

WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-124

AN ORDER to renumber Chir 5.01 (1); and to create Chir 5.01 (1) (b), (c) and (d), relating to continuing education requirements.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

08-18-00 RECEIVED BY LEGISLATIVE COUNCIL.

09-12-00 REPORT SENT TO AGENCY.

RNS:DD:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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CLEARINGHOUSE RULE 00-124

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. Section Chir 3.09 is not mentioned in the department's analysis. It should be described there. Regarding the use of the abbreviation "CPR" in that section, see s. 1.01 (8), Manual. Should the requirement of this section be referred to in current s. Chir 3.02 (1)?

b. It is suggested that consideration be given to combining paragraphs (b) and (c) of s. Chir 5.01 into one paragraph.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The department's analysis indicates that clarification is made that continuing education requirements do not apply in the first biennium following initial licensure. However, s. Chir 5.01 (1) (d) appears to indicate that the continuing education requirements do indeed apply during that period. Note, too, that s. 446.02 (1) (b), Stats., provides that during the time between initial licensure and commencement of a full two-year licensure period, new licensees are not required to meet continuing education requirements; this is not equivalent to providing that continuing education requirements do not apply in the first biennium following initial licensure.

b. In s. Chir 5.01 (1) (b), it appears that the reference to "December 31, 2001" should be to "December 31, 2002."

c. In s. Chir 5.01 (1) (c), is the term "boundary issues" sufficiently understood that no definition or explanatory note need be provided?

JAN 25 2001

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : CHIROPRACTIC EXAMINING BOARD
CHIROPRACTIC EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 00-124)

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the CHIROPRACTIC EXAMINING BOARD is submitting in final draft form rules relating to continuing education requirements.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

**STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 00-124
CHIROPRACTIC EXAMINING BOARD: (s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

In this proposed rule-making order, the Chiropractic Examining Board authorizes the designation of specific topic areas for continuing education. Clarification is made that the continuing education requirement applies in the first full biennium following initial licensure. The board would like to use continuing education to address the areas of greatest need for chiropractors.

Section Chir 3.09 of the rule adds the requirement that chiropractors need to maintain certification in cardiopulmonary resuscitation.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on October 12, 2000. The following individuals appeared and registered against the proposed rules:

Jeff Wilder, D.C., representing Madison Chiropractic, Madison, WI
Sherry Walker, New Richmond, WI
Mike McMahon, D.C., Wisconsin Chiropractic Association,
Dan Lyons, Oregon, WI
Gary S. Silbaugh, D.C., Sun Prairie, WI
Robert Wheelock, Burlington, WI
Russ Leonard, representing the Wisconsin Chiropractic Association, Madison, WI
Jack Masche, D.C., Milwaukee, WI
Peter Kish, D.C., Mt. Horeb, WI
Wayland Loofborg, D.C., Wauwatosa

Written comments in opposition to the proposed rules were received from:

Jodi Griffeth, D.C., Cumberland, WI

Heather N. Anunson, D.C. & Wade E. Anunson, D.C., Anunson Family Chiropractic & Wellness Center, Poynette, WI

James R. Boots, D.C. & William J. Boots, D.C., Boots Chiropractic & Wellness Center, S.C., Kimberly, WI

Sharon L. Bush, D.C., Peter Leonard, D.C. & Jan W. Cecka, D.C., Plymouth Chiropractic, S.C., Plymouth, WI

Michael K. Drout, D.C.

Jonathan P. Mueller, D.C., Mueller Chiropractic Clinic of Greenfield, Natural Health Care, Greenfield, WI

Daniel B. Daniels, D.C., Daniels Chiropractic Office, Racine, WI

Jenifer Espenscheid, D.C., Dodge County Chiropractic Care Center, Beaver Dam, WI

Rick Behncke, D.C. John Wagener, D.C. and Steve Douglas, D.C., Douglas and Mork Chiropractic Office, S.C., Janesville, WI

Mark S. Edinger, D.C., FACO & Steven G. Yeomans, D.C., FACO, Yeomans Chiropractic Center, S.C., Ripon, WI

Thomas P. Donohue, D.C., Chiropractic Health Service, Ladysmith, WI

Nancy A. Budish, D.C., Budish Chiropractic Office, S.C., Menomonee Falls, WI

Jim Baggio, D.C., Baggio Chiropractic Inc., Franklin WI

Scott D. Newcomer, D.C., Zastrow Chiropractic Clinic, D.S., Greenfield, WI

Michelle R. Jermier, D.C., Complete Care Chiropractic Clinic, Brookfield, WI (

Melissa Nelson, D.C., Nelson & Staudenmaier Chiropractic Center, S.C.

