amended to read:

RAD 5.03 Approved providers. ~~For purposes of this chapter approved~~ The board accepts providers of continuing education courses ~~are those recognized by the American Registry of Radiologic Technologists ARRT or a board-approved successor organization deemed acceptable to the board.~~

RAD 5.04 Audit. The board shall ~~conduct a random~~ audit for compliance with the requirements of under this chapter ~~at least every 6 years and require any licensee or permit holder to produce evidence of compliance with the continuing education requirements~~ any licensee or permit holder who is under investigation by the board for alleged misconduct.

SECTION 7. RAD 5.05 (1) (intro.) is renumbered RAD 5.05 (1) and amended to read:

RAD 5.05 (1) A credential holder may, based on hardship or other extenuating circumstances, request ~~prior to the renewal date~~ a full or partial waiver or postponement of the continuing education ~~requirement on the basis of a hardship~~ requirements under s. RAD 5.01 (1) or (2). The request shall be submitted to the board prior to the applicable renewal date and include a statement describing the reason for the waiver or postponement request.

SECTION 8. RAD 5.05 (1) (a) is renumbered RAD 5.05 (1g).

SECTION 9. RAD 5.05 (1) (b) is renumbered RAD 5.05 (1r) and amended to read:

RAD 5.05 (1r) ~~Hardship is defined as an inability to complete the continuing education requirements because of~~ In this section, "hardship" means full-time military service during a substantial part of the ~~biennium~~; 2-year period immediately preceding the renewal date or an incapacitating medical infirmity documented by a licensed health care provider; or other extenuating circumstances deemed sufficient to grant the waiver or postponement.

SECTION 10. RAD 5.05 (2) is amended to read:

RAD 5.05 (2) ~~A person licensee or permit holder who submits a request for a waiver or postponement prior to the renewal date under sub. (1) may renew the credential with the approval of the board's designee if the board is unable to reach a decision act on the request prior to the renewal date.~~

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)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date August 23, 2018
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) RAD 5	
4. Subject Continuing education	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.165(1)(hg)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule Section RAD 5.04 is revised 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. Other provisions throughout ch. MTBT 5 have been revised to better organize the content of the chapter and ensure consistency with current style and format standards for drafting administrative rules and applicable Wisconsin statutes.	
12. 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.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.	
14. 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 \$65.42. These costs may be absorbed in the agency budget.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is providing clarity and bringing the rules into conformity with the Wisconsin Statutes	
16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is clarity and conformity with the Wisconsin Statutes	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

17. Compare With Approaches Being Used by Federal Government
None

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

Illinois:

32 Ill. Admin. Code 401.140 b) 4) to 6) provide the requirements for retention and production of evidence of compliance with the continuing education requirements for renewal of accreditation in the practice of medical radiation technology. All technologists accredited by the Illinois Emergency Management Agency are required to maintain proof of participation in continuing education activities. Technologists seeking renewal are required to attest they have acquired the required number of continuing education credits. Within 30 days after receipt of this attestation, the Agency may perform an audit in which the individual will be asked to provide copies of documentation. Failure to respond to the Agency's audit request or failure to provide acceptable documentation may result in a refusal to renew accreditation.

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A mammography facility is required to maintain records documenting the qualifications of all personnel who work at the facility, including radiologic technologists who perform mammographic examinations. The Department of Licensing and Regulatory Affairs may review these records during an inspection of the facility (Mich Admin Code, R 333.5635).

Minnesota:

Minn. Stat. 144.121, Subd. 5., provides the requirements for practicing as a limited x-ray machine operator. The statutes do not require continuing education.

19. Contact Name

Dale Kleven

20. Contact Phone Number

(608) 261-4472

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

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

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

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

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

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

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Jessica Karls-Ruplinger
Legislative Council Acting Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 18-073

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.]

1. Statutory Authority

The board should examine whether the amended version of s. RAD 5.04 conforms to s. 440.03 (4m), Stats., with regard to the circumstances in which the board may require proof of fulfillment of a continuing education requirement. Under the statute, the board may do so “only if a complaint is made” against a licensee or permit holder. Under proposed s. RAD 5.04, the board may do so when a licensee or permit holder is “under investigation by the board for alleged misconduct”. Can the board initiate an investigation on a basis other than a complaint? If so, then s. RAD 5.04 would allow the board to require proof of fulfillment of a continuing education requirement in a situation in which s. 440.03 (4m), Stats., would not. If, on the other hand, the board can initiate an investigation only in response to a complaint, then s. RAD 5.04 appears to be consistent with the statute, although the board nevertheless could consider whether to make s. RAD 5.04 applicable to investigations of other than alleged misconduct, such as of negligence or incompetence. For example, s. RAD 6.01 refers generally to “unprofessional conduct”, and s. RAD 6.01 (19) distinguishes between “negligence”, “incompetence”, and “misconduct”. Did the board intend to limit audits of continuing education only to instances of “misconduct”?

