

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE :
PODIATRY AFFILIATED : NOTICE OF PUBLIC HEARING
CREDENTIALING BOARD :
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NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Podiatry Affiliated Credentialing Board in §§ 227.11 (2) (a), 448.695 (3), 462.02 (2) (f), Wis. Stats., and interpreting § 462.02 (2) (f), Wis. Stats., the Podiatry Affiliated Credentialing Board will hold a public hearing at the time and place indicated below to consider an order to amend Pod 1.02 (intro) and create Pod 1.02 (2m) 1.02 (6m) and 7.01 (title) relating to podiatric x-ray assistants.

Hearing Date, Time and Location

Date: February 4, 2014
Time: 10:00 A.M.
Location: 1400 East Washington Avenue
Room 121A
Madison, Wisconsin

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

s. 462.02 (2) (f), Stats.

Statutory authority:

ss. 227.11 (2) (a), 448.695 (3), 462.02 (2) (f), Stats.

Explanation of agency authority:

Pursuant to s. 227.11 (2) (a), the Podiatrist Affiliated Credentialing Board (Board) is generally empowered by the legislature to promulgate rules that will provide guidance within the profession and rules that interpret the statutes it enforces or administers. Section 448.695 (3), Stats., specifically empowers the Board to, “promulgate rules specifying the requirements for a course of instruction related to x-ray examinations by persons under the direct supervision of a podiatrist. . .” The proposed rule seeks to carry out this mandate by specifying the necessary course of instruction for podiatric x-ray assistants. Therefore, the Board is empowered both generally and specifically to promulgate the proposed rule.

Related statute or rule:

None.

Plain language analysis:

The proposed rule deals with the requirements for a course of instruction for x-ray examinations by persons under the direct supervision of a podiatrist. Generally, a person who practices radiography is required to be credentialed by the Radiography Examining Board. However, under s. 462.02 (2) (f), Stats., if a person is under the direct supervision of a podiatrist and has successfully completed a course of instruction approved by the Podiatrists Affiliated Credentialing Board they are not required to have a permit to conduct radiography. Pursuant to s. 448.695 (3), the Board is authorized to promulgate rules that identify the specific courses a person who is under the direct supervision of a podiatrist must complete in order to be qualified to conduct podiatric x-ray examinations. The statute also requires the Podiatry Examining Board to consult with the Radiography Examining Board in drafting the proposed course of instruction.

Summary of, and comparison with, existing or proposed federal regulation:

The Consumer-Patient Radiation Health & Safety Act of 1981, 42 USCS 10001, et seq. establishes federal guidelines for standards of accreditation of educational programs for certain occupations that administer radiologic procedures. The standards are in place to protect the public from excessive exposure to radiation by health care professionals who most often use radiation in the treatment of disease or other medical conditions. The regulations are directed towards radiographers, dental hygienists, dental assistants, nuclear medicine technologists, and radiation therapy technologists.

42 USCS § 10003 (5) broadly defines, “persons who administer radiologic procedures” as any person, other than a practitioner, who intentionally administers radiation to other persons for medical purposes and includes medical radiologic technologists (including dental hygienists and assistants), radiation therapy technologists and nuclear medicine technologists.” 42 CFR 75.2 defines radiation therapy technologist as, “a person other than a licensed practitioner who utilizes ionizing radiation-generating equipment for therapeutic purposes on human subjects.” Although non-licensed personnel who assist podiatrists, the topic of these proposed rules, are not specifically addressed, they could be captured under the broad definition of radiation therapy technologists. The federal statute and regulations are comparable to the proposed rule in that they both set forth course instructions for persons who administer radiologic procedures such as podiatric x-ray assistants.

Comparison with rules in adjacent states:

Illinois: Technicians under the general supervision of a podiatric physician are exempt from being certified. Ill Admin. Code tit. 32 §401.30 (5).

Iowa: Iowa grants permits to podiatric X-ray equipment operators defined as one who “performs radiography of only the foot and ankle using dedicated podiatric equipment”. IAC 641-42.2 (136C).

Michigan: Michigan does not regulate podiatric x-ray assistants.

Minnesota: Minnesota regulates limited x-ray operators. They may only practice medical radiography on limited regions of the body as long as he or she has successfully passed the American Registry of Radiologic Technologists (ARRT) exam, or the American Chiropractic Registry of Radiologic Technologists (ACRRT) exam. Minn. Stats. 144.121 subd. 5a.

Summary of factual data and analytical methodologies:

The Board ensures the accuracy, integrity, objectivity and consistency of the data used in preparing the proposed rule and related analysis.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

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 Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Fiscal estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Initial Regulatory Flexibility Analysis or Summary:

None.

Agency contact person:

Shawn Leatherwood, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.Leatherwood@wisconsin.gov.

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

Comments may be submitted to Shawn Leatherwood, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Shancethea.Leatherwood@wisconsin.gov. Comments must be received at or before the public hearing to be held on February 4, 2014 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Pod 1.02 (intro) is amended to read:

Pod 1.02 Definitions. As used in chs. Pod 1 to ~~6~~ 7:

SECTION 2. Pod 1.02 (2m) is created to read:

Pod 1.02 (2m) "Direct supervision" means a podiatric physician has assumed responsibility for directing, supervising, and inspecting the work of the person being supervised and the supervising podiatric physician is physically present on the same premises as the person being supervised, with face-to-face contact as necessary.

SECTION 3. Pod 1.02 (6m) is created to read:

Pod 1.02 (6m) "Podiatric x-ray assistant" means a person who is under the direct supervision of a licensed podiatric physician to perform only those radiographic functions that are within the scope of practice of a podiatric physician licensed under s. 448.61, Stats., and the podiatric physician is competent to perform.

SECTION 4. Pod 7.01 (title) is created to read:

CHAPTER POD 7 (title)
PODIATRIC X-RAY ASSISTANT

Pod 7.01 Podiatric x-ray assistant under direct supervision of a podiatrists. A podiatric physician may not delegate x-ray tasks to an unlicensed person unless the delegate has successfully completed a course of instruction for podiatric x-ray assistants approved by the board. Patients must be informed that the podiatric x-ray assistant is practicing under the supervision of the podiatric physician. A course of instruction for podiatric x-ray assistants is approved by the board if all of the following are true:

(1) The instructor is a physician or radiographer whose license to practice in Wisconsin is current and unlimited.

(2) The program consists of at least 8 hours of instruction and a written examination. The written examination will test a podiatric x-ray assistant's knowledge and understanding of the required course of instruction.

(3) The course of instruction addresses; and attendees demonstrate knowledge and understanding of all of the following topics:

(a) terminology

(b) science of radiation in x-rays

(c) radiation exposure and monitoring including dose limits for exposure to ionizing radiation.

(d) health risks of radiation exposure

(e) safety techniques to minimize radiation exposure to staff and patients as low as reasonably achievable (ALARA)

(f) anatomy and function of foot and leg

(e) positioning for podiatric x-rays

(g) equipment operation technique and quality control, including analog and digital

(h) infection control

(i) legal and ethical issues

(4) A podiatric physician who uses the services of a podiatric x-ray assistant shall keep at each practice site, a copy of documentation that the podiatric x-ray assistant satisfactorily completed a course of instruction that meets the requirements set out above.

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)

COPIES OF RULE

Copies of this proposed rule are available upon request to Shawn Leatherwood, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708-8366, by email at Shancethea.L Leatherwood*@wisconsin.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.