Craig S. Tarini, D.C., Back & Neck Care Center, S.C., Green Bay, WI

Jeffrey W. Hall, D.C., Greenfield, WI

Gregory D. Ott, D.C., Ott Chiropractic, Pewaukee, WI

Jeffrey J. Beem, D.C., Omro Chiropractic Office, Omro, WI

David M. Bentz, D.C. & Daniel J. Eoriatti, D.C., Bentz Chiropractic Clinic, La Crosse, WI

Karen M. Thorpe, D.C., Beloit, WI

N.E. Olson, D.C., Siren Chiropractic Health Center, Siren, WI

Gregory B. Gamache, D.C., David L. Brouillette, D.C., John S. Lawrence, D.C. & James P. Brugger, D.C., Woodridge Chiropractic Clinic, West Bend, WI

David Stalheim, D.C., Stalheim Chiropractic S.C., Marinette, WI

Kurt P. Huemmer, D.C., Peter J. Schueke, D.C., Sharon B. Balstad, D.C. & Richard W. Pensis, D.C., Countryview Chiropractic Clinic, S.C., Shawano, WI

James A. Schimp, D.C., David J. Schimp, D.C. & Kimberly J. Anderson, D.C., Schimp Office of Chiropractic, Hartford, WI

J. Peter Heffernan, D.C., Dean S. Shepherd, D.C. and Michelle A. Matson, D.C., Heffernan Shepherd Chiropractic Clinic, Waukesha, WI

Sharon Hill, D.C., Family Care Chiropractic, Racine, WI

Bernie Erenberger, D.C., CCSP, Downtown Chiropractic Health & Sports Injury Clinic, Milwaukee, WI

Desire T. Lutz, D.C.

James R. Lutz, D.C.

Jeffrey J. Lutz, D.C.
 Michelle R. Jermier, D.C., Complete Care Chiropractic Clinic, Brookfield, WI
 Michelle R. Jermier, D.C., Complete Care Chiropractic Clinic, Brookfield, WI
 Jonathan D. Murphy, D.C., Murphy Chiropractic Clinic of Rice Lake, Inc., Rice Lake, WI
 Tim Kostusak, D.C.
 Michael J. Ehrmann, D.C., Healthwise Back & Neck Care Centers
 Gregory G. Highstrom, D.C., Cedarburg Chiropractic Office, S.C., Cedarburg, WI
 Thomas J. Edwards, D.C., Waukesha, WI
 Frank J. Jaskowiak, D.C., Jaskowiak Chiropractic Office, Menomonee Falls, WI
 Kenneth R. Koch, D.C., Koch Chiropractic Office, Cudahy, WI
 R.M. Jacquette, D.C. & M.R. Jacquette, Jacquette Chiropractic Office, S.C., Brookfield, WI
 Greg Blau, D.C., Blau Chiropractic Center, Brookfield, WI
 Ken Krimpelbein, D.C., Krimpelbein Chiropractic Clinic, Franklin, WI
 Andy Pieren, D.C., D.A.C.B.O.H., St. Francis, WI
 Richard J. Kemp, D.C., Milwaukee, WI
 Bruce C. Goldsworthy, D.C., Allied Health of Wisconsin, S.C., Antigo, WI
 Jack M. Masche, D.C., Masche Chiropractic Health Center, Greenfield, WI
 Harold J. Dykema, D.C., Dykema Chiropractic Office, S.C., Eau Claire, WI
 Ronald D. Peterson, D.C., Peterson Chiropractic Offices, Bloomer, WI
 Matthew D. Colby, D.C., Colby Chiropractic Clinic, Baraboo, WI
 Don Zilisch, D.C., Carrie M. Verkulien, D.C., Todd Smith, D.C. & Bill Haanen, D.C.,
 Haanen-Zilisch-Smith Chiropractic Clinic, L.L.C., Kaukauna, WI
 Kevin F. McCabe, D.C., HealthRite Chiropractic, Wauwatosa, WI
 William A. Van Fossen, D.C., Hayward Family Chiropractic Center, Hayward, WI
 Dave Portmann, Varish Chiropractic Clinics, LLP, Howards Grove, WI
 Dan A. Farah, D.C., Green Bay, WI
 Timothy McGinnis, D.C., McGinnis Chiropractic Office, Winneconne, WI
 Curtis F. Black, D.C., Kay D. Johnson, D.C. & Jennifer L. Rada, B.S., D.C., C.S.C.S.,
 McMahan Chiropractic and Physical Therapy, Eau Claire, WI
 Michael J. McMahan, D.C., Andersen-McMahan Chiropractic Clinic, Eau Claire, WI
 Donald Brown, D.C., Brown Chiropractic, New Richmond, WI
 Victoria A. Zueger, D.C., Hillcrest Chiropractic Clinic, Wisconsin Rapids, WI
 Amy S. Hietala, D.C., Howards Grove Chiropractic, Howards Grove, WI
 Aaron J. Smith, D.C., Bradley J. Smith, D.C. & Michael C. Nice, D.C., Smith
 Chiropractic Office, S.C., Salem, WI
 Dennis A. Bulgrin, D.C., Bulgrin Chiropractic Office, Nekoosa, WI
 Tim O'Connor, D.C., Haanen O'Connor Chiropractic, S.C., Appleton, WI
 Wendy L.C. Varish, D.C., CCSP, Varish Chiropractic Clinics, LLP, Howards Grove, WI

