



**VIRTUAL/TELECONFERENCE
CHIROPRACTIC EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
August 4, 2022**

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

8:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-3)**
- B. Approval of Minutes of June 30, 2022 (4-6)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. Introductions, Announcements and Recognition
- E. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff, and Board Updates
 - 2) Board Members – Term Expiration Dates
 - a. Damrow, James M. – 7/1/2023
 - b. Erlandson, Kris N. – 7/1/2025
 - c. Heffernan, Amy L. – 7/1/2025
 - d. Hendrickson, Kathleen A. – 7/1/2024
 - e. Meschefske, Daniel – 7/1/2025
 - f. Yellen-Shiring, Eugene – 7/1/2023
- F. Legislation and Policy Matters – Discussion and Consideration
- G. Administrative Rule Matters – Discussion and Consideration (7)**
 - 1) Preliminary Rule Draft: Chir 3 and 5, Relating to Professional Boundaries Education Requirement **(8-11)**
 - 2) Pending and Possible Rulemaking Projects **(12)**
- H. Board Chair Meeting and Options to Address Department Resources – Discussion and Consideration**
- I. Speaking Engagements, Travel, Public Relation Requests, and Reports**
 - 1) Consideration of Attendance: NBCE Part IV Examination Administration – November 12-13, 2022 **(13-14)**

J. COVID-19 – Discussion and Consideration

K. Discussion and Consideration of Items Added After Preparation of Agenda

- 1) Introductions, Announcements and Recognition
- 2) Administrative Matters
- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Legislative and Policy Matters
- 10) Administrative Rule Matters
- 11) Preceptor Approvals
- 12) Liaison Reports
- 13) Board Liaison Training and Appointment of Mentors
- 14) Informational Items
- 15) Division of Legal Services and Compliance (DLSC) Matters
- 16) Presentations of Petitions for Summary Suspension
- 17) Petitions for Designation of Hearing Examiner
- 18) Presentation of Stipulations, Final Decisions and Orders
- 19) Presentation of Proposed Final Decisions and Orders
- 20) Presentation of Interim Orders
- 21) Petitions for Re-Hearing
- 22) Petitions for Assessments
- 23) Petitions to Vacate Orders
- 24) Requests for Disciplinary Proceeding Presentations
- 25) Motions
- 26) Petitions
- 27) Appearances from Requests Received or Renewed
- 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports

L. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

M. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings

- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

N. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- O. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate
- P. Open Session Items Noticed Above Not Completed in the Initial Open Session
- Q. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

ADJOURNMENT

NEXT MEETING: OCTOBER 27, 2022

 MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board’s agenda, please visit the Department website at <https://dsps.wi.gov>. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer at 608-266-2112, or the Meeting Staff at 608-266-5439.

**CHIROPRACTIC EXAMINING BOARD
MEETING MINUTES
JUNE 30, 2022**

PRESENT: James Damrow, Kris Erlandson, Amy Heffernan (*arrived at 8:40 a.m.*), Kathleen Hendrickson, Daniel Meschefske, Eugene Yellen-Shiring (*via Zoom*)

STAFF: Tom Ryan, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Katlin Schwartz, Bureau Assistant; and other Department Staff

CALL TO ORDER

Kris Erlandson, Chairperson, called the meeting to order at 8:34 a.m. A quorum was confirmed with five (5) members present.

ADOPTION OF AGENDA

MOTION: Daniel Meschefske moved, seconded by James Damrow, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF MARCH 31, 2022

MOTION: Daniel Meschefske moved, seconded by Eugene Yellen-Shiring, to approve the Minutes of March 31, 2022 as published. Motion carried unanimously.

(*Amy Heffernan arrived at 8:40 a.m.*)

ADMINISTRATIVE RULE MATTERS

Germane Modification: Chir 12, Relating to Nutritional Counseling Certification

MOTION: Amy Heffernan moved, seconded by James Damrow, to authorize the Chairperson to approve a germane modification to CR 19-100 on Chir 12, relating to Nutritional Counseling Certification, and to authorize DSPP staff to submit the germane modification to the Wisconsin Joint Committee for Review of Administrative Rules (JCRAR). Motion carried unanimously.

CLOSED SESSION

MOTION: James Damrow moved, seconded by Amy Heffernan, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1)(a), Stats.); to consider licensure or certification of individuals (§ 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (§§ 19.85(1)(b), and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85(1)(f), Stats.); and to confer with legal counsel (§ 19.85(1)(g), Stats.). Kris Erlandson, Chairperson, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: James Damrow-yes; Kris Erlandson-yes; Amy Heffernan-yes; Kathleen Hendrickson-yes; Daniel Meschefske-yes; and Eugene Yellen-Shiring-yes. Motion carried unanimously.

The Board convened into Closed Session at 12:01 p.m.

