

Clearinghouse Rule 20-017

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PODIATRY AFFILIATED
PODIATRY AFFILIATED : CREDENTIALING BOARD
CREDENTIALING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Podiatry Affiliated Credentialing Board to amend Pod 3.02 (1) (intro.) and (a) to (e) and (4) (intro.) and (a), 3.03 (1) to (3), and 3.04 and create Pod 3.01 (1m), relating to continuing podiatric medical education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 440.03 (4m), Stats.

Statutory authority:

Sections 15.085 (5) (b), 448.665, and 448.695 (2), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats., provides an affiliated credentialing board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 448.665, Stats., provides “[t]he affiliated credentialing board shall promulgate rules establishing requirements and procedures for licensees to complete continuing education programs or courses of study in order to qualify for renewal of a license granted under this subchapter.”

Section 448.695 (2), Stats., provides “[t]he affiliated credentialing board may promulgate rules to carry out the purposes of this subchapter.”

Related statute or rule:

Chapter Pod 4 provides the requirements for biennial registration of a license to practice podiatry, including the requirements for completion of continuing education under ch. Pod 3.

Plain language analysis:

Section Pod 3.01 (1m) is created to define requirements for the completion of continuing education hours related to prescribing controlled substances for the renewal date occurring on October 31, 2022.

Section Pod 3.02 (1) (e) is revised to reflect that the Wisconsin Society of Podiatric Medicine has changed its name to the Wisconsin Podiatric Medical Association.

Section Pod 3.04 is revised to reflect 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 completion of continuing education programs or courses only if a complaint is made against the credential holder.

The proposed rules also revise the provisions in ss. Pod 3.03 (2) and 3.04 to provide a consistent standard for the retention of evidence of completion of continuing education requirements, and make changes throughout the remainder of ch. Pod 3 to provide clarity and conform to current standards for drafting administrative rules.

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

None.

Comparison with rules in adjacent states:

Illinois:

68 Ill. Admin. Code 1360.70 d) 2) provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Division of Professional Regulation of the Illinois Department of Financial and Professional Regulation may require additional evidence demonstrating compliance with the continuing education requirements. It is the responsibility of each applicant for renewal to retain or otherwise produce evidence of such compliance. Such additional evidence is required in the context of the Division's random audit.

The rules do not require continuing education related to prescribing opioids.

Iowa:

645 IAC 4.11 provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Iowa Board of Podiatry may select licensees for audit following license renewal. Upon audit, a licensee is required to provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. All licensees must retain documentation of compliance with the continuing education requirements for two years following license renewal.

The rules do not require continuing education related to prescribing opioids.

Michigan:

Mich Admin Code, R 338.8126 (2) provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Michigan Board of Podiatry may require a licensee to submit evidence of compliance,

and all licensees are required to retain documentation of meeting the requirements for a period of 4 years from the date of applying for license renewal.

The rules require a minimum of 5 of the 150 hours of continuing education required for renewal to be earned in the area of pain and symptom management (Mich Admin Code, R 338.8127).

Minnesota:

Minnesota Rules, Part 6900.0200 Subpart 4 provides the requirements for retention and production of evidence of compliance with the continuing education requirements. All licensees must, during each renewal period, submit proof of attendance at qualifying continuing education programs to the Minnesota Board of Podiatric Medicine. Verification must be in the form of a certificate, descriptive receipt, or affidavit.

The rules do not require continuing education related to prescribing opioids.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of ch. Pod 3 to ensure clarity and consistency and to reflect applicable Wisconsin Statutes and current standards for drafting administrative rules. Input and feedback were solicited and obtained from the Podiatry Affiliated Credentialing Board.

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 rules, including how the proposed rules 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 Daniel.Hereth@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, 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 June 11, 2020, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Pod 3.01 (1m) is created to read:

Pod 3.01 (1m) (a) Except as provided under par. (b), for the renewal date occurring on October 31, 2022, a minimum of 2 of the 50 hours of continuing podiatric medical education required under sub. (1) shall be an educational course or program related to opioid prescribing.

(b) This subsection does not apply to a podiatrist who, at the time of making application for a certificate of registration, does not hold a U.S. drug enforcement administration number to prescribe controlled substances.

SECTION 2. Pod 3.02 (1) (intro.) and (a) to (e) and (4) (intro.) and (a) are amended to read:

Pod 3.02 (1) (intro.) In satisfaction of the biennial training requirement under s. Pod 3.01 (1) and s. 448.665, Stats., the board shall accept an educational program approved at the time of the podiatrist's attendance by any of the following:

(a) The ~~council~~ Council on ~~podiatric medical education~~ Podiatric Medical Education of the American ~~podiatric medical association~~ Podiatric Medical Association.

(b) The ~~council~~ Council on ~~medical education~~ Medical Education of the American ~~medical association~~ Medical Association.

(c) The ~~council~~ Council on ~~medical education~~ Medical Education of the American ~~osteopathic association~~ Osteopathic Association.

(d) The ~~accreditation council~~ Accreditation Council for ~~continuing medical education~~ Continuing Medical Education.

(e) The Wisconsin ~~Society of Podiatric Medicine~~ Medical Association.

(4) (intro.) The board shall accept as satisfaction of the biennial training requirement under s. Pod 3.01 (1) and s. 448.665, Stats., evidence that the podiatrist graduated from a school of podiatric medicine and surgery approved by the board pursuant to s. Pod 1.03 (2), ~~as long as both of~~ if all of the following ~~are in effect~~ apply:

(a) The podiatrist is, for the first time, renewing a license to practice podiatric medicine and surgery in ~~Wisconsin~~ this state.

SECTION 3. Pod 3.03 (1) to (3) are amended to read:

Pod 3.03 (1) Certification by the providing organization or by one of the approved accrediting bodies shall be accepted by the board as evidence of attendance at and completion of a continuing medical education ~~programs approved under s. Pod 3.01 is satisfactory evidence for purposes of sub. (2) and s. Pod 3.03 program.~~

(2) ~~Evidence~~ A podiatrist shall retain evidence of compliance ~~shall be retained by each podiatrist through the biennium for which 50 hours of credit are required for~~

registration for a minimum of 4 years from the date of completion of an educational program.

~~(3) A certified copy of an official transcript or a diploma shall be accepted by the board as the evidence of graduation from an approved school of podiatric medicine and surgery from which the podiatrist graduated is satisfactory evidence of compliance with required under s. Pod 3.02 (4), provided that the requirements of s. Pod 3.02 (4) (a) and (b) have been met.~~

SECTION 4. Pod 3.04 is amended to read:

~~**Pod 3.04 Audit.** The board may conduct a random shall audit of any licensee on a biennial basis to determine for compliance with the continuing education requirements under this chapter any licensee who is under investigation by the board for alleged misconduct. The board may require any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium for the purpose of conducting an audit. Licensees shall retain certificates of continuing education attendance for a minimum period of 4 years.~~

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)
