



STATE OF WISCONSIN

Department of Safety and Professional Services
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Madison WI 53703

Governor Scott Walker Secretary Dave Ross

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MEDICAL EXAMINING BOARD MEETING
Room 121A, 1400 E. Washington Avenue, Madison
DSPS Contact: Tom Ryan (608) 261-2378
AUGUST 15, 2012

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting items may be removed from the agenda. Please consult the meeting minutes for a summary of the actions and deliberations of the Board.

8:00 A.M.

OPEN SESSION

- 1. Call to Order – Roll Call**
- 2. Declaration of Quorum**
- 3. Introduction of New Board Member(s)**
- 4. Recognition of Board Member(s)**
- 5. Adoption of the Agenda (insert) (1-6)**
- 6. Approval of Minutes of July 18, 2012 (insert) (7-16)**
- 7. Case Presentations**

Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s) in the Matter of:

- a. Edwin E. Ferguson, Jr., MD - 11 MED 137 **(229-236)**
 - Attorney Arthur Thexton
 - Case Advisor – Sridhar asudevan
- b. Mark E. McDade, MD – 11 MED 186 **(237-244)**
 - Attorney Arthur Thexton
 - Case Advisors – Raymond Mager and Gene Musser
- c. Eileen M. Reardon MD – 09 MED 431 **(245-254)**
 - Attorney im luck
 - Case Advisor – Sheldon Wasserman
- d. Gope Hotchandani, MD – 11 MED 197 **(255-262)**
 - Attorney Pamela Stach
 - Case Advisor – enneth Simons
- e. Mark D. Stannard, MD – 11 MED 404 **(263-270)**
 - Attorney Pamela Stach
 - Case Advisor – Sridhar asudevan

8. Executive Director Matters

- a. Paperless Board Meetings Report (**insert**) (17-18)
- b. Other

9. Items Received After Mailing of Agenda

- a. Presentation of Proposed Stipulations and Final Decisions and Orders
- b. Presentation of Proposed Decisions
- c. Presentation of Interim Orders
- d. Petitions for Re-hearing
- e. Petitions for Summary Suspension
- f. Petitions for Extension of Time
- g. Petitions for Assessments
- h. Petitions to vacate Orders
- i. Requests for Disciplinary Proceeding Presentations
- j. Motions
- k. Appearances from Requests Received or Renewed
- l. Speaking Engagement, Travel and Public Relation Requests
- m. Application Issues
- n. Examination Issues
- o. Continuing Education Issues
- p. Practice questions

10. Items for Board Discussion

- a. PDMP Update – **APPEARANCE 8:15 A.M. – CHAD ZADRAZIL, DSPS** (**insert**) (19-20)
- b. FSMB Matters
- c. Maintenance of Licensure
- d. Chapter MED 10 Discussion and voting
 1. Wrong Site Surgery (**insert**) (21-22)
 2. Informed Consent (**insert**) (23-26)
 3. Self-Disclosure of Peer Review (**insert**) (27-28)
 4. Business Practices (**insert**) (29-30)
 5. Related Law Violations (**insert**) (31-34)
 6. Identify Discussion Items for September Meeting (**insert**) (35-36)
- e. Legislative Report
 1. Wis. Admin. Code POD chs. 1 and 3 relating to Podiatry Temporary Education Permit and Continuing Ed (**insert**) (37-40)
 2. Draft of Proposed Rule to Reflect Changes to SPS Chs. 90-94 Pursuant to the Passage of 2009 WI Act 355 – Massage Therapy and Bodywork Therapy (**insert**) (41-42)
- f. Medical Board Newsletter (**insert**) (43-62)
- g. Board Outreach

11. Screening Panel Report

12. Informational Item(s)

- a. MED 10 Work Group Proposals (**insert**) (63-72)
- b. MED 10 Wisconsin Medical Society Suggestions (**insert**) (73-84)
- c. OIG Response to Board Request for Audit (**insert**) (85-88)

- 13. Public Comment(s)
- 14. New/Other Business

CLOSED SESSION

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b), and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)).

CS-1 Full Board Oral Examination – APPEARANCE 10:00 A.M. – SANDRA A. SIECK, MD (insert) (89-122)

CS-2 Oral Interview for Visiting Professor License – APPEARANCE 10:15 A.M. – CHARLES H.C. PILGRIM, MD (insert) (123-228)

CS-3 Deliberation of Stipulation(s), Final Decision(s) and Order(s) in the Matter of:

- a. Edwin E. Ferguson, Jr., MD - 11 MED 137 (insert) (229-236)
 - o Attorney Arthur Thexton
- b. Mark E. McDade, MD – 11 MED 186 (insert) (237-244)
 - o Attorney Arthur Thexton
- c. Eileen M. Reardon MD – 09 MED 431 (insert) (245-254)
 - o Attorney im luck
- d. Gope Hotchandani, MD – 11 MED 197 (insert) (255-262)
 - o Attorney Pamela Stach
- e. Mark D. Stannard, MD – 11 MED 404 (insert) (263-270)
 - o Attorney Pamela Stach

CS-4 Deliberation of Proposed Administrative Warning(s)

- a. 10 MED 146 (N.H., MD) (insert) (271-272)
 - o Attorney im luck
 - o Case Advisor – James Conterato
- b. 11 MED 121 (R.P.R., MD) (insert) (273-274)
 - o Attorney im luck
 - o Case Advisor – Raymond Mager
- c. 11 MED 396 (P.L.S., MD) (insert) (275-276)
 - o Attorney im luck
 - o Case Advisor – Kenneth Simons
- d. 11 MED 356 (.S.F., MD) (insert) (277-278)
 - o Attorney Arthur Thexton
 - o Case Advisor – Carolyn Bronston

- e. 12 MED 130 (J. .M., MD) **(insert) (279-280)**
 - o Attorney Pamela Stach
 - o Case Advisor – LaMarr Franklin

CS-5 Consideration of Complaint(s)

- a. 11 MED 186 **(insert) (281-286)**
- b. 11 MED 209 **(insert) (287-292)**

CS-6 Request(s) for Equivalency of ACGME Approved Post-Graduate Training

- a. Abdelhafeez H. Abdelhafeez, MD **(insert) (293-348)**

CS-7 Monitoring (insert) (249-250)

- a. Eugene C. Rigstad, MD – Request for modifications and consideration of non-compliance with Board Order – **APPEARANCE 10:20 A.M. (insert) (351-372)**
- b. Angela M. Hanaman, RN, RCP – Consideration of non-compliance with Board Order **(insert) (373-386)**
- c. Jennifer L. Nolden, PA – Request for modification **(insert) (387-408)**
- d. Bradley J. Schingen, RCP – Request for modification **(insert) (409-424)**

CS-8 Case Closings (insert) (425-426)

CS-9 Consulting with Legal Counsel

Deliberation of Items Received in the Bureau after Preparation of Agenda

- a. Proposed Stipulations
- b. Proposed Decisions and Orders
- c. Proposed Interim Orders
- d. Objections and Responses to Objections
- e. Complaints
- f. Petitions for Summary Suspension
- g. Remedial Education Cases
- h. Petitions for Extension of Time
- i. Petitions for Assessments
- j. Petitions to vacate Orders
- k. Motions
- l. Administrative Warnings
- m. Matters Relating to Costs
- n. Appearances from Requests Received or Renewed
- o. Examination Issues
- p. Continuing Education Issues
- q. Application Issues
- r. Monitoring Cases
- s. Professional Assistance Procedure Cases

Division of Enforcement – Meeting with Individual Board Members

Division of Enforcement – Case Status Reports and Case Closings

Ratifying Licenses and Certificates

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

oting on Items Considered or Deliberated on in Closed Session if oting is Appropriate

New/Other Business

ADJOURNMENT

12:30PM

CLOSED SESSION

Examination of 2 Candidates for Licensure – Drs. Osborn, Simons, Swan, Westlake

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**MEDICAL EXAMINING BOARD
MINUTES
JULY 18, 2012**

PRESENT: Carolyn Bronston; Mary Jo Capodice, DO; Rodney Erickson, MD (arrived 8:15 a.m.); LaMarr Franklin; Jude Genereaux (excused at 1:20 p.m.); Gene Musser, MD; Sandra Osborn; Kenneth Simons, MD; Timothy Swan, MD; Sridhar Sasudevan, MD; Sheldon Wasserman, MD; Timothy Westlake, MD (non-voting member)

EXCUSED: Sujatha Ailias, MD

STAFF: Tom Ryan, Executive Director; Colleen Baird, Legal Counsel; Karen Rude-Evans, Bureau Assistant; other DSPS staff

GUESTS: Mark Grapentine, Wisconsin Medical Society; Anne Hletko, Council on Physician Assistants; Judy Warmuth, WHA; Scott Becher, Becher Group; Julie Doyle and Eric Jensen, WAPA; Jeremy Levin, RWHC; Bob Phillips, Marshfield Clinic

CALL TO ORDER

Dr. Sheldon Wasserman, Chair, called the meeting to order at 8:00 a.m. A quorum of eleven (11) members was confirmed.

INTRODUCTION OF NEW BOARD MEMBERS

Sheldon Wasserman welcomed Mary Jo Capodice, DO, and Timothy Westlake, MD, to the Board. They gave a brief history of their backgrounds. Sridhar Sasudevan, MD, was re-appointed to the Board.

RECOGNITION OF BOARD MEMBERS

Sheldon Wasserman acknowledged Raymond Mager, DO, and Sujatha Ailias, MD, for their service and dedication to the Board.

ADOPTION OF AGENDA

Amendments:

- Under INTRODUCTION OF NEW BOARD MEMBERS (open session), add:
 - a. Mary Jo Capodice, DO
 - b. Reappointment of Sridhar Sasudevan, MD
 - c. Timothy Westlake, MD

- Under Item 7 (open session), CASE PRESENTATIONS, add:
 - g. Terrance Moe, MD – 08 MED 323, 10 MED 430 and 10 MED 431
 - Attorney im luck
 - Case Advisor – Sridhar asudevan
- Item 10e (open session) – CHAPTER MED TO DISCUSSION, insert additional information after page 58
- Item CS-1 (closed session), DELIBERATION OF PROPOSED STIPULATIONS, Insert after page 188:
 - g. Terrance Moe, MD – 08 MED 323, 10 MED 430 and 10 MED 431
 - Attorney im luck
- Item CS-2 (closed session) – DELIBERATION OF PROPOSED ADMINISTRATIVE WARNINGS, Case 11 MED 121 is removed from the Agenda
- Item CS-4 (closed session) – MONITORING:
 - a. Rudy . Byron, Jr., MD – add APPEARANCES 11:15 A.M. – RUDY . BYRON, JR., MD, AND ATTORNEY JOHN A LART
- Under DELIBERATION OF ITEMS RECEIVED AFTER PREPARATION OF THE AGENDA (closed session) – add:
 - d1. 10 MED 031/SPS-11-0074 - In the Matter of Disciplinary Proceeding Against Iftekhar Bader, MD, and Paul Berce, MD - Respondent's Objections to ALJ Orders Denying Motions to Dismiss - -APPEARANCES 10:15 A.M – ATTORNEY MAR E. LARSON AND DOE ATTORNEY IM LUC
 - e1. Consideration of Complaint – 09 MED 223
- Case Status Report – insert at the end of the agenda in closed session

MOTION: Sridhar asudevan moved, seconded by Gene Musser, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF JUNE 20, 2012

MOTION: Gene Musser moved, seconded by Sridhar asudevan, to approve the minutes of June 20, 2012 as written. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

DOE Attorneys presented Proposed Stipulations, Final Decisions and Orders in the following disciplinary proceedings:

| | |
|---------------------------------|---|
| Javier Rincon, MD | 12 MED 004 |
| James D. Hanna, MD | 12 MED 136 |
| Marta C. Muller, MD | 11 MED 131 Dr. Marta Muller was present. |
| Bradley A. Bourkland, MD | 12 MED 069 |
| John A. Kidd, MD | 10 MED 399 |

Michael E. Brouette, PA-C
Terrance Moe, MD

10 MED 381
08 MED 323, 10 MED 430 and 10 MED 431

These items will be deliberated in closed session.

EXECUTIVE DIRECTOR MATTERS

Review Board Assignments for Screening and Exams

The following are assignments for screening and exams:

SCREENING

| | |
|------------------|------------------------------------|
| JULY | Bronston, Swan, Vasudevan |
| AUGUST | Franklin, Osborn, Simons |
| SEPTEMBER | Bronston, Misra, Vasudevan |
| OCTOBER | Genereaux, Misra, Simons |
| NOVEMBER | Bronston, Musser, Wasserman |
| DECEMBER | Genereaux, Simons, Swan |

EXAMS

| | |
|------------------|--|
| JULY | Erickson, Osborn, Swan, Vasudevan |
| AUGUST | Osborn, Simons, Swan, Westlake |
| SEPTEMBER | Capodice, Musser, Osborn, Vasudevan |
| OCTOBER | Osborn, Simons, Swan, Westlake |
| NOVEMBER | Capodice, Misra, Osborn, Wasserman |
| DECEMBER | Misra, Osborn, Simons, Wasserman |

Liaison and Work Group Appointments

Chair Sheldon Wasserman made the following appointments:

ARRA Grant Liaison – Sheldon Wasserman

MOL Work Group – Rodney Erickson and Timothy Swan

PAP Liaisons – LaMarr Franklin and Sandra Osborn, Timothy Swan – first alternate, Mary Jo Capodice – second alternate

Credentialing Liaisons – Suresh Misra and Sheldon Wasserman, Sridhar Vasudevan – first alternate, Kenneth Simons – second alternate

Acknowledgement of Dr. Mager and Dr. Kailas

Tom Ryan acknowledged the Department's appreciation of the service and expertise of both Dr. Raymond Mager and Dr. Sujatha Kailas.

ITEMS FOR BOARD DISCUSSION

FSMB Matters/Maintenance of Licensure

Lance Talmage, MD, Humayun Chaudhry, DO, and Frances Cain, FSMB, gave a telephone presentation regarding maintenance of licensure and continuing education.

The Board has concerns with the FSMB's proposed Maintenance of Licensure recommendations. Gene Musser stated the Board should not abdicate the responsibility of establishing CME's. Tom Ryan stated a Readiness Inventory Survey can be created with the FSMB's support. The survey would assess whether or not the Board and the Department are ready to pilot the MOL project and if resources are available.

Sheldon Wasserman would like a random audit of licensees for compliance with the CME requirement. Tom Ryan will look into the cost and feasibility of an audit. Timothy Swan stated an audit of CME's should be done when any case is opened for investigation.

Board Consideration of Council Appointments

Julie Doyle, PA-C, was in the audience. The Board invited her to give a brief history of her background as she is a candidate for the Council on Physician Assistants.

NOMINATION: Sridhar asudevan nominated Julie Doyle, PA-C, for the Council on Physician Assistants.

MOTION: Sridhar asudevan moved, seconded by Gene Musser, to approve the nomination of Julie Doyle, PA-C, and to appoint her to the Council on Physician Assistants. Motion carried unanimously.

NOMINATION: Kenneth Simons nominated Jeremiah Barrett, PA-C, for the PA Educator position on the Council on Physician Assistants.

MOTION: Sridhar asudevan moved, seconded by LaMarr Franklin, to approve the nomination of Jeremiah Barrett, PA-C, and to appoint him to the PA Educator position on the Council on Physician Assistants. Motion carried unanimously.

NOMINATION: Sridhar asudevan nominated Gary Tsarovsky to the Perfusionists Examining Council.

MOTION: Sridhar asudevan moved, seconded by Kenneth Simons, to accept the nomination of Gary Tsarovsky and to appoint him to the Perfusionists Examining Council. Motion carried unanimously.

