



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 18-078

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

The statute provides two types of sports physician licensure exemptions. [s. 448.03 (2m) (a) 1. and 2., Stats.] With regard to the second type of exemption, the statute requires that an individual meet three criteria. [s. 448.03 (2m) (a) 2. a., b., and c., Stats.] The proposed rule does not appear to address the second and third criteria (that the individual’s practice under the exemption is limited to that required by the national sport governing body, and that the services to be provided are within the individual’s training and experience). The board should modify s. Med 25.02 (2) to incorporate those additional requirements.

2. Form, Style and Placement in Administrative Code

For easier readability, the board could consider revising the proposed rule to combine all of the provisions relating to the first exemption for providing care to a specific team in one provision, and all of the provisions relating to the second exemption for providing care at the invitation of a national sport governing body at a national training center or national event in another provision. For example, the provisions in ss. Med 25.02 (1) and 25.03 (1) and (2) could be combined in one section, with subsections for “qualification for exemption”, “exemption period”, and “extension”, and the provisions in ss. Med 25.02 (2) and 25.03 (3) could be combined in one section.

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

In s. Med 25.02 (intro.), it is not necessary to refer to s. 448.03 (2m), Stats. That is only a general citation to the overall provision that is implemented in the proposed rule, and the specific requirements are repeated in the cited materials in ss. Med 25.03 and 25.04. The citation to s. 448.03 (2m), Stats., should be removed to avoid duplication and the suggested implication that there could be additional requirements.

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

a. In s. Med 25.03 (1), the proposed rule limits the duration of the first type of exemption to “10 days”. However, the statute limits the duration of that exemption to “10 days per sporting event”. [s. 448.03 (2m) (c) 1. a., Stats.] It is possible that the rule could be read to impose an aggregate limit on the duration of such exemptions per physician. The board should consider specifying that the limit is “per sporting event” as in the statute.

b. In s. Med 25.03 (2) (intro.), the proposed rule requires that a request for an extension of the initial 10-day exemption for a physician traveling with a sports team be submitted “at least 10 days prior to the expiration” of the exemption. Under this requirement, a request would be untimely unless submitted before the initial exemption even begins. Is this the intent or should the provision be revised to require submission prior to the expiration of initial exemption or at another identified time period?

c. In s. Med 25.03 (2) (b) and (c), although the term “verified” is used in other Med chapters, the board should consider specifying what is meant by a “verified copy” of a written agreement with a sports team, a “verified copy” of a license to practice medicine and surgery in another state, and “verified documentary evidence” of current eligibility to practice in that other state. Are the documents required to be certified or notarized? Or does this mean that the board must review and verify each document before it may grant an extension?

d. In s. Med 25.03 (2), to provide consistent application by the board in approving or denying requests for extensions, consider specifying under what circumstances the board may or may not grant an extension. For example, the proposed rule could specify that if each item of required documentation is timely submitted and verified by the board, the board “shall” grant the extension, and, that, if not timely submitted or all documents are not verifiable, an extension will not be granted. If a different standard will be used in determining whether to grant or deny an extension, that should be specified.

e. In s. Med 25.03 (3), the proposed rule limits the duration of the second type of exemption to “30 days”. However, the statute limits the duration of that exemption to “30 days per exemption”. [s. 448.03 (2m) (c) 2., Stats.] It is possible that the rule could be read to impose an aggregate limit on the duration of such exemptions per physician. The board should consider specifying that the limit is “per exemption” as in the statute.

f. In s. Med 25.04 (1), in the reference to s. Med 25.02, it appears that the word “and” between “(1)” and “(2)” should be revised to the word “or”.

g. Neither the statute nor the proposed rule defines the terms “national sport governing body” and “national sport training center”. Might the board wish to explain either term in the rule?

Alternatively, if the board has identified some qualifying bodies or centers, would it be useful to include a list of them in an “Example” following s. Med 25.02 (2)? [See generally, s. 1.09 (1), Manual.]

h. The proposed rule does not appear to provide a method for monitoring the time limit on the exemption periods or to identify what actions the board may require of a physician who is claiming an exemption. The board could consider whether it might be appropriate to include any oversight provisions, such as requiring a physician to notify the board when an exemption period is claimed, or specifying that, upon the board’s request, a physician who claims an exemption must provide proof of good standing and a copy of the agreement or invitation to provide care.