

**STATE OF WISCONSIN  
RADIOGRAPHY EXAMINING BOARD**

---

<b>IN THE MATTER OF RULEMAKING</b>	<b>:</b>	
<b>PROCEEDINGS BEFORE THE</b>	<b>:</b>	<b>REPORT TO THE LEGISLATURE</b>
<b>RADIOGRAPHY EXAMINING</b>	<b>:</b>	<b>CR 21-048</b>
<b>BOARD</b>	<b>:</b>	
	<b>:</b>	
	<b>:</b>	

---

**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 primary objective of the proposed rule is to repeal ss. RAD 2.06 and 3.06. These sections are no longer necessary, as they contain provisions for applications filed prior to March 1, 2012. Chapters RAD 2 and 3 may also be revised to ensure consistency with current licensing and permitting practices, applicable Wisconsin statutes, and 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 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. They noted that “the proposed changes recognize the essential elements of radiographic licensure law written into State Statutes Chapter 462.”

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 21-048)

---

PROPOSED ORDER

An order of the Radiography Examining Board to **repeal** RAD 2.06 and 3.06; to **amend** RAD 2.05 (2), 3.01, 3.04, 3.05, and 3.07 (intro.) and (1) to (3); to **repeal and recreate** RAD 2.04; and to **create** RAD 2.01 (Note), 3.01 (Note), and 3.065, relating to requirements for licenses and permits.

Analysis prepared by the Department of Safety and Professional Services.

---

ANALYSIS

**Statutes interpreted:** Sections 440.09 and 462.06 (1) (a) and (b), Stats.

**Statutory authority:**

Sections 15.08 (5) (b), 440.09 (5), and 462.06 (1) (a) and (b), Stats.

**Explanation of agency authority:**

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

Section 440.09 (5), Stats., provides that “[t]he department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.”

Section 462.06 (1) (a), Stats., provides the Radiography Examining Board shall promulgate rules that “[e]stablish standards for courses of study in radiography.”

Section 462.06 (1) (b), Stats., provides the Radiography Examining Board shall promulgate rules that “[e]stablish standards for examinations under s. 462.03 (2) and (3).”

**Related statute or rule:**

Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

**Plain language analysis:**

The Radiography Examining Board conducted an evaluation of chs. RAD 2 and 3 to ensure consistency with current licensing and permitting practices, applicable Wisconsin statutes, and standards for drafting administrative rules. As a result, updates have been made to do all of the following:

- Create provisions under ss. RAD 2.04 and 3.065 to implement s. 440.09, Stats., as amended by 2019 Wisconsin Act 143. Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.
- Revise ss. RAD 2.05 (2) and 3.07 (2) to reflect ss. 111.321, 111.322, and 111.335, Stats., which provide the circumstances under which a licensing agency may refuse to license an individual on the basis of the individual's arrest or conviction record.
- Repeal ss. RAD 2.06 and 3.06, which are no longer necessary as they contain requirements for applications filed prior to March 1, 2012.
- Make other changes to chs. RAD 2 and 3 to ensure consistency with current standards for drafting administrative rules.

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

**Comparison with rules in adjacent states:****Illinois:**

Administrative rules of the Illinois Emergency Management Agency establish educational standards and an accreditation program applicable to persons who apply ionizing radiation to human beings (32 Ill. Admin. Code 401). The requirements for accreditation in the practice of medical radiation technology include minimum standards of preparatory education and experience, and examination requirements for certain categories of accreditation.

The Illinois Statutes provide for the expedited accreditation of service members and their spouses (20 ILCS 5/5-715). "Service member" includes a person whose active duty service concluded within the 2 years preceding application for licensure. A license issued to a service member or the spouse of a service member may be renewed.

**Iowa:**

Administrative rules of the Iowa Department of Public Health specify the permit requirements of individuals who operate or use ionizing radiation producing machines or administer radioactive materials on or to human patients or human research subjects for diagnostic or therapeutic purposes (641 IAC 42). The requirements for each specific class of permit include minimum formal education standards and an examination.

