

WISCONSIN LEGISLATIVE COUNCIL STAFF

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FORM 2

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1999

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 99-038

AN ORDER to create chapters Pod 1 to 6, relating to the regulation and licensure of podiatrists.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

02-26-99 RECEIVED BY LEGISLATIVE COUNCIL.

03-26-99 REPORT SENT TO AGENCY.

RNS:DF:kjf;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 99-038

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.]

1. Statutory Authority

Section 448.62 (3) and (4), Stats., provide that licensure is not required for podiatry students engaged in required education and training, and podiatrists licensed in other jurisdictions who provide consultations and demonstrations with Wisconsin podiatrists.

The provisions of ss. Pod 1.07 and 1.08 should be reviewed for potential conflicts with s. 448.62 (3) and (4), Stats. The board should consider including cross-references to these statutes in the cited rules.

2. Form, Style and Placement in Administrative Code

a. Because ss. Pod 1.01, 2.01, 3.01, 4.01, 5.01 and 6.01 all cite the same statutory provisions as authority for chs. Pod 1 to 6, only one rule section, s. Pod 1.01, is necessary to state the authority and purpose for the rule.

Specifically, s. Pod 1.01 could be redrafted as follows:

Pod 1.01 Authority and purpose. Chapters Pod 1 to 6 are adopted by the podiatrists affiliated credentialing board under ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats., and govern the

practice of podiatric medicine and surgery under subch. IV of ch. 448, Stats.

This provision makes it unnecessary to include similar sections in chs. Pod 2 to 6.

b. Rules should be drafted using the present tense and active voice, and the word "shall" is used to denote mandatory actions and directives. [See s. 1.01 (1) and (2), Manual.]

For example, in s. Pod 1.05 (1) (c), "must" should replace "shall." In sub. (2), "shall utilize" should replace "utilizes" in the first sentence. In the third sentence of sub. (2), "shall arrange" should replace "is responsible for arranging for." In sub. (3), "shall" should replace "will." Similar revisions should also be made in subs. (4) and (5), and in ss. Pod 3.02 (2) and 4.04.

As another example, in the first sentence of s. Pod 1.11 (3), "the board shall issue a notice of denial" should replace the material after the comma.

c. Latin and other foreign terms should be avoided when drafting administrative rules. [See s. 1.01 (1), Manual.] Therefore, another phrase should be substituted for "locum tenens" in s. Pod 1.08. If a Latin phrase must be used, it should be defined somewhere in the rule.

d. Regarding the definitions sections [ss. Pod 2.02, 4.02, 5.02 and 6.02] in the draft, it appears that several terms are defined more than once, and some of the defined terms are also used in ch. Pod 1, which does not have a definitions section.

It is suggested that all of the above provisions be consolidated into a single section for definitions that applies to all of the rules [chs. Pod 1 to 6] and is located at the beginning of ch. Pod 1.

e. In s. Pod 3.02 (1), "provided" should be deleted.

f. In s. Pod 4.03, in the first sentence, "as it appears in the records of the board" is unnecessary and should be deleted.

g. In the second sentence of s. Pod 4.04, "deemed" should be deleted.

h. In s. 4.05 (2) (b), it is unclear if an inquiry is mandatory or discretionary. If it is discretionary, "may" should replace the first "shall." In either case, "as it finds necessary" should be deleted.

i. In s. Pod 5.04 (2), "specified" should be deleted.

j. In s. Pod 5.05 (2) (a), par. (b) (intro.) and subds. 1. and 2. should be combined into a single introductory clause.

k. In s. Pod 6.03 (1), "administered to" should be deleted.

4. Adequacy of References to Related Statutes, Rules and Forms

a. Sections Pod 1.04, 1.08 (1) (d), 1.09 (1) (a), 1.10 (1) (intro.) and other sections of the rule refer to “the required fees.” This phrase should be clarified by a specific reference to the fees required “under s. 440.05 (1), Stats.” or a specific reference to a different statute, rule or dollar amount.

b. In s. Pod 1.07 (4), “the Wisconsin administrative code” should be replaced by “chs. Pod 1 to 6.”

c. Section Pod 5.03 refers to “16 CFR 1700.14 (1982) of the federal poison prevention packaging act.” It appears that the board is mixing a reference to a federal act and a federal regulation. This reference should be reviewed. [Also see s. 1.07 (3), Manual.]

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

a. In the last sentence of s. Pod 1.02 (2), “shall approve the” should replace “recognizes as approved those.”

b. In s. Pod 1.05 (1) (a) 4., “to have been” should be deleted; and in subd. 11., “has been” should be deleted.

In sub. (1) (c), “become qualified for grant of” should be replaced by “qualify for a.”

In the second sentence of sub. (2), “examination” should replace “of them”; and in the last sentence of sub. (3), “is on” should replace “shall lie upon.”

Finally, the second sentence of sub. (3) is overly long and should be divided into two sentences. Therefore, “examination. If” should replace “examination and if”.

c. In s. Pod 2.02 (2) (c) and (d), “licensure” or “a license” should replace “license.” In par. (g), “patient or public” should be replaced by “a patient or the public.” In par. (o), “other” should replace “otherwise.” In par. (u), “of like meaning,” is redundant.

d. In s. Pod 5.06, a comma should be inserted after “contain.”

STATE OF WISCONSIN
PODIATRISTS AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PODIATRISTS AFFILIATED
PODIATRISTS AFFILIATED : CREDENTIALING BOARD
CREDENTIALING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 99-)

PROPOSED ORDER

An order of the Podiatrists Affiliated Credentialing Board to *create* chapters Pod 1 to 6, relating to the regulation and licensure of podiatrists.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), Stats., and s. 448.695, Stats., as created by 1997 Wisconsin Act 175.

Statutes interpreted: Chapter 448, Subchapter IV, Stats.

In this proposed rule-making order the Podiatrists Affiliated Credentialing Board creates rules relating to the practice of podiatric medicine. These rules are as a result of 1997 Wisconsin Act 175 which created the Podiatrists Affiliated Credentialing Board and gave the board the authority to promulgate rules.

Section Pod 1.01 sets forth the statutory authority for the proposed rules. Section Pod 1.02 specifically outlines the application and credentialing process. Section Pod 1.03 outlines the process for the translation of documents into English. Section Pod 1.04 outlines the application deadlines and fees. Pod 1.05 creates the oral examination procedure to be used by applicants who may be required to take an oral examination before the Podiatrists Affiliated Credentialing Board. It further spells out the requirements to take state board examinations. Section Pod 1.06 spells out the process to be used for examination failure. Section Pod 1.07 creates and spells out the process for temporary educational permits. Section Pod 1.08 outlines the process to be used for the issuance of a locum tenes license. Section Pod 1.09 creates and spells out the process for a temporary certificate and who may practice under such temporary certificate. Section Pod 1.10 establishes the rules regarding the review of an examination by an applicant. Section Pod 1.11 outlines the procedures that the board must use to review an examination error.

