



STATE OF WISCONSIN
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Governor Scott Walker Secretary Dave Ross

MEDICAL EXAMINING BOARD
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
March 20, 2013

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 description of the actions of the Board.

AGENDA

8:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-6)

B. Welcome New Member – Russell Yale, M.D. (7-8)

C. Approval of Minutes

- 1) February 20, 2013 **(9-16)**
- 2) March 5, 2013 **(17-18)**

D. Secretary Matters

E. Executive Director Matters

- 1) Board Photo for Newsletter **(19-20)**
- 2) Spring Newsletter Content Review **(21-40)**
- 3) Budget Report **(41-42)**
- 4) Consideration of Board Mini-Retreat – May 15, 2013 **(43-44)**
- 5) Paperless Initiative
- 6) Review April Screening and Examination Assignments **(45-46)**
- 7) Staff Updates

F. DLSC Matters

G. Education and Examination Matters

- 1) Discussion and Consideration of ACGME Post-Graduate Education Requirement
- 2) Discussion and Consideration of Continuing Education Audit

H. Practice Matters

I. PDMP Update **(47-48)**

J. FSMB Matters

- 1) FSMB House of Delegates Meeting Resolutions **(49-58)**

K. Discussion and Consideration of Non-Clinical Physician License (59-60)

L. Informational Items

M. Legislative/Administrative Rule Matters:

- 1) 9:00 A.M. – Public Hearing: Med 10 Relating to Unprofessional Conduct **(61-72)**
- 2) Review and Discuss Clearinghouse Report: Med 10 Relating to Unprofessional Conduct **(73-82)**
- 3) MED 8 Update
- 4) Correspondence and Proposed Legislation Relating to Restrictions on Applicants for a License to Carry a Concealed Weapon Based on the Threat of Disclosures by Mental Health Professionals, and Threat Disclosures by Mental Health Professionals to the Department of Justice **(83-90)**
- 5) Revision of Physician’s Duty to Report Law Summary – Board Review for Approval **(91-92)**

N. Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Executive Director Matters
- 3) Education and Examination Matters
- 4) Credentialing Matters
- 5) Practice Matters
- 6) Disciplinary Matters
- 7) Legislation/Administrative Rule Matters
- 8) Informational Items
- 9) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 10) Presentation of Proposed Decision(s)
- 11) Presentation of Interim Order(s)
- 12) Petitions for Re-Hearing
- 13) Petitions for Summary Suspension
- 14) Petitions for Assessments
- 15) Petitions to Vacate Orders
- 16) Petitions for Designation of Hearing Examiner
- 17) Requests for Disciplinary Proceeding Presentations
- 18) Motions
- 19) Petitions
- 20) Appearances from Requests Received or Renewed
- 21) Speaking Engagement, Travel, and Public Relation Requests

O. Screening Panel Report

P. Public Comments

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

Q. Credentialing Matters

- 1) **11:00 A.M. APPEARANCE – Yücel Yankol, M.D. – Oral Interview for Visiting Professor Licensure (93-134)**
- 2) **Nike Mourikes, M.D. – Seeking ACGME Equivalency (135-158)**

R. Monitoring Matters (159-160)

- 1) **11:30 A.M. APPEARANCE – Eugene C. Rigstad, M.D. – Requesting Modification of Board Order (161-180)**
- 2) **John M. Hale, M.D. – Requesting Interruption of Drug Screenings (181-194)**
- 3) **Bradley J. Schingen, R.C.P. – Requesting Return of Full Licensure (195-204)**

S. Deliberation of Complaints for Determination of Probable Cause

- 1) **L.G – 12 MED 339 (205-208)**
 - a) **Case Advisor: Ms. Jude Genereaux**
- 2) **D.H. – 12 MED 345 (209-212)**
 - a) **Case Advisor: Mr. James Barr**
- 3) **D.S. – 13 MED 005 (213-216)**
 - a) **Case Advisor: Sridhar Vasudevan, M.D.**

T. Presentation and Deliberation of Items from DLSC Attorney Sandra Nowack

- 1) **Proposed Stipulations, Interim Decisions and Orders**
 - a) **D.S. – 13 MED 005 (217-222)**
 1. **Case Advisor: Sridhar Vasudevan, M.D.**
- 2) **Proposed Stipulations, Final Decisions and Orders**
 - a) **John W. Zwiacher, M.D. – 12 MED 187 (223-236)**
 1. **Case Advisor: Sujatha Kailas, M.D.**
 - b) **Gerard N. Kiernan, M.D. – 12 MED 367 (237-250)**
 1. **Case Advisor: Sheldon Wasserman, M.D.**
- 3) **Administrative Warnings**
 - a) **12 MED 296 (251-254)**
 1. **Case Advisor: Timothy Swan, M.D.**
 - b) **12 MED 393 (255-260)**
 1. **Case Advisor: Ms. Jude Genereaux**
 - c) **12 MED 412 (261-262)**
 1. **Case Advisor: Kenneth Simons, M.D.**