Rules of the Professional Licensure Division of the Iowa Department of Public Health provide for the expedited reciprocal licensure of a veteran or a spouse of an active duty service member (645 IAC 645.20.3). A reciprocal license issued to a veteran or a spouse of an active duty service member may be renewed.

**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 that radiologic technologists who perform mammographic examinations are required by rule (Mich Admin Code, R 333.5630) to be in compliance with the requirements under 21 CFR 900.12 (a) (2), “Radiologic technologists” (2000).

**Minnesota:**

Although the State of Minnesota does not license individuals who operate x-ray equipment, the Minnesota Statutes provide that an individual may not operate x-ray equipment unless the individual has passed an approved national examination for limited x-ray machine operators (Minn. Stat. 144.121, Subd. 5.).

**Summary of factual data and analytical methodologies:**

The proposed rules were developed by evaluating and updating chs. RAD 2 and 3 to ensure consistency with current licensing and permitting practices, applicable Wisconsin statutes, and standards for drafting administrative 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 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 2.01 (Note) is created to read:

**RAD 2.01 (Note)** An application may be obtained from the department of safety and professional services at (608) 266-2112 or from the department's website at <http://dsps.wi.gov>.

SECTION 2. RAD 2.04 is repealed and recreated to read:

**RAD 2.04 Licensure by endorsement and reciprocity. (1)** Except as provided under sub. (2), an individual holding a radiographer license in another state or U.S. territory may obtain a license under this chapter by endorsement if the individual submits all of the following:

- (a) An application on a form provided by the board.
- (b) The fee required under s. 440.05 (2), Stats.
- (c) Verification of active certification as a radiologic technologist from the ARRT.
- (d) Verification of all credentials the individual holds or has held in another state or jurisdiction. Verification of a credential shall be submitted directly from the credentialing authority to the board.

(2) A reciprocal radiographer license shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this subsection.

**Note:** Applications for licensure by endorsement or reciprocity may be obtained from the department of safety and professional services at (608) 266-2112 or from the department's website at <http://dsps.wi.gov>.

SECTION 3. RAD 2.05 (2) is amended to read:

**RAD 2.05 (2)** ~~Conviction~~ Subject to ss. 111.321, 111.322, and 111.335, Stats., conviction of an offense under s. 940.22, 940.225, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09, 948.095 or 948.10, Stats., or a comparable offense under federal law or state law, or any crime the circumstances of which substantially relate to the practice of radiography.

SECTION 4. RAD 2.06 is repealed.

SECTION 5. RAD 3.01 is amended to read:

**RAD 3.01 Application.** The board shall grant a permit to practice as ~~a~~ an LXMO to a person who meets the minimum requirements for a permit in s. 462.03 (1) and (3), Stats.

SECTION 6. RAD 3.01 (Note) is created to read:

**RAD 3.01 (Note)** An application may be obtained from the department of safety and professional services at (608) 266-2112 or from the department's website at <http://dsps.wi.gov>.

SECTION 7. RAD 3.04 and 3.05 are amended to read:

**RAD 3.04 Notice of examination results.** All applicants for a an LXMO permit shall receive a passing grade determined by the board to represent the minimum competence to practice. The board may accept the passing grade recommendation of an approved testing agency.

**3.05 Re-examination.** A person who fails to achieve passing grades on the examinations required under this chapter may reapply for reexamination on forms provided by the department. No applicant may make more than 3 attempts to pass the examination within any ~~12-month~~ 12-month period. A re-examination fee specified by the department shall be paid for each examination.

SECTION 8. RAD 3.06 is repealed.

SECTION 9. RAD 3.065 is created to read:

**RAD 3.065 Reciprocal permits.** A reciprocal LXMO permit shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this section.

**Note:** An application for a reciprocal permit may be obtained from the department of safety and professional services at (608) 266-2112 or from the department's website at <http://dsps.wi.gov>.

