

CERTIFICATE

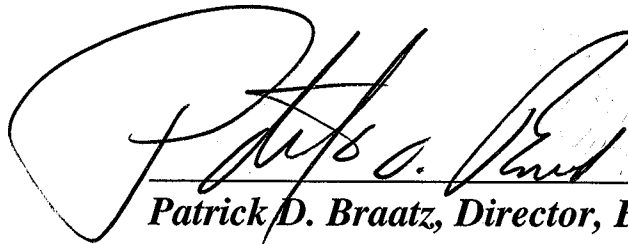
**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

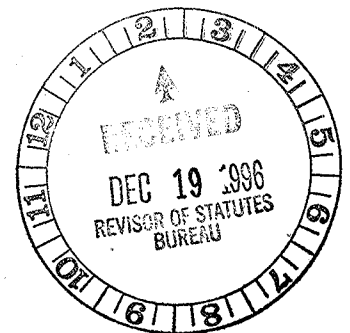
I, Patrick D. Braatz, Director, Bureau of Health Professions in the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Medical Examining Board, do hereby certify that the annexed rules were duly approved and adopted by the Medical Examining Board on the 19th day of December, 1996.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue, Madison, Wisconsin this 19th day of December, 1996.



Patrick D. Braatz, Director, Bureau of Health Professions, Department of Regulation and Licensing



3-1-97

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	MEDICAL EXAMINING BOARD
MEDICAL EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 92-162)

ORDER

An order of the Medical Examining Board to repeal ch. Med 7; to renumber Med 6.07 (4), (5), (6) and 6.08 (2), (3) and (4); to amend Med 1.06 (1) (a) (intro.), 3., 4., 5., 6. and (d), 2.03, 3.03, 5.03, 6.04, 6.05 (1), 6.07 (intro.), (1), (2) and (3), 6.08 (1) (e), 8.05 (2) (a) and (b) (intro.), (2) (b) 3., 4. and 5., 14.03, 19.03 (1) (b), (c), (2) and (3), 19.04 (1), (2), (3) (intro.), (c), (d), (e), (f), (6), 19.05, 20.04 (3), (4) (c), (d), (e), (f) and (6); to repeal and recreate Med 1.06 (1) (a) 1. and 2., 4.04, 8.05 (2) (b) 1. and 2., 19.04 (3) (a) and (b) and 20.04 (4) (a) and (b); and to create Med 1.02 (6), 1.06 (1) (a) 8., 9., 10. and 11., 1.09, 1.10, 3.06, 4.02 (6), 5.035, 6.07 (2), 6.08 (2), 6.10, 6.11, 8.05 (2) (b) 7., 8., 9., 10. and 11., 8.053, 8.056, 19.04 (3) (h), (I), (j), (k) and (7), 19.053, 19.056, 20.04 (4) (h), (I), (j), (k) and (8), 20.06 and 20.07, relating to open book examinations on statutes and rules, examination reviews and claim of examination error, and requirements relating to licensure of applicants with disabilities.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats.

Statutes interpreted: ss. 440.05 and 448.05 (6), Stats.

In this proposed rule-making order the Medical Examining Board amends its rules relating to required examinations as follows:

Currently, all applicants for regular credentials issued by the board are required to taken an open book examination on those statutes and rules enforced by the board. That requirement does not, however, consistently appear in the board's rules. This order therefore amends, repeals and recreates rules to reflect that all applicants for regular credentials issued by the board must take such an examination.

Applicants for credentials issued by the board must currently take an oral examination if they meet certain criteria, including having "a history of alcohol or drug abuse or impairment," or having "a history of psychological impairment." This order amends these rules to modify the criteria for administering the oral examination and to limit the scope of the examination administered so as to bring the rules into conformance with the Americans with Disabilities Act of 1990.

The board has always provided an opportunity for a hearing to an applicant who has failed an oral examination or the open book examination on statutes and rules. This order establishes a procedure for review by the applicant of the examination failed, and provides a procedure in addition to the denial hearing to permit the applicant to challenge the examination content, procedures or scoring.

The name of the certification agency for occupational therapists and occupational therapy assistants has changed its name. Therefore; those sections are changed to reflect the new name.

Finally, the order amends, repeals and recreates rules relating to credential fees to reflect that payment is made to the Department of Regulation and Licensing rather than to the Medical Examining Board.