2. Form, Style and Placement in Administrative Code

In the amendment to s. RAD 5.01 (1), the stricken “Radiographers” should precede the underscored “RADIOGRAPHERS”. [s. 1.06 (1) (a), Manual.]

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

a. In the plain language analysis on page 1, and in the Fiscal Estimate & Economic Impact Analysis on line 11, “ch. MTBT 5” should be “ch. RAD 5”.

b. In the comparison with rules in Iowa on page 2, and in the Fiscal Estimate & Economic Impact Analysis on line 18, “Technology” is misspelled in “Nuclear Medicine Technology Certification Board”.

c. In the amendment to s. RAD 5.01 (2), the board might consider whether to use “a LXMO” rather than “an LXMO” to align with similar article usage in ch. RAD 3.

d. In SECTION 11, “effective” is misspelled in the title.

STATE OF WISCONSIN
RADIOGRAPHY EXAMINING BOARD

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

PROPOSED ORDER

An order of the Radiography Examining Board to repeal RAD 4.01 (2) (Note 1) and 4.02 (2) (o) and (Note 1); to amend RAD 1.02 (12) (intro.) and (h), 4.01 (2) (intro.), (c), (h), (i), (j), (k), (q), (r), (s), and (Note 2), and 4.02 (2) (intro.), (b), (k), (L), (m), and (Note 2); and to create RAD 1.02 (intro.) and (1m), relating to scope of practice.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

None.

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides each 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, providing “[e]ach 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 scope of practice standards for radiographers and limited X-ray machine operators in current rules are a reproduction of the standards for scope of practice established by the American Society of Radiologic Technologists (ASRT) in 2016. ASRT periodically updates its standards, most recently in 2017. The proposed rules update the scope of practice standards in ss. RAD 4.01 and 4.02 to be a reproduction of the standards for scope of practice established by the ASRT in 2017.

The proposed rules also update the definitions in s. RAD 1.02 as follows:

- A definition of “As Low As Reasonably Achievable” or “ALARA” is created. The meaning given this term in s. RAD 1.02 (1m) is the same as in the 2017 ASRT standards for scope of practice (Glossary, Practice Standards for Medical Imaging and Radiation Therapy, 2017 American Society of Radiologic Technologists). The notes in ss. RAD 4.01 (2) and 4.02 (2) referencing the ASRT definition are repealed.
- A definition of “licensed practitioner” replaces a definition of “licensed independent practitioner” to reflect a change of terminology in ch. RAD 4 and the 2017 ASRT scope of practice standards.

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

None.

Comparison with rules in adjacent states:

Illinois:

32 Ill. Admin. Code 401, which provides for accreditation in the practice of medical radiation technology in Illinois, does not explicitly define scope of practice. However, scope of practice is addressed in definitions of the categories of accreditation in the practice of medical radiation technology and the techniques of applying radiation (32 Ill. Admin. Code 401.20). These definitions do not reference the standards established by the American Society of Radiologic Technologists.

Iowa:

641 IAC 42, which provides for permits to operate ionizing radiation producing machines or administer radioactive materials in Iowa, does not explicitly define scope of practice. However, scope of practice is addressed in definitions of the categories of permits to practice and the techniques of using ionizing radiation producing machines and administering radioactive materials (641 IAC 42.2). In addition, the rules provide the scope within which a limited radiologic technologist with categories of chest, spine, extremities, shoulder, and pediatric shall perform radiography (641 IAC 42.9). The rules do not reference the standards established by the American Society of Radiologic Technologists.

Michigan:

The State of Michigan does not license operators of X-ray machines, nor does it have any requirements relative to the licensure or credentialing of X-ray machine operators except for radiologic technologists who perform mammographic examinations (Mich Admin Code, R 333.5630). These rules do not define or otherwise address scope of practice.

Minnesota:

Minn. Stat. 144.121, Subds. 5a. and 5b., provide the scope of practice of a limited X-ray machine operator (LXMO) and a means of granting a variance to a facility for the scope

of practice of an LXMO. The statutes do not reference the standards established by the American Society of Radiologic Technologists.

Summary of factual data and analytical methodologies:

The proposed rules update the scope of practice of radiographers and limited X-ray machine operators to align with the current standards for scope of practice established by the American Society of Radiologic Technologists. 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 will be posted for a period of 14 days to solicit public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals.

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 NathanielL.Ristow@wisconsin.gov, or by calling (608) 266-3445.

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.

