

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 21-017)

PROPOSED ORDER

An order of the Medical Examining Board to amend Med 13.02 (1g) and (1r) and 13.03 (3) (b) 2. and to create Med 13.02 (1v) and 13.03 (3) (b) 2m., relating to continuing medical education for physicians.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.13, Stats.

Statutory authority:

Sections 15.08 (5) (b) and 448.40 (1), 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 448.40 (1), Stats., provides the Medical Examining Board “may promulgate rules to carry out the purposes of this subchapter, including rules requiring the completion of continuing education, professional development, and maintenance of certification or performance improvement or continuing medical education programs for renewal of a license to practice medicine and surgery.”

Related statute or rule:

Section 440.035 (2m), Stats., allows the Medical Examining Board to issue guidelines regarding best practices in prescribing controlled substances. Section 440.08 (2) (a) 58. and 58m., Stats., provide the credential renewal date for physicians is November 1 of each odd numbered year.

Plain language analysis:

Current rules require a physician who holds a U.S. Drug Enforcement Administration number to complete 2 of the 30 required hours of continuing medical education from a Board-approved educational course or program related to opioid prescribing. As this requirement applies only to the renewal date occurring on November 1, 2021, the proposed rules establish a requirement for the completion of continuing education hours related to responsible prescribing of opioids and other controlled substances for the renewal date occurring on November 1, 2023.

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

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation establish continuing medical education requirements for physicians licensed in Illinois [68 Ill. Adm. Code 1285.110]. The rules do not require continuing education related to prescribing opioids or other controlled substances.

Iowa:

Rules of the Iowa Board of Medicine establish continuing education requirements for physicians licensed in Iowa [653 IAC 11]. The rules require a licensee who has prescribed opioids to a patient during the previous license period to complete at least 2 hours of category 1 credit regarding the United States Centers for Disease Control and Prevention (CDC) guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, every 5 years [653 IAC 11.4(1) d. (1)].

Michigan:

Rules of the Michigan Department of Licensing and Regulatory Affairs establish continuing medical education requirements for physicians licensed in Michigan [Mich Admin Code, R 338.2441 to R 338.2443]. The rules require a minimum of 3 hours of continuing education to be earned in pain and symptom management, including any of the following areas:

- Public health burden of pain.
- Ethics and health policy related to pain.
- Michigan pain and controlled substance laws.
- Pain definitions.
- Basic sciences related to pain including pharmacology.
- Clinical sciences related to pain.
- Specific pain conditions.
- Clinical physician communication related to pain.
- Management of pain, including evaluation and treatment and nonpharmacological and pharmacological management.
- Ensuring quality pain care.
- Michigan programs and resources relevant to pain.

Minnesota:

Rules of the Minnesota Board of Medical Practice establish continuing education requirements for physicians licensed in Minnesota [Minnesota Rules, chapter 5605]. The rules do not require continuing education related to prescribing opioids or other controlled substances.

Summary of factual data and analytical methodologies:

The proposed rules were developed by 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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

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 March 17, 2021, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Med 13.02 (1x) is created to read:

Med 13.02 (1x) (a) Except as provided under par. (b), for the renewal date occurring on November 1, 2023, a minimum of 2 of the 30 hours of continuing medical education required under sub. (1) shall be an educational course or program related to prescribing opioids and other controlled substances that is approved under s. Med 13.03 (3) at the time of the physician's attendance, and whose subject matter meets the requirements of s. Med 13.03 (3) (b) 2s.

(b) This subsection does not apply to a physician who, at the time of making application for a certificate of registration, does not hold a U.S. drug enforcement administration number to prescribe controlled substances.

SECTION 2. Med 13.03 (2) (b) (Note) and (3) (a) (intro.) are amended to read:

Med 13.03 (2) (b) (Note) Forms to apply for continuing medical education credit are available ~~upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708~~ from the department of safety and professional services' website at <http://dps.wi.gov>, by phone at (608) 266-2112, or by email at dps@wisconsin.gov.

(3) (a) (intro.) Only educational courses and programs approved by the board may be used to satisfy the requirement under s. Med 13.02 (1g) (a), ~~and (1r) (a), (1v) (a), and (1x) (a).~~ To apply for approval of a continuing education course or program, a provider shall submit to the board an application on forms provided by the department. The application shall include all of the following concerning the course or program:

SECTION 3. Med 13.03 (3) (b) 2s. is created to read:

Med 13.03 (3) (b) 2s. The subject matter of a course under s. Med 13.02 (1x) (a) shall pertain to responsible prescribing of opioids and other controlled substances, with an emphasis on informed consent of all patients on opioid therapy and other controlled substances.

SECTION 4. 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)

This Proposed Order of the Medical Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chairperson
Medical Examining Board