Clearinghouse Rule 14-068

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

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

PROPOSED ORDER

An order of the Chiropractic Examining Board to repeal Chir 2.03 (2), 2.07 (3) and 2.11 (2) and (3), to amend Chir 2.025, 2.03 (1), 2.07 (1), 3.03 (1) (e) and (f), 3.03 (2) (f) and (g), to repeal and recreate Chir 3.03 (1) (f), and to create Chir 2.12 relating to practical exams for chiropractors.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 446.02 (3) (b), Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), Stats., and 2013 Wisconsin Act 20

Explanation of agency authority:

The Chiropractic Examining Board, is generally empowered by ss. 15.08 (5) (b), and 227.11 (2) (a), Stats., to promulgate rules that provide guidance within the profession and that interpret the provision of any statute it enforces or administers. This proposed rule was prompted by the passage of 2013 Wisconsin Act 20 which repealed the practical examination requirement for chiropractors. This change required the Chiropractic Examining Board to promulgate rules which interpret s. 446.02 (3) (b), Stats., and will provide guidance within the profession regarding examination requirements for chiropractors.

Related statute or rule:

None.

Plain language analysis:

The proposed rule seeks to amend provisions of Wis. Admin. Code chs.. Chir 2 and 3 to reflect a change in examination requirements due to the passage of 2013 Wisconsin Act 20. Prior to the Act, chiropractors seeking licensure in Wisconsin had to take and pass a practical examination administered by the Chiropractic Examining Board in accordance with s. 446.02 (3) (a), Stats. 2013 Wisconsin Act 20 eliminated the practical exam requirement for chiropractors by repealing s. 446.02 (3) (a), Stats. Act 20 replaced the practical exam with the requirement to successfully complete Parts I, II, III, and IV of the National Board of Chiropractic Examination administered by the National Board of Chiropractic Examiners. (NBCE) The passing score was set by the legislature at 438 for Part III and at least 475 for Part IV. Having eliminated the practical exam, Act 20 carved out a grandfather clause consisting of a class of applicants that had taken the practical exam between January 1, 2012 and June 30, 2013, the effective date of the Act. The grandfather provision stipulated applicants that had taken the practical exam under s. 446.02 (3) (a), Stats., were not required to successfully complete the practical exam. However, applicants must have achieved a passing score of 375 or higher on Part III and 375 or higher on Part IV of the NBCE Exam and must have successfully completed the exam testing the applicant's knowledge of Wisconsin laws related to the practice of chiropractic. The proposed rules will amend selected provisions of Chir 2 and 3 to bring the current Wisconsin Administrative Code in alignment with the statutory requirements.

SECTION 1. removes the practical examination requirement from the time for completing application provision.

SECTION 2. strikes the parenthetical phrase "but not limited to"

SECTION 3. repeals the practical examination requirement.

SECTION 4. amends the passing grade provision to reflect that the passing grade is set by the legislature.

SECTION 5. repeals the practical examination requirement.

SECTION 6. creates a new provision exempting applicants who have taken the practical exam between January 1, 2012 and June 30, 2013 from passing the practical exam.

SECTION 7. sets forth the practical exam equivalents for endorsement candidates.

SECTION 8. sets forth the special purpose examination equivalents for endorsement candidates.

SECTION 9. amends the provisions regarding verifying completion of a practical or special purpose exam and their equivalents.

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

None.

Comparison with rules in adjacent states:

Illinois: Illinois requires applicants to pass Parts I, II, and III of the National Board of Chiropractic Examination with a score of at least 375 on all 3 parts of the test. 68 ILL. ADMIN. CODE 1285.60 b).

Iowa: Licensure in Iowa requires passing Parts I, II, III, and IV of the National Board of Chiropractic Examination. 645 IAC 41.2.

Michigan: Michigan requires applicants to pass Parts I, II, III, and IV of the National Board of Chiropractic Examination and has adopted the NBCE's recommended passing score. MICH. ADMIN. CODE R. 338.12003 and 338.12005.

Minnesota: The prerequisites for licensure in Minnesota include passing the National Board of Chiropractic Examination Parts I and II, the Written Clinical Competency Examination, and the Physiotherapy Examination. Applicants must also pass the NBCE Part IV and an exam on jurisprudence/ethics. Minn. R. 2500.0720.

