

Clearinghouse Rule 18-078

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

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

PROPOSED ORDER

An order of the Medical Examining Board to create ch. Med 25, relating to sports physician licensure exemption.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.03 (2m), Stats.

Statutory authority:

Sections 15.08 (5) (b) and 448.03 (2m) (e), Stats.

Explanation of agency authority:

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

Section 448.03 (2m) (e), Stats., requires the Medical Examining Board promulgate rules to implement the sports physician licensure exemption under s. 448.03 (2m), Stats.

Related statute or rule:

None.

Plain language analysis:

The proposed rules create ch. Med 25 to implement the sports physician licensure exemption under s. 448.03 (2m), Stats., as created by 2017 Wisconsin Act 341. Specifically, s. Med 25.03 (2) provides the requirements for requesting the extension the Board may grant under s. 448.03 (2m) (c) 1. b., Stats. The remainder of the chapter provides physicians and others with clear and concise guidance concerning the exemption’s conditions and limitations.

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

None.

Comparison with rules in adjacent states:

Illinois:

Illinois statutes provide a licensure exemption for health care professionals licensed to practice in another state or country (20 ILCS 2105/2105-360). The exemption applies if the following conditions are met:

- The health care professional has an oral or written agreement with an athletic team to provide health care services to the athletic team members, coaching staff, and families traveling with the athletic team for a specific sporting event to take place in Illinois.
- The health care professional may not provide care or consultation to any person residing in Illinois other than the athletic team members, coaching staff, and families traveling with the athletic team, unless the care is covered under the Good Samaritan Act.

The exemption from licensure remains in force while the health care professional is traveling with the athletic team, limited to 10 days per individual sporting event. Upon prior written request from the health care professional, the Illinois Department of Financial and Professional Regulation may grant an extension of the exemption for up to 20 days per sporting event.

A health care professional exempt from licensure under these provisions is not authorized to practice at a health care clinic or facility, including an acute care facility.

Iowa:

Rules of the Iowa Board of Medicine provide a licensure exemption for physicians and surgeons from out of state who hold a current, active license in good standing in another United States jurisdiction and who accompany one or more individuals into Iowa for the purpose of providing medical care to the individuals on a short-term basis (653 IAC 9.2 (2) f.).

Michigan:

Michigan statutes provide a licensure exemption for individuals authorized to practice a health profession in another state or territory of the United States who are appointed by the United States Olympic Committee to provide health services exclusively to team personnel and athletes at a training site or event [MCL 333.16171 (i)]. The exemption applies to the individual while performing the duties assigned in the course of the sanctioned training program or event and for the time period specified by the United States Olympic Committee.

An exemption is also provided for individuals currently authorized to practice a health profession in another state and providing health services for an athletic team [MCL 333.16171 (j)]. The exemption is subject to the following conditions:

- The individual may provide only those health services permitted if the individual were licensed to practice in Michigan.
- The athletic team must be from the same state that authorized the individual to practice the health profession.
- The individual must provide health services under the terms of a written agreement with the athletic team.
- The individual may only provide health services while the athletic team is traveling to or from or participating in a sporting event in Michigan.
- Health services may only be provided to a member of the athletic team; a member of the athletic team's coaching, communications, equipment, or sports medicine staff; a member of a band or cheerleading squad that is accompanying the athletic team; or the athletic team's mascot.
- The individual may not provide health services at a health care facility or agency located in Michigan.

Minnesota:

Minnesota statutes provide a licensure exemption for a physician licensed to practice medicine in another state who is in Minnesota for the sole purpose of providing medical services at a competitive athletic event [2017 Minn. Stat. Section 147.09 (12)]. The physician may practice medicine only on participants in the athletic event. A physician must first register with the Minnesota Board of Medical Practice on a form developed by the Board for that purpose. The physician must provide evidence satisfactory to the Board of a current unrestricted license in another state.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of 2017 Wisconsin Act 341 and obtaining input and feedback from the Medical Examining Board.

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

These 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 NathanielL.Ristow@wisconsin.gov, or by calling (608) 266-3445.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 8:00 a.m. on January 16, 2019, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapter Med 25 is created to read:

CHAPTER MED 25

SPORTS PHYSICIAN LICENSURE EXEMPTION

Med 25.01 Authority and scope. The rules in this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5) (b) and 448.03 (2m) (e), Stats., and implement the sports physician licensure exemption under s. 448.03 (2m), Stats.

Med 25.02 Exemption. Subject to s. 448.03 (2m), Stats., and ss. Med 25.03 and 25.04, a physician who is licensed in good standing to practice medicine and surgery in another state may practice medicine and surgery in this state without a license granted by the board if the physician has one of the following:

(1) A written agreement with a sports team to provide care to team members and coaching staff traveling with the team for a specific sporting event to take place in this state.

(2) An invitation from a national sport governing body to provide services to team members and coaching staff at a national sport training center in this state or to provide services to athletes and coaching staff at an event or competition in this state that is sanctioned by the national sport governing body.

Med 25.03 Expiration and extension of an exemption. (1) An exemption under s. Med 25.02 (1) is valid only while the physician is traveling with the sports team, and, except as provided under sub. (2), is subject to a limit of 10 days.

(2) The board may extend an exemption under s. Med 25.02 (1) for up to 20 days. As provided under s. 448.03 (2m) (c) 1. b., Stats., the total extensions granted a physician under this subsection may not exceed 30 days in a given calendar year. A request for

extension shall be submitted to the board at least 10 days prior to the expiration date under sub. (1), and include all of the following:

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

(b) A verified copy of the written agreement between the applicant and the sports team under s. 448.03 (2m) (a) 1., Stats.

(c) A verified copy of a license to practice medicine and surgery in another state issued to the applicant and verified documentary evidence of the applicant's current eligibility to practice under that license in that state.

Note: An application for extension may be obtained from the department of safety and professional services at (608) 261-2112 or from the department's website at <http://dsps.wi.gov>.

(3) An exemption under s. Med 25.02 (2) is valid during the time certified by the national sport governing body, subject to a limit of 30 days.

Med 25.04 Practice limitations. As provided under s. 448.03 (2m) (b), Stats., a physician may not do any of the following while practicing under s. Med 25.02:

(1) Provide care or consultation to any person residing in this state, other than an athlete, team member, or member of a coaching staff specified under s. Med 25.02 (1) and (2).

(2) Practice at a health care facility, as defined in s. 146.997 (1) (c), Stats., or a clinic, as defined in s. 146.903 (1) (b), Stats.

(3) Prescribe drugs.

SECTION 2. 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)