Wis. Admin. Code MED 8 Update

There was no update at this time.

Wis Admin. Code Chapter MED 10 Update

The MED 10 work group met via teleconference yesterday and reviewed the recommendations from the Wisconsin Medical Society. The work group will meet again in two weeks. The Board reviewed the proposed MED 10 draft. Mark Grapentine, WMS, presented comments to the Board. The Board will consider the comments and will continue the review at the August meeting.

Legislative Report

Gene Musser discussed the issue that Wisconsin only requires a one (1) year GME for initial licensure regardless of where the applicant received their education. Most states require completion of three (3) years of GME for international graduates. The Board is on record being in favor of changing the requirement for international graduates to a three (3) yr GME completion. This change would require legislation. The Board may also want to consider issuing a medical residency license. The legislature rejected the criminal background checks for all new licensees and the Board may want to consider other options.

ACGME-International

The Board discussed whether or not the ACGME International (ACGME-I) should be accepted for licensure. Kenneth Simons, a member of the ACGME Board of Directors, stated the ACGME-I is not equivalent to the ACGME.

MOTION: Sridhar Sasudevan moved, seconded by LaMarr Franklin, that the Board adopt the policy that the ACGME-I training is not equivalent to the ACGME training. Motion carried. Kenneth Simons abstained.

Medical Examining Board Newsletter

Tom Ryan and Jude Genereaux reviewed the current proposed content of the Newsletter. The draft should be available at the August meeting.

Board Outreach

Gene Musser suggested a DSPS staff member be assigned to assist Board members prepare PowerPoint presentations

SCREENING PANEL REPORT

Carolyn Bronston reported thirty seven (37) cases were screened. Ten (10) cases were opened and one (1) ten-day letter was sent.

INFORMATIONAL ITEMS

None.

PUBLIC COMMENTS

None.

OTHER/NEW BUSINESS

None.

RECESS TO CLOSED SESSION

MOTION: Kenneth Simons moved, seconded by LaMarr Franklin, to allow Timothy Westlake to sit in on closed session. Motion carried unanimously.

MOTION: Sandra Osborn moved, seconded by Gene Musser, to convene to closed session to deliberate on cases following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b), and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll call: Carolyn Bronston-yes; Mary Jo Capodice-yes; LaMarr Franklin-yes; Jude Genereaux-yes; Suresh Misra-yes; Gene Musser-yes; Sandra Osborn-yes; Kenneth Simons-yes; Timothy Swan-yes; Sridhar asudevan-yes; Sheldon Wasserman-yes. Motion carried unanimously.

Open session recessed at 11:40 a.m.

RECONVENE IN OPEN SESSION

MOTION: LaMarr Franklin moved, seconded by Sridhar asudevan, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 2:38 p.m.

ITEMS VOTED ON DURING CLOSED SESSION

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

MOTION: Suresh Misra moved, seconded by Sridhar asudevan, to reject the Proposed Stipulation, Final Decision and Order in the disciplinary proceedings against **Javier A. Rincon, MD (12 MED 004)**. Motion carried unanimously.

MOTION: Sridhar asudevan moved, seconded by LaMarr Franklin, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against **James D. Hanna, MD (12 MED 136)**. Motion carried unanimously.

MOTION: Sridhar asudevan moved, seconded by Gene Musser, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against **Marta C. Muller, MD (11 MED 131)**. Motion carried unanimously.

MOTION: Sridhar asudevan moved, seconded by Suresh Misra, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against **Bradley A. Bourkland, MD (12 MED 069)**. Motion carried unanimously.

MOTION: Carolyn Bronston moved, seconded by Suresh Misra, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against **John A. Kidd, MD (10 MED 399)**. Motion carried unanimously.

MOTION: Sridhar asudevan moved, seconded by Suresh Misra, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against **Michael E. Brouette, PA-C (10 MED 381)**. Motion carried unanimously.

MOTION: Sridhar asudevan moved, seconded by Gene Musser, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against **Terrance Moe, MD (08 MED 323, 10 MED 430 and 10 MED 431)**. Motion carried unanimously.

PROPOSED ADMINISTRATIVE WARNING(S)

MOTION: LaMarr Franklin moved, seconded by Carolyn Bronston, to issue the Administrative Warning in case **11 MED 196 against respondent F.S., MD**. Motion carried unanimously.

CONSIDERATION OF COMPLAINT(S)

MOTION: Carolyn Bronston moved, seconded by Sandra Osborn, to find probable cause to issue a complaint in the matter of **09 MED 223**. Motion carried. Gene Musser abstained.

MONITORING

M.A.G, MD, and Attorney Maureen Molony appeared before the Board to request reconsideration of M.A.G.'s application to the Professional Assistance Procedure (PAP).

MOTION: Sandra Osborn moved, seconded by Suresh Misra, to allow M.A.G, MD, to enter the PAP. Motion carried six to five.

Rudy V. Byron, Jr., MD, and Attorney John A. Lartz appeared before the Board.

MOTION: Sridhar asudevan moved, seconded by LaMarr Franklin, to grant the request from **Rudy V. Byron, Jr., MD**, for full licensure. Motion carried unanimously.

Alfred L. Neuhoff, MD, and Attorney Mary Lee Ratzel appeared before the Board.

MOTION: Carolyn Bronston moved, seconded by Jude Genereaux, to grant the request from **Alfred L. Neuhoff, MD, for full licensure**. Motion carried. Rodney Erickson, Suresh Misra, Kenneth Simons and Timothy Swan opposed.

RESPONDENTS' OBJECTIONS TO ALJ ORDERS DENYING MOTIONS TO DISMISS

IFTEKHAR BADER, MD, AND PAUL BERCE, MD 10 MED 031/SPS-11-0074

MOTION: Jude Genereaux moved, seconded by Kenneth Simons, to deny the petition in the disciplinary proceedings against Iftekhar Bader, MD, and Paul Berce, MD, because it is not a final order and is not yet ripe for a final order, and the Board declines the opportunity to question counsel. Motion carried. Gene Musser abstained.

CASE CLOSINGS

MOTION: Suresh Misra moved, seconded by LaMarr Franklin, to close case **10 MED 381 against respondent P.A.K., MD, for prosecutorial discretion (P3)**. Motion carried. Sheldon Wasserman was excused during deliberation and abstained from voting.

MOTION: Carolyn Bronston moved, seconded by LaMarr Franklin, to close case **12 MED 160 for prosecutorial discretion (P7)**. Motion carried unanimously.

MOTION: Suresh Misra, moved, seconded by Sridhar Sasudevan, to close case **11 MED 424 for prosecutorial discretion (P3)**. Motion carried unanimously.

MOTION: LaMarr Franklin, moved, seconded by Sridhar Sasudevan, to close case **11 MED 238 for insufficient evidence**. Motion carried unanimously.

MOTION: Gene Musser, moved, seconded by Sandra Osborn, to close case **12 MED 102 for no violation**. Motion carried unanimously.

MOTION: Gene Musser, moved, seconded by LaMarr Franklin, to close case **11 MED 422 for insufficient evidence**. Motion carried unanimously.

MOTION: Suresh Misra moved, seconded by Sridhar Sasudevan, to close case **11 MED 154 for no violation**. Motion carried. Gene Musser abstained.

MOTION: LaMarr Franklin moved, seconded by Gene Musser, to close case **12 MED 060 for no violation.** Motion carried unanimously.

RATIFY ALL LICENSES AND CERTIFICATES

MOTION: Sandra Osborn moved, seconded by LaMarr Franklin, to ratify all licenses and certificates as issued. Motion carried unanimously.

OTHER/NEW BUSINESS

None.

ADJOURNMENT

MOTION: Suresh Misra moved, seconded by Sandra Osborn, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:39 p.m.

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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

| | | | |
|--|--|---|--|
| 1) Name and Title of Person Submitting the Request: | | 2) Date When Request Submitted: | |
| | | Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others | |
| 3) Name of Board, Committee, Council, Sections: Medical Examining Board | | | |
| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? Paperless Board Meetings | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? (name) <input type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: Department staff will report to the Board about a move to paperless Board meetings currently under consideration. | | | |
| 11) Authorization | | | |
| Signature of person making this request | | Date | |
| Supervisor (if required) | | Date | |
| Bureau Director signature (indicates approval to add post agenda deadline item to agenda) | | Date | |

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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

| | | | |
|---|--|---|--|
| 1) Name and Title of Person Submitting the Request: Chad Zadrazil, PDMP Project Manager | | 2) Date When Request Submitted: July 26, 2012 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others | |
| 3) Name of Board, Committee, Council, Sections: Medical Examining Board | | | |
| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? Prescription Drug Monitoring Program (PDMP) Update | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input checked="" type="checkbox"/> Yes by Chad Zadrazil <small>(name)</small> <input type="checkbox"/> No | 9) Name of Case Advisor(s), if required: N/A | |
| 10) Describe the issue and action that should be addressed: I will give the Board an update on the development of the PDMP, including: <ul style="list-style-type: none"> - The legislative review of the proposed PDMP rules - The vendor procurement/RFP process | | | |
| 11) Authorization | | | |
| Signature of person making this request | | Date | |
| Supervisor (if required) | | Date | |
| Bureau Director signature (indicates approval to add post agenda deadline item to agenda) | | Date | |
| Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. | | | |



STATE OF WISCONSIN

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Overview of the Prescription Drug Monitoring Program

August 2012

- A prescription drug monitoring program (PDMP) is a statewide program that collects and stores information regarding the prescribing and dispensing of monitored prescription drugs to assist in reducing the illicit use and diversion of monitored prescription drugs
- PDMPs have been shown to reduce the healthcare, social and enforcement costs that stem from prescription drug addiction and play a key role in the fight to curb the prescription drug abuse epidemic:
 - o PDMPs enable healthcare practitioners and pharmacists to access the information about patients prior to prescribing and/or dispensing a monitored prescription drug
 - o PDMPs enable law enforcement authorities to request the information to aid in investigating crimes associated with prescription drug diversion
- As of April, 2012, 43 states have operational PDMPs

Development of the PDMP in Wisconsin

- 2009 Wis. Act 362 directs the Department of Safety and Professional Services (Department) to seek federal grant funding and the Pharmacy Examining Board (Board) to create a PDMP through rule
- The U.S. Department of Justice awarded a grant to fund the development and deployment of PDMP to the Department in October 2011
- The PDMP is currently under development and is anticipated to be deployed in January 2013
- Development of the PDMP involves two processes:
 - o Vendor Procurement:
 - The Department worked with staff at the Department of Administration, Bureau of Procurement to develop a request for proposal (RFP)
 - The RFP was posted in May and proposals from vendors were due in June 2012
 - For more information about the procurement process, please contact Pat Conley, Procurement Manager, at pat.conley@wisconsin.gov
 - o Administrative Rule Promulgation:
 - The Board drafted a rule, CR 12-009, to create Ch. Phar 18 of the Administrative Code to create and regulate the PDMP
 - The Board submitted the rule to the Legislature in March
 - The Legislature ended its review in July
 - The rule will go before the Board at its next meeting for final approval
 - For more information about the proposed rule, please see the Legislative Clearinghouse website, at <http://docs.legis.wisconsin.gov/code/chr/2012>

**State of Wisconsin
Department of Safety & Professional Services
AGENDA REQUEST FORM**

| | | | |
|--|---|--|--|
| 1) Name and Title of Person Submitting the Request: Sandy Nowack Legal Counsel | | 2) Date When Request Submitted: August 1, 2012 Items will be considered late if submitted after 4:30 p.m. and less than: - 10 work days before the meeting for Medical Board - 14 work days before the meeting for all others | |
| 3) Name of Board, Committee, Council, Sections: Medical Examining Board | | | |
| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? MED 10 Discussion and vote: WRONG SITE SURGERY | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: <p>The Board will continue its previous discussions on WRONG SITE SURGERY and will vote to accept or reject proposed draft language subject to technical legal revisions. NOTE: The Board will have an opportunity to review the proposed language of MED ch. 10 in its entirety before any public hearing.</p> <p>One possible motion could read:</p> <p>Move, subject to technical legal revisions and review prior to public hearing, to accept/reject draft language as follows concerning wrong site surgery:</p> <p>Performing any surgical or invasive procedure on the wrong patient, or at the wrong anatomical site or performing the wrong procedure on any patient.</p> | | | |
| 11) Authorization | | | |
| Signature of person making this request | | Date | |
| Supervisor (if required) | | Date | |
| Bureau Director signature (indicates approval to add post agenda deadline item to agenda) | | Date | |

MED 10 DISCUSSION TOPICS

August 15, 2012

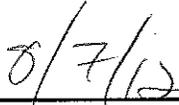
DISCUSSION: WRONG SITE SURGERY (amended language)

Performing ~~or attempting to perform~~ any surgical or invasive procedure on the wrong patient, or at the wrong anatomical site or performing the wrong procedure on any patient.

WMS recommended eliminating this portion of the proposed rule in favor of prohibitions against negligence in providing medical care.

**State of Wisconsin
Department of Safety & Professional Services**

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| 3) Name of Board, Committee, Council, Sections: Medical Examining Board | | | |
| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? MED10 Discussion and vote. | |
| 7) Place Item in: <input type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: <p>The Board may consider, discuss and, if desired, vote on proposals concerning INFORMED CONSENT, including WMS and WHA recommendations.</p> | | | |
| 11) Authorization | | | |
| Signature of person making this request  | | Date  | Per Dr. Wasserman |
| Supervisor (if required) | | Date | |
| Bureau Director signature (indicates approval to add post agenda deadline item to agenda) | | Date | |
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1 **INFORMED CONSENT**

2

3 **Med 10.02(2)(u)**

4 Failure to inform a patient about the availability of all alternate, viable medical modes of
5 treatment and about the benefits and risks of these treatments, including the benefits and
6 risks associated with the use of extended wear contact lenses.

7

8 **Work Group Proposal (original)**

9 Failure to obtain informed consent before providing any health care service, failure to
10 document that informed consent was obtained, or any violation of the terms of Wis.
11 Admin. Code § MED 18, ~~unless otherwise excused by law.~~

12

13 **FSMB**

14 50. failing to obtain adequate patient informed consent.

15 51. using experimental treatments without appropriate patient consent and adhering to all
16 necessary and required guidelines and constraints.

DISCUSSION: INFORMED CONSENT (amended language and structure)

"Informed consent" means a patient's voluntary, knowing and understood agreement to the health care service to be provided, obtained after a patient has been informed of all reasonable alternate modes of diagnosis or treatment, or both, and about the risks and benefits of each, that a reasonable person in the patient's position would need before making an informed decision concerning the mode of treatment or diagnosis.

Misconduct definition:

Subject to Wis. Stat. § 448.30, performing any health care service or part of a service without the patient's informed consent or after the patient has withdrawn informed consent, whether verbally or in writing, or any of the following:

- a. Failure to document informed consent in the patient's health care record; or
- b. Failure to inform the patient that any medical act will be performed by a non-physician delegate.