SECTION 10. RAD 3.07 (intro.) and (1) to (3) are amended to read:

**RAD 3.07 (intro.)** The ~~Board~~ board may deny an application for a an LXMO permit on the basis of any of the following:

(1) Termination from any employment related to the practice of a an LXMO for reasons of negligence or incompetence.

(2) ~~Conviction~~ Subject to ss. 111.321, 111.322, and 111.335, Stats., conviction of an offense under s. 940.22, 940.225, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09, 948.095, or 948.10, Stats., or a comparable offense under federal law or state law, or any crime the circumstances of which substantially relate to the practice of radiography.

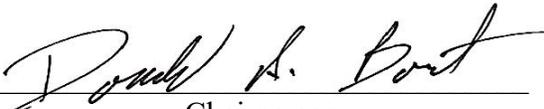
(3) Any encumbrances including surrender, suspension, revocation, limitation, or reprimand of a an LXMO permit by another credentialing body.

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)  
-----

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 4/27/2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) RAD 2 and 3	
4. Subject Requirements for licenses and permits	
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 <b>(if checked, complete Attachment A)</b>	
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 Radiography Examining Board conducted an evaluation of chs. RAD 2 and 3 to ensure consistency with current licensing and permitting practices, applicable Wisconsin statutes, and standards for drafting administrative rules. As a result, updates have been made to do all of the following: <ul style="list-style-type: none"><li>• Create provisions under ss. RAD 2.04 and 3.065 to implement s. 440.09, Stats., as amended by 2019 Wisconsin Act 143. Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.</li><li>• Revise ss. RAD 2.05 (2) and 3.07 (2) to reflect ss. 111.321, 111.322, and 111.335, Stats., which provide the circumstances under which a licensing agency may refuse to license an individual on the basis of the individual's arrest or conviction record.</li><li>• Repeal ss. RAD 2.06 and 3.06, which are no longer necessary as they contain requirements for applications filed prior to March 1, 2012.</li><li>• Make other changes to chs. RAD 2 and 3 to ensure consistency with current standards for drafting administrative rules.</li></ul>	
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)	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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 \$408.47 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 consistency with current licensing and permitting practices, applicable Wisconsin statutes, and standards for drafting administrative rules.

---

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is consistency with current licensing and permitting practices, applicable Wisconsin statutes, and standards for drafting administrative rules.

---

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:

Administrative rules of the Illinois Emergency Management Agency establish educational standards and an accreditation program applicable to persons who apply ionizing radiation to human beings (32 Ill. Admin. Code 401). The requirements for accreditation in the practice of medical radiation technology include minimum standards of preparatory education and experience, and examination requirements for certain categories of accreditation.

The Illinois Statutes provide for the expedited accreditation of service members and their spouses (20 ILCS 5/5-715). "Service member" includes a person whose active duty service concluded within the 2 years preceding application for licensure. A license issued to a service member or the spouse of a service member may be renewed.

Iowa:

Administrative rules of the Iowa Department of Public Health specify the permit requirements of individuals who operate or use ionizing radiation producing machines or administer radioactive materials on or to human patients or human research subjects for diagnostic or therapeutic purposes (641 IAC 42). The requirements for each specific class of permit include minimum formal education standards and an examination.

Rules of the Professional Licensure Division of the Iowa Department of Public Health provide for the expedited reciprocal licensure of a veteran or a spouse of an active duty service member (645 IAC 645.20.3). A reciprocal license issued to a veteran or a spouse of an active duty service member may be renewed.

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 that radiologic technologists who perform mammographic examinations are required by rule (Mich Admin Code, R 333.5630) to be in compliance with the requirements under 21 CFR 900.12 (a) (2), "Radiologic technologists" (2000).

Minnesota:

Although the State of Minnesota does not license individuals who operate x-ray equipment, the Minnesota Statutes provide that an individual may not operate x-ray equipment unless the individual has passed an approved national examination for limited x-ray machine operators (Minn. Stat. 144.121, Subd. 5.).

---

19. Contact Name

Kassandra Walbrun

---

20. Contact Phone Number

(608) 261-4463

---

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
-