U. Presentation and Deliberation of Items from DLSC Attorney Kim Kluck

- 1) **Proposed Stipulations, Interim Decisions and Orders**
 - a) **Levi Leong, M.D. – 12 MED 289 (263-268)**
 1. Case Advisor: **Mary Jo Capodice, D.O.**
- 2) **Petition for Review of Order Denying Motion for Summary Judgment in Case Number 11 MED 123, Peri L. Aldrich, M.D. (269-452)**
 - a) Case Advisor: **Mary Jo Capodice, D.O.**
- 3) **Proposed Stipulations, Final Decisions and Orders**
 - a) **James Turek, M.D. – 12 MED 167 (453-460)**
 1. Case Advisor: **Sheldon Wasserman, M.D.**
 - b) **Amit Waghray, M.D. – 12 MED 240 (461-472)**
 1. Case Advisor: **Ms. Jude Genereaux**
 - c) **Charlotte E. Hovey, M.D. – 12 MED 290 (473-478)**
 1. Case Advisor: **Ms. Jude Genereaux**
 - d) **Morgan Budde, M.D. – 12 MED 387 (479-490)**
 1. Case Advisor: **Mr. James Barr**

V. Presentation and Deliberation of Items from DLSC Attorney Arthur Thexton

- 1) **Proposed Stipulations, Final Decisions and Orders**
 - a) **William B. Lyles, M.D. – 09 MED 197 (491-502)**
 1. Case Advisor: **Sandra Osborn, M.D.**
 - b) **Therese J. Gesteland, M.D. – 12 MED 163 (503-508)**
 1. Case Advisor: **Timothy Westlake, M.D. & Sheldon Wasserman, M.D.**
 - c) **Kevin A. Weidman, M.D. – 12 MED 165 (509-514)**
 1. Case Advisor: **Timothy Swan M.D.**
- 2) **Administrative Warnings**
 - a) **12 MED 253 (515-516)**
 1. Case Advisor: **Mary Jo Capodice, D.O.**

W. DLSC Matters:

- 1) Case Status Report **(517-522)**
- 2) Case Closing(s)

X. Consulting with Legal Counsel

Y. Deliberation of Items Added After Preparation of the Agenda

- 1) Disciplinary Matters
- 2) Education and Examination Matters
- 3) Credentialing Matters
- 4) Proposed Stipulations, Final Decisions and Orders
- 5) Proposed Decisions
- 6) Proposed Interim Orders
- 7) Complaints
- 8) Petitions for Summary Suspension
- 9) Remedial Education Cases
- 10) Petitions for Extension of Time
- 11) Petitions for Assessments and Evaluations
- 12) Petitions to Vacate Orders
- 13) Motions
- 14) Administrative Warnings
- 15) Matters Relating to Costs
- 16) Appearances from Requests Received or Renewed
- 17) Monitoring Matters
- 18) Professional Assistance Procedure (PAP) Matters
- 19) Case Status Report
- 20) Case Closings

Z. Ratifying Licenses and Certificates

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

AA. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

BB. Open Session Items Noticed Above not Completed in the Initial Open Session

ADJOURNMENT

Board Member Training

NEXT MEDICAL EXAMINING BOARD MEETING: 4/24/2013

1:45 P.M.

ORAL EXAMINATION OF CANDIDATES FOR LICENSURE – ROOM 121A,B,C, AND 199B

CLOSED SESSION – Reviewing applications and conducting oral examinations of four (4) candidates for licensure – Dr. Wasserman

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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: March 20, 2013	5) Attachments: x Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Welcome New Member – Dr. Russell Yale	
7) Place Item in: x 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? Dr. Russell Yale – 8:00 a.m.	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Dr. Russell Yale will be introduced and greeted by the Board.			
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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**MEDICAL EXAMINING BOARD
MEETING MINUTES
FEBRUARY 20, 2013**

PRESENT: James Barr; Sridhar Vasudevan, MD; Kenneth Simons, MD; Gene Musser, MD; Jude Genereaux; Sandra Osborn, MD; Greg Collins; Sheldon Wasserman, MD; Timothy Westlake, MD; Rodney Erickson, MD; Suresh Misra, MD, Timothy Swan, MD

ABSENT: Mary Jo Capodice, DO

STAFF: Tom Ryan, Executive Director; Matthew C. Niehaus, Bureau Assistant; Pamela Stach (*Closed Session*), and other Department Staff

CALL TO ORDER

Dr. Sheldon Wasserman, Chair, called the meeting to order at 8:00 a.m. A quorum of thirteen (13) members was present.