Section Pod 2.01 sets forth the statutory authority for developing an unprofessional conduct section. Section Pod 2.02 defines unprofessional conduct as it applies to the profession of podiatric medicine.

Section Pod 3.01 sets forth the statutory authority for developing continuing education requirements. Section Pod 3.02 outlines the continuing education that is required and provides for a waiver in special circumstances. Section Pod 3.03 establishes the acceptable continuing education programs.

Section Pod 4.01 sets forth the statutory authority for developing the biennial registration section. Section Pod 4.02 creates the definitions for this section. Section Pod 4.03 specifically outlines the requirements and methods of registration. Section Pod 4.04 specifically outlines when registration is prohibited, annulled and the process for reregistration. Section Pod 4.05 outlines the process regarding the failure to be registered and the status of a credential holder who is not currently registered and how they may register.

Section Pod 5.01 sets forth the statutory authority for developing standards for dispensing and prescribing drugs. Section Pod 5.02 defines dispensing and prescribing of drugs. Section Pod 5.03 outlines the packing requirements for dispensing of drugs. Section Pod 5.04 outlines the labeling requirements for dispensing of drugs. Section 5.05 outlines the recordkeeping requirements for prescribing and dispensing of drugs. Section Pod 5.06 outlines the delegation of prescription orders to others.

Section Pod 6.01 sets forth the statutory authority for developing patient health care records. Section Pod 6.02 defines patient health care records. Section Pod 6.03 establishes the minimum standards for patient health care records.

TEXT OF RULE

SECTION 1. Chapters Pod 1 to 6 are created to read:

*create by
section in
POD 1*

CHAPTER POD 1

LICENSE TO PRACTICE PODIATRIC MEDICINE AND SURGERY

Pod 1.01 Authority and purpose. The rules in this chapter are adopted by the podiatrists affiliated credentialing board pursuant to the authority delegated by ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats., and govern application and examination for a license to practice podiatric medicine and surgery under s. 448.63, Stats.

Pod 1.02 Application and credentials. Every person applying for a license to practice podiatric medicine and surgery shall make application on forms provided by the board and shall submit all of the following:

- (1) A completed and verified application form.
- (2) Verified documentary evidence of graduation from a school of podiatric medicine and surgery approved by the board and a verified photographic copy of the diploma conferring the degree of doctor of podiatric medicine or its equivalent as determined by the board

granted to the applicant by the school. The board recognizes as approved those podiatric medical schools recognized and approved at the time of the applicant's graduation by the council on education of the American podiatry association.

Still approve the

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Pod 1.03 Translation of documents. If any of the documents required under this chapter are in a language other than English, the applicant shall also submit a verified English translation and the cost of translation shall be borne by the applicant.

not in English

X

Pod 1.04 Application deadline and fees. The completed application and all required documents must be received by the board at its offices not less than 30 days prior to the date of examination. The required fees must accompany the application.

Pod 1.05 Examinations. (1) (a) An applicant shall complete the written examination under sub. (2), and an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin. In addition, an applicant may be required to complete an oral examination if the applicant:

under s. 490.05(1), Stats.

X

check med rules

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

that

3. Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction.

was

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

was *was*

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

was

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 postgraduate training.

7. Has been graduated from a school of podiatric medicine not approved by the board.

was

8. Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

was

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

was
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 podiatric medicine and surgery for a period of 6 months prior to application, unless the applicant has been graduated from a school of podiatric medicine within that period.

(b) An application filed under s. Pod 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 license without completing an oral examination.

shall be
(c) All examinations shall be conducted 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. shall

shall utilize & qualify for a
(2) The board utilizes as its written examinations the national board examination, part I and part II, and the PMLexis examination of the national board of podiatric examiners. A score of 75% or better, as recorded by the national board of podiatric medical examiners, shall be required as the passing score on each of them. Each applicant is responsible for arranging for the examinations with the national board of podiatric medical examiners. shall be
examiner

(3) An applicant who has received passing grades in written examinations for a license to practice podiatry conducted by another licensing jurisdiction of the United States, may submit to the board documentary evidence. The board will review the documentary evidence to determine whether the scope and passing grades of the examinations are substantially equivalent to those of this state at the time of the applicant's examination, and if the board finds equivalency, the board will accept this in lieu of requiring the applicant to achieve passing grades in the national board examination and the PMLexis examination of the national board of podiatry examiners. The burden of proof of equivalency shall lie upon the applicant. shall
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(4) The oral-practical examination of each applicant is conducted by members of the board and is scored as pass or fail. shall be

(5) The board will notify each applicant found eligible for examination of the time and place scheduled for that applicant's oral-practical examination. Unless prior scheduling arrangements have been made with the board by the applicant, failure of an applicant to appear for examination as scheduled will void that applicant's application and require the applicant to reapply for licensure.

(6) Any applicant who is a graduate of a school of podiatric medicine and surgery in which English is not the primary language of communication may be examined by the board on his or her proficiency in the English language

Pod 1.06 Failure and reexamination. An applicant who fails to achieve a passing grade in the examinations required under this chapter may apply for reexamination on forms provided by the board. The application for each reexamination shall be accompanied by the reexamination fee. An applicant who fails to achieve a passing grade in the examinations required under this chapter may be reexamined twice at not less than 4 month intervals. If the applicant fails to achieve a passing grade on the second reexamination, the applicant shall not be admitted to further examination until he or she reapplies for licensure and also presents to the board evidence of further professional training or education as the board may deem appropriate in each applicant's particular case.

Pod 1.07 Temporary educational license. (1) An applicant who has been appointed to a postgraduate training program in a facility in this state 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 all of the following:

(a) A completed and verified application form provided by the board.

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

(b) The documentary evidence and credentials required under ss. Pod 1.02, ^{to} 1.03 and 1.04.

(c) The required fees.

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

(3) The holder of a temporary educational license to practice podiatric medicine and surgery may, under the direction of a person licensed to practice podiatric medicine and surgery in this state, perform services requisite to the training program in which that holder is serving. Acting under such direction, the holder of a temporary educational license shall also have the right to prescribe drugs other than 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 podiatric medicine and surgery. The holder of a temporary educational license shall confine his or her entire practice to the facility in which he or she is taking the training.

(4) Violation by the holder of a temporary educational license to practice podiatric medicine and surgery of any of the provisions of the Wisconsin administrative code or of subch. IV of ch. 448, Stats., which apply to persons licensed to practice podiatric medicine and surgery, shall be cause for the revocation of the temporary educational license.

(5) Temporary educational licenses granted under this chapter shall expire one year from date of issuance.

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Definition!

Pod 1.08 Locum tenens license. (1) An applicant who holds a valid license to practice podiatric medicine and surgery issued by another licensing jurisdiction of the United States may apply to the board for a locum tenens license to practice podiatric medicine and surgery and shall submit to the board all of the following:

(a) A completed and verified application form provided by the board.

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

(b) A letter from a podiatrist licensed to practice podiatric medicine and surgery in this state requesting the applicant's services.

(c) A verified photostatic copy of a license to practice podiatric medicine and surgery issued by another licensing jurisdiction of the United States to the applicant.