TEXT OF RULE

SECTION 1. RAD 1.02 (intro.) and (1m) are created to read:

RAD 1.02 (intro.) In this chapter and chs. RAD 2 to 6:

(1m) “As Low As Reasonably Achievable” or “ALARA” means making every reasonable effort to maintain exposures to radiation as far below the dose limits as practical, consistent with the purpose for which the licensed activity is undertaken, while taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety and other societal and socioeconomic considerations, and in relation to the use of nuclear energy and licensed materials in the public interest.

SECTION 2. RAD 1.02 (12) (intro.) and (h) are amended to read:

RAD 1.02 (12) (intro.) “Licensed ~~independent~~ practitioner” means any of the following:

(h) A health care provider who is defined as ~~an independent~~ a licensed practitioner.

SECTION 3. RAD 4.01 (2) (intro.), (c), (h), (i), (j), (k), (q), (r), and (s) are amended to read:

RAD 4.01 (2) (intro.) APPLICABLE STANDARDS. The scope of practice of a licensed radiographer includes all of the following, as defined in the Radiography Practice Standards, Practice Standards for Medical Imaging and Radiation Therapy, ~~2016~~ 2017 American Society of Radiologic Technologists:

(c) Corroborating a patient's clinical history with procedure and ensuring information is documented and available for use by a licensed ~~independent~~ practitioner.

(h) Performing venipuncture as prescribed by a licensed ~~independent~~ practitioner.

(i) Starting, maintaining, and removing intravenous access as prescribed by a licensed ~~independent~~ practitioner.

(j) Identifying, preparing, and administering medications as prescribed by a licensed ~~independent~~ practitioner.

(k) Evaluating images for technical quality, and ensuring proper identification is recorded.

(q) Performing diagnostic radiographic and noninterpretive fluoroscopic procedures as prescribed by a licensed ~~independent~~ practitioner.

(r) ~~Determining~~ Optimizing technical exposure factors in accordance with the principles of ALARA, or As Low As Reasonably Achievable.

(s) Assisting a the licensed ~~independent~~ practitioner with fluoroscopic and specialized radiologic procedures.

SECTION 4. RAD 4.01 (2) (Note 1) is repealed.

SECTION 5. RAD 4.01 (2) (Note 2) is amended to read:

Note: ~~Copies of the~~ The Standard are on file at is available from the office of the Department of Safety and Professional Services and the Legislative Reference Bureau American Society of Radiologic Technologists' website at www.asrt.org.

SECTION 6. RAD 4.02 (2) (intro.), (b), (k), (L), and (m) are amended to read:

RAD 4.02 (2) (intro.) APPLICABLE STANDARDS. The scope of practice of an LXMO includes all of the following, as defined in the Limited X-ray Machine Operator Practice Standards, ~~2016~~ Practice Standards for Medical Imaging and Radiation Therapy, 2017 American Society of Radiologic Technologists:

(b) Corroborating a patient's clinical history with procedure and ensuring information is documented and available for use by a licensed ~~independent~~ practitioner.

(k) Performing diagnostic radiographic procedures limited to education or the prescribed by a licensed practitioner of a specific area of anatomical interest based on limited education, training, and licensure or certification as prescribed by a licensed independent practitioner within the LXMO's scope of practice.

(L) Assisting a licensed ~~independent~~ practitioner or radiographer during static radiographic procedures.

(m) ~~Determining~~ Optimizing technical exposure factors in accordance with the principles of ALARA, or As Low As Reasonably Achievable.

SECTION 7. RAD 4.02 (2) (o) and (Note 1) are repealed.

SECTION 8. RAD 4.01 (2) (Note 2) is amended to read:

Note: ~~Copies of the~~ The Standard are on file at is available from the office of the ~~Department of Safety and Professional Services and the Legislative Reference Bureau~~ American Society of Radiologic Technologists' website at www.asrt.org.

SECTION 9. 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 Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Don Borst		2) Date When Request Submitted: 8/1/2018 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Radiography Examining Board			
4) Meeting Date: 12/12/2018	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? License Renewal Processes and Procedures	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: The Continuing Education Attestation Requirement is as follows: PLEASE COMPLETE THE FOLLOWING INFORMATION WHICH IS REQUIRED IN ORDER TO RENEW YOUR LICENSE: Please read and check the box in regards to continuing education (CE): <input type="checkbox"/> I attest that I have completed 24 credit hours of CE which were obtained through providers that are recognized by the American Registry of Radiologic Technologists (ARRT) per RAD 5.03, or a successor organization deemed acceptable to the Board, during the biennium immediately preceding this renewal. I have evidence of this which I will furnish to the Board upon request. <input type="checkbox"/> I hold an active ARRT certification, or a board-approved successor organization, and I am deemed to satisfy the continuing education requirement for this biennium. I have included a copy of this ARRT certification or the other board-approved successor organization certification as proof. (Please mail, fax or email a copy of this card along with your renewal.) <input type="checkbox"/> No CE is required as this is my first renewal and my license was issued on or after 7/1/2016.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	