

STATE OF WISCONSIN  
MEDICAL EXAMINING BOARD

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IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD  
MEDICAL EXAMINING BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE )

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PROPOSED ORDER

An order of the Medical Examining Board to amend Med 13.02 (1) and to create Med 13.02 (1g) and (1r) and 13.03 (3), relating to continuing medical education for prescribing opioids.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

Section 448.13, Stats.

**Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2) (a), and 448.40 (1), Stats.

**Explanation of agency authority:**

Section 15.08 (5) (b), Stats., provides examining boards, “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.”

Section 448.40 (1), Stats., provides that the Medical Examining Board “may promulgate rules to carry out the purposes of this subchapter, including rules requiring the completion of continuing education, professional development, and maintenance of certification or performance improvement or continuing medical education programs for renewal of a license to practice medicine and surgery.”

**Related statute or rule:**

None.

**Plain language analysis:**

The proposed rules establish requirements for the completion of continuing education relating to the opioid prescribing guidelines issued by the Board as a portion of the

biennial training requirements for physicians, and for Board approval of educational courses and programs.

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

None.

**Comparison with rules in adjacent states:**

**Illinois:**

Rules of the Illinois Department of Financial and Professional Regulation establish continuing medical education requirements for physicians licensed in Illinois (68 Ill. Adm. Code 1285.110). The rules do not require continuing education for prescribing opioids.

**Iowa:**

Rules of the Iowa Board of Medicine establish continuing education requirements for physicians licensed in Iowa (653 IAC 11). The rules do not require continuing education for prescribing opioids.

**Michigan:**

Rules of the Michigan Department of Licensing and Regulatory Affairs establish continuing medical education requirements for physicians licensed in Michigan (Mich Admin Code, R 338.2371 to R 338.2382). The rules do not require continuing education for prescribing opioids.

**Minnesota:**

Rules of the Minnesota Board of Medical Practice establish continuing education requirements for physicians licensed in Minnesota (Minnesota Rules, chapter 5605). The rules do not require continuing education for prescribing opioids.

**Summary of factual data and analytical methodologies:**

The proposed rules were developed by obtaining input and feedback from the Medical Examining Board.

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

The proposed rules will be 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.

**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 [Jeffrey.Weigand@wisconsin.gov](mailto:Jeffrey.Weigand@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 Dale2.Kleven@wisconsin.gov.

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TEXT OF RULE

SECTION 1. Med 13.02 (1) is amended to read:

**Med 13.02 Continuing medical education required; waiver. (1)** Each physician required to complete the biennial training requirements provided under s. 448.13, Stats., shall, in each second year at the time of making application for a certificate of registration as required under s. 448.07, Stats., sign a statement on the application for registration certifying that the physician has completed at least 30 hours of acceptable continuing medical educational programs within the ~~2 calendar years immediately preceding the calendar year for which application for registration is made~~ biennial registration period.

SECTION 2. Med 13.02 (1g) and (1r) are created to read:

**Med 13.02 (1g) (a)** Except as provided in par. (b), for a renewal date occurring in 2017 or 2018, a minimum of 2 of the 30 hours of continuing medical education required under sub. (1) shall be an educational course or program related to the guidelines issued by the board under s. 440.035 (2m), Stats., that is approved under s. Med 13.03 (3) at the time of the physician's attendance.

**(b)** This subsection does not apply to a physician who, at the time of making application for a certificate of registration, does not hold a U.S. Drug Enforcement Administration number to prescribe controlled substances.

**(1r) (a)** Except as provided in par. (b), for a renewal date occurring in 2019 or 2020, a minimum of 2 of the 30 hours of continuing medical education required under sub. (1) shall be an educational course or program related to the guidelines issued by the board under s. 440.035 (2m), Stats., that is approved under s. Med 13.03 (3) at the time of the physician's attendance.

**(b)** This subsection does not apply to a physician who, at the time of making application for a certificate of registration, does not hold a U.S. Drug Enforcement Administration number to prescribe controlled substances.

SECTION 3. Med 13.03 (3) is created to read:

**Med 13.03 (3) (a)** Only educational courses and programs approved by the board may be used to satisfy the requirement under s. Med 13.02 (1g) (a) and (1r) (a). To apply for approval of a continuing education course or program, a provider shall submit to the board an application on forms provided by the department. The application shall include all of the following concerning the course or program:

1. The title.

2. A general description and a detailed outline of the content.
3. The dates and locations.
4. The name and qualifications of the instructor.
5. The sponsor.

**Note:** An application for continuing education course or program approval may be obtained from the board at the Department of Safety and Professional Services, Office of Education and Examinations, P.O. Box 8366, Madison, Wisconsin, 53708, or from the department's website at <http://dsps.wi.gov>.

(b) A continuing education course or program must meet all of the following criteria to be approved:

1. The course or program is accepted by the board under sub. (1) (b).
2. The subject matter of the course pertains to the guidelines issued by the board under s. 440.035 (2m), Stats.
3. The provider agrees to monitor the attendance and furnish a certificate of attendance to each participant. The certificate of attendance shall certify successful completion of the course or program.
4. The provider is approved by the board.
5. The course or program content and instructional methodologies are approved by the board.

(c) A separate application shall be submitted for each continuing education course or program approval request.

(d) A course or program sponsor may repeat a previously approved course or program without application, if the subject matter and instructor has not changed.

SECTION 4. 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.

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(END OF TEXT OF RULE)

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

Med 13

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3. Subject

Continuing medical education for prescribing opioids

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165(1)(hg)

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect    Increase Existing Revenues    Increase Costs  
 Indeterminate    Decrease Existing Revenues    Could Absorb Within Agency's Budget  
 Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

State's Economy    Specific Businesses/Sectors  
 Local Government Units    Public Utility Rate Payers  
 Small Businesses (if checked, complete Attachment A)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

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9. Policy Problem Addressed by the Rule

The proposed rules will establish continuing education requirements for physicians relating to the opioid prescribing guidelines issued by the Board. These requirements will be another component to the current statewide initiatives addressing prescription drug abuse, and are in the best interest of public health and safety.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.

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11. Identify the local governmental units that participated in the development of this EIA.

No local governmental units participated in the development of this EIA.

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

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13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit to implementing the rule is adding a component to the current statewide initiatives addressing prescription drug abuse. Not implementing the rule would be inconsistent with these initiatives.

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14. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is increased physician awareness of prescription drug abuse.

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15. Compare With Approaches Being Used by Federal Government

None

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

**Illinois:**

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**Iowa:**

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**Michigan:**

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**Minnesota:**

Rules of the Minnesota Board of Medical Practice establish continuing education requirements for physicians licensed in Minnesota (Minnesota Rules, chapter 5605). The rules do not require continuing education for prescribing opioids.

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17. Contact Name

Dale Kleven

18. Contact Phone Number

(608) 261-4472

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