CREENTIALING MATTERS

Application Reviews

Kevin M. Servi – Chiropractic Re-Registration Applicant

MOTION: James Damrow moved, seconded by Kris Erlandson, to approve the Chiropractic Re-Registration Application of Kevin M. Servi, once all requirements are met. Motion carried unanimously.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Administrative Warning

21 CHI 026 – J.A.R.

MOTION: Kris Erlandson moved, seconded by Kathleen Hendrickson, to issue an Administrative Warning in the matter of J.A.R., DLSC Case Number 21 CHI 026. Motion carried unanimously.

Proposed Stipulations and Final Decisions and Orders

21 CHI 013 – Donna J. Brown, D.C.

MOTION: James Damrow moved, seconded by Daniel Meschefske, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Donna J. Brown, D.C., DLSC Case Number 21 CHI 013. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Kathleen Hendrickson moved, seconded by Kris Erlandson, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 12:21 p.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Amy Heffernan moved, seconded by Daniel Meschefske, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the Closed Session motions stand for the purposes of the affirmation vote.)

DELEGATION OF RATIFICATION OF EXAMINATION RESULTS AND RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: James Damrow moved, seconded by Amy Heffernan, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Amy Heffernan moved, seconded by Daniel Meschefske, to adjourn the meeting.
Motion carried unanimously.

The meeting adjourned at 12:23 p.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 07/22/22 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Chiropractic Examining Board			
4) Meeting Date: 08/04/22	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Preliminary Rule Draft: Chir 3 and 5, Relating to Professional Boundaries Education Requirement 2. Pending or Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Attachments: <ul style="list-style-type: none"> • Chir 3 and 5 Preliminary Rule Draft • Rule Project Chart (Board Rule projects can be Viewed Here if Needed: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx)			
11) Authorization			
		07/22/22	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	CHIROPRACTIC EXAMINING
CHIROPRACTIC EXAMINING BOARD	:	BOARD
	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Chiropractic Examining Board to create Chir 5.01 (1) (i) relating to professional boundaries education requirements.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 440.035 (2) and 446.028, Stats.

Statutory authority: ss. 15.08 (5) (b), 446.02 (2) (b), 446.02 (3g) (b), 446.025 (3) (b), 446.026 (3) (b), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that examining boards, such as the Chiropractic Examining Board, “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains . . .”

Section 446.02 (2) (b), Stats., provides “the examining board shall promulgate rules establishing educational requirements for obtaining a license under par. (a).”

Section 446.02 (3g) (b), Stats., provides “the examining board shall promulgate rules establishing additional requirements for obtaining a license under par. (a),...”

Section 446.025 (3) (b), Stats., provides “[a] chiropractic radiological technician shall, at the time that he or she applies for renewal of a certificate ...submit evidence satisfactory to the examining board that he or she has completed at least 12 continuing educational credit hours in programs established by rules promulgated by the examining board.”

Section 446.026 (3) (b), Stats., provides “[a] chiropractic technician shall, at the time that he or she applies for renewal of a certificate ...submit evidence satisfactory to the examining board that he or she has completed at least 6 continuing educational credit hours in programs established by rules promulgated by the examining board.”

Related statute or rule: None.

Plain language analysis:

Wisconsin Administrative Code Chapters Chir 3 and 5 cover the education requirements for licensure and renewal respectively. Neither of these chapters currently includes a requirement of education on the topic of professional boundaries. Other jurisdictions in the US require this topic as part of Chiropractor licensure, and the Board has determined that requiring this education will help protect the health and safety of the public of Wisconsin. The objective of the proposed rule is for the Board to review the requirements relating to education in Wisconsin Administrative Code Chapters Chir 3 and 5 to determine if a requirement on the topic of professional boundaries should be included.

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

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A

Comparison with rules in adjacent states:

Illinois: Rules of the Illinois Department of Financial and Professional Regulation regulate continuing medical education (CME) for chiropractic physicians practicing in Illinois. The rules address CME hours requirements, acceptable CME programs and activities, requirements for CME sponsors and formal CME programs, certification of compliance with CME requirements, CME earned in other jurisdictions, and the waiver of CME requirements. Illinois does not require a certain number of CME hours to be on the topic of professional boundaries or ethics [68 Ill. Adm. Code 1285.110].

Iowa: Rules of the Iowa Board of Chiropractic regulate continuing education (CE) for chiropractors practicing in Iowa. The rules address required CE hours, standards for CE activities, and exemptions from CE requirements. Iowa requires 2 hours per biennium on the topic of “professional boundaries regarding ethical issues related to professional conduct that may include but are not limited to sexual harassment, sensitivity training, and ethics” [645 IAC 44].

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs regulate continuing education (CE) for chiropractors practicing in Michigan. The rules address required CE hours, acceptable CE programs and activities, and approval of CE programs. Michigan requires at least one hour of CE on the topic of sexual boundaries and one hour on ethics [Mich Admin Code, R 338.12037 to R 338.12042].