1
2 **Wisconsin Medical Society Suggested Edit to proposed language on informed**
3 **consent. Council on Legislation (July 2012)**
4
5

6 "Informed consent" as defined in Wis. Stats § 448.30.
7

8 No service or part of a service may be provided without the patient's informed consent or after
9 informed consent has been withdrawn.
10

11
12 **NOTES:**

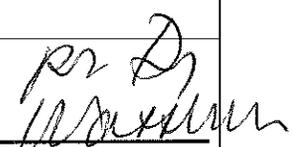
13 The WMS position is that the further description in Wis. Admin. Code ch. MED 18 applies to
14 ch. MED10 definitional language as well.
15

16 **448.30 Information on alternate modes of treatment.** Any physician who treats a
17 patient shall inform the patient about the availability of all alternate, viable medical modes of
18 treatment and about the benefits and risks of these treatments. The physician's duty to inform the
19 patient under this section does not require disclosure of:

- 20 (1) Information beyond what a reasonably well-qualified physician in a similar medical
21 classification would know.
22 (2) Detailed technical information that in all probability a patient would not understand.
23 (3) Risks apparent or known to the patient.
24 (4) Extremely remote possibilities that might falsely or detrimentally alarm the patient.
25 (5) Information in emergencies where failure to provide treatment would be more harmful to
26 the patient than treatment.
27 (6) Information in cases where the patient is incapable of consenting.
28
29
30
31

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

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| 3) Name of Board, Committee, Council, Sections: Medical Examining Board | | | |
| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? MED10 Self-Report Peer Review Discussion and Vote | |
| 7) Place Item in: <input type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: <p>The Board will consider, discuss and, if desired vote on proposals concerning SELF REPORT of certain PEER REVIEW informations.</p> | | | |
| 11) Authorization <div style="display: flex; justify-content: space-between;"> <div style="width: 40%;">  Signature of person making this request </div> <div style="width: 20%; text-align: center;">  Date </div> <div style="width: 30%; text-align: right;">  <small>per Dr. [unclear]</small> </div> </div> | | | |
| Supervisor (if required) | | Date | |
| Bureau Director signature (indicates approval to add post agenda deadline item to agenda) | | Date | |
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1 **SELF REPORT OF PEER REVIEW ACTION:**

2 **Current law:** No existing comparable provision.

3 **Work group proposal:**

4 Failure, within ten days, to report to the Department adverse action taken against the licensee's
5 authority to practice medicine and surgery as follows:

- 6 a. Any adverse action by another licensing or credentialing jurisdiction concerned with the
7 practice of medicine and surgery; or;
- 8 b. Any adverse action, whether a final or temporary action, by a peer review body, health
9 care organization or division of the state or federal government that results in limitation
10 or loss of authority to perform any act constituting the practice of medicine and surgery,
11 including authorization to prescribe controlled substances.

12
13 **WMS:**

14 Failure, within ten days, to report to the Department a final adverse action taken against the
15 licensee's authority to practice medicine and surgery by another licensing or credentialing
16 jurisdiction concerned with the practice of medicine and surgery.

17
18 **FSMB:**

19 30. failure to report to the Board any adverse action taken against oneself by another
20 licensing jurisdiction (United States or foreign), by any peer review body, by any health
21 care institution, by any professional or medical society or association, by any
22 governmental agency, by any law enforcement agency or by any court for acts or conduct
23 similar to acts or conduct that would constitute grounds for action as defined in this
24 section.

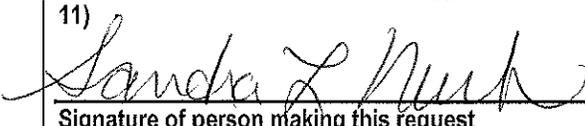
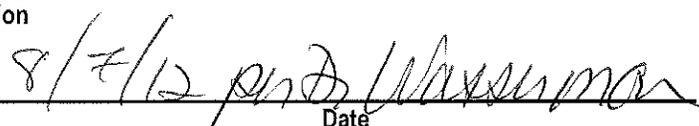
25 33. failure to report to the Board surrender of a license or other authorization to practice
26 medicine in another state or jurisdiction or surrender of membership on any medical staff
27 or in any medical or professional association or society while under disciplinary
28 investigation by any of those authorities or bodies for acts or conduct similar to acts or
29 conduct that would constitute grounds for action as defined in this section.

30 32. failure of physician who is the chief executive officer, medical officer or medical staff
31 to report to the Board any adverse action taken by a health care institution or peer review
32 body, in addition to the reporting requirement in 31. (note: a report under 32 may need to
33 wait until the peer review and due process procedures are completed, but the report under
34 31 must be reported immediately without waiting for the final action of the health care
35 institution and applies to all physicians not just staff physicians).

36

**State of Wisconsin
Department of Safety & Professional Services**

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| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? MED10 Discussion and vote, business practices. | |
| 7) Place Item in: <input type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: <p>The Board may consider, discuss and, if desired, vote on proposals concerning BUSINESS PRACTICES, including WMS and WHA recommendations.</p> | | | |
| 11) Authorization <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">  Signature of person making this request </div> <div style="text-align: center;">  Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Supervisor (if required)</div> <div style="width: 20%;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Bureau Director signature (indicates approval to add post agenda deadline item to agenda)</div> <div style="width: 20%;">Date</div> </div> | | | |
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1 **BUSINESS PRACTICES**

2 **Current Law:**

3 **Med 10.02(2)(m)** Knowingly making any false statement, written or oral, in practicing under any
4 license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or
5 compensation of any form by fraud or deceit.

6 **Med 10.02(2)(o)** Engaging in uninvited, in-person solicitation of actual or potential patients
7 who, because of their particular circumstances, are vulnerable to undue influence; or engaging in
8 false, misleading or deceptive advertising.

9 **Med 10.02(2)(w)** Use in advertising of the term “board certified” or a similar phrase of like
10 meaning unless in fact so certified and unless disclosure is made of the complete name of the
11 specialty board which conferred the certification.

12

13 **Work group suggestion:**

14 Illegal or unethical business practices, including but not limited to:

- 15 a. Engaging in false or misleading advertising, including claims without substantiation
16 concerning: credential, board certification(s), the ability to cure any condition or disease,
17 professional superiority, or greater skill than that possessed by another physician or
18 physicians;
19 b. Dividing fees for referral of patients or accepting kickbacks on medical or surgical
20 services, appliances or medications purchased by or on behalf of patients;
21 c. Fraud, deceit or misrepresentation in obtaining or attempting to obtain third-party
22 reimbursement.
23

24 **WMS suggests adopting FSMB provisions:**

25 26. obtaining any fee by fraud, deceit or misrepresentation.

26 27. employing abusive or illegal billing practices.

27 28. directly or indirectly giving or receiving any fee, commission, rebate or other
28 compensation for professional services not actually and personally rendered, though this
29 prohibition should not preclude the legal functioning of lawful professional partnerships,
30 corporations or associations.

31 49. representing, claiming or causing the appearance that the physician possesses a
32 particular medical specialty certification by a Board recognized certifying organization
33 (ABMS, AOA) if not true.

**State of Wisconsin
Department of Safety & Professional Services
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| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? MED 10 Discussion in preparation for September vote: Related law violations. | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: The Board may consider and discuss the proposed definition of RELATED LAW, including WMS suggestions in anticipation of continued discussion and anticipated vote at the Board's September meeting. | | | |
| 11) Authorization | | | |
| Signature of person making this request | | Date | |
| Supervisor (if required) | | Date | |
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Current Law: Wis. Admin. Code § 10.02(2)(r)

Conviction of any crime which may relate to practice under any license, or of violation of any federal or state law regulating the possession, distribution, or use of controlled substances as defined in s. 961.01 (4), Stats. A certified copy of a judgment of a court of record showing such conviction, within this state or without, shall be presumptive evidence thereof.

1 **DISCUSSION: LAWS SUBSTANTIALLY RELATED TO THE PRACTICE OF**
2 **MEDICINE**

3
4 “Any federal or state law or rule that may relate to the practice of medicine and surgery”
5 includes, but is not limited to, conduct constituting a violation of the rules of this board or any
6 other credentialing agency, and or a misdemeanor or felony crime, within this state or without,
7 the circumstances of which involve aiding, abetting, actual or attempted dishonesty *and other*
8 *acts tending to undermine public confidence in the medical profession.*

9
10 Violation or conviction of any federal or state law, including criminal law, which bars the
11 following conduct and which is therefore substantially related to the practice of medicine and
12 surgery:

- 13 a. Theft or fraud;
14 b. Violence;
15 c. Sexual contact with a patient, patient’s guardian or family member, or any act performed
16 in the presence of a patient, patient’s guardian or family member, for the purposes of
17 sexual gratification;
18 d. Victimization of children, elderly or other vulnerable person;
19 e. Any crime occurring in the course of the practice of medicine and surgery or in a facility
20 in which medicine or surgery is practiced;
21 ~~f. Crimes demonstrating or dependent upon persistent abuse of alcohol and which places the~~
22 ~~public or any person at risk of physical harm;~~
23 g. Administering, dispensing, prescribing, supplying, ordering, obtaining or using controlled
24 substances as defined in s. 961.01 (4), Stats., otherwise than in the course of legitimate
25 professional practice, or as otherwise prohibited by law.

26
27 A certified copy of any document demonstrating the entry of a guilty, nolo contendere plea or
28 deferred adjudication (with or without expungement) of a crime substantially related to the
29 practice of medicine shall be conclusive evidence of a violation of this subsection.

30
31 Except as provided in sub. 14), violation or conviction of any federal or state law or rule that may
32 relate to the practice of medicine and surgery, including crimes tending to undermine the public
33 confidence in the medical profession.

- 34 a. Except as otherwise provided by law, a certified copy of a relevant decision by a state or
35 federal court or agency charged with making legal determinations relevant to this
36 subsection is conclusive evidence of findings of facts and conclusions of law contained
37 therein.
38 b. The division of enforcement has the burden of proving that the circumstances of the crime
39 are substantially related to the practice of medicine and surgery.
40
41
42
43
44
45

Wisconsin Medical Society Suggested Edit to proposed language on related law. Council on Legislation (July 2012)

Violations or convictions of any federal or state law, including criminal law, that is substantially related to the practice of medicine and surgery.

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**State of Wisconsin
Department of Safety & Professional Services**

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| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? Wis. Admin. Code POD chs. 1 and 3 Podiatry Temporary Education Permit and Continuing Ed | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: The Podiatry Affiliated Credentialing Board, pursuant to Wis. Stat. sec 15.085(b)1. submits this proposed rule draft for the Medical Examining Board's Review and comment. The MEB may make recommendations for the Podiatry Affiliated Credentialing Board's consideration. Review must occur at least 60 days before rule draft is submitted to legislative council staff under sec. 225.15(1). | | | |
| 11) Authorization <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;"> Signature of person making this request </div> <div style="text-align: center;"> Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Supervisor (if required)</div> <div style="width: 20%;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Bureau Director signature (Indicates approval to add post agenda deadline item to agenda)</div> <div style="width: 20%;">Date</div> </div> | | | |
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448.63 (3) The affiliated credentialing board may promulgate rules providing for various classes of temporary licenses to practice podiatry.

Pod 1.08 Temporary educational license. (1) An applicant who has been appointed to a postgraduate training program in a facility in this state approved by the board may apply to the board for a temporary educational license to practice podiatric medicine and surgery and shall submit to the board all of the following:

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

Note: Applications are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(b) The documentary evidence and credentials required under ss. Pod 1.04, 1.05 and 1.06.

(c) The required fees under s. 440.05 (1), Stats.

(2) An applicant shall complete an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin.

(3) The holder of a temporary educational license to practice podiatric medicine and surgery may, under the direction of a person licensed to practice podiatric medicine and surgery in this state, perform services requisite to the training program in which that holder is serving. Acting under such direction, the holder of a temporary educational license shall also have the right to prescribe drugs other than controlled substances and to sign any certificates, reports or other papers for the use of public authorities which are required of or permitted to persons licensed to practice podiatric medicine and surgery. The holder of a temporary educational license shall confine his or her entire practice to the facility in which he or she is taking the training.

(4) Violation by the holder of a temporary educational license to practice podiatric medicine and surgery of any of the provisions of chs. Pod 1 to 6 or of subch. IV of ch. 448, Stats., which apply to persons licensed to practice podiatric medicine and surgery, shall be cause for the revocation of the temporary educational license.

(5) Temporary educational licenses granted under this chapter shall expire ~~one year~~ two years from date of issuance.

History: Cr. Register, January, 2000, No. 529, eff. 2-1-00.

7/31/2012 2:14 PM

448.665 Continuing education. The affiliated credentialing board shall promulgate rules establishing requirements and procedures for licensees to complete continuing education programs or courses of study in order to qualify for renewal of a license granted under this subchapter. The rules shall require a licensee to complete at least 30 hours of continuing education programs or courses of study within each 2-year period immediately preceding the renewal date specified under s. 440.08 (2) (a). The affiliated credentialing board may waive all or part of these requirements for the completion of continuing education programs or courses of study if the affiliated credentialing board determines that prolonged illness, disability or other exceptional circumstances have prevented a licensee from completing the requirements.

Chapter Pod 3 CONTINUING PODIATRIC MEDICAL EDUCATION

Pod 3.01 Continuing podiatric medical education required; waiver.

Pod 3.02 Acceptable continuing medical educational programs.

Pod 3.03 Evidence of compliance.

Pod 3.04 Audit.

Pod 3.01 Continuing podiatric medical education required; waiver. (1) Each podiatrist required to complete the biennial training requirement under s. 448.665, Stats., shall, in each second year at the time of making application for a certificate of registration as required under s. 448.665, Stats., sign a statement on the application for registration certifying that the podiatrist has completed at least 50 hours of acceptable continuing educational programs relevant to the practice of podiatric medicine within the 2 calendar years immediately preceding the calendar year for which application for registration is made.

(2) A licensee may apply to the board for a postponement or waiver of the requirements of this chapter on the grounds of prolonged illness, disability, or other grounds constituting hardship. The board shall consider each request individually on its merits and may grant a postponement, partial waiver, or total waiver of the requirements.

History: Cr. Register, January, 2000, No. 529, eff. 2-1-00; CR 06-056; am. (1) and (2) Register April 2007 No. 616, eff. 5-1-07; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register April 2007 No. 616.

Pod 3.02 Acceptable continuing medical educational programs. (1) In satisfaction of the biennial training requirement under s. 448.665, Stats., the board shall accept an educational program approved at the time of the podiatrist's attendance by any of the following:

- (a) The council on podiatric medical education of the American podiatric medical association.
- (b) The council on medical education of the American medical association.
- (c) The council on medical education of the American osteopathic association.
- (d) The accreditation council for continuing medical education.
- (e) The Wisconsin Society of Podiatric Medicine.

(2) An educational program provided outside the United States may be used for continuing education credit if the program is approved by the board.

(3) One hour of attendance by a podiatrist at a continuing education program is the equivalent of one hour of continuing education for the purpose of § POD 3.01(1).

(4) The Board shall accept as satisfaction of the requirements of § 448.665, proof that the podiatrist graduated from a school of podiatric medicine and surgery approved by the Board pursuant to Wis. Admin Code § POD 1.03(2) if both of the following are true:

- a) The podiatrist is, for the first time, renewing a license to practice podiatric medicine and surgery in Wisconsin; and

- b) The podiatrist graduated within the 2 calendar years immediately preceding the calendar year for which application for registration is made.

History: Cr. Register, January, 2000, No. 529, eff. 2-1-00; CR 06-056, am. (1) (intro.) Register April 2007 No. 616, eff. 5-1-07; correction in (1) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register April 2007 No. 616; CR 07-103; cr. (1) (e) Register September 2006 No. 633, eff. 10-1-08.

Pod 3.03 Evidence of compliance. (1) Certification by the providing organization or by one of the approved accrediting bodies of attendance at and completion of continuing medical education programs approved under s. Pod 3.01 is satisfactory evidence for purposes of sub. (2) and s. Pod 3.03.

(2) A certified copy of an official transcript or of a diploma is satisfactory evidence of compliance with provisions of 3.02(4).

(3) Evidence of compliance shall be retained by each podiatrist through the biennium for which 50 hours of credit are required for registration.