(d) The required fees.

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

(3) The application and documentary evidence submitted by the applicant will be reviewed by the board, acting through a designated member of the board and, upon the finding of the member that the applicant is qualified, the board, acting through the designated member, may issue a locum tenens license to practice podiatric medicine and surgery to the applicant.

(4) The holder of a locum tenens license to practice podiatric medicine and surgery may practice podiatric medicine and surgery as defined in s. 448.01 (8), Stats., providing the practice is confined to the geographical area for which the license is issued.

(5) A locum tenens license to practice podiatric medicine and surgery shall expire 90 days from the date of its issuance. For cause shown to its satisfaction, the board, acting through its designated member, may renew the locum tenens license for additional periods of 90 days each, but no license may be renewed more than 3 consecutive times.

Pod 1.09 Temporary license. (1) (a) An applicant for a license to practice podiatric medicine and surgery who is a graduate of a school of podiatric medicine and surgery approved by the board may apply to the board for a temporary license to practice podiatric medicine and surgery. An applicant for a temporary license shall submit to the board the documentary evidence and credentials required under ss. Pod 1.02 and 1.03, a completed application for a temporary license, and the required fees. An application for a temporary license shall be made not less than 30 days before the date set by the board for the holding of its next examinations for licensure.

(b) The application and information submitted under par. (a), shall be reviewed by the board through a designated member. The board, acting through the designated member, shall issue a temporary license to practice podiatric medicine and surgery if the applications and information submitted under par. (a) are satisfactory.

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

(2) (a) A temporary license to practice podiatric medicine and surgery granted under this section expires on the earliest of the following dates:

1. Sixty days after the next examination for a license is given by the board if the temporary licensee submits to the examination.

2. The first day the board begins its examination of applicants for a license to practice podiatric medicine and surgery after the temporary license is issued, if the temporary licensee does not submit to the examination on that date.

3. The date following the examination on which the board grants or denies the temporary licensee a license to practice podiatric medicine and surgery.

(b) A license to practice podiatric medicine and surgery is deemed denied by the board under par. (a) 3., on the date the applicant is notified that he or she has failed the examination for a license to practice podiatric medicine and surgery.

Pod 1.10 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 the 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) An 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) An 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. An applicant 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 or attempt to refute claims of error during the review.

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

Pod 1.11 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 specifics 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 ^{baseline} 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 1.07.

CHAPTER POD 2

UNPROFESSIONAL CONDUCT

Pod 2.01 Authority and purpose. The definitions of this chapter are adopted by the podiatrists affiliated credentialing board pursuant to the authority delegated by ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats.

Pod 2.02 Definitions. (1) For the purposes of this chapter:

(a) "Board" means the podiatrists affiliated credentialing board.

(b) "License" means any license issued by the board.

Draft of February 24, 1999

Page 8

limited only to Ch. Pod 2, should be in the Pod 1

(2) The term "unprofessional conduct" is defined to mean and include but not be limited to the following, or aiding or abetting the same:

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(a) Violating or attempting to violate any provision or term of subch. IV of ch. 448, Stats., or of any valid rule of the board.

(b) Violating or attempting to violate any term, provision, or condition of any order of the board.

(c) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing in connection with any application for license.

(d) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license.

(e) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.

the name for whom the license was originally granted

(f) Engaging or attempting to engage in the unlawful practice of podiatric medicine and surgery or treating the sick.

(g) Any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patient or public.

(h) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to patients.

(i) Practicing or attempting to practice under any license beyond the scope of that license.

(j) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.

(k) Representing that a manifestly incurable disease or condition can be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if such is not the fact.

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(L) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.

(m) Willfully divulging a privileged communication or confidence entrusted by a patient or deficiencies in the character of patients observed in the course of professional attendance, unless lawfully required to do so.

(n) Engaging in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence, or engaging in false, misleading or deceptive advertising.

(o) Administering, dispensing, ^{other}prescribing, supplying, or obtaining controlled substances as defined in s. 961.01 (4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law.

(p) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice medicine and surgery, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government, including but not limited to the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

(q) Conviction of any crime which may relate to practice under any license, or of violation of any federal or state law regulating the possession, distribution, or use of controlled substances as defined in s. 961.01 (4), Stats. A certified copy of a judgment of a court of record showing such conviction, within this state or without, shall be presumptive evidence thereof.

(r) Prescribing, ordering, ^{order}dispensing, administering, supplying, selling, or giving any amphetamine, sympathomimetic amine drug or compound designated as a schedule II controlled substance pursuant to the provisions of s. 961.16 (5), Stats., to or for any person, except for use as an adjunct to opioid analgesic compounds for treatment of cancer-related pain.

(s) Aiding or abetting the unlicensed practice of podiatric medicine or representing that unlicensed persons practicing under supervision are licensed.

(t) Failure of a licensee whose principal place of practice is in this state to submit to the board on or before June 30 of each year evidence that the podiatrist has in effect malpractice liability insurance coverage in the amount of at least \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

(u) Using in advertising the term "board certified" or a similar phrase ^{of} like meaning by a licensee unless certified by the council on podiatric medicine of the American

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podiatric medical association and unless disclosure is made in the advertising of the complete name of the board which conferred the certification.

(v) Violating or aiding and abetting the violation of any law or administrative rule or regulation, the circumstances of which substantially relate to the circumstances of the practice of podiatric medicine and surgery.

*Do you
What law &
rules*

(w) Failure by a licensee to maintain patient health care records consistent with the requirements of ch. Pod 6.

X

as required under

CHAPTER POD 3

CONTINUING PODIATRIC MEDICAL EDUCATION

Pod 3.01 Authority and purpose. The rules in this chapter are adopted by the podiatrists affiliated credentialing board pursuant to the authority delegated by ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats., and govern the biennial training requirements for podiatrists as provided under s. 448.465, Stats.

Pod 3.02 Continuing podiatric medical education required; waiver. (1) Each podiatrist required to complete the biennial training requirement provided under s. 448.465, Stats., shall, in each second year at the time of making application for a certificate of registration as required under s. 448.465, Stats., sign a statement on the application for registration certifying that the podiatrist has completed at least 50 hours of acceptable continuing educational programs relevant to the practice of podiatrist medicine within the 2 calendar years immediately preceding the calendar year for which application for registration is made.

(2) A licensee may apply to the board for waiver of the requirements of this chapter on grounds of prolonged illness or disability or other similar circumstances, and each case will be individually considered on its merits by the board.

shall **Pod 3.03 Acceptable continuing medical educational programs.** (1) In satisfaction of the biennial training requirement under s. 448.465, Stats., the board shall accept an educational program approved at the time of the podiatrist's attendance by any of the following:

- (a) The council on podiatric medical education of the American podiatric medical association.
- (b) The council on medical education of the American medical association.
- (c) The council on medical education of the American osteopathic association.
- (d) The accreditation council for continuing medical education.

(2) An educational program provided outside the United States may be used for continuing education credit if the program is approved by the board.