Minnesota: Rules of the Minnesota Board of Chiropractic Examiners regulate continuing education (CE) for chiropractors practicing in Minnesota. The rules address required CE hours, CE program approval and approval criteria, approval of CE sponsors, and the waiver or deferment of CE requirements. Minnesota does not require a certain number of CE hours to be on the topic of professional boundaries or ethics [Minnesota Rules, parts 2500.1200 to 2500.2000].

Summary of factual data and analytical methodologies:

The proposed rule was developed by reviewing the provisions of chapters Chir 3 and 5 to determine where a requirement for professional boundaries education would be appropriate to add for Chiropractors. The Board determined that adding a continuing education requirement to Chir 5 is most appropriate at this time.

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 economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

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, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-26-7139; 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, 4822 Madison Yards Way, 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, held on a date to be determined, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chir 5.01 (1) (i) is created to read:

Chir 5.01 (1) (i) Of the 40 continuing education hours required in par. (a), 2 hours shall be on the topic of professional boundaries and ethics approved under Chir 5.02.

SECTION 2 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)


DRAFT

**Chiropractic Examining Board
Rule Projects (updated 07/22/22)**

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
Not Assigned Yet	019-22	09/14/2024	Chir 3 and 5	Professional Boundaries Education Requirements	Board Review of Preliminary Rule Draft at 08/04/22 Meeting	EIA Comment Period and Clearinghouse Review
21-065	006-20	09/02/2022	Chir 5	Continuing Education	Rule Effective 07/01/22	N/A
19-100	061-17	N/A	Chir 12	Nutritional Counseling Certification	Drafting of Germane Modification	Submission of Germane Modification to the Legislature for Review and Approval

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request:		2) Date when request submitted: 5/17/2022	
Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting			
3) Name of Board, Committee, Council, Sections: Chiropractic Examining Board			
4) Meeting Date: 6/30/2022	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? National Board of Chiropractic Examiners Request for State Board Representative(s) to Participate in the November 2022 Part IV Exam Administration	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? (If yes, please complete Appearance Request for Non-DSPS Staff) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
<p>10) Describe the issue and action that should be addressed: From the NBCE:</p> <p>The NBCE is in agreeance to support the attendance of one or two board members from each participating state at the November 2022 Part IV exam administration. You are cordially invited to recommend one or two of your state board members to represent your state and its chiropractic licensing agency as examiners at the NBCE's upcoming November 12-13th, 2022, Part IV Practical Examination administration.</p> <p>Nominees must be licensed chiropractors (for more than 5 years) and appointed, active members of your board; or the executive director (licensed chiropractor) of your board. Recommended appointees are individuals who are willing to follow explicit directions and instructions given by the National Board of representatives pertaining to the evaluation of each candidate's clinical competence with the ability to participate the full exam weekend.</p> <p>The NBCE will reimburse and/or arrange for your state's representative(s):</p> <ol style="list-style-type: none"> 1. Lowest round-trip coach airfare (if needed) arranged by the NBCE's Travel Consultant; any flight upgrades will be reimbursed at the lowest coach airfare rate; 2. Hotel (room and tax; at the rate of the contracted hotel provided by the NBCE) ; 3. Reasonable ground transportation expenses; such as: UBER (basic), LYFT (basic), Taxi and Shuttles. NO Limousines, town cars, ride shares over the cost of UBER/LYFT/Taxi/Shuttles. 4. Rotational payment provided to all examiners-\$165 per exam rotation examiner is available; \$75 for the Friday Evening Orientation (NOTE: WISCONSIN'S GUIDELINES LIMIT PER DIEM TO \$25 PER DIEM: https://dpm.wi.gov/Documents/BCER/Compensation/PocketTravelGuide_2_2022.pdf). <p>The NBCE will also request hard copy receipts (not credit card statements) of any reimbursable travel expenses to be sent to Dani Veltri-Rosales within two weeks (and no later than 30 days) following the November 2022 Part IV examination in order to process timely reimbursements. Please remind your nominees to keep all receipts and to turn them in timely as requested, if no receipt is available the NBCE's Accounting Department will issue a 1099 tax form for the reimbursable expense.</p> <p>Recommended state appointee(s) will be asked to submit an AppleOne Time Sheet at the test site. New Examiners will complete the AppleOne processing requirements for payment prior to the exam.</p>			
 Dani M. Veltri-Rosales Administrative Assistant NBCE			

**State of Wisconsin
Department of Safety & Professional Services**

11)	Authorization						
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; border-bottom: 1px solid black;">Signature of person making this request</td> <td style="width: 30%; border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (Only required for post agenda deadline items)</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Executive Director signature (Indicates approval for post agenda deadline items)</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> </table>		Signature of person making this request	Date	Supervisor (Only required for post agenda deadline items)	Date	Executive Director signature (Indicates approval for post agenda deadline items)	Date
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<p>Directions for including supporting documents:</p> <ol style="list-style-type: none"> 1. This form should be saved with any other documents submitted to the Agenda Items folders. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. 							