History: Cr. Register, January, 2000, No. 529, eff. 2-1-00.

Pod 3.04 Audit. The board may require any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium.

History: Cr. Register, January, 2000, No. 529, eff. 2-1-00.

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January 2012

Jon M. Burch, Physician, Denver, CO

The Medical Examining Board ordered conditions on the re-registration of Dr. Jon Burch's license to practice medicine and surgery due to Dr. Burch being disciplined by the Colorado State Board of Medical Examiners. Colorado placed Dr. Burch's license on probation for 5 years based on his admission that he has health conditions that require ongoing treatment and monitoring. Dr. Burch's registration to practice medicine and surgery in Wisconsin expired on October 31, 2007. He may not re-register for a license to practice medicine until he appears before the Board and provides proof that he does not suffer from any drug and alcohol or psychological condition which impairs his ability to function as a physician, and that he is in compliance with the terms and conditions of the February 18, 2009 Colorado State Board of Medical Examiners' Order.

Dated: January 18, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001308-00006758.pdf>

J. Gregory Hoffmann, Physician, Waupaca, WI

The Medical Examining Board issued an interim order continuing the summary suspension of Dr. John Gregory Hoffman's license to practice medicine and surgery but allowing a stay of the suspension based on the following conditions. Dr. Hoffman may practice only after either obtaining a professional mentor approved by the Board or in a work setting pre-approved by the Board. Dr. Hoffman may not accept new patients while this matter is pending. He must undertake a self-study CME program similar to the core content review of family medicine and an in-person comprehensive review of family medicine. Dr. Hoffman must also pass the special purpose examination (SPEX) within four months of the Board's Order. The Board summarily suspended Dr. Hoffmann's license for practicing medicine and surgery while having significant deficiencies in his medical knowledge and his clinical approach to patients.

Dated: January 18, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001203-00006759.pdf>

Blair L. Lewis, Physician Assistant, Dallas, TX

The Medical Examining Board ordered that Blair L. Lewis will not reapply for registration to practice as a physician assistant in WI at any time in the future and the Department of Safety and Professional Services will not process any application for renewal of Mr. Lewis' credential after January 18, 2012 in order to resolve a pending investigation of allegations that Mr. Lewis engaged in inappropriate sexual conduct with his patient. Mr. Lewis' certificate to practice as a physician assistant expired on October 31, 2009.

Dated: January 18, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001309-00006760.pdf>

Roger Pinc, Physician, Pittsburg, IL

The Medical Examining Board accepted the voluntary surrender of the license to practice medicine and surgery of Dr. Roger Pinc, M.D., and ordered that Dr. Pinc may not practice in Wisconsin when not currently license and registered. The Board found that Dr. Pinc had committed unprofessional conduct by failing to report his pending criminal charge to the Medical Licensing Board of Indiana.

Dated: January 13, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001304-00006753.pdf>

February 2012

Naglaa Abdel-AL, Physician, Windermere, FL

The Medical Examining Board accepted Dr. Abdel-Al's voluntary surrender of her license to practice medicine and surgery as a result of having been disciplined by the Arizona Medical Board. Dr. Abdel-Al was disciplined by the Arizona Medical Board for taking Diprivan and patient abandonment.

Dated: February 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001359-00006864.pdf>

Ricahrd Banchs Physician, Chicicago, IL

The Medical Examining Board reprimanded Dr. Richard Banchs for being disciplined by the Minnesota Board of Medical Practice. Dr. Banchs was disciplined by the Minnesota Board for writing prescriptions under another physician's name.

Dated: February 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001363-00006869.pdf>

Clifford T. Bowe Physician, Cadott WI

The Medical Examining Board reprimanded Dr. Clifford Bowe for improperly prescribing medications to his patients without adequate documentation and conducting physical exams that did not support the documented diagnosis. The Board also imposed a continuing education limitation requiring Dr. Bowe to complete CME within 9 months of the date of the Board's Order.

Dated: February 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001360-00006865.pdf>

Michael A. Dehner Physician, Storm Lake, IA

The Medical Examining Board limited Dr. Michael Dehner license to practice medicine and surgery for failing to consider other diagnostic possibilities, other than constipation, while treating a patient complaining of upper abdominal pain, and failing to obtain additional blood work, an ultrasound or CT as a follow-up on his diagnosis. The Board placed the following limitations Dr. Dehner's license: no later than December 31, 2012, Dr. Dehner must complete no less than 17.5 category 1 credits in medical recordkeeping pre-approved by the Board, and a comprehensive review in family medicine given or approved by the AAFP. After completing the CE requirements, including post-review, Dr. Dehner must submit to a follow up review of 5 charts twice in the year every 6 months and again every 12 months. The review shall be conducted by a physician certified by the American Board of Family Practice and approved by the Board.

Dated: February 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0000213-00006867.pdf>

Brian Fox, Physician, Elko, NV

The Medical Examining Board reprimanded Dr. Brian Fox for being disciplined by the Nevada State Board of Medical Examiners. The Nevada Board found Dr. Fox failed to properly interpret fetal heart-tracing tests and failed to timely initiate a caesarean section for his patient. Dr. Fox was also disciplined by the Michigan Board of Medicine for failing to notify the Board of a lapsed controlled substance license.

Dated: February 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001364-00006870.pdf>

Susan J. Frazier, Physician, Rib Lake, WI

The Medical Examining Board reprimanded Dr. Susan Frazier for conduct that constituted a danger to the health, welfare, of safety of patient or the public. While caring for her patient, who was 39 weeks pregnant, Dr. Frazier failed to recognize a medical emergency during the delivery and failed to properly assess the fetal monitoring strip while in the operating room.

Dated: February 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001365-00006871.pdf>

James A. Shaprio, Physician, Kenosha, WI

The Medical Examining Board reprimanded Dr. James Shapiro for failing to order a Doppler study or a vascular consult regarding his patient despite the fact that the patient's neurological symptoms were worsening after having undergone a total knee arthroplasty.

Dated: February 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001366-00006872.pdf>

March 2012

Nicholas C. Caro, Physician, Chicago, IL

The Medical Examining Board accepted the voluntary surrender of Dr. Caro's license to practice medicine and surgery in Wisconsin due to his prior discipline in Illinois. The Illinois Department of Financial and Professional Regulations, Division of Regulation, disciplined Dr. Caro for negligent treatment of patients with refractive surgery. The Board further ordered that Dr. Caro may not petition the Medical Examining Board for any credential sooner than 6 months from the date of the Order.

Dated: March 21, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001436-00006978.pdf>

Raju Fatehchand, Physician, Plain City, OH

The Medical Examining Board reprimanded Dr. Raju Fatehschand for having disciplinary action taken against his New York medical license. The New York Board for Professional Medical Conduct disciplined Dr. Fatehschand for failure to take his patient's temperature and review the patient's recent medical history in his evaluation of the patient and allowing another patient to proceed to surgery without informing the patient that his pre-operative evaluation demonstrated an elevated white blood cell count.

Dated: March 21, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001433-00006975.pdf>

Cindy Gile, Physician Assistant, Holmen, WI

The Medical Examining Board reprimanded Ms. Gile for conducting correspondence via email with her patient between August 2009 and November 2009. The emails violated the ethical boundaries that should be maintained by mental health professionals by containing inappropriate content including personal information.

Dated: March 21, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001434-00006976.pdf>

Gregory Goetz, Physician, Milwaukee, WI

The Medical Examining Board indefinitely suspended Dr. Goetz's license to practice medicine and surgery for prescribing pain medications without adequate medical justification such as requiring patients to provide proof of preexisting conditions or having patients undergo medical testing. The Board further ordered that Dr. Goetz may petition the Board for a stay of the suspension upon providing proof that he is in compliance with specified conditions.

Dated: March 21, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001156-00006969.pdf>

Gurcharran S. Randhawa, Physician, Marshalltown, IA

The Medical Examining Board accepted the surrender of Dr. Randhawa's license to practice medicine and surgery in Wisconsin due to his having been disciplined by the Iowa Board of Medical Examiners, as well as the Illinois and Indiana Boards. The Iowa Board issued a statement of charges against Dr. Randhawa for professional incompetency such that he suffered from a physical or mental condition which impaired his ability to practice medicine and surgery with reasonable skill and safety. A competency evaluation of Dr. Randhawa revealed deficiencies in medical practice, medical knowledge and clinical judgment and medical record keeping. As a result of the Iowa settlement agreement, reciprocal disciplinary action was imposed by the Illinois Division of Professional Regulation and the Medical Licensing Board of Indiana.

Dated: March 21, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001427-00006968.pdf>

Eugene C. Rigstad, Physician, Appleton, WI

The Medical Examining Board reprimanded Dr. Rigstad for engaging in inappropriate sexual contact with patients in a clinical setting. The inappropriate conduct included hugging, kissing and expressing terms of affection toward patients while in a clinical setting. The Board imposed the following restrictions on Dr. Rigstad's license to practice medicine and surgery: he must provide a copy of the Boards' Order to his current supervisor, if he changes his practice setting he must provide a copy of the Order to his new supervisor, he is required to have a professional mentor who must submit quarterly reports to the Board's Monitor, he must engage in treatment with a psychotherapist or counselor to address appropriate patient-physician boundary issues. Dr. Rigstad is not allowed to see female patients in a clinical setting without the presence of a chaperone, nurse, or nursing assistant.

Dated: March 21, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001428-00006970.pdf>

William H. Shuler, Physician, Bemidji, MN

The Wisconsin Medical Examining Board reprimanded Dr. Shuler for receiving a public reprimand from the Utah Department of Commerce Division of Occupational and Professional Licensing. The Utah Board reprimanded Dr. Shuler for issuing online prescriptions to Utah residents while his license to practice medicine in Utah was expired.

Dated: March 21, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001438-00006980.pdf>

Kenneth E. Sparr, Physician, New Glarus, WI

The Medical Examining Board reprimanded Dr. Sparr's license to practice medicine and surgery for prescribing narcotics to a family member without documenting it in the patient's record, without conducting a follow-up evaluation and without supporting diagnostic studies. The Board imposed a one-year limitation with conditions including but not limited to the following: He must provide a copy of the Order to his current supervisor, He must continue treatment with his current health care provider, he must submit quarterly healthcare reports, he must take part in weekly random drug screens, and he must meet with his professional mentor on a weekly basis.

Dated: March 21, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001432-00006974.pdf>

Mark Szmanda, Physician. Antigo, WI

The Medical Examining Board suspended Dr. Szmanda's license to practice medicine and surgery for engaging in sexual contact with his patient. The Board imposed an immediate stay of the suspension as long as Dr. Szmanda complies with certain restrictions and limitations including but not limited to the following: providing a copy of the Board's Order to his supervisor, submitting monthly reports to the Board's Monitor, and continuing treatment with his psychotherapist.

Dated: April 18, 2012

<http://online.drl.wi.gov/decisions/2011/ORDER0000716-00005797.pdf>

William J. Washington, Physician, Seattle, WA

The Medical Examining Board reprimanded Dr. Washington for having his license to practice medicine disciplined by the State of Washington, Department of Health, and Medical Quality Assurance Commission. Dr. Washington entered into an agreed order with the Washington Board requiring drug and alcohol screening. He must remain in compliance with the limitations and conditions of the agreement with state of Washington and he must file with the Wisconsin Medical Examining Board any documents he files with the state of Washington Board.

Dated: March 21, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001431-00006973.pdf>

April 2012

Donald J. Baccus, Physician, Brookfield, WI

The Medical Examining Board reprimanded Dr. Donald Baccus using of Tucker's forceps and the Kiwi vacuum instead of performing a timely cesarean section during the delivery of his patient's baby.

Dated: April 18, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001487-00007058.pdf>

Karen Butler, Physician, Sturgeon Bay

The Medical Examining Board reprimanded Dr. Karen Butler for making false statements on her application for a license to practice medicine and surgery in Wisconsin when she answered "No" on her application to the following questions: have you ever failed to pass any state board examination, national board examination or USMLE, or FLEX Examination and have you ever been convicted of a misdemeanor or a felony. Dr. Butler had in fact failed USMLE Step 1 and Step 2 before passing the exams and had been found guilty of aiding and abetting the preparation of a false corporate income tax return for fiscal year 1984.

Dated: April 18, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001493-00007064.pdf>

Penny Cornelius, Physician Assistant, Green Bay, WI

The Medical Examining Board reprimanded Penny Cornelius' license to practice as a physician assistant for engaging in conduct that created a danger to the health, welfare, and safety of her patient who presented with symptoms indicating pneumonia. Ms. Cornelius failed to document in the patient's chart that she recommended a chest x-ray and CBC but the patient refused the tests. She also failed to recommend admitting her patient, consulting with her supervising physician or requesting a pulmonary consult before discharging the patient. The Board imposed a continuing education limitation on Ms. Cornelius' license requiring her to obtain 4 hours of CE.

Dated: April 18, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001488-00007059.pdf>

James D. Hanna, Physician La Crosse, WI

The Medical Examining Board summarily suspended Dr. James Hanna's license to practice medicine and surgery for reporting to work at the Avera Marshall Regional Medical Center, in Marshall MN, under the influence of alcohol. A blood test revealed a blood alcohol level was .212% by weight. The summary suspension is effective immediately and remains effective until a final decision and order is issued regarding the underlying disciplinary proceeding against Dr. Hanna or until the Board discontinues it pursuant to a show cause hearing.

Dated: April 18, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001486-00007057.pdf>

William G. Sybesma, Physician, Moline, IL

The Medical Examining Board reprimanded and limited Dr. Sybesma's license to practice medicine due to his care of a patient while performing an endoscopic sinus surgery. During the surgery Dr. Sybesma introduced a 75 degree sinus shaver into the right maxillary sinus and removed thickened mucous membrane contents. Towards the end of the procedure he noticed sudden bleeding from the maxillary antrostomy site and bleeding from the patient's right eye. Dr. Sybesma had inadvertently injured the right lateral rectus muscle and caused a fracture of the floor of the orbit resulting in a cerebral spinal fluid leak. A Vaseline pack controlled the bleeding and an ophthalmologist was consulted immediately. The Board placed the following limitation on Dr. Sybesma's license. He shall not perform any endoscopic surgeries using the 75 degree sinus shaver until further order of the Board and after he petitions the Board that he is able to do so within the minimum standards of competence established in the profession.

Dated: April 18, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001494-00007065.pdf>

Michael West, Physician, Appleton, WI

The Medical Examining Board reprimanded and limited Dr. West's license to practice medicine and surgery for failing to recognize his patient's foreshortened vagina in a timely manner after his patient had undergone a total vaginal hysterectomy and continued to complain of severe pain with intercourse, pain to the upper part of the vagina, and bleeding. Dr. West engaged in conduct that created a danger to the health, welfare, and safety of his patient when he: failed to recognize the foreshortened vagina in a timely manner, failed to utilize vaginal dilators and pelvic floor exercises prior to proceeding to surgery, and failure to utilize vaginal dilators and pelvic floor exercises post surgically to maintain the vaginal extension, and failure to advise the patient of the possibility of referral to a pelvic floor specialist or urogynecologist. The Board imposed the continuing education limitation requiring Dr. West to obtain 4 hours of CR concerning the diagnosis and treatment of post surgical complications of total vaginal hysterectomy with an emphasis on the recognition and treatment, including referral of a foreshortened vagina.

