

**STATE OF WISCONSIN
RADIOGRAPHY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
RADIOGRAPHY EXAMINING : CR 21-054
BOARD :
:**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

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

The 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 2017. ASRT periodically updates its standards, most recently in 2019. The proposed rule updates 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 2019.

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

The Radiography Examining Board held a public hearing on July 28, 2021. The following people either testified at the hearing, or submitted written comments: Sandra Helinski, MBA, RTR, QM, MR, Legislative Committee Chairperson, Wisconsin Society of Radiologic Technologists.

The Radiography Examining Board summarizes the comments received either by hearing testimony or by written submission as follows: The Wisconsin Society of Radiologic Technologists testified in support of the proposed rule. The amendments from this rule will reflect the updates that the American Society of Radiologic Technologists recently adopted in 2019, which are considered the gold standard for practice in the profession.

The Radiography Examining Board explains modifications to its rule-making proposal prompted by public comments as follows: No additional modifications were necessary for the rule-making proposal based on the comments received from the Wisconsin Society of Radiologic Technologists.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

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

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 21-054)

PROPOSED ORDER

An order of the Radiography Examining Board to amend RAD 4.01 (1) and 4.02 (1); and to repeal and recreate RAD 4.01 (2) and 4.02 (2), relating to scope of practice.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 462.02, 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 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: Chapter 462, Stats., and chs. RAD 1, 2, 3, 5, and 6.

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 2017. ASRT periodically updates its standards, most recently in 2019. The proposed rule updates 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 2019.

Summary of, and comparison with, existing or proposed federal regulation: None.

Comparison with rules in adjacent states:

Illinois: Illinois Administrative Code (32 Ill. Admin. Code 401) provides for accreditation in the practice of medical radiation technology in Illinois, but 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: Iowa Administrative Code (641 IAC 42) provides for permits to operate ionizing radiation producing machines or administer radioactive materials in Iowa, but 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: Minnesota Statutes (2020 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 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.

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:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, 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 on or before the public hearing on July 28, 2021 at 9:00 a.m., to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. RAD 4.01 (1) is amended to read:

RAD 4.01 (1) GENERAL SCOPE OF PRACTICE. The practice of a radiographer involves the performance of radiography and radiographic procedures and related techniques to produce images for the interpretation by, or at the request of, a licensed ~~independent~~ practitioner. Radiographers perform the radiographic examination to create the images needed for medical diagnosis and apply scientific knowledge, technical skills, patient interaction, and care necessary to obtain diagnostic information. Radiographers may apply radiation to any part of the human body, and may administer contrast agents and related substances for diagnostic purposes.

SECTION 2. RAD 4.01 (2) is repealed and recreated to read:

RAD 4.01 (2) APPLICABLE STANDARDS. The scope of practice of a licensed radiographer includes all of the following, as defined in the ASRT Practice Standards for Medical Imaging and Radiation Therapy, 2019 American Society of Radiologic Technologists:

- (a) Administering medications parenterally through new or existing vascular access, enterally or through other appropriate routes as prescribed by a licensed practitioner.
- (b) Administering medications with an infusion pump or power injector as prescribed by a licensed practitioner.
- (c) Applying principles of ALARA to minimize exposure to patient, self, and others.
- (d) Applying principles of patient safety during all aspects of patient care.
- (e) Assisting in maintaining medical records, respecting confidentiality and established policy.
- (f) Corroborating a patient's clinical history with procedure and ensuring information is documented and available for use by a licensed practitioner.
- (g) Educating and monitoring students and other health care providers.
- (h) Evaluating images for proper positioning and determining if additional images will improve the procedure or treatment outcome.
- (i) Evaluating images for technical quality and ensuring proper identification is recorded.