TEXT OF RULE

SECTION 1. Med 1.02 (6) is created to read:

Med 1.02 (6) The required fees made payable to the Wisconsin department of regulation and licensing.

SECTION 2. Med 1.06 (1) (a) (intro.) is amended to read:

Med 1.06 (1) (a) (intro.) All applicants shall complete a the written examination under sub. (3), and an open book examination on statutes and rules governing the practice of medicine and surgery in Wisconsin. In addition, an applicant ~~shall~~ may be required to complete an oral examination if the applicant:

SECTION 3. Med 1.06 (1) (a) 1. and 2. are repealed and recreated to read:

Med 1.06 (1) (a) 1. Has a medical condition which in any way impairs or limits the applicant's ability to practice medicine and surgery with reasonable skill and safety.

2. Uses chemical substances so as to impair in any way the applicant's ability to practice medicine and surgery with reasonable skill and safety.

SECTION 4. Med 1.06 (1) (a) 3., 4., 5. and 6. are amended to read:

Med 1.06 (1) (a) 3. Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction;

4. Has been found to have been negligent in the practice of medicine or has been a party in a lawsuit in which it was alleged that the applicant had been negligent in the practice of medicine;

5. Has been convicted of a crime the circumstances of which substantially ~~related~~ relate to the practice of medicine;

6. Has lost, had reduced or had suspended his or her hospital staff privileges, or has failed to continuously maintain hospital privileges during the applicant's period of licensure following post-graduate training;

SECTION 5. Med 1.06 (1) (a) 8., 9., 10. and 11. are created to read:

Med 1.06 (1) (a) 8. Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

9. Has within the past 2 years engaged in the illegal use of controlled substances.

10. Has been subject to adverse formal action during the course of medical education, postgraduate training, hospital practice, or other medical employment.

11. Has not practiced medicine and surgery for a period of 3 years prior to application, unless the applicant has been graduated from a school of medicine within that period.

SECTION 6. Med 1.06 (1) (d) is amended to read:

Med 1.06 (1) (d) Where both written and oral examinations are required they shall be scored separately, and the applicant shall achieve a passing grade on ~~both~~ all examinations to qualify for a license.

SECTION 7. Med 1.09 and 1.10 are created to read:

Med 1.09 EXAMINATION REVIEW BY APPLICANT. (1) An applicant who fails the oral-practical or statutes and rules examination may request a review of that examination by filing a written request and required fee with the board within 30 days of the date on which examination results were mailed.

(2) Examination reviews are by appointment only.

(3) An applicant may review the statutes and rules examination for not more than one hour.

(4) An applicant may review the oral-practical examination for not more than 2 hours.

(5) The applicant may not be accompanied during the review by any person other than the proctor.

(6) At the beginning of the review, the applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet or oral-practical tape and a copy of the master answer sheet.

(7) The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. Applicants shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(8) An applicant may not review the examination more than once.

Med 1.10 BOARD REVIEW OF EXAMINATION ERROR CLAIM. (1) An applicant claiming examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include all of the following:

(a) The applicant's name and address.

(b) The type of license for which the applicant applied.

(c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error.

(d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the board issues a notice of denial following its review, the applicant may request a hearing under s. RL 1.05.

Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 8. Med 2.03 is amended to read:

Med 2.03 FEES. The required fees must accompany the application, and all remittances must be made payable to the Wisconsin ~~medical examining board~~ department of regulation and licensing.

SECTION 9. Med 3.03 is amended to read:

Med 3.03 FEES. The required fees must accompany the application, and all remittances must be made payable to the Wisconsin ~~medical examining board~~ department of regulation and licensing.

SECTION 10. Med 3.06 is created to read:

Med 3.06 EXAMINATION AND INTERVIEW. Applicants shall participate in an oral interview conducted by the board, and shall complete an open book examination on statutes and rules governing the practice of medicine and surgery in Wisconsin.

SECTION 11. Med 4.02 (6) is created to read:

Med 4.02 (6) The required fees made payable to the Wisconsin department of regulation and licensing.

SECTION 12. Med 4.04 is repealed and recreated to read:

Med 4.04 EXAMINATION. All applicants shall complete an open book examination on statutes and rules governing the practice of medicine and surgery in Wisconsin.