VI. SUMMARY OF COMMENTS RECEIVED:

The main thrust of the objections is opposition to require mandatory continuing education in specific topic areas, such as ethics and boundary training, radiology and annual certification in cardiopulmonary resuscitation. It was expressed that to mandate specific

topic areas on an entire profession is unjustified and not necessary, when there are only a select few who abuse their position. It would penalize those chiropractors who do practice in a professional and ethical manner. Rather than subjecting all chiropractors to the specific topic areas the board should be concerned with the protection of chiropractic patients by disciplining chiropractors who have grossly neglected their ethical or clinical obligations.

Not all of the chiropractors who submitted written comments disagreed with cardiopulmonary resuscitation certification. There were some chiropractors who supported this certification. The board has modified the rules to remove the requirement of specific topic areas for continuing education, such as ethics and boundary training.

VII. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2.b. It is suggested that consideration be given to combining paragraphs (b) and (c) of s. Chir 5.01 into one paragraph. Response: The board has made modifications to s. Chir 5.01 and therefore did not accept this suggestion.

Also, as a result of modifications made to s. Chir 5.01, Comments 5.b. and 5.c. are no longer applicable.

Comments 2.a. and 5.a. of the Clearinghouse Report were accepted in whole.

VIII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

The following list includes other states that have specific topic areas required for continuing education and summarizes what those topic areas are and the number of required hours.

Alabama – sexual boundary training, AIDS awareness, risk prevention training upon licensure – 18 hours.

Alaska – requirements 12 hours per biennium, one-third must be diagnostic imaging/x-ray.

Arizona – 12 hours per year – must include anatomy, physiology, pathology, bacteriology, diagnosis, x-ray & lab, chiropractic orthopedics, adjusting, neurology, chemistry & biochemistry, nutrition, public health & hygiene, spinal analysis and ethics.

California – 4 hours of adjusting technique.

Connecticut – CE requirements – chiropractors must contact board office to find out what is required.

Delaware – prohibits OB/GYN examinations and treatment. Specific CE training - rules – two hours upon licensure.

Florida – AIDS awareness/risk management – initial license, 3 hours, license renewal, 3 hours per 2 years.

Georgia – 15 hours in clinical sciences, 4 hours in risk management and/or ethics – each year part of 20 hour requirement.

