

**STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD**

IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 20-017
PODIATRY AFFILIATED :
CREDENTIALING BOARD :

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

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

Section Pod 3.01 (1m) is created to define requirements for the completion of continuing education hours related to prescribing controlled substances for the renewal date occurring on October 31, 2022.

Section Pod 3.02 (1) (e) is revised to reflect that the Wisconsin Society of Podiatric Medicine has changed its name to the Wisconsin Podiatric Medical Association.

Section Pod 3.04 is revised to reflect 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 completion of continuing education programs or courses only if a complaint is made against the credential holder.

The proposed rules also revise the provisions in ss. Pod 3.03 (2) and 3.04 to provide a consistent standard for the retention of evidence of completion of continuing education requirements, and make changes throughout the remainder of ch. Pod 3 to provide clarity and conform to current standards for drafting administrative rules.

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

The Podiatry Affiliated Credentialing Board held a public hearing on June 11, 2020. The Board did not receive any public comments.

VI. RESPONSE TO MEDICAL EXAMINING BOARD AND LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

The proposed rule was submitted to the Medical Examining Board on December 19, 2018. The Medical Examining Board had no recommendations concerning the proposed rule.

The Legislative Council had no recommendations concerning the proposed rule.

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

N/A

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	PODIATRY AFFILIATED
PODIATRY AFFILIATED	:	CREDENTIALING BOARD
CREDENTIALING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 20-017)

PROPOSED ORDER

An order of the Podiatry Affiliated Credentialing Board to amend Pod 3.02 (1) (intro.) and (a) to (e) and (4) (intro.) and (a), 3.03 (1) to (3), and 3.04 and create Pod 3.01 (1m), relating to continuing podiatric medical education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 440.03 (4m), Stats.

Statutory authority:

Sections 15.085 (5) (b), 448.665, and 448.695 (2), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats., provides an affiliated credentialing board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 448.665, Stats., provides “[t]he affiliated credentialing board shall promulgate rules establishing requirements and procedures for licensees to complete continuing education programs or courses of study in order to qualify for renewal of a license granted under this subchapter.”

Section 448.695 (2), Stats., provides “[t]he affiliated credentialing board may promulgate rules to carry out the purposes of this subchapter.”

Related statute or rule:

Chapter Pod 4 provides the requirements for biennial registration of a license to practice podiatry, including the requirements for completion of continuing education under ch. Pod 3.

Plain language analysis:

Section Pod 3.01 (1m) is created to define requirements for the completion of continuing education hours related to prescribing controlled substances for the renewal date occurring on October 31, 2022.

Section Pod 3.02 (1) (e) is revised to reflect that the Wisconsin Society of Podiatric Medicine has changed its name to the Wisconsin Podiatric Medical Association.

Section Pod 3.04 is revised to reflect 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 completion of continuing education programs or courses only if a complaint is made against the credential holder.

The proposed rules also revise the provisions in ss. Pod 3.03 (2) and 3.04 to provide a consistent standard for the retention of evidence of completion of continuing education requirements, and make changes throughout the remainder of ch. Pod 3 to provide clarity and conform to current standards for drafting administrative rules.

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

None.

Comparison with rules in adjacent states:

Illinois:

68 Ill. Admin. Code 1360.70 d) 2) provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Division of Professional Regulation of the Illinois Department of Financial and Professional Regulation may require additional evidence demonstrating compliance with the continuing education requirements. It is the responsibility of each applicant for renewal to retain or otherwise produce evidence of such compliance. Such additional evidence is required in the context of the Division's random audit.

The rules do not require continuing education related to prescribing opioids.

Iowa:

645 IAC 4.11 provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Iowa Board of Podiatry may select licensees for audit following license renewal. Upon audit, a licensee is required to provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. All licensees must retain documentation of compliance with the continuing education requirements for two years following license renewal.

The rules do not require continuing education related to prescribing opioids.

Michigan:

Mich Admin Code, R 338.8126 (2) provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Michigan Board of Podiatry may require a licensee to submit evidence of compliance, and all licensees are required to retain documentation of meeting the requirements for a period of 4 years from the date of applying for license renewal.

The rules require a minimum of 5 of the 150 hours of continuing education required for renewal to be earned in the area of pain and symptom management (Mich Admin Code, R 338.8127).

Minnesota:

Minnesota Rules, Part 6900.0200 Subpart 4 provides the requirements for retention and production of evidence of compliance with the continuing education requirements. All licensees must, during each renewal period, submit proof of attendance at qualifying continuing education programs to the Minnesota Board of Podiatric Medicine. Verification must be in the form of a certificate, descriptive receipt, or affidavit.