SECTION 13. Med 5.03 is amended to read:

Med 5.03 FEES. The required fees must accompany the application, and all remittances must be made payable to the Wisconsin ~~medical examining board~~ department of regulation and licensing.

SECTION 14. Med 5.035 is created to read:

Med 5.035 EXAMINATION. Applicants shall complete an open book examination on statutes and rules governing the practice of medicine and surgery in Wisconsin.

SECTION 15. Med 6.04 is amended to read:

Med 6.04 APPLICATION DEADLINE AND FEES. The fully completed application and all required documents must be received by the board at its office not less than ~~3 weeks~~ 30 days prior to the date of examination. The required fees must accompany the application, and all remittances must be made payable to the Wisconsin ~~medical examining board~~ department of regulation and licensing.

SECTION 16. Med 6.05 (1) is amended to read:

Med 6.05 EXAMINATIONS. (1) ~~Examinations are both written and oral practical and conducted only in the English language. The written and oral practical examinations are scored separately, and each applicant must achieve passing grades on both the written and oral practical examination to become qualified for grant of license. Required examinations include the written examination under sub. (2), an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin, and an oral-practical examination. Examinations are conducted only in the English language. Each examination is scored separately, and the applicant must achieve passing scores on each examination to become qualified for grant of license.~~ The board designates the podiatry examining council as its agent for conducting examinations.

SECTION 17. Med 6.07 (intro.), (1), (2) and (3) are amended to read:

Med 6.07 TEMPORARY EDUCATIONAL LICENSE. (1) (intro.) An applicant who has been appointed to a postgraduate training program in a facility in this state recommended by the podiatry examining council and approved by the board may apply to the board for a temporary educational license to practice podiatric medicine and surgery and shall submit to the board the following:

~~(1)~~ (a) A completed and verified application form ~~supplied~~ provided by the board for this purpose.

Note: Applications are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

~~(2)~~ (b) The documentary evidence and credentials required under ss. Med 6.02, 6.03, and 6.04.

~~(3)~~ (c) The required fees must accompany the application and all remittances must be made payable to the Wisconsin ~~medical examining board~~ department of regulation and licensing.

SECTION 18. Med 6.07 (2) is created to read:

Med 6.07 (2) Applicants shall complete an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin.

SECTION 19. Med 6.07 (4), (5) and (6) are renumbered (3), (4) and (5).

SECTION 20. Med 6.08 (1) (e) is amended to read:

Med 6.08 (1) (e) The required fees must accompany the application, and all remittances must be made payable to the Wisconsin ~~medical-examining-board~~ department of regulation and licensing.

SECTION 21. Med 6.08 (2), (3) and (4) are renumbered (3), (4) and 5.

SECTION 22. Med 6.08 (2) is created to read:

Med 6.08 (2) Applicants shall complete an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin.

SECTION 23. Med 6.10 and 6.11 are created to read:

Med 6.10 EXAMINATION REVIEW BY APPLICANT. (1) An applicant who fails the oral-practical or statutes and rules examination may request a review of that examination by filing a written request and required fee with the board within 30 days of the date on which examination results were mailed.

(2) Examination reviews are by appointment only.

(3) An applicant may review the statutes and rules examination for not more than one hour.

(4) An applicant may review the oral-practical examination for not more than 2 hours.

(5) The applicant may not be accompanied during the review by any person other than the proctor.

(6) At the beginning of the review, the applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet or oral-practical tape and a copy of the master answer sheet.

(7) The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. Applicants shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(8) An applicant may not review the examination more than once.

Med 6.11 BOARD REVIEW OF EXAMINATION ERROR CLAIM. (1) An applicant claiming examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include all of the following:

- (a) The applicant's name and address.
- (b) The type of license for which the applicant applied.
- (c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error.
- (d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the board issues a notice of denial following its review, the applicant may request a hearing under s. RL 1.05

Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 24. Chapter Med 7 is repealed.

SECTION 25. Med 8.05 (2) (a) and (b) (intro.) are amended to read:

Med 8.05 (2) (a) All applicants shall complete a the written examination under this section, and an open book examination on statutes and rules governing the practice of physician assistants in Wisconsin.