Indiana – 12 hours a year including 4 hours of public health and/or risk management.

Iowa – 60 hours biennially, 10 percent elective self-study activities, 10 percent child abuse or dependent adult abuse or OSHA training, 14 percent district or state meetings. Twenty percent elective practice management, 60 percent from undergraduate CCE or IBCE approved institutions.

Kentucky – 12 hours per year, 2 hours of 12 for HIV/AIDS course.

Louisiana – sexual boundary training, 6 hours every other year - AIDS awareness/risk prevention – 6 hours every other year.

Maryland – requires sexual boundary training, AIDS risk management – 3 hours every 2 years, CPR certification annually.

Massachusetts – sexual boundary training upon licensure, other courses required – chiropractic techniques, clinical, philosophy, risk management.

Minnesota – 40 hours total every 2 years, 6 hours x-rays, 8 hours sexual boundary abuse every 4 years.

Mississippi – 6 hours every 2 years, risk management.

Missouri – 24 hours a year, 4 hours in boundary or emergency procedures, 4 hours of HIV or infectious disease every third year, 4 hours x-ray, 4 hours of differential diagnosis.

Montana – sexual boundary, 4 hours yearly.

Nebraska – 30 hours over a 2 year period, 12 hours mandated, 2 hours HIV/AIDS, 2 hours gender sensitivity, 4 hours scope of practice, 4 hours x-ray.

Nevada – hours in different subject areas each year, designated by board 12 hours required.

New York – one time 2 hour course in child abuse reporting.

North Dakota – sexual boundary training, 4 hours per 3 years.

Oklahoma – sexual boundary required in 1997-1998, AIDS awareness/ risk management previously required but not at this time. Special areas of continuing education training required. Considered by board annually.

Oregon – board may require specific courses as part of chiropractors' annual relicensure hours.

Pennsylvania – specific list of acceptable areas of continuing education available from the board office.

Rhode Island – courses approved, contact board office.

South Dakota – boundary training – may require if deemed necessary, AIDS awareness/risk management.

Tennessee – boundary training – 3 hours per 1999.

Utah – program criteria – refer to law and rules.

Washington – sexual boundary training. Commission is currently evaluating requirements, risk prevention, AIDS awareness – 4 hours upon licensure. Other areas of continuing education, currently evaluating requirements.

West Virginia – 6 hours of recordkeeping.

Wisconsin – 40 hours every 2 years. No mandatory.

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : CHIROPRACTIC EXAMINING BOARD
CHIROPRACTIC EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 00-124)

PROPOSED ORDER

An order of the Chiropractic Examining Board to renumber Chir 5.01 (1); and to create Chir 3.02 (1) (d), 3.09 and 5.01 (1) (b) and (c), relating to continuing education requirements.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

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

Statutes interpreted: 446.02 (1) (b), Stats.

In this rule-making order, the Chiropractic Examining Board authorizes the designation of specific topic areas for continuing education. Clarification is made that the continuing education requirement applies in the first full biennium following initial licensure. The board would like to use continuing education to address the areas of greatest need for chiropractors.

Section Chir 3.09 adds the requirement that chiropractors need to maintain certification in cardiopulmonary resuscitation.

TEXT OF RULE

SECTION 1. Chir 3.02 (1) (d) is created to read:

Chir 3.02 (1) (d) Evidence that the licensee is certified in cardiopulmonary resuscitation.

SECTION 2. Chir 3.09 is created to read:

Chir 3.09 Cardiopulmonary resuscitation certification. Every chiropractor shall maintain certification in cardiopulmonary resuscitation.

SECTION 3. Chir 5.01 (1) is renumbered Chir 5.01 (1) (a).

SECTION 4. Chir 5.01 (1) (b) and (c) are created to read:

Chir 5.01 (1) (b) Continuing education requirements for license renewal apply to the first full 2 year period in which a chiropractor is licensed.

(c) Of the 40 continuing education credit hours in par. (a), the section may require by publication in the regulatory digest that up to 8 continuing education credit hours in each 2-year license registration period be acquired in certain specified topic areas.

(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 _____

Agency _____

Chairperson
Chiropractic Examining Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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