

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

AUG 31 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 99-118

AN ORDER to amend PI 11.24 (9) (c), relating to occupational therapy.

Submitted by **DEPARTMENT OF PUBLIC INSTRUCTION**

07-29-99 RECEIVED BY LEGISLATIVE COUNCIL.

08-17-99 REPORT SENT TO AGENCY.

RNS:RW:jal

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



State of Wisconsin Department of Public Instruction

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125 South Webster Street, Madison, WI 53702
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John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

August 13, 1999

Dear Colleague:

The Department of Public Instruction will hold a public hearing to consider the amending of s. PI 11.24 (9) (c), proposed permanent rules, relating to medical referral from a licensed physician for school occupational therapy. The hearing will be held as follows:

September 13, 1999
4:00 – 6:00 p.m.

Madison
GEF 3 Building
125 South Webster Street
Room 041

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access the meeting, please call Paul Halverson, Director, Special Education, at (608) 266-1781 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

For a copy of the proposed rule and the fiscal estimate, please contact Mr. Halverson or Lori Slauson, Administrative Rules Coordinator, Department of Public Instruction, 125 South Webster Street, P.O. Box 7841, Madison, WI 53707. Written comments on the proposed rules received at the above address no later than September 17, 1999, will be given the same consideration as testimony presented at the hearing.

Chapter 115, Subchapter V, requires school districts to provide the related service of occupational therapy to children with disabilities who need this service to benefit from special education. The requirement for a medical referral from a licensed physician in s. PI 11.24 (9) (c), Wisconsin Administrative Code, is based directly on Chapter Med 19, Wisconsin Administrative Code, which regulates all practice of occupational therapy. Section Med 19.08 (2) (a) reads:

(2) REFERRAL. (a) Evaluation and rehabilitative treatment shall be based on a referral from a licensed physician, dentist, psychologist, chiropractor or podiatrist.

On October 26, 1998, the Council to the state Medical Examining Board responded to a request from the Occupational Therapy Examining Council to interpret s. Med 19.08. Based on the legislative history of the provision, the board concluded that the provision is directed exclusively at rehabilitation services, which include evaluation for the purpose of rehabilitative treatment. Since school occupational therapy is not a rehabilitative treatment system, but a system designed to assist a child to benefit from special education, the board concluded that s. Med 19.08 does not require school occupational therapists to obtain a physician's referral.

The proposed rule brings the department's Administrative Code (s. PI 11.24 (9) (c)) into conformity with the state Medical Examining Board's Administrative Code (s. Med 19.08), relating to occupational therapy.

Sincerely,

A handwritten signature in cursive script that reads "Steven B. Dold / sp".

Steven B. Dold
Deputy State Superintendent

PROPOSED ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
AMENDING RULES

The state superintendent of public instruction hereby proposes to amend PI 11.24 (9) (c), relating to occupational therapy.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: s. 227.11 (2) (a), Stats.

Statute interpreted: ss. 115.76 (14) and 448.05, Stats.

Chapter 115, Subchapter V, requires school districts to provide the related service of occupational therapy to children with disabilities who need this service to benefit from special education. The requirement for a medical referral from a licensed physician in s. PI 11.24 (9) (c), Wis. Admin. Code, is based directly on Chapter Med 19, Wis. Admin. Code, which regulates all practice of occupational therapy.

On February 1, 1999, the Council to the state Medical Examining Board responded to a request from the Occupational Therapy Examining Council to interpret s. Med 19.08. Based on the legislative history of the provision, the board concluded that the provision is directed exclusively at rehabilitation services, which include evaluation for the purpose of rehabilitative treatment. Since school occupational therapy is not a rehabilitative treatment system, but a system designed to assist a child to benefit from special education, the board concluded that s. Med 19.08 does not require school occupational therapists to obtain a physician's referral.

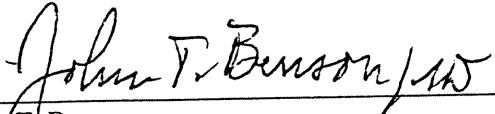
The proposed rule brings the department's Administrative Code (s. PI 11.24 (9) (c)) into conformity with the state Medical examining Board's Administrative Code (s. Med 19.08), relating to occupational therapy.

SECTION 1. PI 11.24 (9) (c) is amended to read:

PI 11.24 (9) (c) *Medical information*. The school occupational therapist shall have medical information ~~and medical referral from a licensed physician~~ regarding a child before ~~a~~ the child is evaluated for receives occupational therapy.

The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22(2)(intro.), Stats.

Dated this 29th day of July, 1999



John T. Benson
State Superintendent

**PROPOSED ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
AMENDING RULES**

The state superintendent of public instruction hereby proposes to amend PI 11.24 (9) (c), relating to occupational therapy.

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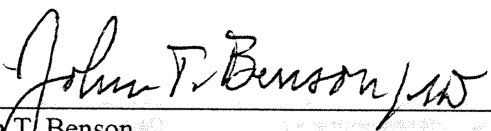
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Dated this 29th day of July, 1999



John T. Benson
State Superintendent

FISCAL ESTIMATE

ORIGINAL UPDATED

LRB or Bill No./Adm. Rule No.
PI 11.24(9)(c)

DOA-2048 (R10/92)

CORRECTED SUPPLEMENTAL

Amendment No. If Applicable

Subject: Deleting the requirement for a medical referral from a licensed physician when a child receives occupational therapy to benefit from special education

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

Decrease Existing Appropriation Decrease Existing Revenues

Create New Appropriation

Increase Costs-May be possible to Absorb

Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory

2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

Counties Others _____

School Districts VTAE Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed rules bring the department's Administrative Code into conformity with the state Medical Examining Board's Administrative Code.

The proposed rules will, in most cases, decrease school administrative costs by no longer requiring that a medical referral be obtained from a child's doctor. For example, school districts currently are required to pay for a physician's evaluation for children having a physician located out of state or for children whose parents are unable to pay for a physician's visit. This evaluation is necessary for the sole purpose of obtaining an occupational therapy referral. Under the proposed rules, the referral will no longer be required. Any decrease in costs as a result of this rule is indeterminable.

There is no state fiscal effect as a result of this rule.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Department of Public Instruction

Lori Slauson (608) 267-9127

Authorized Signature/Telephone No.

Gina Frank-Reece
Gina Frank-Reece (608) 266-2804

Date

7/23/99