

**STATE OF WISCONSIN
RADIOGRAPHY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
RADIOGRAPHY EXAMINING : CR 17-082
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:

Current rules define the scope of practice for radiographers and limited X-ray machine operators by reference to the standards set by the American Society of Radiologic Technologists (ASRT) in 2010. ASRT periodically updates its standards, most recently in 2016. To provide up-to-date scope of practice standards as well as increased clarity and convenience, the proposed rules reproduce the 2016 ASRT standards in full in ss. RAD 4.01 and 4.02 and make other changes to conform with current administrative rule drafting standards.

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 December 13, 2017. The Board did not receive any written or verbal comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2.c.:

As the incorporated standards are being reproduced in full in ss. RAD 4.01 (2) and 4.02 (2), under the provisions of s. 227.21 (2) (a), Stats., consent from the Attorney General is not needed.

Comment 5.a.:

The proposed rules make no substantive changes to the standards set forth by the ASRT. As the proposed rules indicate the standards under ss. RAD 4.01 (2) and 4.02 (2) are "as

defined in the Limited X-ray Machine Operator Practice Standards, 2016 American Society of Radiologic Technologists,” no further specification is needed.

All other Legislative Council recommendations have been incorporated into the proposed rules.

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

N/A

STATE OF WISCONSIN
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 17-082)

PROPOSED ORDER

An order of the Radiography Examining Board to renumber and amend RAD 4.01 (2) and 4.02 (2) and create RAD 4.01 (1) (title) and (2) (a) to (s) and (Note) and 4.02 (1) (title) and (2) (a) to (o) and (Note), relating to scope of practice.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Chapter 462, 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:

Chapters RAD 1 to 3, 5, and 6.

Plain language analysis:

Current rules define the scope of practice for radiographers and limited X-ray machine operators by reference to the standards set by the American Society of Radiologic Technologists (ASRT) in 2010. ASRT periodically updates its standards, most recently in 2016. To provide up-to-date scope of practice standards as well as increased clarity and convenience, the proposed rules reproduce the 2016 ASRT standards in full in ss. RAD 4.01 and 4.02 and make other changes to conform with current administrative rule drafting 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 American Society of Radiologic Technologist standards.

Iowa:

645 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 (645 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 (645 IAC 42.2). The rules do not reference the American Society of Radiologic Technologist standards.

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 operators of mammography machines (Mich Admin Code, R 333.5630) and CT machines (Mich Admin Code, R 325.5705). 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 American Society of Radiologic Technologist standards.

Summary of factual data and analytical methodologies:

This rule updates the applicable scope of practice standards to reference the current 2016 American Society of Radiologic Technologists standards. 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.

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 Kirsten.Reader@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, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, WI 53708-8935, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 9:00 a.m. on December 13, 2017, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RAD 4.01 (1) (title) is created to read:

RAD 4.01 (1) (title) GENERAL SCOPE OF PRACTICE.

SECTION 2. RAD 4.01 (2) is renumbered RAD 4.01 (2) (intro.) and amended to read:

RAD 4.01 (2) (intro.) ~~APPLICABLE STANDARDS~~ STANDARDS. The scope of practice of a licensed radiographer ~~is~~ includes all of the following, as defined in the Radiography Standards, Practice Standards for Medical Imaging and Radiation Therapy, ~~2010~~ 2016 American Society of Radiologic Technologists;

SECTION 3. RAD 4.01 (2) (a) to (s) and (Note) are created to read:

RAD 4.01 (2) (a) Providing optimal patient care.

(b) Receiving, relaying, and documenting verbal, written, and electronic orders in the patient's medical record.

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

(d) Verifying informed consent for applicable procedures.

(e) Assuming responsibility for patient needs during procedures.

(f) Preparing patients for procedures.

(g) Applying principles of ALARA, or As Low As Reasonably Achievable, to minimize exposure to patient, self, and others.

(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, ensuring proper identification is recorded.

(L) Identifying and responding to emergency situations.

(m) Providing education.

(n) Educating and monitoring students and other health care providers.

(o) Performing ongoing quality assurance activities.

(p) Applying the principles of patient safety during all aspects of patient care.

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

(r) Determining technical exposure factors.

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

Note: The Practice Standards for Medical Imaging and Radiation Therapy issued by the American Society of Radiologic Technologists define ALARA, or As Low As Reasonably Achievable, to mean “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 4. RAD 4.02 (1) (title) is created to read:

RAD 4.02 (1) (title) GENERAL SCOPE OF PRACTICE.

SECTION 5. RAD 4.02 (2) is renumbered RAD 4.02 (2) (intro.) and amended to read:

RAD 4.02 (2) (intro.) ~~APPLICABLE STANDARDS~~ STANDARDS. The scope of practice of ~~a~~ an LXMO ~~is~~ includes all of the following, as defined in the Limited X-ray Machine Operator Practice Standards, ~~2010~~ 2016 American Society of Radiologic Technologists-;

SECTION 6. RAD 4.02 (2) (a) to (o) and (Note) are created to read:

RAD 4.02 (2) (a) Providing optimal patient care.

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

(c) Preparing patients for procedures.

(d) Assuming responsibility for patient needs during procedures.

(e) Applying principles of ALARA, or As Low As Reasonably Achievable, to minimize exposure to patient, self, and others.

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

(g) Identifying and responding to emergency situations.

(h) Providing education.

(i) Performing ongoing quality assurance activities.

(j) Applying the principles of patient safety during all aspects of patient care.

(k) Performing radiographic procedures limited to education or the specific area of anatomical interest based on training and licensure or certification as prescribed by a licensed independent practitioner.

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

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

(n) Evaluating images for overall diagnostic quality.

(o) Assisting a licensed independent practitioner or radiographer in providing patient education.

Note: The Practice Standards for Medical Imaging and Radiation Therapy issued by the American Society of Radiologic Technologists define ALARA, or As Low As Reasonably Achievable, to mean "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 7. 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 12/20/2017

Agency 
Chairperson
Radiography Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

RAD 4

3. Subject

Scope of practice

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

Current rules define the scope of practice for radiographers and limited X-ray machine operators by reference to the standards set by the American Society of Radiologic Technologists (ASRT) in 2010. ASRT periodically updates its standards, most recently in 2016. The proposed rules revise ss. RAD 4.01 and 4.02 to reference the 2016 ASRT standards and conform to current drafting standards for administrative rules.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The proposed rule was posted on the Department and Professional Services' website for 14 days in order to solicit comments from businesses, associations representing businesses, local governmental units, and individuals that may be affected by the rule. No comments were received.

11. Identify the local governmental units that participated in the development of this EIA.

No local governmental units participated in the development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.

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

The benefit to implementing the rule is providing clarity and updated scope of practice standards. If the rule is not implemented, it will continue to reference outdated scope of practice standards.

14. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is clarity and updated scope of practice standards.

15. Compare With Approaches Being Used by Federal Government

None

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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

Illinois:

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17. Contact Name

Dale Kleven

18. Contact Phone Number

(608) 261-4472

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