ADOPTION OF AGENDA

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Timothy Swan, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 16, 2013

- Page 1 of the minutes: Note that Tom Ryan and Dr. Sridhar Vasudevan left the meeting to attend the FSMB conference
- Page 1 of the minutes: Correct “Shirley Y. Godwalla, M.D.” to “Shirely Y. Godiwalla, M.D.”

MOTION: Dr. Timothy Westlake moved, seconded by Dr. Timothy Swan to approve the minutes of January 16, 2013 as published. Motion carried unanimously.

DLSC MATTERS

Roles and Authorities Delegated to Monitoring Liaison

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Suresh Misra, to adopt the Roles and Authorities Delegated to Monitoring Liaison document. Motion carried.

Dr. Timothy Swan voted nay.

**DISCUSSION AND CONSIDERATION OF ACGME POST-GRADUATE EDUCATION
REQUIREMENT**

MOTION: Dr. Timothy Westlake moved, seconded by Dr. Suresh Misra, to seek legislation to set a minimum threshold for obtaining an unrestricted license of 2 successful years of ACGME/AOA accredited post-graduate medical education for license applicants and to revise the Temporary Education Permit

(TEP), including making it available to first-year residents. Motion carried unanimously.

PRACTICE MATTERS

Board Review of Position Statements, ALJ Decision, and Position Papers

MOTION: Dr. Gene Musser moved, seconded by Dr. Sandra Osborn, to delete the ALJ's decision regarding CRNAs. Motion carried unanimously.

MOTION: Dr. Gene Musser moved, seconded by Dr. Sandra Osborn, to delete the position statement on Physician's Duty: Information and Access to Emergency Contraception. Motion carried.

Dr. Gene Musser voted nay.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Timothy Westlake, to delete the position statement on Expedited Partner Therapy for Sexually Transmitted Diseases. Motion carried.

Dr. Gene Musser voted nay.

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Gene Musser, to retain the pain statement, with the intent to revisit in July, 2013. Motion carried unanimously.

FSMB MATTERS

Public Member Scholarship

MOTION: Dr. Rodney Erickson moved, seconded by Dr. Gene Musser, to authorize Mr. James Barr and/or Mr. Greg Collins to attend the 2013 annual FSMB Meeting in Boston. Motion carried unanimously.

SCREENING PANEL REPORT

Mr. Greg Collins reported nineteen (19) cases were closed. Thirteen (13) cases were opened.

CLOSED SESSION

MOTION: Dr. Sheldon Wasserman moved, seconded by Dr. Sridhar Vasudevan, to acknowledge that the Executive Director asked Board members if there was any objection to convening to closed session. Hearing no objections, the Board convened to closed session pursuant to Wisconsin State statutes 19.85(1)(a)(b)(f) and (g) for the purpose of conducting appearances, reviewing monitoring requests, requests for licensure, deliberate on stipulations, administrative warnings, proposed decisions and orders, consulting with Legal Counsel and Division of Legal Services and Compliance case status reports. The vote of each member was ascertained by voice vote. James Barr-yes; Jade Genereaux-yes; Sandra Osborn, MD-yes;

Greg Collins-yes; Timothy Westlake, MD-yes; Rodney Erickson, MD-yes; Suresh Misra, MD-yes; Timothy Swan, MD-yes; Kenneth Simons, MD-yes; Gene Musser, MD-yes; and Sheldon Wasserman, MD-yes. Motion carried unanimously.

The Board convened into Closed Session at 12:17 p.m.

SUMMARY SUSPENSION

Stephen Haughey, M.D. – 12 MED 388

MOTION: Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, that notice was given to Stephen Haughey, M.D. of the Summary Suspension proceedings pursuant to Wis. Admin. Code sec. SPS 6.05. Motion carried unanimously.