Dated: April 18, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001492-00007063.pdf>

May 2012

Bradley T. Bodner, Physician Assistant, Wausau, WI

The Medical Examining Board reprimanded Mr. Bodner for failing to notify his supervising physician of a change in his patient's subjective description of condition from a previous evaluation and failure to document his examination of the patient in the patient's chart. The patient was presenting with lumbar disc herniation with severe central canal stenosis. The Board also placed a continuing education limitation on Mr. Bodner's license requiring him to obtain 9 hours of CE for neurosurgical emergencies and 3 hours of CE in documentation.

Dated May 16, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001560-00007157.pdf>

Michael G. O'Mara, Physician Oconomowoc, WI

The Medical Examining Board accepted the voluntary surrender of Dr. Michael O'Mara's license to practice medicine and surgery due to allegations that he touched a patient in an inappropriate manner during the course of a physical examination. The Board also ordered that Dr. O'Mara may not reapply for registration to practice medicine and surgery in the future and that the Department will not process any application for registration from the date of the order.

Dated May 16, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001558-00007155.pdf>

Guy R. Powell, Physician New Berlin, WI

The Medical Examining Board reprimanded Dr. Guy Powell for renewing prescription opioids for patients but failing to review the patient's old medical records in order to support the diagnoses or justify the prescriptions; and for failing to include in his patient's records prescribing agreements, lab tests, or radiology reports to support his diagnoses. The Board also imposed the following limitation, Dr. Powell must complete a course on the appropriate prescribing of controlled substances which has been preapproved by the Board. Until the course is completed, Dr. Powell may not prescribe, order, dispense, or administer any opioid or opiate which is a controlled substance for more than 10 consecutive days at a time without seeing and re-evaluating the patient, nor for more than 30 days in any 12 month period for any patient.

Dated May 16, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001562-00007159.pdf>

Jesse O. Vegafria, Physician West Bend WI

The Medical Examining Board accepted the surrender of Dr. Jesse Vegafria's registration and ordered that he shall not practice medicine and surgery in Wisconsin without being currently registered. The Board concluded that Dr. Vegafria has committed acts of unprofessional conduct when he made inappropriate comments of a sexual nature to two female patients and during the time period of 2009 to 2011 failed to consistently chart progress notes for a patient he was treating with chronic back pain.

Dated May 16, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001561-00007158.pdf>

June 2012

Jerome E. Hutchens, Physician Houston, TX

The Medical Examining Board indefinitely suspended Dr. Jerome Hutchens' license to practice medicine and surgery in Wisconsin after his license was limited by the Texas Medical Board. The Texas Medical Board limited Dr. Hutchens' license as a result of his prescribing a controlled substance without federal authority to do so under his DEA certificate. The Board will allow Dr. Hutchens to reinstate his license if he complies with the following conditions, undergo and assessment by a mental health care provider, undergo a complete medical evaluation, and within 15 days of the completion of the medical exams submit a report to the Board regarding the results of the examinations and provide proof to the Board that he is able to practice with reasonable skill and safety.

Dated June 20, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001889-00007535.pdf>

Naiyer Imam, Physician Farmingdale, NY

The Medical Examining Board reprimanded and limited Dr. Naiyer Imam's license to practice medicine and surgery for being disciplined by the Texas Medical Board. By having disciplinary action imposed upon his license to practice medicine in Texas, Dr. Imam has committed an act of unprofessional conduct in violation Wis. Admin. Code Ch. Med 10.02(2) (q). The Board limited Dr. Imam's license by requiring him to fully comply with all conditions and limitations placed on his Texas License. He must notify the Board within 10 days of any changes to his Texas Agreed Order. Upon proof that he has successfully complied with all of the terms and conditions of the Texas Agreed Order the Board will issue and order removing the limitation.

Dated June 20, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001890-00007537.pdf>

Christina D. Jackson, R.C.P. Milwaukee, WI

The Medical Examining Board reprimanded Ms. Christina Jackson for having disciplinary action taken against her North Carolina respiratory care practitioner license. The North Carolina Board disciplined Ms. Jackson for making a change in ventilator settings without a physician order or an approved facility protocol.

Dated June 20, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001893-00007540.pdf>

George H. Pfaltzgraff, Physician St. Croix Falls, WI

The Medical Examining Board accepted the voluntary surrender of Dr. Pfaltzgraff's license as a result of having a disciplinary action taken against his medical license in Iowa. The Iowa Board of Medicine took disciplined Dr. Pfaltzgraff's license for performing a tubal ligation on a patient without obtaining proper consent.

Dated June 20, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001891-00007538.pdf>

Leon Cass Terry, Physician Rock Island, IL

The Medical Examining Board reprimanded and limited Dr. Leon Terry's license to practice medicine and surgery for engaging in the practice of medicine between 2004 and 2006 via a company known as Nexos Therapeutics. The company's website offered prospective patients questionnaires. The company transmitted the completed transcripts to its office in Florida. There a nurse reviewed the questionnaire and compiled additional information. Physical examinations were conducted by a practitioner of the patient's choice. After the information was compiled Dr. Terry would review the information and approve of the prescribing of various hormones

including testosterone without ever seeing, examining, or speaking to the patient. The Board limited Dr. Terry's license in that he may not engage in the clinical practice of medicine until he has demonstrated satisfactory completion of a course designed for persons preparing to take the certification examination in neurology to become certified by the American Board of Psychiatry and neurology.

Dated June 20, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001894-00007541.pdf>

Robert C. Turner, Physician Reedsburg, WI

The Medical Examining Board reprimanded and limited Dr. Robert Turner's license to practice medicine and surgery for improper prescribing as it related to 3 of his patients between January 2009 and October 2011. Dr. Turner failed to conduct frequent urine drug screens of his patients, failed to require his patients to bring their medication for pill counts at every visit, and failed to insist that a compliant patient attempt to reduce or stop medication which was effective. The Board limited in that he is not allowed to prescribe opioids or opiates for more than 10 consecutive days at a time without seeing and reevaluating the patient, for more than 30 days in any 12 month period for any patient, and only under the oversight of a professional mentor. The professional mentor must provide quarterly reports to the Board.

Dated June 20, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001892-00007539.pdf>

Why You Should Worry about Medical Board Complaints

Excerpted from an article by Alex J. Keoskey, in the [February 22, 2012 issue of Medical Office Today](#).

A state medical board is an entity that every doctor knows. When it comes to discipline being meted out by that board, few physicians are aware of the frightening particulars. A medical board complaint, which results in certain types of discipline, can result in a loss of hospital, prescribing and insurance privileges.

A simple appearance before a medical board committee that does not go well for the doctor in question can very easily lead to a formal complaint, which in turn can potentially lead to reporting to a federal database, bringing with it scrutiny by insurers, hospitals, accreditation bodies, federal agencies and Medicare.

Such actions may also bring investigations by medical boards of other states where the physician may hold a license, due to what are known as sister-state reciprocity laws. In the worst case, they can also conclude as a suspension or revocation of a long-held medical license.

State medical boards discipline several thousand physicians each year for a multitude of transgressions. The reason for the action may involve the most common issues of malpractice or quality of care, or it may be related to alleged sexual misconduct, insurance fraud, substance abuse, a criminal indictment or any number of regulatory violations enforced by that particular state.

Few doctors are aware of the fact that a relatively small disciplinary matter handled by a state medical board may ultimately affect not only that doctor's ability to practice, but also his hospital privileges, CDS prescribing privileges, status with Medicare and insurance carriers, ability to maintain medical malpractice insurance and ultimately, their public reputation.

The Healthcare Quality Improvement Act of 1986 included a provision establishing a National Practitioner Data Bank, or NPDB. The vision outlined for the NPDB was a clearinghouse for reporting of a doctor's board disciplinary actions, malpractice payments from lawsuit verdicts or settlements, exclusions or prohibitions from the Medicare and Medicaid programs and U.S. Drug Enforcement Administration actions.

Hospitals are required to report to the NPDB any penalty that restricts, modifies, revises or suspends a physician's hospital privileges for more than 30 days. Many hospitals which make good faith efforts at early intervention with promising young physicians will ensure that the discipline they invoke will not exceed that 30-day threshold in order to avoid harming that doctor's reputation or future ability to practice.

Professional societies also must report all professional review actions that affect the membership of a physician. Malpractice insurance carriers also are required to report all settlements against physicians and other licensed health-care professionals. This data is in turn provided to state licensing boards; hospitals and other health care organizations; professional societies; some

federal agencies; and plaintiffs' attorneys in a malpractice suit.

Understanding that an investigation by your state medical board may not begin or end with that investigation is a crucial aspect of physician education that is often overlooked. A medical board action will have ramifications for your practice and those who depend on it. The most important professional investment you possess is the license on that wall. Keeping it unblemished and unrestricted requires knowing how states regulate and report their licensed physicians.

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Question and Answer: Continuing Medical Education, Reentry and Retirement

➤ **Can I keep an active license after I retire?**

Yes.

➤ **How do I do that?**

In the same way as when you were actively practicing. Every two years – odd years for MDs and even years for DOs – you must file for renewal of your license. You must have earned 30 hours of CME over the previous biennium and pay a fee, which is currently \$141, in order to renew your license.

➤ **What if I chose not to renew or missed the notification in the past?**

If the time period is less than five years, the requirement is the same: 30 hours of CME in the preceding two years and \$141, plus a \$25 late fee.

➤ **How can I earn the 30 hours of CME credit?**

In the same way as in the past. You may attend and complete educational programs approved by the Council on Medical Education of the American Medical Association, or the American Osteopathic Association, or the Accreditation Council for Continuing Medical Education. The Board will accept attendance at and completion of programs accredited as the American Medical Association's or the American Osteopathic Association's "Category I" or equivalent. You should obtain a form issued by the CME provider verifying your enrollment. Many people also do their CME hours through an accredited organization on-line or through the mail. If you are disabled, CME can be done at home regularly to obtain the 30 hours every two years. Assistance may be received in reading the material and/or marking the test form. There are often two forms – a pre-test and a post-test, which need to be returned to the provider for grading.

- Voluntary, uncompensated services provided by physicians specializing in psychiatry in assisting the Department of Health Services in the evaluation of community outpatient mental health programs, as defined in Wis. Stat. § 51.01 (3n) and approved by the Department of Health Services (DHS) according to rules promulgated under Wis. Stat. § 51.42 (7) (b), is considered an acceptable continuing medical education program. Four hours of assistance, including hours expended in necessary training by DHS shall be deemed equal to one hour of acceptable continuing medical education. Physicians wishing to apply for CME credit must register in advance with the Medical Examining Board and notify the Board on forms provided by the Board of the dates and total number of hours in any biennium for which the applicant will be available to provide assistance.

For more information go to the Education pages of the DSPS website, here: [Physician Education](#)

➤ **What are the reentry requirements in other states?**

In many jurisdictions, a two-year continuous interruption in practice will trigger the need for the physician to demonstrate his or her continued competence prior to reentering practice. In most cases, this will involve, at a minimum, participation in some sort of CME activities or even

participation in a formal reentry plan approved by the state medical board. Frequently, reentry plans include activities such as completion of CME, the submission of a detailed description of future practice plans, participation in a mentorship, and assessments such as standardized testing, chart audits, “mini-residencies,” and other equivalent activities.

Engaging in re-entry activities can be financially burdensome as well. Additionally, there are costs associated with maintaining liability insurance, or negotiating a new policy altogether, and consequences to relinquishing specialty certification. To ease these burdens, the Federation of State Medical Boards (FSMB) encourages licensees seeking to take a temporary leave from active practice to remain clinically active in some, even if limited, capacity. Licensees may wish to provide volunteer medical services, continue participating in CME activities if available, and maintain specialty board certification, if possible. Licensees should also seek counsel from their insurance carriers prior to leaving practice and when they are ready to re-enter practice. For more information, see the FSMB’s Report of the Special Committee on Reentry to Practice at <http://www.fsmb.org/pdf/pub-sp-cmt-reentry.pdf>.

➤ **Why would I want a license after I retire?**

Many physicians enjoy practicing a few hours a week, some like to practice in free clinics, and others make regular mission trips to areas without physicians, both in the US and in other countries. Some physicians choose to do something else for a time, such as administrative work, and eventually want to return to active practice at a later time. As physicians, we are proud of the careers we have had. However, it is critical to be mentally and physically able to re-enter practice if that is desired.

Wisconsin Volunteer Health Care Provider Program

Licensed physicians are eligible to participate in the State of Wisconsin’s Volunteer Health Care Provider Program. The Volunteer Health Care Provider must submit a joint application with a non-profit agency, school board or governing body to the Department of Administration’s Bureau of State Risk Management. Upon approval of the application, the Volunteer Health Care Provider becomes an agent of the State of Wisconsin and is provided the broad liability protection of Wis. Stat. § 895.46. To apply, go to the Department of Administration website at www.doa.state.wi.us (Key Words – Volunteer Health).

ARRA Grant Results: Online License Verification System and Declaration of Cooperation

On March 1, 2010, DSPS staff began work on a two year, \$500,000 American Recovery and Reinvestment Act grant. The funding was used to improve portability of physician licensing in a two-part project. The project resulted in a Wisconsin-based Online License Verification System (OVS). Prior to implementation of the OVS, Indiana was the only other state in the nation with its own electronic verification system. The new operation will result in same day license verification to other states, employers and insurers, better information sharing for physicians verifying a Wisconsin license, more efficient use of staff time, and it will save paper and postage costs. In addition, Board Executive Directors from Wisconsin and eight other Midwestern states, including Minnesota, Illinois, Iowa, Indiana, Michigan, Kansas, Missouri and South Dakota met several times to discuss standardization of differing state licensing requirements. The discussions produced a Declaration of Cooperation (DOC) and Common Expedited Endorsement Eligibility Requirements (CEEER), which together provide a set of recommendations and a voluntary pathway to expedite licensing. Wisconsin, Indiana, Iowa and Minnesota have signed on to the DOC.

In the three years since my Medical Examining Board (MEB) appointment, the major behavior that stands out from the review of numerous case files and complaints against physicians and other health care professionals is the abandonment of the basic principal of “do unto others as you would have them do unto you.”

Physicians have demonstrated unprofessional behavior by referring to patients as animals such as an elephant or a cow because of the patient’s obesity. This kind of communication has no role in medicine or health care.

Another common complaint received by the Medical Examining Board involves patient billing disputes. When physicians argue over small amounts, patients often complain to the Board. This begins an inquiry that can be lengthy and costly to the State of Wisconsin and the physician. Numerous hours are spent responding to these allegations. Although discipline by the Medical Examining Board may not result from billing disputes, bickering about co-payments that are trivial, especially when measured against physician compensation, is not worth the erosion of a physician's standing and reputation in the community.

Wisconsin Administrative Code Chapter MED 10, which deals with unprofessional conduct, is currently under revision for the first time in decades. Our goal is to update the regulations in order to provide modernized guidelines for appropriate professional behavior. Through the public process of rule-writing, standards of unprofessional conduct will be more clearly defined and more responsive to current practice. As the Board Chair, I believe we need to consider rules in order to protect the dignity of the profession in response to new methods of communication, such as Facebook, Twitter and the Internet. I have seen postings and inappropriate pictures on Facebook by physicians that violate professional ethics and common decency. As the rule revisions progress, your insights are welcome.

Despite the loss of faith in government, the MEB stands as a regulatory body which continues to provide a safety net for the citizens of Wisconsin by setting standards and disciplining medical professionals to ensure that patients are protected from harm and provided with safe and appropriate medical services.

