

**STATE OF WISCONSIN  
RADIOGRAPHY EXAMINING BOARD**

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**IN THE MATTER OF RULEMAKING :  
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE  
RADIOGRAPHY EXAMINING : CR 18-073  
BOARD :**

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**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 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. RAD 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.

**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 12, 2018. The Board did not receive any written or verbal comments.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

**Comment 1:**

The Board may not initiate an investigation on a basis other than a complaint. In addition, use of the term “alleged misconduct” aligns with terminology used by other examining boards and is sufficiently comprehensive to apply to any complaint made against a licensee or permit holder.

**Comment 2:**

The underscored “RADIOGRAPHERS” is a title, whereas the stricken “Radiographers” is the beginning of the rule provision following the title.

**Comment 5.c:**

The use of “a LXMO” instead of “an LXMO” would be grammatically incorrect.

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

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IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	RADIOGRAPHY EXAMINING
RADIOGRAPHY EXAMINING	:	BOARD
BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 18-073)

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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.

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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. RAD 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 Kirsten.Reader@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.

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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.

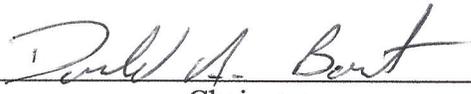
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(END OF TEXT OF RULE)

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This Proposed Order of the Radiography Examining Board is approved for submission to the Governor and Legislature.

Dated 12/14/2018

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 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 <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 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. RAD 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

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17. Compare With Approaches Being Used by Federal Government  
None

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

Illinois:

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Minnesota:

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19. Contact Name

Dale Kleven

20. Contact Phone Number

(608) 261-4472

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

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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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)

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

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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

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5. Describe the Rule's Enforcement Provisions

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

- Yes    No
-