MOTION: Dr. Gene Musser moved, seconded by Mr. Greg Collins, that pursuant to 448.02(4) there is probable cause to believe that Dr. Haughey engaged in unprofessional conduct in violation of 448.02(3) as defined in Wis. Admin. Code MED 10.02 (2) (h), 10.02(2) (p) and Wis. Admin. Code 10.02 (2) (za). Motion carried unanimously.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Gene Musser, that pursuant to 448.02(4) there is probable cause to believe that it is necessary to suspend the license of Stephen Haughey, M.D. to practice medicine and surgery in the State of Wisconsin immediately to protect the public's health, safety, or welfare. Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Sandra Osborn, to Designate a Hearing Official for any Order to Show Cause Hearing in the matter of the Summary Suspension of the license of Stephen Haughey. Motion carried unanimously.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Suresh Misra, to find probable cause to believe that Stephen Haughey M.D. is guilty of unprofessional conduct and therefore issue the Complaint and hold a hearing on such conduct pursuant to Wis. Stat. sec. 448.02(3) (b). Motion carried unanimously.

Paul Strapon III, M.D. – 12 MED 440

MOTION: Dr. Sandra Osborn moved, seconded by Dr. Kenneth Simons, to find probable cause to believe that Paul Strapon III, M.D. is guilty of unprofessional conduct and therefore issue the Complaint and hold a hearing on such conduct pursuant to Wis. Stat. sec. 448.02(3) (b). Motion carried unanimously.

Ms. Jude Genereaux was absent during voting and deliberation in the matter of Paul Strapon III, M.D.

MOTION: Dr. Sandra Osborn moved, seconded by Dr. Kenneth Simons, to accept the stipulation and issue the Interim Decision and Order in case number 12 MED 440, Paul Strapon III, M.D. Motion carried unanimously.

Ms. Jude Genereaux was absent during voting and deliberation in the matter of Paul Strapon III, M.D.

MONITORING MATTERS

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Sandra Osborn, to grant the request of Christian Reikersdorfer, M.D. to terminate the mentor requirement and for terms/conditions to be deemed satisfied. Motion carried unanimously.

MOTION: Dr. Suresh Misra moved, seconded by Dr. Gene Musser, to deny the request of Kristen D. Peterson, M.D. for reduction in drug and alcohol screens.
Reason for Denial: Insufficient time under Board Order. Motion carried unanimously.

MOTION: Ms. Jude Genereaux moved, seconded by Dr. Sandra Osborn, to grant the request of John G. Schuetz, M.D. for removal of limitation/return to full licensure. Motion carried.

Dr. Suresh Misra and Dr. Sridhar Vasudevan voted nay.

MOTION: Dr. Timothy Westlake moved, seconded by Dr. Suresh Misra, to deny the request of Lawrence J. Williamson, M.D. for permission to apply for licensure after surrendering. **Reason for Denial:** Has not provided sufficient evidence that he can practice with reasonable skill and safety. Motion carried unanimously.

Ms. Jude Genereaux left the meeting at 1:56 p.m. and abstained from voting and deliberation in the matter of Lawrence J. Williamson, M.D.

DELIBERATION OF PROPOSED STIPULATIONS AND INTERIM DECISIONS AND ORDERS

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Gene Musser, to accept the stipulation and issue the Interim Decision and Order in case number 12 MED 388 – Carol Haughey, P.A. Motion carried unanimously.

DELIBERATION OF PROPOSED STIPULATIONS AND FINAL DECISIONS AND ORDERS

MOTION: Dr. Gene Musser moved, seconded by Dr. Suresh Misra, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Orders in the disciplinary proceedings against Charles D. Pratt, M.D. (12 MED 173.) Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Suresh Misra, to reject the Findings of Fact, Conclusions of Law, Final Decision and Orders in the disciplinary proceedings against Noemi A. Prieto, M.D. (12 MED 188.) The

Board remands the stipulation to the Division of Legal Services and Compliance for further action. Motion carried unanimously.

MOTION: Dr. Gene Musser moved, seconded by Dr. Suresh Misra, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Orders in the disciplinary proceedings against Erik Brekke, M.D. (12 MED 258.) Motion carried unanimously.

MOTION: Dr. Gene Musser moved, seconded by Dr. Kenneth Simons, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Orders in the disciplinary proceedings against Thomas A. Londergan, M.D. (12 MED 258.) Motion carried unanimously.

MOTION: Dr. Suresh Misra moved, seconded by Dr. Gene Musser, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Orders in the disciplinary proceedings against James J. Young, M.D. (12 MED 166.) Motion carried unanimously.

Dr. Timothy Swan recused himself from voting and deliberation in the matter of James J. Young, M.D.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Rodney Erickson, to reject the Findings of Fact, Conclusions of Law, Final Decision and Orders in the disciplinary proceedings against Dorothy Novak, M.D. (12 MED 303.) The Board remands the stipulation to the Division of Legal Services and Compliance for further action. Respondent must demonstrate current competence through successful completion of the emergency medicine oral examination, if eligible, or other equivalent. Motion carried.