- (j) Identifying and responding to emergency situations.
- (k) Identifying, preparing, and administering medications as prescribed by a licensed practitioner.
- (L) Performing ongoing quality assurance activities.
- (m) Performing venipuncture as prescribed by a licensed practitioner.
- (n) Postprocessing data.
- (o) Preparing patients for procedures.
- (p) Providing education.
- (q) Providing optimal patient care.
- (r) Receiving, relaying, and documenting verbal, written, and electronic orders in the patient's medical record.
- (s) Selecting the appropriate protocol and optimizing technical factors while maximizing patient safety.
- (t) Starting, maintaining, and removing intravenous access as prescribed by a licensed practitioner.
- (u) Verifying archival storage of data.
- (v) Verifying informed consent for applicable procedures.
- (w) Assisting the licensed practitioner with fluoroscopic and specialized radiologic procedures.
- (x) Performing diagnostic radiographic and noninterpretive fluoroscopic procedures as prescribed by a licensed practitioner.

SECTION 3. RAD 4.02 (1) is amended to read:

RAD 4.02 (1) GENERAL SCOPE OF PRACTICE. The LXMO performs radiographic procedures and related techniques within the practice of radiography under the supervision of a licensed ~~radiography~~ radiographer or other health care provider, consistent with the LXMO's limited scope education, training, and examination.

SECTION 4. RAD 4.02 (2) is repealed and recreated to read:

RAD 4.02 (2) APPLICABLE STANDARDS. The scope of practice of an LXMO includes all of the following, as defined in the ASRT Practice Standards for Medical Imaging and Radiation Therapy, 2019 American Society of Radiologic Technologists:

- (a) Applying principles of ALARA to minimize exposure to patient, self, and others.
- (b) Applying principles of patient safety during all aspects of patient care.
- (c) Assisting in maintaining medical records, respecting confidentiality and established policy.
- (d) Corroborating a patient's clinical history with procedure and ensuring information is documented and available for use by a licensed practitioner.

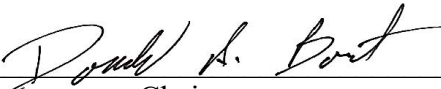
- (e) Evaluating images for proper positioning and determining if additional images will improve the procedure or treatment outcome.
- (f) Evaluating images for technical quality and ensuring proper identification is recorded.
- (g) Identifying and responding to emergency situations.
- (h) Performing ongoing quality assurance activities.
- (i) Postprocessing data.
- (j) Preparing patients for procedures.
- (k) Providing education.
- (L) Providing optimal patient care.
- (m) Selecting the appropriate protocol and optimizing technical factors while maximizing patient safety.
- (n) Verifying archival storage of data.
- (o) Assisting a licensed practitioner or radiographer during static radiographic procedures.
- (p) Performing diagnostic radiographic procedures, as prescribed by a licensed practitioner, of a specific area of anatomical interest based on limited education, training, and licensure or certification within the individual's scope of practice.

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 Radiography Examining Board is approved for submission to the Governor and Legislature.

Dated 10 August 2021

Agency 
 Chairperson
 Radiography Examining 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 06/08/2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) RAD 1 and 4	
4. Subject Scope of practice	
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)(g)
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 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 2017. ASRT periodically updates its standards, most recently in 2019. The proposed rule updates 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 2019.	
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 for comments for 14 days. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None	
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) No economic or fiscal impacts are anticipated for specific businesses, sectors, ratepayers, local governments, or the state's economy as a whole. A total of \$356.74 in one time costs are anticipated in the Department of Safety and Professional Services.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is providing clarity and updated scope of practice standards. If the rule is not implemented, it will continue to reference outdated scope of practice standards.	
16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is clarity and updated scope of practice standards.	
17. Compare With Approaches Being Used by Federal Government	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

None

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

Illinois:

Illinois Administrative Code (32 Ill. Admin. Code 401) provides for accreditation in the practice of medical radiation technology in Illinois, but 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.

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19. Contact Name

Nilajah Hardin

20. Contact Phone Number

(608) 267-7139

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
-