

STATE OF WISCONSIN
Medical Examining Board

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE MEDICAL
EXAMINING BOARD

ORDER OF THE MEDICAL EXAMINING BOARD
ADOPTING RULES
(CLEARINGHOUSE RULE 15-022)

ORDER

The Medical Examining Board proposes an order to repeal Med 1.06 (4), 1.09 (4), and 3.06; to amend Med 1.06 (1) (a) (intro.), (b), and (c), 1.08 (2), 1.09 (1), 1.09 (6), Chapter 3 (title), 3.01, 3.02, 3.04, Chapter 5 (title), 5.01, 5.02, 5.04, and 5.05; to repeal and recreate Med 1.02 (3), 3.05, and 5.06; and to create Med 23, relating to physician licensure.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

S Statutes interpreted:

448.04 (1) and 448.05 (2), Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), 448.40 (1), Stats., and 2013 Wisconsin Act 240

Explanation of agency authority:

Sections 15.08 (5) (b) and 227.11 (2) (a), Stats., provide general authority from the legislature to the Medical Examining Board (Board) to promulgate rules that will provide guidance within the profession and interpret the statutes it administers. Section 448.40 (1), Stats., allows the Board to draft rules that will carry out the purposes of ch. 448, Stats. With the passage of 2013 Wisconsin Act 240, the legislature granted specific rule-making authority to the Board to draft rules to address the new physician licensure classifications created by the Act.

Related statute or rule:

Wis. Admin. Code ch. Med 1, 3, and 5

Plain language analysis:

These rules address the changes instituted by the passage of 2013 Wisconsin Act 240 regarding physician licensure. The Act changed the postgraduate training requirement for all applicants seeking physician licensure from 12 months to 24 months. Both U.S. and foreign trained medical school graduates must complete 24 months of postgraduate training or must be currently enrolled and have successfully completed 12 months of a postgraduate training program, and have an unrestricted endorsement from the postgraduate training director that the applicant is expected to complete at least 24 months of postgraduate training.

Act 240 repealed the visiting professor license and created the restricted license to practice medicine and surgery as a visiting physician. The visiting physician license is open to any physician licensed outside of Wisconsin who is invited to serve on the academic staff of a medical school in this state. The holder of a visiting physician license may only practice in the education facility, research facility or medical school where the license holder is teaching, researching, or practicing medicine and surgery. The license is valid for one year and remains valid as long as the license holder is actively engaged in teaching, researching, or practicing medicine and surgery and is lawfully entitled to work in the U.S.

The temporary educational permit to practice medicine and surgery was also repealed and replaced with the resident educational license to practice medicine and surgery (REL). The REL allows the license holder to pursue postgraduate training under the direction of a Wisconsin licensed physician. The holder of a REL may practice online in the postgraduate training program in which the person is being trained. The REL is valid for one year and may be renewed for additional one year terms as long as the license holder is enrolled in a postgraduate training program.

The Act created the administrative physician license. The administrative physician license allows the license holder to pursue administrative or professional managerial functions but does not allow the license holder to treat patients. The administrative physician license holder must comply with all of the same application requirements as a regular license to practice medicine and surgery.

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

None.

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

The rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days. 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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Vieira, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone (608) 261-4472; email at Kathleen.Vieira@wisconsin.gov.

TEXT OF RULE

SECTION 1. Med 1.02 (3) is repealed and recreated to read:

Med 1.02 (3) (a) Verification of satisfactory completion by the applicant of 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association or a successor organization; or documentary evidence that the applicant is currently enrolled in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, or the American Osteopathic Association or a successor organization and has received credit for 12 consecutive months of postgraduate training in that program and an unrestricted endorsement from the postgraduate training director that the applicant is expected to complete at least 24 months of postgraduate training.

