

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 21-006)

PROPOSED ORDER

An order of the Radiography Examining Board to create ch. RAD 7, relating to requirements for license and permit renewal and reinstatement.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 440.08 (3) (b) and 462.05, Stats.

Statutory authority: Sections 15.08 (5) (b) and 440.08 (3) (b), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that an examining board, such as the Radiography Examining Board, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains . . .”

Section 440.08 (3) (b), Stats., provides authority for the Radiography Examining Board to promulgate rules requiring the holder of a credential who fails to renew the credential within 5 years after its renewal date to complete requirements to restore the credential, in addition to the applicable requirements for renewal established under chs. 440 to 480, Stats., that the Board determines are necessary to protect the public health, safety, or welfare. The rules may not require the holder to complete educational requirements or pass examinations that are more extensive than the educational or examination requirements that must be completed to obtain an initial credential from the Board.

Related statute or rule:

Chapter RAD 5 provides the continuing education requirements for renewal of a radiographer license and a limited x-ray machine operator permit.

Plain language analysis:

The proposed rules specify requirements for late renewal of a radiographer license or limited x-ray machine operator permit and the requirements for reinstatement of a license or permit that has not been renewed within 5 years when the licensee or permit holder has unmet disciplinary requirements, or the license or permit has been denied at renewal, revoked, or surrendered.

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

None.

Summary of public comments and feedback on the statement of scope and the Board's responses:

The Board held a public comment period and conducted a public hearing on July 29, 2020. The Board received written comments concerning the statement of scope from the following individuals:

- Sandra Helinski, RTR, QM, MR - Wisconsin Society of Radiologic Technologists Legislative Committee Chairperson
- Daniel Vander Meulen - Clinical Instructor, University of Wisconsin School of Radiologic Technology and President Elect, Wisconsin Society of Radiologic Technologists

Both individuals expressed support of the scope statement's objective, which is to specify the requirements for renewal and reinstatement of a license as a radiographer or a limited x-ray machine operator permit, and recommended the requirements established by the Board reflect the qualifications for reinstatement of certification and registration in Article VI of the rules and regulations of the American Registry of Radiologic Technologists. The Board considered this recommendation when developing the proposed rule.

Both individuals also requested the Board to revise the statement of scope to include an expansion of the Board's ability to request verification of a limited x-ray machine operator's compliance with continuing education requirements. The Board's authority to request verification of compliance with continuing education requirements is under s. RAD 5.04, which is based on the provisions of s. 440.035 (2), Stats. Therefore, the Board did not revise the scope statement as the Board does not have the statutory authority to amend the provisions of s. RAD 5.04.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Emergency Management Agency provide for accreditation in the practice of medical radiation technology in Illinois (32 Ill. Admin. Code 401). If an individual's accreditation is not renewed, the credential holder has the right at any time to submit an application for renewal of accreditation. The application reviewed and processed in accordance with the requirements for timely renewal of an accreditation, except that an individual may not legally apply ionizing radiation to human beings until the Agency has acted to grant the application for renewal of accreditation [32 Ill. Admin. Code 401.140 c) 6)].

When an individual's accreditation is suspended, the individual must surrender the credential to the Agency until the termination of the suspension period [32 Ill. Admin. Code 401.120 d)]. An individual whose accreditation has been revoked may seek reinstatement of accreditation by filing a petition for reinstatement with the Agency. The petition may be filed one year or more after the beginning of the revocation period. The

individual must be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and bears the burden of proof of establishing that the accreditation should be reinstated due to rehabilitation or other just cause [32 Ill. Admin. Code 401.120 e)].

Iowa:

641 IAC 42 provides for permits to operate ionizing radiation producing machines or administer radioactive materials in Iowa. A permit expires if it is not timely renewed, and may be reinstated if all of the following are submitted:

- An application to reinstate and a nonrefundable application fee.
- Any continuing education hours due at time of renewal.
- Proof that all stipulations of any order of disciplinary or enforcement action have been satisfied.

If a permit is expired 6 months or more, all requirements for applying for an initial permit must be met.

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).

Minnesota:

Minn. Stat. 144.121, Subd. 5., provides the requirements for practicing as a limited x-ray machine operator. The statutes do not have any requirements for the licensure or credentialing of operators of x-ray machines.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing ss. 440.08 and 462.05, Stats., which provide requirements for renewal of a radiographer license and a limited x-ray machine operator permit, and the administrative rules concerning late renewal and reinstatement of a license that are administered by other licensing and credentialing boards.

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 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, 4822 Madison Yards Way, 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 March 10, 2021, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapter RAD 7 is created to read:

CHAPTER RAD 7

RENEWAL AND REINSTATEMENT

RAD 7.01 Biennial renewal. As required under s. 462.05, Stats., each license and permit shall be renewed biennially with the board. Each licensee and permit holder shall complete a renewal application and submit it with the required fee to the department by the renewal date under s. 440.08 (2) (a) 39m. or s. 440.08 (2) (a) 64g., Stats., as applicable.

RAD 7.02 Late renewal and reinstatement of a license or permit. Failure to renew a license or permit as required under s. RAD 7.01 shall cause the license or permit to expire. A radiographer or LXMO who allows a license or permit to expire may apply to the board for late renewal or reinstatement of the license or permit by completing one of the following:

(1) LATE RENEWAL WITHIN 5 YEARS. If a radiographer or LXMO applies for renewal within 5 years after the renewal date, submission of the completed application and fee required under s. RAD 7.01, payment of the late fee under s. 440.08 (3) (a), Stats., and the continuing education requirements under ch. RAD 5.

(2) LATE RENEWAL AFTER 5 YEARS. (a) If a radiographer or LXMO applies for renewal more than 5 years after the renewal date, the requirements under sub. (1) and the requirements to obtain a license or permit under s. 462.03 (2) or (3), Stats., as applicable. Except as provided under sub. (3), this subsection does not apply to a radiographer or LXMO who has unmet disciplinary requirements or whose license or permit has been denied at renewal, surrendered, or revoked.

(b) The board may waive any of the educational or examination requirements under par. (a) based on evidence satisfactory to the board that granting renewal of the license or permit would adequately protect public health, safety, and welfare.

(3) REINSTATEMENT. If a radiographer or LXMO has unmet disciplinary requirements and failed to renew within 5 years of the renewal date or a license or permit that has been denied at renewal, surrendered, or revoked, submission of an application to have the license or permit reinstated. An application for reinstatement shall include all of the following:

(a) Evidence of completion of the requirements under sub. (2).

(b) Evidence of completion of disciplinary requirements, if applicable.

(c) Evidence of rehabilitation or change in circumstances warranting reinstatement of the license or permit.

Note: An application for renewal or reinstatement may be obtained from the department of safety and professional services at (608) 266-2112 or from the department's website at <http://dsps.wi.gov>.

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)

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

Dated _____

Agency _____

Chairperson
Radiography Examining Board