Sheldon Wasserman, M.D.
Chair
Wisconsin Medical Examining Board

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**State of Wisconsin
Department of Safety & Professional Services
AGENDA REQUEST FORM**

| | | | |
|--|--|--|--|
| 1) Name and Title of Person Submitting the Request: Sandy Nowack Legal Counsel | | 2) Date When Request Submitted: August 1, 2012 Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others | |
| 3) Name of Board, Committee, Council, Sections: Medical Examining Board | | | |
| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? MED 10 Work Group Proposals INFORMATIONAL ITEM | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: For the Board's information. | | | |
| 11) Authorization | | | |
| Signature of person making this request | | Date | |
| Supervisor (if required) | | Date | |
| Bureau Director signature (indicates approval to add post agenda deadline item to agenda) Date | | | |
| Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. | | | |

1 **MED 10 WORK GROUP RECOMMENDATIONS**

2 **August 15, 2012**

3 **INFORMATIONAL ITEM**

4
5
6 Performing or attempting to perform any surgical or invasive procedure on the wrong patient, or at
7 the wrong anatomical site or performing the wrong procedure on any patient.

8
9 **Work group recommended adopting the following:**

10
11 **Statement of Intent**

12 Physicians act with a high level of independence and responsibility, often in emergencies. Every
13 physician represents the medical profession in the community and must do so in a manner worthy
14 of the trust bestowed upon the physician and the profession. The competent practice of medicine
15 and surgery requires that care of the patient is paramount. Physicians must therefore act with
16 honesty, respect for the law, reasonable judgment, competence and respect for patient boundaries.

17
18 “Adequate supervision” means supervision by a physician whose license is in good standing and
19 requires that: the supervising physician has knowledge of the subordinate’s training, skill and
20 experience pertaining to the acts undertaken; the supervising physician is competent and
21 credentialed to perform the act; and there is adequate physician-to-subordinate ratio, taking into
22 consideration the training, skill and experience of the subordinate(s), risk of harm to the patient
23 due to the nature of the procedure, and risk of harm due to characteristics of the patient. Work
24 group adopted recommendation to omit “the supervising physician knows in advance which acts
25 will be undertaken”. Work group declined recommendation to modify “characteristics” in the last
26 sentence to say “known” characteristics.

27
28 “Direct, on-premises supervision” means the supervising physician is physically present in the
29 same building with the person being supervised, with face-to-face contact as necessary. Work
30 group declined recommendation to refer to the same “facility” as opposed to “building”.

31
32 “Direct, immediate, one-to-one supervision” means one-to-one supervision with face-to-face
33 contact between the person being supervised and the supervisor throughout the patient contact,
34 with the supervisor assisting the person being supervised as necessary.

35
36 “General supervision” means indirect, off-premises supervision, with direct, on-premises or direct
37 face-to-face contact between the supervisor and the person being supervised, as necessary.
38 Between direct contacts, the supervisor is required to maintain indirect, off-premises
39 telecommunication contact such that the person being supervised can, within 15 minutes, establish
40 direct telecommunication with the supervisor.

41
42 “Intimate parts” has the meaning set forth in Wis. Stat. § 939.22(19).¹

43

¹ Breast, buttock, anus, groin, scrotum, penis, vagina or pubic mound of a human being.

68 c. This subsection applies whether or not the adverse action is accompanied by findings of
69 negligence or unprofessional conduct.
70

71 Knowingly, recklessly or negligently divulging a privileged communication or other confidential
72 patient health care information except as required or permitted by state or federal law.
73

74 Engaging in repeated or significant disruptive behavior or interaction with physicians, hospital
75 personnel, patients, family members or others, that interferes with patient care or could reasonably
76 be expected to adversely impact the quality of care rendered. Work group declined to adopt
77 suggestion to add the words "Found to be" at the beginning of the paragraph.
78

79 Negligence in the practice of medicine.

80 a. A certified copy of any document demonstrating that a court or a panel established under §
81 655.02, Stats., has found the physician negligent in the course of practicing medicine and
82 surgery shall be conclusive evidence of a violation of this subsection.

83 b. A certified copy of a relevant decision by a state or federal agency charged with making
84 relevant legal determinations is conclusive evidence of findings of facts and conclusions of
85 law contained therein.
86

87 Departure from or the failure to conform to the standard of minimally competent medical practice,
88 which creates unacceptable risk of harm to the patient or the public, whether or not the act or
89 omission resulted in actual harm to any person.
90

91 Engaging in sexually explicit conduct, sexual contact, exposure, gratification or other sexual
92 behavior with or in the presence of a patient, a patient's immediate family member or a person
93 responsible for the patient's welfare.

94 a. Sexual motivation may be determined from the totality of the circumstances and is
95 presumed when the physician has contact with a patient's intimate parts without legitimate
96 medical justification for doing so.

97 b. For the purposes of this subsection, an adult receiving treatment shall continue to be a
98 patient for two years after the termination of professional services.

99 c. If the person receiving treatment is a minor, the person shall continue to be a patient for the
100 purposes of this subsection for two years after termination of services or for two years after
101 the patient reaches the age of majority, whichever is longer.

102 d. It is a violation of this section for a physician to engage in any sexual contact or conduct
103 with or in the presence of a patient or former patient who lacks the ability to consent for
104 any reason, including but not limited to medication or psychological or cognitive
105 disability.
106

WMS SUGGESTIONS ON MED10 DRAFT AUGUST 2012

INTENT

Physicians act with a high level of independence and responsibility, often in emergencies. Every physician represents the medical profession in the community and must do so in a manner worthy of the trust bestowed upon the physician and the profession. The competent practice of medicine and surgery requires that care of the patient is paramount. Physicians must therefore act with honesty, respect for the law, reasonable judgment, competence and respect for patient boundaries

"Adequate supervision" means supervision by a physician whose license is in good standing and requires that: the supervising physician has knowledge of the subordinate's training, skill and experience pertaining to the acts undertaken; ~~the supervising physician knows in advance which acts will be undertaken;~~ the supervising physician is competent and credentialed to perform the act; and there is adequate physician-to-subordinate ratio, taking into consideration the training, skill and experience of the subordinate(s), risk of harm to the patient due to the nature of the procedure, and risk of harm due to characteristics of the patient; (modify to "known" characteristics)

"Any federal or state law or rule that may relate to the practice of medicine and surgery" includes, but is not limited to, conduct constituting a violation of the rules of this board or any other credentialing agency, and or a misdemeanor or felony crime, within this state or without, the circumstances of which involve aiding, abetting, actual or attempted dishonesty and other acts tending to undermine public confidence in the medical profession.

"Direct, on-premises supervision" means the supervising physician is physically present in the same building facility with the person being supervised, with face-to-face contact as necessary.

"Direct, immediate, one-to-one supervision" means one-to-one supervision with face-to-face contact between the person being supervised and the supervisor throughout the patient contact, with the supervisor assisting the person being supervised as necessary.

"General supervision" means indirect, off-premises supervision, with direct, on-premises or direct face-to-face contact between the supervisor and the person being supervised, as necessary. Between direct contacts, the supervisor is required to maintain indirect, off-premises telecommunication contact such that the person being supervised can, within 15 minutes, establish direct telecommunication with the supervisor.

"Intimate parts" has the meaning set forth in Wis. Stat. § 939.22(19).¹

"Negligence in the practice of medicine" means an act performed without the care and skill of reasonable physicians who perform the act in question, whether or not the negligent care results in actual harm to the patient.

"Patient health care records" has the meaning set forth in Wis. Stat. § 146.82(4), and shall also include records of prescription medications administered, dispensed or prescribed for a patient.²

¹ Breast, buttock, anus, groin, scrotum, penis, vagina or public mound of a human being.

"Sexual contact" has the meaning set forth in Wis. Stat. § 948.01(5).³

"Sexually explicit conduct" has the meaning set forth in Wis. Stat. § 948.01(7)⁴

Engaging in fraud or misrepresentation in applying for or procuring a medical license, in connection with applying for or procuring periodic renewal of a medical license, or in otherwise maintaining licensure.

Knowingly Engaging in any act of fraud, deceit or misrepresentation, including acts of omission, to the Medical Examining Board or any person acting on the board's behalf.

Violating or attempting to violate any term, provision, or condition of any order of the board, including but not limited to disciplinary orders, orders for examination pursuant to Wis. Stat. § 804.10; orders for examination pursuant to Wis. Stat. § 448.02, requests or orders for inspection of practice premises, or orders for any examination that detects the presence of alcohol or drugs.

Having any credential pertaining to the practice of medicine and surgery or any act constituting the practice of medicine and surgery become subject to adverse action by any agency of this or another state, or by any agency or authority within the federal government, which results in limitation, restriction, suspension, revocation or any disciplinary action.

- a. This subsection applies to licenses, permits, registrations or any other privileges that pertain to the practice of medicine and surgery, including registration by federal drug enforcement agencies;
- b. This subsection applies whether the adverse action results in temporary or permanent limitation, restriction, suspension, revocation or disciplinary action;

² All records related to the health of a patient prepared by or under the supervision of a health care provider; and all records made by an ambulance service provider...includes billing statements and invoices for treatment or services provided by a health care provider and includes health summary forms prepared under § 302.388(2). [does not include pseudoephedrine sales records from pharmacy, fetal monitor tracings or a pupil's physical health records maintained by a school]

³ (5) "Sexual contact" means any of the following: (a) Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant: 1. Intentional touching by the defendant or, upon the defendant's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts. 2. Intentional touching by the complainant, by the use of any body part or object, of the defendant's intimate parts or, if done upon the defendant's instructions, the intimate parts of another person. (b) Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by another person upon any part of the body clothed or unclothed of the complainant if That ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.

⁴ (7) "Sexually explicit conduct" means actual or simulated: (a) Sexual intercourse, meaning vulvar penetration as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by a person or upon the person's instruction. The emission of semen is not required; (b) Bestiality; (c) Masturbation; (d) Sexual sadism or sexual masochistic abuse including, but not limited to, flagellation, torture or bondage; or (e) Lewd exhibition of intimate parts.

c. This subsection applies whether or not the adverse action is accompanied by findings of negligence or unprofessional conduct.

Failure, within ten days, to report to the Department adverse action taken against the licensee's authority to practice medicine and surgery as follows:

- a. Any adverse action by another licensing or credentialing jurisdiction concerned with the practice of medicine and surgery; or
- b. Any adverse action, whether a final or temporary action, by a peer review body, health care organization or division of the state or federal government that results in limitation or loss of authority to perform any act constituting the practice of medicine and surgery, including authorization to prescribe controlled substances.

Practicing outside the scope of any license or other lawful authority to practice medicine and surgery, including the practice of medicine and surgery without credentials in the jurisdiction(s) in which the patient or physician or both are physically located.

Permitting or assisting any person to perform acts constituting the practice of medicine and surgery without sufficient qualifications, necessary credentials, adequate informed consent, or adequate supervision. The physician is responsible for determining whether general, direct or direct one-on-one supervision is necessary to protect the patient from unacceptable risk of harm. The physician retains responsibility for delegated or supervised acts as if the physician performed the act independently unless the delegate failed to comply with the physician's order, instruction or direction.

Failure to report, within ten days, any voluntary agreement to limit, restrict or relinquish the practice of medicine and surgery entered into with any court, agency of any state or federal government, and or any health care facility or organization in which the licensee has practiced medicine and surgery.

Failure to cooperate fully with any investigation conducted on behalf of the Board or the Department, including but not limited to failure to permit inspection of practice premises or medical records upon request, or failure to comply with a valid subpoena issued by the board, the division of enforcement or any party to a disciplinary proceeding under Wis. chs. 440 or 448.

Knowingly, negligently or recklessly making any false statement, written or oral, in the practice of medicine and surgery, which is likely intended to deceive, defraud, mislead or otherwise create an unacceptable risk of harm to the patient or the public or both.

Illegal or unethical business practices, including but not limited to:

- a. ~~Engaging in false or misleading advertising, including claims without substantiation concerning credential, board certification(s), the ability to cure any condition or disease, professional superiority, or greater skill than that possessed by another physician or physicians;~~
- b. ~~Dividing fees for referral of patients or accepting kickbacks on medical or surgical services, appliances or medications purchased by or on behalf of patients;~~
- c. ~~Fraud, deceit or misrepresentation in obtaining or attempting to obtain third-party reimbursement.~~

~~Violation or conviction of any federal or state law, including criminal law, which bars the following conduct and which is therefore substantially related to the practice of medicine and surgery:~~

- a. ~~Theft or fraud;~~
- b. ~~Violence;~~
- c. ~~Sexual contact with a patient, patient's guardian or family member, or any act performed in the presence of a patient, patient's guardian or family member, for the purposes of sexual gratification;~~
- d. ~~Victimization of children, elderly or other vulnerable person;~~
- e. ~~Any crime occurring in the course of the practice of medicine and surgery or in a facility in which medicine or surgery is practiced;~~
- f. ~~Crimes demonstrating or dependent upon persistent abuse of alcohol and which places the public or any person at risk of physical harm;~~
- g. ~~Administering, dispensing, prescribing, supplying, ordering, obtaining or using controlled substances as defined in s. 961.01 (4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law;~~
- h. ~~A certified copy of any document demonstrating the entry of a guilty, nolo contendere plea or deferred adjudication (with or without expungement) of a crime substantially related to the practice of medicine shall be conclusive evidence of a violation of this subsection.~~

Violation or conviction of any federal or state law, including criminal law that is substantially related to the practice of medicine and surgery.

Except as provided in sub. 14), violation or conviction of any federal or state law or rule that may is relate to the practice of medicine and surgery, including crimes tending to undermine the public confidence in the medical profession.

- a. Except as otherwise provided by law, a certified copy of a relevant decision by a state or federal court or agency charged with making legal determinations relevant to this subsection is conclusive evidence of findings of facts and conclusions of law contained therein.
- b. The division of enforcement has the burden of proving that the act is substantially related to the practice of medicine and surgery.

~~Dishonesty, professional negligence, professional incompetence, and or misrepresentation of credentials in any report or opinion generated as an expert, whether or not in anticipation of or in litigation, including sworn statement or testimony concerning the practice of medicine and surgery, regardless of the context or nature of the proceeding.~~

- a. ~~This subsection prohibits reference, as a credential, to any degree or title which is not generated by a legitimate educational institution.~~
- b. ~~For purposes of this subsection, professional incompetence or negligence includes but is not limited to offering an opinion or recommendation without legitimate scientific support, or failing to disclose upon inquiry, limitations of scientific support for an opinion or recommendation.~~

| |
|---|
| <p>Failure to establish and maintain timely patient health care records as required by Wis. Admin Code ch. MED 21, or as otherwise required by law. Patient health care records not completed in compliance with written policies of the hospital, clinic or other entity at which care was provided, or that are not completed and signed within 30 days of the date of service, whichever period is of shorter duration, are presumed to be untimely.</p> |
| <p>Failure to transfer or timely transfer patient health records to any person or practitioner authorized by law to procure the patient health care records. Failure to comply with any lawful request for patient health care records within thirty days of receipt of the request is presumed to be a violation of this subsection state and federal laws regarding access to health care records.</p> |
| <p>Knowingly, recklessly or negligently divulging a privileged communication or other confidential patient health care information except as required or permitted by state or federal law.</p> |
| <p>Except in a medical emergency, prescribing, selling, administering, distributing, ordering or giving any drug legally classified as a controlled substance, psychotropic medication or medication recognized as addictive or dangerous to a family member or to oneself, or doing so without required documentation.</p> |
| <p>Failure to obtain and document informed consent before providing any health care service, failure to document that informed consent was obtained, or any violation of the terms of Wis. Admin. Code § MED 18, unless otherwise excused by law as required by Wisconsin law before providing any health care services.</p> |
| <p>Found to be Engaging in repeated or significant disruptive behavior or interaction with physicians, hospital personnel, patients, family members or others, that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered.</p> |
| <p>Negligence in the practice of medicine. A certified copy of any document demonstrating that a court or a panel established under § 655.02, Stats., has found the physician negligent in the course of practicing medicine and surgery treatment shall be conclusive evidence of a violation of this subsection. A certified copy of a relevant decision by a state or federal agency charged with making relevant legal determinations is conclusive evidence of findings of facts and conclusions of law contained therein.</p> |
| <p>Departure from or the failure to conform to the standard of minimally competent medical practice, which creates unacceptable risk of harm to the patient or the public, whether or not the act or omission resulted in actual harm to any person.</p> |

Practicing or attempting to practice under any medical license when unable or unwilling to do so with reasonable skill and safety.