(3) One hour of attendance by a podiatrist at a continuing education program is the equivalent of one hour of continuing podiatric medical education for purposes of s. Pod 3.02 (1).

Pod 3.04 Evidence of compliance. (1) Certification by the providing organization or by one of the approved accrediting bodies of attendance at and completion of continuing medical education programs approved under s. Pod 3.03 is satisfactory evidence for purposes of sub. (2) and s. Pod 3.05. *Julen*

(2) Evidence of compliance shall be retained by each podiatrist through the biennium for which 50 hours of credit are required for registration.

Pod 3.05 Audit. The board may require any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium.

CHAPTER POD 4

BIENNIAL REGISTRATION

Pod 4.01 Authority and purpose. The rules in this chapter are adopted by the podiatrists affiliated credentialing board pursuant to the authority delegated by ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats., and govern biennial registration of licensees of the board.

Pod 4.02 Definitions. For the purposes of this chapter:

(1) "Board" means the podiatrists affiliated credentialing board.

(2) "License" means any license issued by the board.

(3) "Licensee" means any person validly possessing any license granted and issued to that person by the board.

Pod 4.03 Registration required; method of registration. Each licensee shall register biennially with the board. Prior to 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 an application form for registration. Each licensee shall complete the application form and return it with the required fee prior to November 1 of that year. 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. *not nec*

shall
Pod 4.04 Registration prohibited, annulled; reregistration. Any podiatrist required to comply with the provisions of s. 448.665, Stats., and of ch. Pod 3, and who has not so complied, will not be permitted to register. Any person whose license has been suspended or revoked will not be permitted to register, and the registration of any person shall be deemed automatically annulled upon the effective date of the board's order suspending or revoking the license. A person whose license has been suspended or revoked and subsequently restored shall be reregistered by the board upon receipt by the board of a completed registration form. *shall*

Pod 4.05 Failure to be registered. (1) A licensee who fails for whatever reason to be registered as required under this chapter may not exercise the rights or privileges conferred by any license granted by the board.

(2) Failure to renew a license by November 1 of odd-numbered years shall cause the license to lapse. A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows: *the*

(a) If the licensee applies for renewal of the license less than 5 years after its expiration, the license shall be renewed upon payment of the renewal fee and fulfillment of the continuing education requirements. *this or her*

(b) If the licensee applies for renewal of the license more than 5 years after its expiration, the board shall make an inquiry as it finds necessary to determine whether the applicant is competent to practice under the license in this state, and shall impose any reasonable conditions on reinstatement of the license, including oral examination, as the board deems appropriate. All applicants under this paragraph shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants. *re-submit* *way* *same*

CHAPTER POD 5 *that is required of*

STANDARDS FOR DISPENSING AND PRESCRIBING DRUGS

Pod 5.01 Authority and purpose. (1) The rules in this chapter are adopted pursuant to authority in ss. 15.085 (5) (b), 227.11 (2) and 448.065, Stats.

(2) The rules in this chapter are adopted to specify standards practitioners shall follow in dispensing prescription drugs for the protection of the public. *of this chapter set forth*

Pod 5.02 Definitions. (1) "Controlled substance" has the meaning under s. 961.10 (4), Stats.

(2) "Practitioner" means a person holding a license to practice podiatric medicine and surgery.

(3) "Prescription drug" has the meaning under s. 450.01 (20), Stats.

why not defined in other chapter,

Pod 5.03 Packaging. A prescription drug dispensed by a practitioner shall be dispensed in a child-resistant container if it is a substance requiring special packaging under 16 CFR 1700.14 (1982) of the federal poison prevention packaging act.

Pod 5.04 Labeling. (1) A prescription drug dispensed by a practitioner shall contain a legible label affixed to the immediate container disclosing all of the following:

- (a) The name and address of the facility from which the prescribed drug is dispensed.
- (b) The date on which the prescription is dispensed.
- (c) The name of the practitioner who prescribed the drug or device.
- (d) The full name of the patient.
- (e) The generic name and strength of the prescription drug dispensed unless the prescribing practitioner requests omission of the name and strength of the drug dispensed.
- (f) Directions for use of the prescribed drug and cautionary statements, if any, contained in the prescription or required by law.

(2) The labeling requirement specified in sub. (1) does not apply to complimentary samples dispensed by a practitioner in original containers or packaging supplied to the practitioner by a pharmaceutical manufacturer or distributor.

Pod 5.05 Recordkeeping. (1) PRESCRIPTION DRUGS. (a) A practitioner shall maintain complete and accurate records of each prescription drug received, dispensed or disposed of in any other manner.

(2) CONTROLLED SUBSTANCES. (a) Records required by the federal controlled substances act and ch. 961, Stats., shall be maintained at the location where the drug is received, distributed or dispensed and be available for inspection by authorized persons for at least 5 years from the date of the record.

(b) Controlled substances dispensed by a practitioner shall be recorded as follows:

1. As provided in this section; and
2. On a separate log, in a separate bound log book in which each schedule of controlled substances dispensed is recorded separately and in chronological order with the following information:

- a. The name of the substance.
- b. Dosage form and strength of the substance.
- c. Name and address of the person for whom dispensed.
- d. Date of dispensing.
- e. Quantity dispensed.
- f. Name or initials of practitioner who dispensed the substance.

Pod 5.06 Prescription orders by nurses and ancillary health care personnel. Prescription orders prepared by professional nurses and ancillary health care personnel, as delegated and supervised by a practitioner under s. 448.62 (2), Stats., shall contain, in addition to other information required by this chapter, the name, address and telephone number of the delegating practitioner and the name, address and signature of the person preparing the prescription order. X

CHAPTER POD 6

PATIENT HEALTH CARE RECORDS

Pod 6.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats., to govern the practice of podiatrists in the preparation and retention of patient health care records.

Pod 6.02 Definitions. As used in this chapter:

- (1) "Board" means the podiatrists affiliated credentialing board.
- (2) "Patient" means a person who receives health care services from a podiatrist.
- (3) "Patient health care record" has the meaning given in s. 146.81 (4), Stats.

Pod 6.03 Minimum standards for patient health care records. (1) A podiatrist shall maintain patient health care records on every patient administered to for a period of not less than 5 years after the date of the last entry, or for a longer period as may be otherwise required by law.

(2) A patient health care record shall contain all of the following clinical health care information which applies to the patient's medical condition:

- (a) Pertinent patient history.

- (b) Pertinent objective findings related to examination and test results.
- (c) Assessment or diagnosis.
- (d) Plan of treatment for the patient.

(3) Each patient health care record entry shall be dated, shall identify the podiatrist, and shall be sufficiently legible to allow interventions by other health care practitioners.

