

STATE OF WISCONSIN
Radiography Examining Board

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE
RADIOGRAPHY EXAMINING BOARD

ORDER OF THE RADIOGRAPHY EXAMINING BOARD
ADOPTING RULES
(CLEARINGHOUSE RULE 16-091)

ORDER

An order of the Radiography Examining Board to renumber and amend RAD 1.02 (12) and create RAD 1.02 (12) (a) to (h), relating to definition of licensed independent practitioner.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.56 (7) (a), Stats.

Statutory authority:

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency’s rule-making authority, stating an agency “may promulgate rules interpreting provisions of any statute enforced or administered by the agency. . .but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Related statutes or rules:

None.

Plain language analysis:

The rules reflect the provisions of 2015 Wisconsin Act 375, which grants qualified physical therapists the authority to order X-rays. Current rules provide the scope of practice for radiographers involves the production of images for the interpretation by, or at the request of, a licensed independent practitioner. “Licensed independent practitioner” as defined in current rules does not include a physical therapist. The rules amend the definition of “licensed independent

practitioner” to include a physical therapist who is licensed under s. 448.53, Stats., and satisfies one of the qualifications under s. 448.56 (7) (a), Stats.

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

None.

Comparison with rules in adjacent states:

Illinois: 68 Ill. Adm. Code 1340, which governs the practice of physical therapy in Illinois, does not explicitly authorize or prohibit the ordering of X-rays by physical therapists. 32 Ill. Admin. Code 401, which provides for accreditation in the practice of medical radiation technology in Illinois, does not address qualifications for ordering X-rays.

Iowa: 645 IAC 200 to 203, which governs the practice of physical therapy in Iowa, does not explicitly authorize or prohibit the ordering of X-rays by physical therapists. 645 IAC 42, which provides for permits to operate ionizing radiation producing machines or administer radioactive materials in Iowa, does not address qualifications for ordering X-rays.

Michigan: Mich Admin Code, R 338.7101 to R 338.7150, which governs the practice of physical therapy in Michigan, does not explicitly authorize or prohibit the ordering of X-rays by physical therapists. Michigan does not have requirements for the licensure or credentialing of X-ray machine operators.

Minnesota: Minnesota Rules, Chapter 5601, which governs the practice of physical therapy in Minnesota, does not explicitly authorize or prohibit the ordering of X-rays by physical therapists. Minn. Stat. 144.21, which provides requirements for X-ray operators, does not address qualifications for ordering X-rays.

Summary of factual data and analytical methodologies:

The rules were developed by reviewing the provisions of 2015 Wisconsin Act 375 in conjunction with current rules relating to the definition of licensed independent practitioner under s. RAD 1.02 (12).

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

The 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 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, Room 151, 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, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 9:00 a.m. on March 1, 2017, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RAD 1.02 (12) is renumbered RAD 1.02 (12) (intro.) and amended to read:

RAD 1.02 (12) (intro.) "Licensed independent practitioner" means ~~a physician licensed under s. 448.04 (1), Stats., a dentist licensed under s. 447.04 (1), Stats., a podiatrist licensed under s. 448.63, Stats., a chiropractor licensed under s. 446.02, Stats., an advance practice nurse prescriber certified under s. 441.16 (2), Stats., or a physician assistant licensed under s. 448.04 (1) (f), Stats., or other health care provider who is defined as an independent practitioner.~~ any of the following:

SECTION 2. RAD 1.02 (12) (a) to (h) are created to read:

(a) A physician licensed under s. 448.04 (1), Stats.

(b) A dentist licensed under s. 447.04 (1), Stats.

(c) A podiatrist licensed under s. 448.63, Stats.

(d) A chiropractor licensed under s. 446.02, Stats.

(e) An advance practice nurse prescriber certified under s. 441.16 (2), Stats.

(f) A physician assistant licensed under s. 448.04 (1) (f), Stats.

(g) A physical therapist licensed under s. 448.53, Stats., who satisfies one of the qualifications under s. 448.56 (7) (a), Stats.

(h) A health care provider who is defined as an independent practitioner.

SECTION 3. 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)