- a. A certified copy of an order issued by a court of competent jurisdiction finding that a person is mentally incompetent is conclusive evidence that the physician was, at the time the order was entered, unable to practice medicine and surgery with reasonable skill and safety to patients.
- b. A court's finding or judgment that Evidence that a physician has, in the course of practicing medicine and surgery, illegally obtained controlled substances is presumptive evidence that the physician is unable or unwilling to practice with reasonable skill and safety to patients in any facility in which controlled substances are located.

~~Performing or attempting to perform any surgical or invasive procedure on the wrong patient, or at the wrong anatomical site or performing the wrong procedure on any patient.~~

Violation of the standard of minimal competence to practice medicine and surgery while serving as medical director or physician who delegates and supervises services performed by non-physician persons as set out in Wis. Admin Code § BAC 2.03, including aiding and abetting any person's violation of Wis. Admin Code § BAC 2.03.

Engaging in sexually explicit conduct, sexual contact, exposure, gratification or other sexual behavior with or in the presence of a patient, a patient's immediate family member or a person responsible for the patient's welfare.

- a. Sexual motivation may be determined from the totality of the circumstances and is presumed when the physician has contact with a patient's intimate parts without legitimate medical justification for doing so.
- b. For the purposes of this subsection, an adult receiving treatment shall continue to be a patient for two years after the termination of professional services.
- c. If the person receiving treatment is a minor, the person shall continue to be a patient for the purposes of this subsection for two years after termination of services or for two years after the patient reaches the age of majority, whichever is longer.
- d. It is a violation of this section for a physician to engage in any sexual contact or conduct with or in the presence of a patient or former patient who lacks the ability to consent for any reason, including but not limited to medication or psychological or cognitive disability.

In the absence of good faith, failing to submit a timely written report of professional misconduct as required by Wis. Stat. § 448.115, or otherwise aiding or abetting the practice of medicine by an unlicensed, incompetent or impaired person. ~~Any of the following constitute a violation of this subsection:~~

- a. ~~Failure to submit a required report as soon as reasonable after the physician has reason to believe that a report is required;~~
- b. ~~Failure to submit the report in writing, with relevant facts known to the reporting physician, including, if available, the date(s) of service(s), patient(s) name(s), identity of other witnesses, and nature of the suspected violation(s). The duty to report does not impose a duty to investigate allegations;~~

- e. ~~Failure to report required events, which are:~~
 - i. ~~A physician is engaging or has engaged in acts that constitute a pattern of professional conduct;~~
 - ii. ~~A physician is engaging or has engaged in an act that creates an immediate or continuing danger to one or more patients or to the public;~~
 - iii. ~~A physician is or may be mentally or physically unable to safely engage in the practice of medicine or surgery;~~
 - d. ~~A physician's obligation to report under this subsection is relieved if the physician reasonably expects that another licensed professional will make or has made the report on the physician's behalf.~~
 - e. ~~No physician who submits a written report under this section may be held civilly or criminally liable, or be found guilty of unprofessional conduct for reporting in good faith.~~
 - f. ~~Good faith on the part of physicians who report under this section is presumed.~~

Model Practice Act provisions

44. practicing medicine in another state or jurisdiction without appropriate licensure.

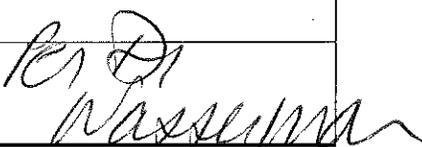
16. aiding or abetting the practice of medicine by an unlicensed, incompetent or impaired person.

17. allowing another person or organization to use his or her license to practice medicine.

14. giving false, fraudulent, or deceptive testimony while serving as an expert witness.

38. failure to furnish the Board, its investigators or representatives, information legally requested by the Board or to fail to comply with a Board subpoena or order. Requested via properly executed legal orders (eg court orders) or

**State of Wisconsin
Department of Safety & Professional Services
AGENDA REQUEST FORM**

| | | | |
|---|---|--|--|
| 1) Name and Title of Person Submitting the Request: Sandy Nowack Legal Counsel | | 2) Date When Request Submitted: August 7, 2012 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others | |
| 3) Name of Board, Committee, Council, Sections: Medical Examining Board | | | |
| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? MED 10 Wisconsin Medical Society Suggestions INFORMATIONAL ITEM | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: For the Board's assistance in considering MED10 proposals under consideration and voting. | | | |
| 11) Authorization <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">  Signature of person making this request </div> <div style="text-align: center;">  Date </div> <div style="text-align: center;">  Date </div> </div> | | | |
| Supervisor (if required) | | Date | |
| Bureau Director signature (indicates approval to add post agenda deadline item to agenda) | | Date | |
| Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. | | | |



Wisconsin Medical Society

Your Doctor. Your Health.

TO: Wisconsin State Medical Examining Board
Sheldon Wasserman, MD, Chair

FROM: Mark Grapentine, JD - Senior Vice President – Government Relations

DATE: July 11, 2012

RE: Society feedback on proposed draft changes to MED 10

On behalf of more than 12,000 members statewide, the Wisconsin Medical Society thanks the Wisconsin State Medical Examining Board for this opportunity to provide our initial feedback on draft proposed changes to MED 10 of the Wisconsin Administrative Code. The accompanying document is the product of multiple meetings of the Society's full Council on Legislation (COL) and a smaller subset of that Council.

The COL reviewed the draft proposal as described in the three-column document prepared by Medical Examining Board staff which compares draft proposed language, current MED 10 language and Federation of State Medical Boards (FSMB) model language. For ease of discussion purposes, the Society took the proposed language and incorporated it into existing MED 10. We note this leaves some ambiguity -- it is sometimes unclear whether the draft language is intended to supplement or replace existing MED 10 language. We then made COL-recommended changes to that version of MED 10 amended by the draft language - those changes are noted in blue in the attached document.

The Society arrived at these recommendations following thorough COL discussion, and reflect some fundamental themes, including but not limited to:

- Making changes consistent with current law rather than expanding current law.
- Adopting FSMB language when it more clearly and succinctly accomplishes the change.
- Safeguarding physicians' due process rights.
- Retaining focus on the regulation of the practice of medicine.

We also note that the Board circulated to its membership a follow-up memo dated May 14, 2012 related to "ADDITIONAL CONCEPTS TO BE ADDRESSED" in MED 10, including patient abandonment, use of social media and other topics. The Society will be prepared to provide feedback on these new areas once the Board provides clarification on the specific revisions it intends to propose on these concepts.

The Society appreciates the opportunity to share these comments on an important section of the Administrative Code. If you have questions about this or other issues, please feel free to contact us at any time.

Wisconsin Medical Society Suggested Edits to MEB Working Draft: CH MED 10-Wisconsin Administrative Code- Council on Legislation (July 2012)

BLACK = Current MED 10 language; additions and ~~deletions~~ from MEB draft proposal

PURPLE = Unclear if intended for deletion

ORANGE = Notes comparison of section elsewhere in the rule

BLUE = Changes reflecting COL and subgroup recommendations; additions and ~~deletions~~

Chapter Med 10.02

INTENT

Physicians act with a high level of independence and responsibility, often in emergencies. Every physician represents the medical profession in the community and must do so in a manner worthy of the trust bestowed upon the physician and the profession. The competent practice of medicine and surgery requires that care of the patient is paramount. Physicians must therefore act with honesty, respect for the law, reasonable judgment, competence and respect for patient boundaries.

Med 10.02 Definitions. (1) For the purposes of these rules:

(a) "Board" means the medical examining board.

(b) "License" means any license, permit, certificate, or registration issued by the board.

"Adequate supervision" means supervision by a physician whose license is in good standing and requires that: the supervising physician has knowledge of the subordinate's training, skill and experience pertaining to the acts undertaken; the supervising physician knows in advance which acts will be undertaken; the supervising physician is competent and credentialed to perform the act; and there is adequate physician-to-subordinate ratio, taking into consideration the training, skill and experience of the subordinate(s), risk of harm to the patient due to the nature of the procedure, and risk of harm due to known characteristics of the patient;

"Any federal or state law or rule that may relates to the practice of medicine and surgery" includes, but is not limited to, conduct constituting a violation of the rules of this board or any other credentialing agency, and or a misdemeanor or felony crime, within this state or without, the circumstances of which involve aiding, abetting, actual or attempted dishonesty and other acts tending to undermine public confidence in the medical profession.

"Direct, on-premises supervision" means the supervising physician is physically present in the same building facility with the person being supervised, with face-to-face contact as necessary.

"Direct, immediate, one-to-one supervision" means one-to-one supervision with face-to-face contact between the person being supervised and the supervisor throughout the patient contact, with the supervisor assisting the person being supervised as necessary.

"General supervision" means indirect, off-premises supervision, with direct, on-premises or direct face-to-face contact between the supervisor and the person being supervised, as necessary.

Between direct contacts, the supervisor is required to maintain indirect, off-premises telecommunication contact such that the person being supervised can, within 15 minutes, establish direct telecommunication with the supervisor.

"Informed consent" as defined in WI STATS 448.30 (which means the further description in MED 18 applies as well) means a patient's voluntary, knowing and understood agreement to the health care service to be provided. Informed consent requires, at a minimum, that except for emergencies, the licensee has provided information about reasonable alternate modes of diagnosis and or treatment, and the risks and benefits of each, that a reasonable person in the patient's position would need before making an informed decision concerning the mode of treatment or diagnosis.

- a. Informed consent shall normally be evidenced by the written signature of a patient, the patient's guardian or the patient's power of attorney for healthcare;
- b. A patient may withdraw informed consent verbally or in writing at any time before a service is completed;
- c. When medical acts are delegated to non-physicians, informed consent requires that the patient understand the delegate is not a physician.

No service or part of a service may be provided without the patient's informed consent or after informed consent has been withdrawn.

"Intimate parts" has the meaning set forth in Wis. Stat. § 939.22(19).

"Negligence in the practice of medicine" means an act performed without the care and skill of reasonable physicians who perform the act in question, whether or not the negligent care results in actual harm to the patient.

"Patient health care records" has the meaning set forth in Wis. Stat. § 146.82(4), and shall also include records of prescription medications administered, dispensed or prescribed for a patient.

"Sexual contact" has the meaning set forth in Wis. Stat. § 948.01(5).

"Sexually explicit conduct" has the meaning set forth in Wis. Stat. § 948.01(7)

(2) The term "unprofessional conduct" is defined to mean and include but not be limited to the following, or aiding or abetting the same:

(a) Violating or attempting to violate any provision or term of ch. 448, Stats., or of any valid rule of the board.

(b) Violating or attempting to violate any term, provision, or condition of any order of the board. Violating or attempting to violate any term, provision, or condition of any order of the board, including but not limited to disciplinary orders, orders for examination pursuant to Wis. Stat. § 804.10; orders for examination pursuant to Wis. Stat. § 448.02, requests or orders for inspection of practice premises, or requests or orders for any examination that detects the presence of alcohol or drugs.

Knowingly Engaging in fraud or misrepresentation in applying for or procuring a medical license, in connection with applying for or procuring periodic renewal of a medical license, or in otherwise maintaining licensure.

(c) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing in connection with any application for license.

(d) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license.

(e) Giving, selling, buying, bartering, or attempting to give, sell, buy, or barter any license.

~~(f) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.~~

Knowingly Engaging in any act of fraud, deceit or misrepresentation, including acts of omission, to the Medical Examining Board or any person acting on the board's behalf.

~~(g) Engaging or attempting to engage in the unlawful practice of medicine and surgery or treating the sick.~~

~~(h) Any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patient or public.~~

Departure from or the failure to conform to the standard of minimally competent medical practice, which creates unacceptable risk of harm to the patient or the public, whether or not the act or omission resulted in actual harm to any person.

~~(i) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to patients.~~

Practicing or attempting to practice under any medical license when unable or unwilling to do so with reasonable skill and safety.

- a. A certified copy of an order issued by a court of competent jurisdiction finding that a person is mentally incompetent is conclusive evidence that the physician was, at the time the order was entered, unable to practice medicine and surgery with reasonable skill and safety to patients.
- b. Evidence A court's finding or judgment that a physician has, in the course of practicing medicine and surgery, illegally obtained controlled substances is presumptive evidence that the physician is unable or unwilling to practice with reasonable skill and safety to patients in any facility in which controlled substances are located.

(j) ~~Practicing or attempting to practice under any license beyond the scope of that license.~~

~~Practicing outside the scope of any license or other lawful authority to practice medicine and surgery, including the practice of medicine and surgery without credentials in the jurisdiction(s) in which the patient or physician or both are physically located.~~

Practicing medicine in another state or jurisdiction without appropriate licensure.

(k) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.

~~Failure to cooperate fully with any investigation conducted on behalf of the Board or the Department, including but not limited to failure to permit inspection of practice premises or medical records upon request. Failure to furnish the Board, its investigators or representatives, information legally requested via properly executed legal orders (e.g., court orders), or failure to comply with a valid subpoena issued by the board, the division of enforcement or any party to a disciplinary proceeding under Wis. chs. 440 or 448. (NOTE: Compared to Med 10.02(2)(k) and (zc) but unclear if these two have been replaced)~~

~~(L) Representing that a manifestly incurable disease or condition can be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if such is not the fact.~~

~~(m) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.~~

~~Knowingly, negligently or recklessly making any false statement, written or oral, in the practice of medicine and surgery, which is likely intended to deceive, defraud, mislead, or otherwise create an unacceptable risk of harm to the patient or the public or both.~~

~~Illegal or unethical business practices, including but not limited to:~~

- ~~a. Engaging in false or misleading advertising, including claims without substantiation concerning: credential, board certification(s), the ability to cure any condition or disease, professional superiority, or greater skill than that possessed by another physician or physicians;~~
- ~~b. Dividing fees for referral of patients or accepting kickbacks on medical or surgical services, appliances or medications purchased by or on behalf of patients;~~
- ~~c. Fraud, deceit or misrepresentation in obtaining or attempting to obtain third-party reimbursement. (NOTE: Compared to Med 10.02(2)(m), (o), and (w), but unclear if these have been replaced)~~
 - a. Obtaining any fee by fraud, deceit or misrepresentation.
 - b. Employing abusive or illegal billing practices.
 - c. Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually rendered, unless allowed by law.
 - i. This prohibition should not be interpreted to preclude the legal functioning of lawful professional partnerships, corporations or associations.

- d. Representing, claiming or causing the appearance that the physician possesses a particular medical specialty certification by a Board recognized certifying organization (ABMS, AOA) if not true.

~~(n) Willfully divulging a privileged communication or confidence entrusted by a patient or deficiencies in the character of patients observed in the course of professional attendance, unless lawfully required to do so.~~

Knowingly, recklessly or negligently divulging a privileged communication or other confidential patient health care information except as required or permitted by state or federal law.

(o) Engaging in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence; or engaging in false, misleading or deceptive advertising.

Violation or conviction of any federal or state law, including criminal law, which bars the following conduct and which is therefore that is substantially related to the practice of medicine and surgery.