(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
Podiatrists Affiliated Credentialing Board

FISCAL ESTIMATE

These rules increase the department's expenditures because 250 new code books will have to be printed and mailed. The total cost to process these code books will be approximately \$2,500 (\$10.00 each). There will also be an additional cost of approximately \$1,250 (\$5.00 per certificate) to print new wall certificates for all podiatrists issued by the Podiatrists Affiliated Credentialing Board. These rules do not appear to have any impact on local government costs.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

g:\rules\pod1.doc
2/24/99



Tommy G. Thompson
Governor

State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Marlene A. Cummings
Secretary

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P.O. BOX 8935
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Administrative Rules in Final Draft Form

Podiatrists Affiliated Credentialing Board

Rule: Chapters Pod 1 to 6

**Relating to:
Regulation and Licensure of
Podiatrists**

**Clearinghouse Rule:
No. 99-038**

Regulatory Boards

Accounting; Architects; Landscape Architects; Professional Engineers; Designers and Land Surveyors; Professional Geologists; Hydrologists and Soil Scientists; Auctioneer; Barbering and Cosmetology; Chiropractic; Controlled Substances; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Podiatry; Psychology; Real Estate; Real Estate Appraisers; Social Workers; Marriage and Family Therapists and Professional Counselors; and Veterinary.

Committed to Equal Opportunity in Employment and Licensing

STATE OF WISCONSIN
PODIATRISTS AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 99-038
PODIATRISTS AFFILIATED : (s. 227.19 (3), Stats.)
CREDENTIALING BOARD :

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:

See attached fiscal estimate.

IV. STATEMENT EXPLAINING NEED:

In this order the Podiatrists Affiliated Credentialing Board creates rules relating to the practice of podiatric medicine. These rules are as a result of 1997 Wisconsin Act 175 which created the Podiatrists Affiliated Credentialing Board and gave the board the authority to promulgate rules relating to the regulation and licensure of podiatrists. The Medical Examining Board, in Clearinghouse Rule 99-098, is amending and repealing its rules relating to the practice of podiatric medicine.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on May 17, 1999. Kevin Kortsch, D.P.M., Milwaukee, Wisconsin and Tony Driessen, Attorney, Milwaukee, Wisconsin, both representing the Wisconsin Society of Podiatric Medicine, appeared in support of the proposed rules.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

1. Statutory Authority. Section 448.62 (3) and (4), Stats., provide that licensure is not required for podiatry students engaged in required education and training, and podiatrists licensed in other jurisdictions who provide consultations and demonstrations with Wisconsin podiatrists. The provisions of ss. Pod 1.07 and 1.08 should be reviewed for potential conflicts with s. 448.62 (3) and (4), Stats. The board should consider including cross-references to these statutes and rules.

Response: The board does not see any conflict between s. 448.62 (3) and (4), Stats., and ss. Pod 1.07 and 1.08. Section Pod 1.07 relates to postgraduate training, and s. 1.08 relates to the camp physicians or locum tenens license.

2. Form, Style and Placement in Administrative Code. Comment 2.c. Latin and other foreign terms should be avoided when drafting administrative rules. {See s. 1.01 (1), Manual.} Therefore, another phrase should be substituted for “locum tenens” in s. Pod 1.08. If a Latin phrase must be used, it should be defined somewhere in the rule.

Response: “Locum tenens” is standard English language. See Merriam Webster’s Collegiate Dictionary; any edition.

Comment 2.f. In s. Pod 4.03, in the first sentence, “as it appears in the records of the board” is unnecessary and should be deleted.

Response: The board does not agree. If the clarifying clause is dropped, then the last address known to whom?

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

Comment 5.c. In s. Pod 2.02 (2) (c) and (d), “licensure” or “a license” should replace “license.” This recommendation was made.

In par. (g), “patient or public” should be replaced by “a patient or the public.”

Response: The board is not making this change. A challenge to the present wording was specifically rejected by the Supreme Court in *Gilbert v. Medical Examining Board*, 119 Wis.2d 168 (1984).

In par. (o), “other” should replace “otherwise.”

Response: The first “otherwise” is changed to “other.” The second “otherwise” is not.

In par. (u), “of like meaning,” is redundant.

Response: “Of like meaning” is not redundant. It is possible to have a similar phrase which is not of like meaning.

All of the remaining recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

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

FISCAL ESTIMATE

ORIGINAL UPDATE CORRECTED

Rule No. POD Chap. 1 to 6

Subject: Podiatrists Affiliated Credentialing Board relating to the licensure and regulation of podiatrists.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Existing Appropriation Increase Existing Revenues Increase Costs - May be possible to absorb within agency's budget Yes No
 Decrease Existing Appropriation Decrease Existing Revenues Decrease Costs
 Create New Appropriation

Local: No local government costs

1. Increase Costs Permissive Mandatory
2. Decrease Costs Permissive Mandatory

3. Increase Revenue Permissive Mandatory
3. Decrease Revenue Permissive Mandatory

5. Types of local government units affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected
 GPR FED PRO PRS
 SEG-S

Affected Ch. 20 Appropriations
20.165 (1) (g)

Assumptions Used in Arriving at Fiscal Estimate

This rule increases the department's expenditures because 250 new code books would have to be printed and mailed. The total cost to process these code books would be approximately \$2,500 (\$10 each). There would also be an additional cost of approximately \$1,250 (\$5 per certificate) to print new wall certificates for all podiatrists issued by the Podiatrists Affiliated Credentialing Board.

This rule does not appear to have any impact on local government costs.

Long-Range Fiscal Implications

The fiscal estimate shall include the major assumptions used in its preparation and a reliable estimate of the fiscal impact of the proposed rule, including:

- 1. The anticipated effect on county, city, village, town, school district, technical college district and sewerage district fiscal liabilities and revenues.
- 2. A projection of the anticipated state fiscal effect during the current biennium and a projection of the net annualized fiscal impact on state funds.

If a proposed rule interpreting or implementing a statute has no independent fiscal effect, the fiscal estimate prepared under this subsection shall be based on the fiscal effect of the statute.

Agency/Prepared by:

Department of Regulation and Licensing
Gail M. Riedasch
(608) 266-0746

Authorized Signature

Date

2/12/99

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

ORIGINAL UPDATE
 CORRECTED SUPPLEMENTAL

Rule No. POD Chap. 1 to 6
--

Subject

Podiatrists Affiliated Credentialing Board relating to the licensure and regulation of podiatrists.

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs	\$3,750.00	-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds		
GPR	\$	\$ -
FED		-
PRO/PRS	\$3,750.00	-
SEG/SEG-S		-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$	\$ -
GPR Earned		
FED		-
PRO/PRS		
SEG/SEG-S		-
TOTAL State Revenues	\$	\$

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS \$ 3,750.00 _____

NET CHANGE IN REVENUES \$ 0 _____

Agency/Prepared by: Department of Regulation and Licensing Gail M. Riedasch (608) 266-0746	Authorized Signature	Date 2/12/99
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STATE OF WISCONSIN
PODIATRISTS AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PODIATRISTS AFFILIATED
PODIATRISTS AFFILIATED : CREDENTIALING BOARD
CREDENTIALING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 99-038)

PROPOSED ORDER

An order of the Podiatrists Affiliated Credentialing Board to *create* chapters Pod 1 to 6, relating to the regulation and licensure of podiatrists.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), Stats., and s. 448.695, Stats., as created by 1997 Wisconsin Act 175.