(b) (intro.) An applicant ~~shall~~ may be required to complete an oral examination if the applicant:

SECTION 26. Med 8.05 (2) (b) 1. and 2. are repealed and recreated to read:

Med 8.05 (2) (b) 1. Has a medical condition which in any way impairs or limits the applicant's ability to practice as a physician assistant with reasonable skill and safety.

2. Uses chemical substances so as to impair in any way the applicant's ability to practice as a physician assistant with reasonable skill and safety.

SECTION 27. Med 8.05 (2) (b) 3., 4. and 5. are amended to read:

Med 8.05 (2) (b) 3. Has been disciplined or had certification denied by a licensing or regulatory authority in Wisconsin or another jurisdiction;

4. Has been convicted of a crime, the circumstances of which substantially relate to the practice of physician assistants;

5. Has not practiced patient care as a physician assistant for a period of 3 years prior to application, unless the applicant has been graduated from a school approved for physician assistants within that period;

SECTION 28. Med 8.05 (2) (b) 7., 8., 9., 10. and 11. are created to read:

Med 8.05 (2) (b) 7. Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

8. Has within the past 2 years engaged in the illegal use of controlled substances.

9. Has been subject to adverse formal action during the course of physician assistant education, postgraduate training, hospital practice, or other physician assistant employment.

10. Has not practiced as a physician assistant for a period of 3 years prior to application, unless the applicant has been graduated from a school for physician assistants within that period.

11. Has been graduated from a physician assistant school not approved by the board.

SECTION 29. Med 8.053 and 8.056 are created to read:

Med 8.053 EXAMINATION REVIEW BY APPLICANT. (1) An applicant who fails the oral or statutes and rules examination may request a review of that examination by filing a written request and required fee with the board within 30 days of the date on which examination results were mailed.

(2) Examination reviews are by appointment only.

(3) An applicant may review the statutes and rules examination for not more than one hour.

(4) An applicant may review the oral examination for not more than 2 hours.

(5) The applicant may not be accompanied during the review by any person other than the proctor.

(6) At the beginning of the review, the applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet or oral tape and a copy of the master answer sheet.

(7) The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. Applicants shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(8) An applicant may not review the examination more than once.

Med 8.056 BOARD REVIEW OF EXAMINATION ERROR CLAIM. (1) An applicant claiming examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include all of the following:

(a) The applicant's name and address.

(b) The type of license for which the applicant applied.

(c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error.

(d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the board issues a notice of denial following its review, the applicant may request a hearing under s. RL 1.05.

Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 30. Med 14.03 is amended to read:

Med 14.03 REGISTRATION REQUIRED; METHOD OF REGISTRATION. Each licensee shall register biennially with the board. ~~On or before October~~ Prior to November 1 of each odd-numbered year the ~~board~~ department shall mail to each licensee at his or her last known address as it appears in the records of the board an application form for registration. Each licensee shall complete the application form and return it with the required fee to the ~~board office~~ department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 prior to the next succeeding November 1. The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied.

SECTION 31. Med 19.03 (1) (b), (c), (2) and (3) are amended to read:

Med 19.03 (1) (b) Evidence that the applicant is certified as an occupational therapist or occupational therapy assistant by the ~~American occupational therapy certification board~~ national board for certification in occupational therapy; or, that the applicant has completed an occupational therapist training program or an occupational therapy assistant training program as defined in s. Med 19.02;

(c) Written verification from the ~~American occupational therapy certification board~~ national board for certification in occupational therapy that the applicant has passed the examination required by this chapter; and,

(2) Requests for verification from the ~~American occupational certification board~~ national board for certification in occupational therapy shall be made by the applicant.

(3) An application for certification is not complete until the board has received both a completed application form and verification of certification from the ~~American occupational therapy certification board~~ national board for certification in occupational therapy.

SECTION 32. Med 19.04 (1), (2) and (3) (intro.) are amended to read:

Med 19.04 EXAMINATIONS, PANEL REVIEW OF APPLICATIONS. (1) Applicants for certification as an occupational therapist or occupational therapy assistant shall pass the certification examination for occupational therapist or the certification examination for occupational therapy assistant of the ~~American occupational therapy certification board~~ national board for certification in occupational therapy, and shall complete an open book examination on statutes and rules governing the practice of occupational therapy in Wisconsin.