- a. ~~Theft or fraud;~~
- b. ~~Violence;~~
- c. ~~Sexual contact with a patient, patient's guardian or family member, or any act performed in the presence of a patient, patient's guardian or family member, for the purposes of sexual gratification;~~
- d. ~~Victimization of children, elderly or other vulnerable person;~~
- e. ~~Any crime occurring in the course of the practice of medicine and surgery or in a facility in which medicine or surgery is practiced;~~
- f. ~~Crimes demonstrating or dependent upon persistent abuse of alcohol and which places the public or any person at risk of physical harm;~~
- g. ~~Administering, dispensing, prescribing, supplying, ordering, obtaining or using controlled substances as defined in s. 961.01 (4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law;~~
- h. ~~A certified copy of any document demonstrating the entry of a guilty, nolo contendere plea or deferred adjudication (with or without expungement) of a crime substantially related to the practice of medicine shall be conclusive evidence of a violation of this subsection. (NOTE: Compared to Med 10.02(2)(p),(r),(z), but not clear is these have been replaced)~~

Except as provided in sub. 14), violation or conviction of any federal or state law or rule that may substantially relates to the practice of medicine and surgery, including crimes tending to undermine the public confidence in the medical profession.

- a. Except as otherwise provided by law, a certified copy of a relevant decision by a state or federal court or agency charged with making legal determinations relevant to this subsection is conclusive evidence of findings of facts and conclusions of law contained therein.
- b. The division of enforcement has the burden of proving that the act is substantially related to the practice of medicine and surgery. (NOTE: Compared to Med 10.02(2)(p),(r),(z), but not clear is these have been replaced)

(p) Administering, dispensing, prescribing, supplying, or obtaining controlled substances as defined in s. 961.01 (4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law.

~~(q) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice medicine and surgery or treat the sick, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government, including but not limited to the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.~~

Having any credential pertaining to the practice of medicine and surgery or any act constituting the practice of medicine and surgery become subject to adverse action by any agency of this or another state, or by any agency or authority within the federal government, which results in limitation, restriction, suspension, revocation or any disciplinary action.

- a. This subsection applies to licenses, permits, registrations or any other privileges that pertain to the practice of medicine and surgery, including registration by federal drug enforcement agencies;
- b. This subsection applies whether the adverse action results in temporary or permanent limitation, restriction, suspension, revocation or disciplinary action;
- c. This subsection applies whether or not the adverse action is accompanied by findings of negligence or unprofessional conduct. (NOTE: Compare to Med 10.02(2)(q))

Failure, within ten days, to report to the Department a final adverse action taken against the licensee's authority to practice medicine and surgery as follows:

- a. ~~Any adverse action by another licensing or credentialing jurisdiction concerned with the practice of medicine and surgery; or~~
- b. ~~Any adverse action, whether a final or temporary action, by a peer review body, health care organization or division of the state or federal government that results in limitation or loss of authority to perform any act constituting the practice of medicine and surgery, including authorization to prescribe controlled substances.~~

(r) Conviction of any crime which may relate to practice under any license, or of violation of any federal or state law regulating the possession, distribution, or use of controlled substances as defined in s. 961.01 (4), Stats. A certified copy of a judgment of a court of record showing such conviction, within this state or without, shall be presumptive evidence thereof.

Dishonesty, professional negligence, professional incompetence, and or misrepresentation of credentials in any report or opinion generated as an expert, whether or not in anticipation of or in litigation, including sworn statement or testimony concerning the practice of medicine and surgery, regardless of the context or nature of the proceeding.

- a. ~~This subsection prohibits reference, as a credential, to any degree or title which is not generated by a legitimate educational institution.~~
- b. ~~For purposes of this subsection, professional incompetence or negligence includes but is not limited to offering an opinion or recommendation without legitimate scientific support, or failing to disclose upon inquiry, limitations of scientific support for an opinion or recommendation.~~

Knowingly giving false, fraudulent, or deceptive testimony while serving as an expert witness.

- (s) ~~Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine or sympathomimetic amine drug designated as a schedule II controlled substance to or for any person except for any of the following:~~
1. ~~Use as an adjunct to opioid analgesic compounds for treatment of cancer-related pain,~~
 2. ~~Treatment of narcolepsy,~~
 3. ~~Treatment of hyperkinesis,~~
 4. ~~Treatment of drug induced brain dysfunction,~~
 5. ~~Treatment of epilepsy,~~
 6. ~~Differential diagnostic psychiatric evaluation of depression,~~
 7. ~~Treatment of depression shown to be refractory to other therapeutic modalities,~~
 8. ~~Clinical investigation of the effects of such drugs or compounds in which case an investigative protocol therefore shall have been submitted to and reviewed and approved by the board before such investigation has been begun.~~

Except in a medical emergency, prescribing, selling, administering, distributing, ordering or giving any drug legally classified as a controlled substance, psychotropic medication or medication recognized as addictive or dangerous to a family member or to oneself, or doing so without required documentation.

(t) ~~Aiding or abetting the unlicensed practice of medicine or representing that unlicensed persons practicing under supervision, including unlicensed M.D.'s and D.O's, are licensed, by failing to identify the individuals clearly as unlicensed physicians or delegates. Permitting or assisting any person to perform acts constituting the practice of medicine and surgery without sufficient qualifications, necessary credentials, adequate informed consent, or adequate supervision. The physician is responsible for determining whether general, direct or direct one-on-one supervision is necessary to protect the patient from unacceptable risk of harm. The physician retains responsibility for delegated or supervised acts as if the physician performed the act independently unless the delegate failed to comply with the physician's order, instruction or direction. Aiding or abetting the practice of medicine by an unlicensed, incompetent or impaired person.~~

Allowing another person or organization to use his or her license to practice medicine.

Failure to report, within ten days, any voluntary agreement to limit, restrict or relinquish the practice of medicine and surgery entered into with any court, agency of any state or federal government, and or any health care facility or organization in which the licensee has practiced medicine and surgery.

(u) Failure to inform a patient about the availability of all alternate, viable medical modes of treatment and about the benefits and risks of these treatments, including the benefits and risks associated with the use of extended wear contact lenses.

~~Failure to obtain and document informed consent as required by Wisconsin law before providing any health care service, failure to document that informed consent was obtained, or any violation of the terms of Wis. Admin. Code § MED 18, unless otherwise excused by law.~~

(w) Use in advertising of the term "board certified" or a similar phrase of like meaning unless in fact so certified and unless disclosure is made of the complete name of the specialty board which conferred the certification.

~~(x) Prescribing, ordering, dispensing, administering, supplying, selling or giving any anabolic steroid for the purposes of enhancing athletic performance or for other nonmedical purposes.~~

(z) Violating or aiding and abetting the violation of any law or administrative rule or regulation the circumstances of which substantially relate to the circumstances of the practice of medicine.

~~(za) Failure by a physician or physician assistant to maintain patient health care records consistent with the requirements of ch. Med 21.~~

~~Failure to establish and maintain timely patient health care records as required by Wis. Admin Code ch. MED 21, or as otherwise required by law. Patient health care records not completed in compliance with written policies of the hospital, clinic or other entity at which care was provided, or that are not completed and signed within 30 days of the date of service, whichever period is of shorter duration, are presumed to be untimely.~~

~~Failure to transfer or timely transfer patient health records to any person or practitioner authorized by law to procure the patient health care records. Failure to comply with state and federal laws regarding access to patient health care records. Any lawful request for patient health care records within thirty days of receipt of the request is presumed to be a violation of this subsection. (NOTE: Compared to 146.83 Access to patient health care records)~~

~~(zb) Prescribing, ordering, dispensing, administering, supplying, selling or giving any anorectic drug designated as a schedule III, IV or V controlled substance for the purpose of weight reduction or control in the treatment of obesity unless each of the following conditions is met:~~

- ~~1. The patient's body mass index, weight in kilograms divided by height in meters squared, is greater than 25.~~
- ~~2. A comprehensive history, physical examination, and interpreted electrocardiogram are performed and recorded at the time of initiation of treatment for obesity by the prescribing physician.~~
- ~~3. A diet and exercise program for weight loss is prescribed and recorded.~~
- ~~4. The patient is weighed at least once a month, at which time a recording is made of blood pressure, pulse, and any other tests as may be necessary for monitoring potential adverse effects of drug therapy.~~
- ~~5. No more than a 30-day supply of drugs is prescribed or dispensed at any one time.~~

6. No drugs are prescribed or dispensed for more than 90 days unless all of the following occur:
- a. The patient has a recorded weight loss of at least 12 pounds in the first 90 days of therapy.
 - b. The patient has continued progress toward achieving or maintaining a target weight.
 - c. The patient has no significant adverse effects from the prescribed program.
7. Any variance from the foregoing requirements is justified by documentation in the patient's record.

(zc) After a request by the board, failing to cooperate in a timely manner with the board's investigation of a complaint filed against the credential holder. There is a rebuttable presumption that a credential holder who takes longer than 30 days to respond to a request of the board has not acted in a timely manner.

Found to be Engaging in repeated or significant disruptive behavior or interaction with physicians, hospital personnel, patients, family members or others, that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered.

(zd) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient. For the purposes of this subsection, an adult receiving treatment shall continue to be a patient for 2 years after the termination of professional services. If the person receiving treatment is a minor, the person shall continue to be a patient for the purposes of this subsection for 2 years after termination of services, or for 2 years after the patient reaches the age of majority, whichever is longer.

Engaging in sexually explicit conduct, sexual contact, exposure, gratification or other sexual behavior with or in the presence of a patient, a patient's immediate family member or a person responsible for the patient's welfare.

- a. Sexual motivation may be determined from the totality of the circumstances and is presumed when the physician has contact with a patient's intimate parts without legitimate medical justification for doing so.
- b. For the purposes of this subsection, an adult receiving treatment shall continue to be a patient for two years after the termination of professional services.
- c. If the person receiving treatment is a minor, the person shall continue to be a patient for the purposes of this subsection for two years after termination of services or for two years after the patient reaches the age of majority, whichever is longer.
- d. It is a violation of this section for a physician to engage in any sexual contact or conduct with or in the presence of a patient or former patient who lacks the ability to consent for any reason, including but not limited to medication or psychological or cognitive disability.

Performing or attempting to perform any surgical or invasive procedure on the wrong patient, or at the wrong anatomical site or performing the wrong procedure on any patient.

Violation of the standard of minimal competence to practice medicine and surgery while serving as medical director or physician who delegates and supervises services performed by non-

physician persons as set out in Wis. Admin Code § BAC 2.03, including aiding and abetting any person's violation of Wis. Admin Code § BAC 2.03.

Negligence in the practice of medicine. A certified copy of any document demonstrating that a court or a panel established under § 655.02, Stats., has found the physician negligent in the course of practicing medicine and surgery treatment shall be conclusive evidence of a violation of this subsection. A certified copy of a relevant decision by a state or federal agency charged with making relevant legal determinations is conclusive evidence of findings of facts and conclusions of law contained therein. (NOTE: Compared to Wis. Stat. sec. 448.02(3)c)

In the absence of good faith, failing to submit a timely written report of professional misconduct as required by Wis. Stat. § 448.115, or otherwise aiding or abetting the practice of medicine by an unlicensed, incompetent or impaired person. Any of the following constitute a violation of this subsection:

- ~~a. Failure to submit a required report as soon as reasonable after the physician has reason to believe that a report is required;~~
 - ~~b. Failure to submit the report in writing, with relevant facts known to the reporting physician, including, if available, the date(s) of service(s), patient(s) name(s), identity of other witnesses, and nature of the suspected violation(s). The duty to report does not impose a duty to investigate allegations;~~
 - ~~c. Failure to report required events, which are:
 - ~~i. A physician is engaging or has engaged in acts that constitute a pattern of professional misconduct;~~
 - ~~ii. A physician is engaging or has engaged in an act that creates an immediate or continuing danger to one or more patients or to the public;~~
 - ~~iii. A physician is or may be mentally or physically unable to safely engage in the practice of medicine or surgery;~~~~
 - ~~d. A physician's obligation to report under this subsection is relieved if the physician reasonably expects that another licensed professional will make or has made the report on the physician's behalf.~~
 - ~~e. No physician who submits a written report under this section may be held civilly or criminally liable, or be found guilty of unprofessional conduct for reporting in good faith;~~
 - ~~f. Good faith on the part of physicians who report under this section is presumed.~~
- (NOTE: Compared to new duty to report in Wis. Stat. chap. 448)

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

| | | | |
|---|--|---|------|
| 1) Name and Title of Person Submitting the Request: | | 2) Date When Request Submitted: | |
| | | Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others | |
| 3) Name of Board, Committee, Council, Sections: Medical Examining Board | | | |
| 4) Meeting Date: August 15, 2012 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? Informational Item: Office of Inspector General Response to Board Request for Audit | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both | 8) Is an appearance before the Board being scheduled? If yes, who is appearing? (name) <input type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: For informational purposes. | | | |
| 11) Authorization | | | |
| Signature of person making this request | | | Date |
| Supervisor (if required) | | | Date |
| Bureau Director signature (indicates approval to add post agenda deadline item to agenda) | | | Date |



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



JUL 10 2012

Dr. Sheldon Wasserman
Chair, Wisconsin Medical Examining Board
1400 East Washington Avenue
Madison, WI 53703-3041

Dear Dr. Wasserman:

Thank you for your April 23, 2012, letter to Department of Health and Human Services (HHS) Secretary Kathleen Sebelius regarding the Wisconsin Medical Examining Board (the Board). The Secretary's office has forwarded your letter to HHS's Office of Inspector General (OIG). Your letter mentions an HHS investigation into the actions and oversight of State medical boards; please be advised that HHS-OIG is not conducting such an investigation and is not aware of such an inquiry elsewhere in HHS.

OIG is conducting an evaluation as a followup to a 2010 study in which we reviewed the Centers for Medicare & Medicaid Services' (CMS) reporting of final adverse actions against providers to the Healthcare Integrity and Protection Data Bank (HIPDB). In that 2010 study, OIG found significant lapses in CMS's reporting to the HIPDB and recommended that CMS report all adverse actions as required. This followup work is assessing CMS's actions to implement that recommendation as well as the agency's plans to ensure compliance with reporting requirements after the HIPDB is merged with the National Practitioner Data Base. This merger is in progress. The current review will determine whether CMS is fulfilling its responsibilities to ensure that information in the HIPDB—and eventually in the consolidated database—is complete and accurate. In addition, OIG has audit work in progress that examines the participation of certain professionals in the Medicaid program on the basis of their professional qualifications and licensure status. These work products are identified in the OIG's Fiscal Year 2012 Work Plan, which is available at <http://oig.hhs.gov/reports-and-publications/workplan/>. However, none of this work involves investigating the operations or particular decisions of State medical boards.

Your letter asks that HHS investigate a decision by the State of Wisconsin to redirect \$1.25 million in funds from the Board to unrelated State activities. You believe that this decision will likely result in downsizing of staff at the Board and associated reductions in enforcement and have asked that we intervene to prevent this. We understand this concern; OIG agrees that protecting the public from practitioners who have demonstrated themselves to be incompetent or dangerous is extremely important. However, the issue you raise is wholly outside the jurisdiction of the HHS-OIG. We are charged with preventing and detecting fraud and abuse in the programs and operations of HHS. We have no authority to investigate or prompt corrective action relating to State budget decisions. This is especially true in regard to agencies such as the Board, which receives no funding through grants or contracts from HHS

Thank you for bringing your concerns to the attention of HHS.

Sincerely,

A handwritten signature in black ink that reads "Stuart Wright". The signature is written in a cursive style with a horizontal line above the name.

Stuart Wright
Deputy Inspector General
for Evaluation and Inspections

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