Statutes interpreted: Chapter 448, Subchapter IV, Stats.

In this order the Podiatrists Affiliated Credentialing Board creates rules relating to the practice of podiatric medicine. These rules are as a result of 1997 Wisconsin Act 175 which created the Podiatrists Affiliated Credentialing Board and gave the board the authority to promulgate rules.

Section Pod 1.01 sets forth the statutory authority for the proposed rules. Section Pod 1.02 creates the definitions for the rules. Pod 1.03 specifically outlines the application and credentialing process. Section Pod 1.04 outlines the process for the translation of documents into English. Section Pod 1.05 outlines the application deadlines and fees. Pod 1.06 creates the oral examination procedure to be used by applicants who may be required to take an oral examination before the Podiatrists Affiliated Credentialing Board. It further spells out the requirements to take state board examinations. Section Pod 1.07 spells out the process to be used for examination failure. Section Pod 1.08 creates and spells out the process for temporary educational permits. Section Pod 1.09 outlines the process to be used for the issuance of a locum tenens license. Section Pod 1.10 creates and spells out the process for a temporary certificate and who may practice under such temporary certificate. Section Pod 1.11 establishes the rules regarding the review of an examination by an applicant. Section Pod 1.12 outlines the procedures that the board must use to review an examination error.

Section Pod 2.01 defines unprofessional conduct as it applies to the profession of podiatric medicine.

Section Pod 3.01 outlines the continuing education that is required and provides for a waiver in special circumstances. Section Pod 3.02 establishes the acceptable continuing education programs.

Section Pod 4.01 specifically outlines the requirements and methods of registration. Section Pod 4.02 specifically outlines when registration is prohibited, annulled and the process for reregistration. Section Pod 4.03 outlines the process regarding the failure to be registered and the status of a credential holder who is not currently registered and how they may register.

Section Pod 5.01 outlines the packing requirements for dispensing of drugs. Section Pod 5.02 outlines the labeling requirements for dispensing of drugs. Section 5.03 outlines the recordkeeping requirements for prescribing and dispensing of drugs. Section Pod 5.03 outlines the delegation of prescription orders to others.

Section Pod 6.01 establishes the minimum standards for patient health care records.

TEXT OF RULE

SECTION 1. Chapters Pod 1 to 6 are created to read:

CHAPTER POD 1

LICENSE TO PRACTICE PODIATRIC MEDICINE AND SURGERY

Pod 1.01 Authority and purpose. Chapters Pod 1 to 6 are adopted by the podiatrists affiliated credentialing board under ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats., and govern the practice of podiatric medicine and surgery under subch. IV of ch. 448, Stats.

Pod 1.02 Definitions. As used in chs. Pod 1 to 6:

- (1) "Board" means the podiatrists affiliated credentialing board.
- (2) "Controlled substance" has the meaning under s. 961.10 (4), Stats.
- (3) "License" means any license issued by the board.
- (4) "Licensee" means any person validly possessing any license granted and issued to that person by the board.
- (5) "Patient" means a person who receives health care services from a podiatrist.
- (6) "Patient health care record" has the meaning given in s. 146.81 (4), Stats.
- (7) "Practitioner" means a person holding a license to practice podiatric medicine and surgery.

(8) "Prescription drug" has the meaning under s. 450.01 (20), Stats.

Pod 1.03 Application and credentials. Every person applying for a license to practice podiatric medicine and surgery shall make application on forms provided by the board and shall submit all of the following:

(1) A completed and verified application form.

(2) Verified documentary evidence of graduation from a school of podiatric medicine and surgery approved by the board and a verified photographic copy of the diploma conferring the degree of doctor of podiatric medicine or its equivalent as determined by the board granted to the applicant by the school. The board shall approve the podiatric medical schools recognized and approved at the time of the applicant's graduation by the council on education of the American podiatric association.

Pod 1.04 Translation of documents. If any of the documents required under this chapter are in a language other than English, the applicant shall also submit a verified English translation and the cost of translation shall be borne by the applicant.

Pod 1.05 Application deadline and fees. The completed application and all required documents shall be received by the board at its offices not less than 30 days prior to the date of examination. The required fees under s. 440.05 (1), Stats., shall accompany the application.

Pod 1.06 Examinations. (1) (a) An applicant shall complete the written examination under sub. (2), and an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin. In addition, an applicant may be required to complete an oral examination if the applicant:

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

3. Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction.

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

5. Has been convicted of a crime the circumstances of which substantially relate to the practice of podiatric 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 postgraduate training.

7. Has been graduated from a school of podiatric medicine not approved by the board.

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 podiatric medicine and surgery for a period of 6 months prior to application, unless the applicant has been graduated from a school of podiatric medicine within that period.

(b) An application filed under s. Pod 1.03 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 license without completing an oral examination.

(c) All examinations shall be conducted in the English language. Each examination is scored separately, and the applicant shall achieve passing scores on each examination to qualify for a license.

(2) The board shall utilize as its written examinations the national board examination, part I and part II, and the PMLexis examination of the national board of podiatric examiners. The passing scores are set by the national board of podiatric medicine and represent the minimum competency required to protect public health and safety. The board may accept the recommendations of the examination provider.

(3) The board may deny release of scores or issuance of a credential if the board determines that the applicant violated rules of conduct of the examination or otherwise acted dishonestly in the examination process.

(4) An applicant who has received passing grades in written examinations for a license to practice podiatry conducted by another licensing jurisdiction of the United States, shall submit to the board documentary evidence. The board shall review the documentary evidence to determine whether the scope and passing grades of the examinations are substantially equivalent to those of this state at the time of the applicant's examination. If the board finds equivalency, the board shall accept this in lieu of requiring the applicant to achieve passing grades in the

national board examination and the PMLexis examination of the national board of podiatry examiners. The burden of proof of equivalency is on the applicant.

(5) The oral examination of each applicant is conducted by members of the board and is scored as pass or fail.

(6) The board shall notify each applicant found eligible for examination of the time and place scheduled for that applicant's oral examination. Unless prior scheduling arrangements have been made with the board by the applicant, failure of an applicant to appear for examination as scheduled shall void that applicant's application and require the applicant to reapply for licensure.

(7) Any applicant who is a graduate of a school of podiatric medicine and surgery in which English is not the primary language of communication shall be examined by the board on his or her proficiency in the English language

(8) Otherwise qualified applicants with disabilities, as defined by the Americans with disabilities act, shall be provided with reasonable accommodations.

Pod 1.07 Failure and reexamination. An applicant who fails to achieve a passing grade in the examinations required under this chapter may apply for reexamination. An applicant who fails to achieve a passing grade in the examinations required under this chapter may be reexamined twice at not less than 4 month intervals. If the applicant fails to achieve a passing grade on the second reexamination, the applicant shall not be admitted to further examination until he or she reapplies for licensure and also presents to the board evidence of further professional training or education as the board may deem appropriate in each applicant's particular case.

