

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

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| IN THE MATTER OF RULEMAKING | : | PROPOSED ORDER OF THE |
| PROCEEDINGS BEFORE THE | : | MEDICAL EXAMINING BOARD |
| MEDICAL EXAMINING BOARD | : | ADOPTING RULES |
| | : | (CLEARINGHOUSE RULE 22-067) |

PROPOSED ORDER

An order of the Medical Examining Board to repeal Med 13.02 (1g), (1r), and (1v) and 13.03 (3); and amend Med 13.02 (1x) (a), relating to Continuing Education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss.448.13 and 448.40 (1), Stats.

Statutory authority: ss. 15.08 (5) (b) and 448.40 (1), Stats.

Explanation of agency authority:

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

Section 448.40 (1), Stats., provides that “[t]he board may promulgate rules to carry out the purposes of this subchapter, including rules requiring the completion of continuing education, professional development, and maintenance of certification or performance improvement or continuing medical education programs for renewal of a license to practice medicine and surgery.”

Related statute or rule: Chapter Med 14 provides the requirements for biennial registration, which include the completion of continuing medical education.

Plain language analysis:

The objective of this rule was to update ch. Med 13 to extend the requirement that 2 of the 30 required continuing medical education (CME) hours per biennium shall be in a course or program related to opioid prescribing. This requirement was also modified to include courses or programs concerning controlled substances in general, not just opioid substances. Additionally, the Board removed the requirement that educational programs related to opioid prescribing or controlled substances be pre-approved by repealing section Med 13.03 (3).

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

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 establish continuing medical education requirements for physicians licensed in Illinois [68 Ill. Adm. Code 1285.110]. The rules do not require continuing education related to prescribing opioids or other controlled substances.

Iowa: Rules of the Iowa Board of Medicine establish continuing education requirements for physicians licensed in Iowa [653 IAC 11]. The rules require a licensee who has prescribed opioids to a patient during the previous license period to complete at least 2 hours of category 1 credit regarding the United States Centers for Disease Control and Prevention (CDC) guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, every 5 years [653 IAC 11.4(1) d. (1)].

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs establish continuing medical education requirements for physicians licensed in Michigan [Mich Admin Code, R 338.2441 to R 338.2443]. The rules require a minimum of 3 hours of continuing education to be earned in pain and symptom management, including any of the following areas:

- Public health burden of pain.
- Ethics and health policy related to pain.
- Michigan pain and controlled substance laws.
- Pain definitions.
- Basic sciences related to pain including pharmacology.
- Clinical sciences related to pain.
- Specific pain conditions.
- Clinical physician communication related to pain.
- Management of pain, including evaluation and treatment and nonpharmacological and pharmacological management.
- Ensuring quality pain care and controlled substances prescribing.
- Michigan programs and resources relevant to pain.

Minnesota: Rules of the Minnesota Board of Medical Practice establish continuing education requirements for physicians licensed in Minnesota [Minnesota Rules, chapter 5605]. The rules do not require continuing education related to prescribing opioids or other controlled substances.

Summary of factual data and analytical methodologies: The proposed rules were developed by obtaining input and feedback from the Medical Examining 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 economic impact, 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 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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

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 608-267-7139; 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, 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 on December 21, 2022 at 8:00 a.m., to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Med 13.02 (1g), (1r), and (1v) are repealed.

SECTION 2. Med 13.02 (1x) (a) is amended to read:

Med 13.03 (1x) (a) Except as provided under par. (b), ~~for the renewal date occurring on November 1, 2023,~~ a minimum of 2 of the 30 hours of continuing medical education required under sub. (1) shall be an educational course or program related to prescribing opioids and other controlled substances ~~that is approved under s. Med 13.03 (3) at the time if the physician’s attendance, and whose subject matter meets the requirements of s. Med 13.03 (3) (b) 2s.~~

SECTION 3. Med 13.03 (3) is repealed.

SECTION 4 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 Medical Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chairperson
Medical Examining Board