(b) If an applicant is a graduate of a foreign allopathic or osteopathic medical school, then the applicant must provide a verified certificate showing satisfactory completion of 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association or a successor organization; or documentary evidence that the applicant is currently enrolled in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, or the American Osteopathic Association or a successor organization and has received credit for 12 consecutive months of postgraduate training in that program and an unrestricted endorsement from the postgraduate training

director that the applicant is expected to complete at least 24 months of postgraduate training.

(c) If the applicant is a graduate of a foreign allopathic or osteopathic medical school and has not completed 24 months of postgraduate training approved by the board and is not currently enrolled in a postgraduate training program but the applicant has other professional experience which the applicant believes has given that applicant the education and training substantially equivalent to 24 months of postgraduate training, then the applicant may submit the documented education and training demonstrating substantially equivalent education and training. The board will review the documented education and training and may make further inquiry, including a personal interview of the applicant, as the board deems necessary to determine whether substantial equivalence in fact exists. The burden of proof of such equivalence shall lie upon the applicant. If the board finds that the documented education and training is substantially equivalent to the required training and experience the board may accept the experience in lieu of requiring the applicant to have completed 24 months of postgraduate training in a program approved by the board.

(d) The board approves of the training programs accredited by the following organizations: the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, the Liaison Committee on Medical Education, the American Association of Colleges of Osteopathic Medicine, and the National Joint Committee on Approval of Pre-Registration of Physician Training Programs of Canada, or their successor organizations.

SECTION 2. Med 1.06 (1) (a) (intro.), (b), and (c) are amended to read:

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

(b) An application filed under s. Med 1.02 shall be reviewed by an application review panel of at least 2 board members designated by the chairperson of the board. The panel shall determine whether the applicant is eligible for a regular license without completing an oral ~~examination~~ interview.

(d) Written, and computer-based examinations and oral ~~examinations~~ interviews as required shall be scored separately and the applicant shall achieve a passing grade on all examinations to qualify for a license.

SECTION 3. Med 1.06 (4) is repealed.

SECTION 4. Med 1.08 (2) is amended to read:

Med 1.08 (2) If an applicant has been examined 4 or more times in another licensing jurisdiction in the United States or Canada before achieving a passing grade in written or computer-based examinations also required under this chapter, the board may require the applicant to submit evidence satisfactory to the board of further professional training or education in examination areas in which the applicant had previously demonstrated deficiencies. If the evidence provided by the applicant is not satisfactory to the board, the board may require the applicant to obtain further professional training or education as the board deems necessary to establish the applicant's fitness to practice medicine and surgery in this state. In order to determine any further professional training or education requirement, the board shall consider any information available relating to the quality of the applicant's previous practice, including the results of the applicant's performance on the oral ~~examination~~ interview required under s. 448.05 (6), Stats., and s. Med 1.06.

SECTION 5. Med 1.09 (1) is amended to read:

Med 1.09 (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.

SECTION 6. Med 1.09 (4) is repealed.

SECTION 7. Med 1.09 (6) is amended to read:

Med 1.09 (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.

SECTION 8. Med 3 (title) is amended to read:

CHAPTER MED 3

VISITING ~~PROFESSOR~~ PHYSICIAN LICENSE

SECTION 9. Med 3.01 and 3.02 are amended to read:

Med 3.01 Authority and purpose. The rules in this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5), 227.11 (2) (a) and 448.40, Stats., and govern application for a temporary license to practice medicine and surgery under s. 448.04 (1) (b) 2., Stats., restricted license to practice medicine and surgery as a visiting physician under 448.04 (1) (bg), Stats., (hereinafter "visiting ~~professor~~ physician license"), and also govern practice thereunder.

Med 3.02 Applications, credentials, and eligibility. An applicant who is a graduate of a ~~foreign~~ allopathic medical school ~~located outside of the United States or~~

~~Canada~~ or an osteopathic medical school that is approved by the board and who is invited to ~~serve on the academic staff of a~~ teach, conduct research, or practice medicine and surgery at a medical education facility, medical research facility, or medical school in this state as a visiting ~~professor~~ physician may apply to the board for a ~~temporary visiting professor license~~ visiting physician license and shall submit to the board all of the following:

(1) A completed and verified application ~~for this purpose as required in s. Med 1.02 (1), which includes proof that the applicant has graduated from and possesses a diploma from an allopathic medical or osteopathic medical school that is approved by the board.~~

(1m) Documentary evidence of licensure to practice medicine and surgery.