Summary of factual data and analytical methodologies:

No factual data or analytical methodologies were used in the preparation of the proposed rule due to the changes being necessitated by 2011 Wisconsin Act 20.

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

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Ecomic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Shawn Leatherwood, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4438; email at Shancethea.Leatherwood@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Shawn Leatherwood, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Shancethea.Leatherwood@wisconsin.gov**.** Comments must be received on or before January 15, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chir 2.025 is amended to read:

Chir 2.025 Time for completing applications and taking examination. An application is incomplete until all materials described in s. Chir 2.02 are filed with the board. All application materials described in s. Chir 2.02 shall be filed with the board within one year from the date the first item is filed. If an application is incomplete for more than one year, or if an applicant fails to take an examination within one year from the date the ~~application is complete~~ first item was filed, the applicant shall begin the application process anew ~~in order to take the practical examination demonstrating clinical competence for a license as a chiropractor~~.

SECTION 2. Chir 2.03 (1) is amended to read:

Chir 2.03 (1) STATE LAW EXAMINATION. An applicant shall pass an examination on state laws including ~~but not limited to~~ ch. 446, Stats. and chs. Chir 1 to ~~11~~ 12.

SECTION 3. Chir 2.03 (2) is repealed.

SECTION 4. Chir 2.07(1) is amended to read:

Chir 2.07 (1) NATIONAL EXAMINATION. To pass the examination of the national board of chiropractic examiners, each applicant for licensure by exam shall receive a grade determined by the ~~board~~ legislature to represent minimum competence to practice. ~~The board may adopt the passing grade recommended by the national board of chiropractic examiners~~.

SECTION 5. Chir 2.07 (3) and 2.11 (2) and (3) are repealed.

SECTION 6. Chir 2.12 is created to read:

Chir 2.12 Practical examination demonstrating clinical competence. An applicant who applied for licensure as a chiropractor between January 1, 2012 and June 30, 2013, and who took the practical exam shall not be required to have successfully completed the practical exam and shall be considered to have satisfied all examination requirements to obtain a license to practice as a chiropractor in this state if the person has completed all of the following:

(a) Achieved a score of 375 or higher on Part III of the examination administered by the National Board of Chiropractic Examiners.

(b) Achieved a score of 375 or higher on Part IV of the examination administered by the National Board of Chiropractic Examiners.

(c) Successfully completed the exam on Wisconsin laws related to the practice of chiropractic.

SECTION 7. Chir 3.03 (1) (e) is amended to read:

Chir 3.03 (1) (e) Has successfully completed a practical examination demonstrating clinical competence which~~, in the board's judgment, is substantially equivalent to the practical examination demonstrating clinical competence~~ is ~~accepted~~ acceptable ~~by~~ to the board. The board will find acceptable any one of the following as an equivalent to a practical examination: Part IV of the examination administered by the National Board of Chiropractic Examiners, the state practical exam from the endorsement candidate's jurisdiction or the special purpose examination in chiropractic.

SECTION 8. Chir 3.03 (1) (f) is repealed and recreated to read:

Chir 3.03 (1) (f) Has successfully completed the special purpose examination in chiropractic, if the applicant has not completed one of the following:

1. Passed Parts I and II of the examination administered by the National Board of Chiropractic Examiners and a state practical exam from the endorsement candidate's jurisdiction.

2. Passed Parts I, II, III and IV of the examination administered by the National Board of Chiropractic Examiners.

SECTION 9. Chir 3.03 (2) (f) and (g) are amended to read:

Chir 3.03 (2) (f) Verification of successful completion of a practical examination, or its equivalent, demonstrating clinical competence which~~, in the board's judgment, is substantially equivalent to the practical examination demonstrating clinical competence~~ is accepted by the board. The verification shall be forwarded directly to the board from the state that administered the examination or from the national board.

Chir 3.03 (2) (g) Proof of successful completion of the special purpose examination in chiropractic or ~~the initial licensure~~ Parts I, II, III, and IV of the examination of the national board of chiropractic examiners. The proof of completion shall be forwarded directly to the board from the institution that administered the examination.

SECTION 10. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____ Agency _____

Chairperson
Chiropractic Examining Board