Pod 1.08 Temporary educational license. (1) An applicant who has been appointed to a postgraduate training program in a facility in this state 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 all of the following:

(a) A completed and verified application form provided by the board.

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

(b) The documentary evidence and credentials required under ss. Pod 1.04, 1.05 and 1.06.

(c) The required fees under s. 440.05 (1), Stats.

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

(3) The holder of a temporary educational license to practice podiatric medicine and surgery may, under the direction of a person licensed to practice podiatric medicine and surgery in this state, perform services requisite to the training program in which that holder is serving. Acting under such direction, the holder of a temporary educational license shall also have the right to prescribe drugs other than 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 podiatric medicine and surgery. The holder of a temporary educational license shall confine his or her entire practice to the facility in which he or she is taking the training.

(4) Violation by the holder of a temporary educational license to practice podiatric medicine and surgery of any of the provisions of chs. Pod 1 to 6 or of subch. IV of ch. 448, Stats., which apply to persons licensed to practice podiatric medicine and surgery, shall be cause for the revocation of the temporary educational license.

(5) Temporary educational licenses granted under this chapter shall expire one year from date of issuance.

Pod 1.09 Locum tenens license. (1) An applicant who holds a valid license to practice podiatric medicine and surgery issued by another licensing jurisdiction of the United States may apply to the board for a locum tenens license to practice podiatric medicine and surgery and shall submit to the board all of the following:

(a) A completed and verified application form provided by the board.

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

(b) A letter from a podiatrist licensed to practice podiatric medicine and surgery in this state requesting the applicant's services.

(c) A verified photostatic copy of a license to practice podiatric medicine and surgery issued by another licensing jurisdiction of the United States to the applicant.

(d) The required fees under s. 440.05(1), Stats.

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

(3) The application and documentary evidence submitted by the applicant shall be reviewed by the board, acting through a designated member of the board and, upon the finding of

the member that the applicant is qualified, the board, acting through the designated member, shall issue a locum tenens license to practice podiatric medicine and surgery to the applicant.

(4) The holder of a locum tenens license to practice podiatric medicine and surgery shall practice podiatric medicine and surgery as defined in s. 448.01 (8), Stats., providing the practice is confined to the geographical area for which the license is issued.

(5) A locum tenens license to practice podiatric medicine and surgery shall expire 90 days from the date of its issuance. For cause shown to its satisfaction, the board, acting through its designated member, may renew the locum tenens license for additional periods of 90 days each, but no license may be renewed more than 3 consecutive times.

Pod 1.10 Temporary license. (1) (a) An applicant for a license to practice podiatric medicine and surgery who is a graduate of a school of podiatric medicine and surgery approved by the board may apply to the board for a temporary license to practice podiatric medicine and surgery. An applicant for a temporary license shall submit to the board the documentary evidence and credentials required under ss. Pod 1.04 and 1.05, a completed application for a temporary license, and the required fees under s. 440.05 (1), Stats. An application for a temporary license shall be made not less than 30 days before the date set by the board for the holding of its next examinations for licensure.

(b) The application and information submitted under par. (a), shall be reviewed by the board through a designated member. The board, acting through the designated member, shall issue a temporary license to practice podiatric medicine and surgery if the applications and information submitted under par. (a) are satisfactory.

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

(2) (a) A temporary license to practice podiatric medicine and surgery granted under this section expires on the earliest of the following dates:

1. Sixty days after the next examination for a license is given by the board if the temporary licensee submits to the examination.
2. The first day the board begins its examination of applicants for a license to practice podiatric medicine and surgery after the temporary license is issued, if the temporary licensee does not submit to the examination on that date.
3. The date following the examination on which the board grants or denies the temporary licensee a license to practice podiatric medicine and surgery.

(b) A license to practice podiatric medicine and surgery is deemed denied by the board under par. (a) 3., on the date the applicant is notified that he or she has failed the examination for a license to practice podiatric medicine and surgery.

Pod 1.11 Examination review by applicant. (1) An applicant who fails the oral examination or statutes and rules examination may request a review of that examination by filing a written request and the required fee under s. 440.05 (1), Stats., 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 shall review the statutes and rules examination for not more than one hour.

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

(5) An applicant shall 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) An applicant shall 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. An applicant 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 or attempt to refute claims of error during the review.

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

Pod 1.12 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 specifics 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 board confirms the failing status following its review, the application shall be deemed incomplete and the board shall issue a notice of denial.

CHAPTER POD 2

UNPROFESSIONAL CONDUCT

Pod 2.01 Definition. The term "unprofessional conduct" is defined to mean and include but not be limited to the following, or aiding or abetting the same:

(1) Violating or attempting to violate any provision or term of subch. IV of ch. 448, Stats., or of any valid rule of the board.

(2) Violating or attempting to violate any term, provision, or condition of any order of the board.

(3) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing in connection with any application for a license.

(4) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for a license.

(5) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.

(6) Engaging or attempting to engage in the unlawful practice of podiatric medicine and surgery or treating the sick.

(7) Any practice or conduct which tends to constitute a danger to the health, welfare, or safety of a patient or the public.

(8) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to patients.

(9) Practicing or attempting to practice under any license beyond the scope of that license.

(10) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.

(11) Representing that a manifestly incurable disease or condition can be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if such is not the fact.

(12) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.

(13) Willfully divulging a privileged communication or confidence entrusted by a patient or deficiencies in the character of patients observed in the course of professional attendance, unless lawfully required to do so.

(14) Engaging in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence, or engaging in false, misleading or deceptive advertising.

(15) Administering, dispensing, prescribing, supplying, or obtaining controlled substances as defined in s. 961.01 (4), Stats., other than in the course of legitimate professional practice, or as otherwise prohibited by law.

(16) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice medicine and surgery, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government, including but not limited to the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

(17) Conviction of any crime which may relate to practice under any license, or of violation of any federal or state law regulating the possession, distribution, or use of controlled substances as defined in s. 961.01 (4), Stats. A certified copy of a judgment of a court of record showing such conviction, within this state or without, shall be presumptive evidence thereof.

(18) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine, sympathomimetic amine drug or compound designated as a schedule II controlled substance pursuant to the provisions of s. 961.16 (5), Stats., to or for any person except for use as an adjunct to opioid analgesic compounds for treatment of cancer-related pain.

(19) Aiding or abetting the unlicensed practice of podiatric medicine or representing that unlicensed persons practicing under supervision are licensed.

(20) Failure of a licensee whose principal place of practice is in this state to submit to the board on or before June 30 of each year evidence that the podiatrist has in effect malpractice liability insurance coverage in the amount of at least \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

(21) Using in advertising the term "board certified" or a similar phrase of like meaning by a licensee unless certified by the council on podiatric medicine of the American podiatric medical association and unless disclosure is made in the advertising of the complete name of the board which conferred the certification.

(22) Violating or aiding and abetting the violation of any law or administrative rule or regulation, the circumstances of which substantially relate to the circumstances of the practice of podiatric medicine and surgery.

