

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 21-048)

PROPOSED ORDER

An order of the Radiography Examining Board to **repeal** RAD 2.06 and 3.06; to **amend** RAD 2.05 (2), 3.01, 3.04, 3.05, and 3.07 (intro.) and (1) to (3); to **repeal and recreate** RAD 2.04; and to **create** RAD 2.01 (Note), 3.01 (Note), and 3.065, relating to requirements for licenses and permits.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 440.09 and 462.06 (1) (a) and (b), Stats.

Statutory authority:

Sections 15.08 (5) (b), 440.09 (5), and 462.06 (1) (a) and (b), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 440.09 (5), Stats., provides that “[t]he department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.”

Section 462.06 (1) (a), Stats., provides the Radiography Examining Board shall promulgate rules that “[e]stablish standards for courses of study in radiography.”

Section 462.06 (1) (b), Stats., provides the Radiography Examining Board shall promulgate rules that “[e]stablish standards for examinations under s. 462.03 (2) and (3).”

Related statute or rule:

Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

Plain language analysis:

The Radiography Examining Board conducted an evaluation of chs. RAD 2 and 3 to ensure consistency with current licensing and permitting practices, applicable Wisconsin statutes, and standards for drafting administrative rules. As a result, updates have been made to do all of the following:

- Create provisions under ss. RAD 2.04 and 3.065 to implement s. 440.09, Stats., as amended by 2019 Wisconsin Act 143. Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.
- Revise ss. RAD 2.05 (2) and 3.07 (2) to reflect ss. 111.321, 111.322, and 111.335, Stats., which provide the circumstances under which a licensing agency may refuse to license an individual on the basis of the individual's arrest or conviction record.
- Repeal ss. RAD 2.06 and 3.06, which are no longer necessary as they contain requirements for applications filed prior to March 1, 2012.
- Make other changes to chs. RAD 2 and 3 to ensure consistency with current standards for drafting administrative rules.

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

Comparison with rules in adjacent states:**Illinois:**

Administrative rules of the Illinois Emergency Management Agency establish educational standards and an accreditation program applicable to persons who apply ionizing radiation to human beings (32 Ill. Admin. Code 401). The requirements for accreditation in the practice of medical radiation technology include minimum standards of preparatory education and experience, and examination requirements for certain categories of accreditation.

The Illinois Statutes provide for the expedited accreditation of service members and their spouses (20 ILCS 5/5-715). "Service member" includes a person whose active duty service concluded within the 2 years preceding application for licensure. A license issued to a service member or the spouse of a service member may be renewed.

Iowa:

Administrative rules of the Iowa Department of Public Health specify the permit requirements of individuals who operate or use ionizing radiation producing machines or administer radioactive materials on or to human patients or human research subjects for diagnostic or therapeutic purposes (641 IAC 42). The requirements for each specific class of permit include minimum formal education standards and an examination.

Rules of the Professional Licensure Division of the Iowa Department of Public Health provide for the expedited reciprocal licensure of a veteran or a spouse of an active duty service member (645 IAC 645.20.3). A reciprocal license issued to a veteran or a spouse of an active duty service member may be renewed.

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 that radiologic technologists who perform mammographic examinations are required by rule (Mich Admin Code, R 333.5630) to be in compliance with the requirements under 21 CFR 900.12 (a) (2), “Radiologic technologists” (2000).

Minnesota:

Although the State of Minnesota does not license individuals who operate x-ray equipment, the Minnesota Statutes provide that an individual may not operate x-ray equipment unless the individual has passed an approved national examination for limited x-ray machine operators (Minn. Stat. 144.121, Subd. 5.).

Summary of factual data and analytical methodologies:

The proposed rules were developed by evaluating and updating chs. RAD 2 and 3 to ensure consistency with current licensing and permitting practices, applicable Wisconsin statutes, and standards for drafting administrative rules.

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

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, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-267-7139; 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, 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 on July 28, 2021 at 9:00 a.m., to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. RAD 2.01 (Note) is created to read:

RAD 2.01 (Note) An application 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. RAD 2.04 is repealed and recreated to read:

RAD 2.04 Licensure by endorsement and reciprocity. (1) Except as provided under sub. (2), an individual holding a radiographer license in another state or U.S. territory may obtain a license under this chapter by endorsement if the individual submits all of the following:

- (a) An application on a form provided by the board.
- (b) The fee required under s. 440.05 (2), Stats.
- (c) Verification of active certification as a radiologic technologist from the ARRT.
- (d) Verification of all credentials the individual holds or has held in another state or jurisdiction. Verification of a credential shall be submitted directly from the credentialing authority to the board.

(2) A reciprocal radiographer license shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this subsection.

Note: Applications for licensure by endorsement or reciprocity 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 3. RAD 2.05 (2) is amended to read:

RAD 2.05 (2) ~~Conviction~~ Subject to ss. 111.321, 111.322, and 111.335, Stats., conviction of an offense under s. 940.22, 940.225, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09, 948.095 or 948.10, Stats., or a comparable offense under federal law or state law, or any crime the circumstances of which substantially relate to the practice of radiography.

SECTION 4. RAD 2.06 is repealed.

SECTION 5. RAD 3.01 is amended to read:

RAD 3.01 Application. The board shall grant a permit to practice as ~~a~~ an LXMO to a person who meets the minimum requirements for a permit in s. 462.03 (1) and (3), Stats.

SECTION 6. RAD 3.01 (Note) is created to read:

RAD 3.01 (Note) An application 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 7. RAD 3.04 and 3.05 are amended to read:

RAD 3.04 Notice of examination results. All applicants for a an LXMO permit shall receive a passing grade determined by the board to represent the minimum competence to practice. The board may accept the passing grade recommendation of an approved testing agency.

3.05 Re-examination. A person who fails to achieve passing grades on the examinations required under this chapter may reapply for reexamination on forms provided by the department. No applicant may make more than 3 attempts to pass the examination within any ~~12-month~~ 12-month period. A re-examination fee specified by the department shall be paid for each examination.

SECTION 8. RAD 3.06 is repealed.

SECTION 9. RAD 3.065 is created to read:

RAD 3.065 Reciprocal permits. A reciprocal LXMO permit shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this section.

Note: An application for a reciprocal permit 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 10. RAD 3.07 (intro.) and (1) to (3) are amended to read:

RAD 3.07 (intro.) The ~~Board~~ board may deny an application for a an LXMO permit on the basis of any of the following:

(1) Termination from any employment related to the practice of a an LXMO for reasons of negligence or incompetence.

(2) ~~Conviction~~ Subject to ss. 111.321, 111.322, and 111.335, Stats., conviction of an offense under s. 940.22, 940.225, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09, 948.095, or 948.10, Stats., or a comparable offense under federal law or state law, or any crime the circumstances of which substantially relate to the practice of radiography.

(3) Any encumbrances including surrender, suspension, revocation, limitation, or reprimand of a an LXMO permit by another credentialing body.

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.

(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