(2) A signed letter from the appointing authority president or dean or delegate of the president or dean of a medical school, or facility in this state indicating that the applicant has been invited to serve on the academic staff of such medical school as a visiting professor intends to teach, conduct research, or practice medicine and surgery at a medical education facility, medical research facility, or medical school in this state.

(3) A curriculum vitae setting out the applicant's education and qualifications ~~and a verified photographic copy of the diploma (with translation) conferring the degree of doctor of medicine granted to the applicant by such college.~~

~~(4) A photograph of the applicant as required in s. Med 1.02 (4).~~

(5) A verified statement that the applicant is familiar with the state health laws and the rules of the department of health services as related to communicable diseases.

~~(6) Documentary evidence of noteworthy attainment in a specialized field of medicine.~~

(7) Documentary evidence of ~~post-graduate~~ postgraduate training completed in the United States ~~and/or~~ or foreign countries.

(8) Oral interview conducted ~~by~~ at the discretion of the board.

(9) Documentary evidence that the applicant teaches medicine, engages in medical research, or practices medicine and surgery outside of Wisconsin.

(10) The required fees determined under s. 440.03 (9) (a), Stats.

SECTION 10. Med 3.04 is amended to read:

Med 3.04 Practice limitations. The holder of a ~~temporary~~ visiting professor physician license may practice medicine and surgery as defined in s. 448.01 (9), Stats.,

providing such practice is ~~full-time and~~ is entirely limited to the medical education facility, medical research facility, or medical school where the license holder is teaching, conducting research, or practicing medicine and surgery, and is limited to the terms and restrictions established by the board. ~~the duties of the academic position to which the holder of such license is appointed.~~

SECTION 11. Med 3.05 is repealed and recreated to read:

Med 3.05 Expiration and renewal. A visiting physician license is valid for one year and remains valid only while the license holder is actively engaged in teaching, conducting research, or practicing medicine and surgery and is lawfully entitled to work in the United States. The visiting physician license may be renewed at the discretion of the board.

SECTION 12. Med 3.06 is repealed.

SECTION 13. Med 5 (title) is amended to read:

CHAPTER MED 5

TEMPORARY EDUCATIONAL PERMIT RESIDENT EDUCATIONAL LICENSE TO PRACTICE MEDICINE AND SURGERY

SECTION 14. Med 5.01 and 5.02 are amended to read:

Med 5.01 Authority and purpose. The rules in this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5), 227.11 and 448.40, Stats., and govern application for ~~temporary educational permit~~ the resident educational license to practice medicine and surgery under ~~s. 448.04 (1) (e), Stats., s. 448.04 (1) (bm), Stats.,~~ (hereinafter "temporary resident educational permit license"), and also govern practice thereunder.

Med 5.02 Applications, credentials, and eligibility. An applicant who has been ~~appointed to~~ accepted into a postgraduate training program in a facility in this state approved by the board under the provisions of s. Med 1.02 (3) and accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization may apply to the board for a ~~temporary educational permit~~ resident educational license to practice medicine and surgery ~~and~~. The applicant shall submit to the board all of the following:

(1) A completed and verified application form ~~supplied by the board for this purpose. These application forms are furnished by the board to the directors of training programs in approved facilities in this state and are available to the applicant from such directors.~~

(1m) Documentary evidence that the applicant is a graduate of and possesses a diploma from an allopathic or osteopathic medical school approved by the board.

(2) ~~The documentary~~ Documentary evidence that ~~and credentials required under s. Med 1.02 (2), (4) and (5)~~ the applicant has been accepted into a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization.