The rules do not require continuing education related to prescribing opioids.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of ch. Pod 3 to ensure clarity and consistency and to reflect applicable Wisconsin Statutes and current standards for drafting administrative rules. Input and feedback were solicited and obtained from the Podiatry Affiliated Credentialing 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 the economic impact of the proposed rules, 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 9:00 a.m. on June 11, 2020, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Pod 3.01 (1m) is created to read:

Pod 3.01 (1m) (a) Except as provided under par. (b), for the renewal date occurring on October 31, 2022, a minimum of 2 of the 50 hours of continuing podiatric medical education required under sub. (1) shall be an educational course or program related to opioid prescribing.

(b) This subsection does not apply to a podiatrist who, at the time of making application for a certificate of registration, does not hold a U.S. drug enforcement administration number to prescribe controlled substances.

SECTION 2. Pod 3.02 (1) (intro.) and (a) to (e) and (4) (intro.) and (a) are amended to read:

Pod 3.02 (1) (intro.) In satisfaction of the biennial training requirement under s. Pod 3.01 (1) and s. 448.665, Stats., the board shall accept an educational program approved at the time of the podiatrist's attendance by any of the following:

(a) The ~~council~~ Council on podiatric medical education ~~Podiatric Medical Education of the American podiatric medical association~~ Podiatric Medical Association.

(b) The ~~council~~ Council on medical education ~~Medical Education of the American medical association~~ Medical Association.

(c) The ~~council~~ Council on medical education ~~Medical Education of the American osteopathic association~~ Osteopathic Association.

(d) The ~~accreditation council~~ Accreditation Council for continuing medical education ~~Continuing Medical Education.~~

(e) The Wisconsin ~~Society of Podiatric Medicine~~ Medical Association.

(4) (intro.) The board shall accept as satisfaction of the biennial training requirement under s. Pod 3.01 (1) and s. 448.665, Stats., evidence that the podiatrist graduated from a school of podiatric medicine and surgery approved by the board pursuant to s. Pod 1.03 (2), ~~as long as both of~~ if all of the following ~~are in effect~~ apply:

(a) The podiatrist is, for the first time, renewing a license to practice podiatric medicine and surgery in ~~Wisconsin~~ this state.

SECTION 3. Pod 3.03 (1) to (3) are amended to read:

Pod 3.03 (1) Certification by the providing organization or by one of the approved accrediting bodies shall be accepted by the board as evidence of attendance at and completion of a continuing medical education program approved under s. Pod 3.01 is satisfactory evidence for purposes of sub. (2) and s. Pod 3.03 program.

(2) Evidence A podiatrist shall retain evidence of compliance shall be retained by each podiatrist through the biennium for which 50 hours of credit are required for registration for a minimum of 4 years from the date of completion of an educational program.

(3) A certified copy of an official transcript or a diploma shall be accepted by the board as the evidence of graduation from an approved school of podiatric medicine and surgery ~~from which the podiatrist graduated is satisfactory evidence of compliance with required under s. Pod 3.02 (4), provided that the requirements of s. Pod 3.02 (4) (a) and (b) have been met.~~

SECTION 4. Pod 3.04 is amended to read:

Pod 3.04 Audit. The board ~~may conduct a random~~ shall audit of any licensee ~~on a biennial basis to determine for compliance with the continuing education requirements under this chapter any licensee who is under investigation by the board for alleged misconduct. The board may require any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium for the purpose of conducting an audit. Licensees shall retain certificates of continuing education attendance for a minimum period of 4 years.~~

SECTION 5. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Podiatry Affiliated Credentialing Board is approved for submission to the Governor and Legislature.

Dated 6/12/2020

Agency Jack W. Hutter
Chairperson
Podiatry Affiliated Credentialing Board

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 November 15, 2018
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Pod 3	
4. Subject Continuing podiatric medical 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 Pod 3.01 (1m) is created to define requirements for the completion of continuing education hours related to prescribing controlled substances for the renewal date occurring on October 31, 2022. Section Pod 3.02 (1) (e) is revised to reflect that the Wisconsin Society of Podiatric Medicine has changed its name to the Wisconsin Podiatric Medical Association. Section Pod 3.04 is revised to reflect 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 completion of continuing education programs or courses only if a complaint is made against the credential holder. The proposed rules also revise the provisions in ss. Pod 3.03 (2) and 3.04 to provide a consistent standard for the retention of evidence of completion of continuing education requirements, and make changes throughout the remainder of ch. Pod 3 to provide clarity and conform to current standards for drafting administrative rules.	
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)	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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 \$274.59. 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 putting in place an initiative to address prescription drug abuse. Not implementing the rule would be inconsistent with the statewide initiative to address this issue.

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is increased podiatrist awareness of prescription drug abuse.

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:

68 Ill. Admin. Code 1360.70 d) 2) provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Division of Professional Regulation of the Illinois Department of Financial and Professional Regulation may require additional evidence demonstrating compliance with the continuing education requirements. It is the responsibility of each applicant for renewal to retain or otherwise produce evidence of such compliance. Such additional evidence is required in the context of the Division's random audit.

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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
-