(2) The board designates the occupational therapy examining council as its agent in conducting examinations. At the request of the council, the board shall provide a medical consultant to the council to provide assistance in evaluating applicants examined under sub. (3) (a) and (b).

(3) (intro.) An applicant ~~shall~~ may be required to complete an oral examination if the applicant:

SECTION 33. Med 19.04 (3) (a) and (b) are repealed and recreated to read:

Med 19.04 (3) (a) Has a medical condition which in any way impairs or limits the applicant's ability to practice occupational therapy with reasonable skill and safety.

(b) Uses chemical substances so as to impair in any way the applicant's ability to practice occupational therapy with reasonable skill and safety.

SECTION 34. Med 19.04 (3) (c), (d), (e) and (f) are amended to read:

Med 19.04 (3) (c) Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction~~;~~.

(d) Has been convicted of a crime the circumstances of which substantially relate to the practice of occupational therapy~~;~~.

(e) Has not practiced occupational therapy for a period of ~~three~~ 3 years prior to application, unless the applicant has been graduated from a school of occupational therapy within that period. Practice for the purposes of this paragraph includes direct patient treatment and education, occupational therapy instruction in an occupational therapy program recognized by the board, occupational therapy research, and service in administrative positions for health care providers or governmental bodies with responsibility relating to occupational therapy~~;~~.

(f) Has been found negligent in the practice of occupational therapy or has been a party in a lawsuit in which it was alleged that the applicant has been negligent in the practice of occupational therapy~~;~~~~or~~.

SECTION 35. Med 19.04 (3) (h), (I), (j) and (k) are created to read:

Med 19.04 (3) (h) Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

(I) Has within the past 2 years engaged in the illegal use of controlled substances.

(j) Has been subject to adverse formal action during the course of occupational therapy education, postgraduate training, hospital practice, or other occupational therapy employment.

(k) Has been graduated from an occupational therapy school not approved by the board.

SECTION 36. Med 19.04 (6) is amended to read:

Med 19.04 (6) Where both written and oral examinations are required they shall be scored separately and the applicant shall achieve a passing grade on ~~both~~ all examinations to qualify for a license.

SECTION 37. Med 19.04 (7) is created to read:

Med 19.04 (7) If after receipt of additional information from applicants who have been treated for alcohol or drug abuse or impairment or from applicants who have been treated for an acute or chronic psychological impairment the council decides that an oral examination shall be administered, the examination shall be limited to a determination whether at the time of application the applicant's disability appears to pose an actual risk to the health, safety or welfare of patient or public arising from the applicant's demonstrated inability to safely carry out necessary duties and responsibilities inherent to the practice of occupational therapy.

SECTION 38. Med 19.05 is amended to read:

Med 19.05 EXEMPTION FROM WRITTEN EXAMINATION FOR CERTAIN OCCUPATIONAL THERAPY ASSISTANT APPLICANTS. An applicant for certification as an occupational therapy assistant who graduated from an occupational therapy assistant training program prior to 1977 is exempt from the requirements for a written certification examination ~~in this chapter~~ for occupational therapy assistant.

SECTION 39. Med 19.053 and 19.056 are created to read:

Med 19.053 EXAMINATION REVIEW BY APPLICANT. (1) An applicant who fails the oral or statutes and rules examination may request a review of that examination by filing a written request and required fee with the board within 30 days of the date on which examination results are mailed.

- (2) Examination reviews are by appointment only.
- (3) An applicant may review the statutes and rules examination for not more than one hour.
- (4) An applicant may review the oral examination for not more than 2 hours.
- (5) The applicant may not be accompanied during the review by any person other than the proctor.
- (6) At the beginning of the review, the applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet or oral tape and a copy of the master answer sheet.

(7) The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. Applicants shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(8) An applicant may not review the examination more than once.

Med 19.056 BOARD REVIEW OF EXAMINATION ERROR CLAIM. (1) An applicant claiming examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include all of the following:

(a) The applicant's name and address.

(b) The type of license for which the applicant applied.

(c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error.

(d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the board issues a notice of denial following its review, the applicant may request a hearing under s. RL 1.05.

Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 40. Med 20.04 (3) is amended to read:

Med 20.04 (3) The board designates the council as its agent for conducting oral examinations. At the request of the council, the board shall provide a medical consultant to the council to provide assistance in evaluating applicants examined under sub. (4) (a) and (b).