(3) A signed letter from the president or dean or the delegate of the president or dean of the institution sponsoring the postgraduate training program into which the applicant has been accepted confirming that the applicant has been or will be accepted into a postgraduate training program.

(4) A verified statement that the applicant is familiar with the state health laws and rules of the department of health services as related to communicable diseases.

SECTION 15. Med 5.04 and 5.05 are amended to read:

Med 5.04 Practice limitations. The holder of a ~~temporary educational permit to practice medicine and surgery~~ resident educational license may, under the direction of a person licensed to practice medicine and surgery in this state, perform services requisite to the postgraduate training program in which ~~that holder~~ the licensee is serving. Acting under such direction, ~~the holder of such temporary educational permit~~ the resident educational licensee shall also have the right to prescribe drugs ~~other than narcotics and controlled substances~~ and to sign any certificates, reports or other papers for the use of public authorities which are required of or permitted to persons licensed to practice medicine and surgery. The ~~holder of such temporary educational permit~~ resident educational licensee shall confine ~~his or her~~ the training and entire practice to the ~~facility~~ postgraduate training program in which ~~the permit holder~~ the resident educational licensee is taking the training ~~and to the duties of such training.~~

Med 5.05 Revocation. Violation by ~~the holder of a temporary educational permit~~ a resident educational licensee to practice medicine and surgery of any of the provisions of this chapter or of any of the provisions of the Wisconsin Administrative Code or of ch. 448, Stats., which apply to persons licensed to practice medicine and surgery shall be cause for the revocation of such ~~temporary educational permit~~ resident educational license.

SECTION 16. Med 5.06 is repealed and recreated to read:

Med 5.06 Expiration and renewal. A resident educational license to practice medicine and surgery granted under this chapter is valid for one year from the date of issuance and may be renewed for additional one-year terms as long as the license holder is enrolled in the postgraduate training program.

SECTION 17. Ch. Med 23 is created to read:

CHAPTER MED 23

ADMINISTRATIVE PHYSICIAN LICENSE

Med 23.01 Authority and purpose. The rules in this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5), 227.11, and 448.40, Stats., and govern application for licensure as an administrative physician under s. 448.04 (1) (ac), Stats., and also govern practice thereunder.

Med 23.02 Application, credentials and eligibility. An applicant for an administrative physician license must provide a completed and verified application which includes proof that the applicant has graduated from and possesses a diploma from an allopathic or osteopathic medical school approved by the board; and documentary evidence of completion of a postgraduate training program approved by the board. Applicants for an administrative physician license must also meet the same qualifications for licensure as applicants applying under s. 448.05 (2) (a) or (b), Stats.

Med 23.03 Fees. The required fees must accompany the application, and must be made payable to the Wisconsin department of safety and professional services.

Med 23.04 Practice limitations. The Board may issue an administrative physician license to an applicant whose primary responsibilities are those of an administrative or academic nature, such as professional managerial, administrative, or supervisory activities. The holder of an administrative physician license may not examine, care for, or treat patients. An administrative physician license does not include the authority to prescribe drugs or controlled substances, delegate medical acts, issue opinions regarding medical necessity, or conduct clinical trials on humans.

Med 23.05 Registration and renewal. Each administrative physician licensee shall register biennially with the board. Administrative physicians who possess the degree of doctor of osteopathy must register by March 1st of each even-numbered year. Administrative physicians who possess the degree of doctor of medicine must register on or before November 1 of each odd-numbered year. The department shall mail to each licensee at his or her last known address as it appears in the records of the board a notice of renewal for registration. The board shall notify the licensee within 30 business days of receipt of a completed registration form as to whether the application for registration is approved or denied. The administrative physician licensee must comply with all other provisions of s. 448.13, Stats. and of ch. Med 13.

Med 23.06 Interview. Applicants may be required to complete an oral interview at the discretion of the board.

SECTION 18. 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)
