

STATE OF WISCONSIN  
Podiatry Affiliated Credentialing Board

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE  
PODIATRY AFFILIATED CREDENTIALING BOARD

PROPOSED ORDER OF THE PODIATRY AFFILIATED CREDENTIALING BOARD  
ADOPTING RULES  
CLEARINGHOUSE RULE

PROPOSED ORDER

An order of the Podiatry Affiliated Credentialing Board to create Pod 2.01 (24) relating to overtreatment of patients.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

Section 448.695 (1) (a), Stats.

**Statutory authority:**

Sections 15.085 (5) (b), 227.11 (2) (a), and 448.695 (1) (a), Stats.

**Explanation of agency authority:**

Pursuant to ss. 15.085 (5) (b) and 227.11 (2) (a), Stats., the Podiatry Affiliated Board is generally empowered by the legislature to promulgate rules that will provide guidance within the profession and interpret the statutes it administers. Section 448.695 (1) (a), Stats., grants express rule-writing authority to the board to promulgate rules that identify acts that constitute unprofessional conduct. This proposed rule seeks to add a provision to the unprofessional conduct rule. Therefore, the Podiatry Affiliated Credentialing Board is generally and specifically empowered to promulgate these proposed rules.

**Related statute or rule:**

Section 448.675, Stats.

**Plain language analysis:**

An issue that is prevalent in the health care system is overtreatment and excessive diagnostic testing of patients by health care professionals. Overtreatment and excessive use of diagnostic testing and surgical procedures result in increased costs to patients as well as exposure to increased risk of infection, diseases, and complications. The Podiatry Affiliated Credentialing Board recognized this issue and decided to address it with these proposed rules. The proposed rule seeks to add a provision to the Unprofessional Conduct chapter Wisconsin Administrative Code Chapter Pod 2.

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

None.

**Comparison with rules in adjacent states:**

Illinois: Illinois does not list excessive evaluation or treatment of a patient as conduct that would be considered grounds for disciplinary action under 225 ILCS 100/4.

Iowa: Iowa does not list excessive evaluation or treatment as conduct that would subject a podiatrist to discipline under 645 IAC 224.2.

Michigan: Michigan does not list excessive evaluation or treatment as conduct that would subject a podiatrist to discipline under MCLS § 333.16221.

Minnesota: Minnesota does not list excessive evaluation or treatment as conduct that would subject a podiatrist to discipline under Minn. Stat. § 153.19.

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

The methodologies used in developing the proposed rule included reviewing statutes and administrative rules in other states and comparing them to the current unprofessional conduct provisions for podiatrists in Wisconsin.

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

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

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis document is attached.

**Effect on small business:**

The proposed rule does 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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

**Agency contact person:**

Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone (608) 261-4472; email at Kathleen.Paff@wisconsin.gov.

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

Comments may be submitted to Katie Paff, 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 Kathleen.Paff@wisconsin.gov. Comments must be received on or before the public hearing to be held on November 6, 2015 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. Pod 2.01 (24) is created to read:

**Pod 2.01 (24)** Performing deceptive, misleading, or fraudulent treatment, evaluation, or medical or surgical services.

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.

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(END OF TEXT OF RULE)

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