SECTION 41. Med 20.04 (4) (a) and (b) are repealed and recreated to read:

Med 20.04 (4) (a) Has a medical condition which in any way impairs or limits the applicant's ability to practice respiratory care with reasonable skill and safety.

(b) Uses chemical substances so as to impair in any way the applicant's ability to practice respiratory care with reasonable skill and safety.

SECTION 42. Med 20.04 (4) (c), (d), (e) and (f) are amended to read:

Med 20.04 (4) (c) Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction;

(d) Has been convicted of a crime the circumstances of which substantially relate to the practice of respiratory care;

(e) Has not practiced respiratory care for more than 1,200 hours during the last 3 years;

(f) Has practiced over 1,200 hours in the last 3 years but practice was limited;

SECTION 43. Med 20.04 (4) (h), (I), (j) and (k) are created to read:

Med 20.04 (4) (h) Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

(i) Has within the past 2 years engaged in the illegal use of controlled substances.

(j) Has been subject to adverse formal action during the course of respiratory care education, postgraduate training, hospital practice, or other respiratory care employment.

(k) Has been graduated from a respiratory care school not approved by the board.

SECTION 44. Med 20.04 (6) is amended to read:

Med 20.04 (6) Where both written and oral examinations are required, they shall be scored separately and the applicant shall achieve a passing grade on both all examinations to qualify for a certificate.

SECTION 45. Med 20.04 (8) is created to read:

Med 20.04 (8) If after receipt of additional information from applicants who have been treated for alcohol or drug abuse or impairment or from applicants who have been treated for an acute or chronic psychological impairment the council decides that an oral examination shall be administered, the examination shall be limited to a determination whether at the time of application the applicant's disability appears to pose an actual risk to the health, safety or welfare of patient or public arising from the applicant's demonstrated inability to safely carry out necessary duties and responsibilities inherent to the practice of respiratory care.

SECTION 46. Med 20.06 and 20.07 are created to read:

Med 20.06 EXAMINATION REVIEW BY APPLICANT. (1) An applicant who fails the oral or statutes and rules examination may request a review of that examination by filing a written request and required fee with the board within 30 days of the date on which examination results were mailed.

- (2) Examination reviews are by appointment only.
- (3) An applicant may review the statutes and rules examination for not more than one hour.
- (4) An applicant may review the oral examination for not more than 2 hours.
- (5) The applicant may not be accompanied during the review by any person other than the proctor.
- (6) At the beginning of the review, the applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet or oral tape and a copy of the master answer sheet.
- (7) The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any item in the examination. Bound reference books shall be permitted. Applicants shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.
- (8) An applicant may not review the examination more than once.

Med 20.07 BOARD REVIEW OF EXAMINATION ERROR CLAIM. (1) An applicant claiming examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include all of the following:

- (a) The applicant's name and address.

(b) The type of license for which the applicant applied.

(c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error.

(d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the board issues a notice of denial following its review, the applicant may request a hearing under s. RL 1.05.

Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

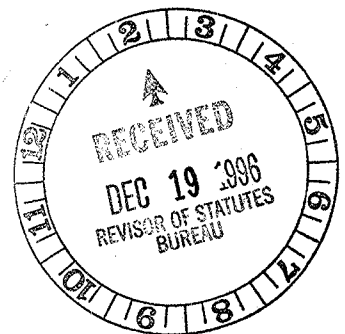
(END OF TEXT OF RULE)

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 December 19, 1996

Agency B. Jim Neulase
Chairperson
Medical Examining Board

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12/4/96





State of Wisconsin
DEPARTMENT OF REGULATION AND LICENSING
CORRESPONDENCE/MEMORANDUM

DATE: December 19, 1996

TO: Gary Poulson
Assistant Revisor of Statutes

FROM: Pamela A. Haack, Rules Center Coordinator
Department of Regulation and Licensing
Office of Administrative Rules

SUBJECT: Final Order Adopting Rules

Agency: MEDICAL EXAMINING BOARD

Clearinghouse Rule 92-162

Attached is a copy and a certified copy of a final order adopting rules. Would you please publish these rules in the register.

Please stamp or sign a copy of this letter to acknowledge receipt.

Thank you.