(23) Failure by a licensee to maintain patient health care records consistent with the requirements of ch. Pod 6.

CHAPTER POD 3

CONTINUING PODIATRIC MEDICAL EDUCATION

Pod 3.01 Continuing podiatric medical education required; waiver. (1) Each podiatrist required to complete the biennial training requirement under s. 448.465, Stats., shall, in each second year at the time of making application for a certificate of registration as required under s. 448.465, Stats., sign a statement on the application for registration certifying that the podiatrist has completed at least 50 hours of acceptable continuing educational programs relevant to the practice of podiatric medicine within the 2 calendar years immediately preceding the calendar year for which application for registration is made.

(2) A licensee may apply to the board for waiver of the requirements of this chapter on grounds of prolonged illness or disability or other similar circumstances, and each case shall be individually considered on its merits by the board.

Pod 3.02 Acceptable continuing medical educational programs. (1) In satisfaction of the biennial training requirement under s. 448.465, Stats., the board shall accept an educational program approved at the time of the podiatrist's attendance by any of the following:

(a) The council on podiatric medical education of the American podiatric medical association.

(b) The council on medical education of the American medical association.

(c) The council on medical education of the American osteopathic association.

(d) The accreditation council for continuing medical education.

(2) An educational program provided outside the United States may be used for continuing education credit if the program is approved by the board.

(3) One hour of attendance by a podiatrist at a continuing education program is the equivalent of one hour of continuing podiatric medical education for purposes of s. Pod 3.01 (1).

Pod 3.03 Evidence of compliance. (1) Certification by the providing organization or by one of the approved accrediting bodies of attendance at and completion of continuing medical education programs approved under s. Pod 3.01 is satisfactory evidence for purposes of sub. (2) and s. Pod 3.03.

(2) Evidence of compliance shall be retained by each podiatrist through the biennium for which 50 hours of credit are required for registration.

Pod 3.04 Audit. The board may require any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium.

CHAPTER POD 4

BIENNIAL REGISTRATION

Pod 4.01 Registration required; method of registration. Each licensee shall register biennially with the board. Prior to November 1 of each odd-numbered year the department shall mail to each licensee at his or her last known address an application form for registration. Each licensee shall complete the application form and return it with the required fee prior to November 1 of that year. 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.

Pod 4.02 Registration prohibited, annulled; reregistration. Any podiatrist required to comply with the provisions of s. 448.665, Stats., and of ch. Pod 3, and who has not so complied, shall not be permitted to register. Any person whose license has been suspended or revoked shall not be permitted to register, and the registration of any person shall be automatically annulled upon the effective date of the board's order suspending or revoking the license. A person whose license has been suspended or revoked and subsequently restored shall be reregistered by the board upon receipt by the board of a completed registration form.

Pod 4.03 Failure to be registered. (1) A licensee who fails for whatever reason to be registered as required under this chapter shall not exercise the rights or privileges conferred by any license granted by the board.

(2) Failure to renew a license by November 1 of odd-numbered years shall cause the license to lapse. A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows:

(a) If the licensee applies for renewal of the license less than 5 years after its expiration, the license shall be renewed upon payment of the renewal fee and fulfillment of the continuing education requirements.

(b) If the licensee applies for renewal of the license more than 5 years after its expiration, the board shall make an inquiry to determine whether the applicant is competent to practice under the license in this state, and shall impose any reasonable conditions on reinstatement of the license, including oral examination, as the board deems appropriate. All applicants under this paragraph shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants.

CHAPTER POD 5

STANDARDS FOR DISPENSING AND PRESCRIBING DRUGS

Pod 5.01 Packaging. A prescription drug dispensed by a practitioner shall be dispensed in a child-resistant container if it is a substance requiring special packaging under 16 CFR 1700.14 (1982) of the federal regulations for the federal poison packaging act of 1970.

Pod 5.02 Labeling. (1) A prescription drug dispensed by a practitioner shall contain a legible label affixed to the immediate container disclosing all of the following:

(a) The name and address of the facility from which the prescribed drug is dispensed.

(b) The date on which the prescription is dispensed.

(c) The name of the practitioner who prescribed the drug or device.

(d) The full name of the patient.

(e) The generic name and strength of the prescription drug dispensed unless the prescribing practitioner requests omission of the name and strength of the drug dispensed.

(f) Directions for use of the prescribed drug and cautionary statements, if any, contained in the prescription or required by law.

(2) The labeling requirement in sub. (1) does not apply to complimentary samples dispensed by a practitioner in original containers or packaging supplied to the practitioner by a pharmaceutical manufacturer or distributor.

Pod 5.03 Recordkeeping. (1) **PRESCRIPTION DRUGS.** (a) A practitioner shall maintain complete and accurate records of each prescription drug received, dispensed or disposed of in any other manner.

(2) **CONTROLLED SUBSTANCES.** (a) Records required by the federal controlled substances act and ch. 961, Stats., shall be maintained at the location where the drug is received, distributed or dispensed and be available for inspection by authorized persons for at least 5 years from the date of the record.

(b) Controlled substances dispensed by a practitioner shall be recorded on a separate log, in a separate bound log book in which each schedule of controlled substances dispensed is recorded separately and in chronological order with the following information:

1. The name of the substance.
2. Dosage form and strength of the substance.
3. Name and address of the person for whom dispensed.
4. Date of dispensing.
5. Quantity dispensed.
6. Name or initials of practitioner who dispensed the substance.

Pod 5.04 Prescription orders by nurses and ancillary health care personnel. Prescription orders prepared by professional nurses and ancillary health care personnel, as delegated and supervised by a practitioner under s. 448.62 (2), Stats., shall contain, in addition to other information required by this chapter, the name, address and telephone number of the delegating practitioner and the name, address and signature of the person preparing the prescription order.

CHAPTER POD 6

PATIENT HEALTH CARE RECORDS

Pod 6.01 Minimum standards for patient health care records. (1) A podiatrist shall maintain patient health care records on every patient for a period of not less than 5 years after the date of the last entry, or for a longer period as may be otherwise required by law.

(2) A patient health care record shall contain all of the following clinical health care information which applies to the patient's medical condition:

- (a) Pertinent patient history.

- (b) Pertinent objective findings related to examination and test results.
- (c) Assessment or diagnosis.
- (d) Plan of treatment for the patient.

(3) Each patient health care record entry shall be dated, shall identify the podiatrist, and shall be sufficiently legible to allow interventions by other health care practitioners.

(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
Podiatrists Affiliated Credentialing Board

FISCAL ESTIMATE

These rules increase the department's expenditures because 250 new code books will have to be printed and mailed. The total cost to process these code books will be approximately \$2,500 (\$10.00 each). There will also be an additional cost of approximately \$1,250 (\$5.00 per certificate) to print new wall certificates for all podiatrists issued by the Podiatrists Affiliated Credentialing Board. These rules do not appear to have any impact on local government costs.

FINAL REGULATORY FLEXIBILITY ANALYSIS

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

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