

STATE OF WISCONSIN  
MEDICAL EXAMINING BOARD

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IN THE MATTER OF RULE-MAKING : ORDER OF THE  
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD  
MEDICAL EXAMINING BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 09-005)

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ORDER

An order of the Medical Examining Board to amend Med 20.05 (title); and to create Med 20.055, relating to temporary certificates for respiratory care practitioners who are certified in other states.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

**Statutes interpreted:**

Section 448.04 (1) (i) 2. and 3., Stats.

**Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats.

**Explanation of agency authority:**

The Medical Examining Board has the authority under s. 448.40, Stats., to promulgate rules for the issuance of temporary certificates for respiratory care practitioners.

**Related statute or rule:**

Section 448.04 (1) (i), Stats., and s. Med 20.05.

**Plain language analysis:**

This proposed rule-making will conform ch. Med 20, relating to respiratory care practitioners, to the provisions enacted by 2007 Wisconsin Act 54, which created a temporary certificate for the practice of respiratory care. The temporary certificate to practice respiratory care authorized by this Act is available to a limited category of applicants who have passed the national examination and are licensed in another state. The Act allows for a maximum of three months of practice under the temporary certificate, which cannot be renewed. The proposed rule addresses the high demand for health care professionals such as respiratory care practitioners and will make it easier for hospitals, especially those along Wisconsin's borders, to recruit and hire qualified

applicants who are licensed in neighboring states in a timely manner. Currently, the temporary certificate is only available to graduates who have not passed the national examination.

SECTION 1 amends the title to s. Med 20.05.

SECTION 2 creates s. Med 20.055 relating to the requirements for issuance of a temporary certificate for applicants who are certified to practice in another state.

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

There is no existing or proposed federal regulation.

**Comparison with rules in adjacent states:**

**Iowa:**

None.

**Illinois:**

There is a six month temporary license available for pending applicants until the next available examination is taken.

**Michigan:**

A temporary license is available for up to four years if the applicant has practiced as a full-time respiratory care practitioner for four years immediately preceding the date of application in certain, specified settings. A letter of recommendation from a Medical Director is also required.

**Minnesota:**

A temporary permit is issued and is valid until the board meets to decide on the application. A temporary permit is also available until the next available examination.

**Summary of factual data and analytical methodologies:**

The proposed rules will conform a respiratory care practitioners rule to recent statutory changes brought about by 2007 Wisconsin Act 54, which created s. 448.04 (1) (i) 3., Stats.

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

The Medical Examining Board did not consult supporting documents other than 2007 Wisconsin Act 54. It is merely updating its rules based on the legislative change.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council.

The Department of Regulation and Licensing is not included as an “agency” in this section.

**Anticipated costs incurred by private sector:**

The department finds that this rule has no significant fiscal effect on the private sector.

**Fiscal estimate:**

The department estimates that this rule will require staff time in the Office of Legal Counsel, Division of Management Services, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$3,500. The total on-going salary and fringe costs are estimated at \$600. Initially, the department stated there would be no fiscal effect because it was assumed the minimal costs associated with processing the new temporary credential could be easily absorbed by the department. However, it is now the policy of the department to reflect actual costs, even if minimal, so that the impact of additional regulatory duties on the department’s budget is recognized.

**Effect on small business:**

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at [hector.colon@wisconsin.gov](mailto:hector.colon@wisconsin.gov), or by calling 608-266-8608.

**Agency contact person:**

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0495; email at [pamela.haack@wisconsin.gov](mailto:pamela.haack@wisconsin.gov).

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

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to [pamela.haack@wisconsin.gov](mailto:pamela.haack@wisconsin.gov). Comments must be received on or before February 20, 2009, to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. Med 20.05 (title) is amended to read:

**Med 20.05 (title) Temporary certificates for graduate respiratory care practitioners.**

SECTION 2. Med 20.055 is created to read:

**Med 20.055 Temporary certificates for certified practitioners.** (1) An applicant for certification who is certified to practice respiratory care in another state may apply to the board for a temporary certificate to practice respiratory care if the applicant submits all of the following:

- (a) A completed application form.
  - (b) The fee specified in s. 440.05 (1) (a), Stats.
  - (c) Written verification that the applicant has passed the national board for respiratory care certified therapy technician examination.
  - (d) Evidence satisfactory to the board that the applicant meets the requirements of s. 448.05 (5r), Stats.
  - (e) Evidence satisfactory to the board that the applicant is certified to practice respiratory care in another state.
- (2) If an applicant for a temporary certificate has been subjected to professional discipline as a result of the applicant's practice of respiratory care in another state, the applicant shall submit to the board a description of the circumstances of the discipline and a copy of the disciplinary order.
- (3) The board may not issue a temporary certificate to an individual who has been previously issued a temporary certificate under this section.
- (4) A temporary certificate under this section may be issued for a period not to exceed 3 months and may not be renewed.

Note: Application forms are available from the Department of Regulation and Licensing, Division of Professional Credential Processing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin, 53708, or from the department's website at <http://drl.wi.gov>.

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(END OF TEXT OF RULE)  
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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.

Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson  
Medical Examining Board

Med 20 CR09-005 (Respiratory care temporary certificates) Final for Adoption 6-15-09