

STATE OF WISCONSIN
Chiropractic Examining Board

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE
CHIROPRACTIC EXAMINING BOARD

PROPOSED ORDER OF THE CHIROPRACTIC EXAMINING BOARD
ADOPTING RULES
(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Chiropractic Examining Board to repeal and recreate Chir 11.01, relating to patient records.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

None.

Statutory authority:

Sections 15.08 (5) (b) and 446.02 (7m) (a), Stats.

Explanation of agency authority:

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

Section 446.02 (7m) (a), Stats., provides a patient record created and maintained by a chiropractor “shall contain complete and comprehensive health care information, as defined by the examining board by rule.”

Related statute or rule:

None.

Plain language analysis:

The proposed rules clarify the term “new patient” used in s. Chir 11.03 (intro.) by defining it under s. Chir 11.01 to mean an individual who has not been examined or treated by the chiropractor or another chiropractor in the same group practice within the last 3 years. The remainder of s. Chir 11.01 is revised to meet standards for drafting style and format.

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

None.

Comparison with rules in adjacent states:

Illinois: Illinois rules and statutes do not specify the record keeping requirements of licensees practicing chiropractic in Illinois.

Iowa: Rules of the Iowa Board of Chiropractic specify the record keeping requirements of chiropractic physicians (645 IAC 43.10). The rules do not contain requirements specific to new patients.

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs specify requirements for patient records of a licensee practicing chiropractic in Michigan (Mich Admin Code, R 338.12015). The rules include a requirement that a patient record entry for an initial patient visit include all of the following:

- History, including description of presenting condition.
- Physical evaluation.
- Diagnostic studies, if applicable.
- Diagnosis.
- Treatment or care provided.

Minnesota: Minnesota statutes specify the record keeping requirements for licensees practicing chiropractic in Minnesota (Minnesota Statutes 2016, section 148.107). The statutes do not contain requirements specific to new patients.

Summary of factual data and analytical methodologies:

The Board utilized the definition of new patient in the American Medical Association's Current Procedural Terminology (CPT) code set to develop its definition of new patient. The CPT definition of new patient is "one who has not received any professional services from the physician, or another physician of the same specialty who belongs to the same group practice, within the past three years."

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 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 Kirsten.Reader@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, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; 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, 1400 East Washington Avenue, P.O. Box 8366, Madison, WI 53708-8935, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted at or before the date and time the public hearing on these proposed rules is conducted. Information as to the place, date, and time of the public hearing will be published on the Department of Safety and Professional Services' website and in the Wisconsin Administrative Register.

TEXT OF RULE

SECTION 1. Chir 11.01 is repealed and recreated to read:

Chir 11.01 Definitions. In this chapter:

- (1) "New patient" means an individual who has not been examined or treated by the chiropractor or another chiropractor in the same group practice within the last 3 years.
- (2) "Patient record" has the meaning given "patient health care records" in s. 146.81 (4), Stats.

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)