Dr. Sridhar Vasudevan voted nay.

MOTION: Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Orders in the disciplinary proceedings against Victoria J. Mondloch, M.D. (09 MED 258 & 10 MED 363.) Motion carried unanimously.

DELIBERATION OF COMPLAINTS FOR DETERMINATION OF PROBABLE CAUSE

MOTION: Dr. Timothy Swan moved, seconded by Dr. Suresh Misra, to find probable cause to believe that Hanan Mahmoud Tosson, M.D. is guilty of unprofessional conduct and therefore issue the Complaint and hold a hearing on such conduct pursuant to Wis. Stat. sec. 448.02(3) (b). Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Gene Musser, to find probable cause to believe that Carla A. Johnson, D.O. is guilty of unprofessional conduct and therefore issue the Complaint and hold a hearing on such conduct pursuant to Wis. Stat. sec. 448.02(3) (b). Motion carried unanimously.

DELIBERATION OF ADMINISTRATIVE WARNINGS

MOTION: Dr. Timothy Swan moved, seconded by Dr. Kenneth Simons, to issue an administrative warning in the matter of case number 12 MED 076. Motion carried unanimously.

Dr. Timothy Westlake left the meeting at 3:04 a.m.

CASE CLOSINGS

MOTION: Dr. Gene Musser moved, seconded by Mr. Greg Collins, to close the case #12MED383 for No Violation (NV). Motion carried unanimously.

MOTION: Dr. Sandra Osborn moved, seconded by Dr. Kenneth Simons, to close the case #12MED112 for Prosecutorial Discretion (P7). Motion carried unanimously.

MOTION: Dr. Sandra Osborn moved, seconded by Mr. James Barr, to close the case #12MED295 for Prosecutorial Discretion (P2). Motion carried unanimously.

Dr. Kenneth Simons recused himself from deliberation and voting in the matter 12MED295

MOTION: Dr. Suresh Misra moved, seconded by Mr. James Barr, to close the case #12MED267 for No Violation (NV). Motion carried unanimously.

MOTION: Dr. Kenneth Simons moved, seconded by Dr. Sridhar Vasudevan, to table the case #12MED296 until the March meeting of the Medical Examining Board. Motion carried unanimously.

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Suresh Misra, to close the case #12MED363 for Prosecutorial Discretion (P1). Motion carried unanimously.

MOTION: Dr. Gene Musser moved, seconded by Dr. Kenneth Simons, to close the case #12MED324 for No Violation (NV). Motion carried unanimously.

MOTION: Dr. Suresh Misra moved, seconded by Dr. Timothy Swan, to close the case #12MED062 for Insufficient Evidence (IE). Motion carried unanimously.

Dr. Gene Musser recused himself from deliberation and voting in the matter 12MED062

RATIFY ALL LICENSES AND CERTIFICATES

MOTION: Dr. Gene Musser moved, seconded by Dr. Timothy Swan, to ratify all licenses and certificates as issued. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Dr. Timothy Swan moved, seconded by Mr. James Barr, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 3:20 p.m.

ADJOURNMENT

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Suresh Misra, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:20 p.m.

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**MEDICAL EXAMINING BOARD
TELECONFERENCE MEETING MINUTES
MARCH 5, 2013**

PRESENT: Mary Jo Capodice, DO; Sridhar Vasudevan, MD; Gene Musser, MD; Jude Genereaux; Russell Yale, MD; Greg Collins; Sheldon Wasserman, MD; Rodney Erickson, MD; Timothy Swan, MD; James Barr; Suresh Misra, MD (*arrived at 12:17 p.m.*)

ABSENT: Timothy Westlake, MD; Kenneth Simons, MD

STAFF: Tom Ryan, Executive Director; Matthew C. Niehaus, Bureau Assistant; Pamela Stach; Sandra Nowack; Jeff Weigand; other Department Staff

CALL TO ORDER

Dr. Sheldon Wasserman, Chair, called the meeting to order at 12:09 p.m. A quorum of 10 (ten) members was present.

ADOPTION OF AGENDA

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Timothy Swan, to adopt the agenda as published. Motion carried unanimously.

CLOSED SESSION

MOTION: Dr. Sheldon Wasserman moved, seconded by Dr. Suresh Misra, to convene to closed session. Hearing no objections, the Board convened to closed session pursuant to Wisconsin State statutes 19.85(1)(a)(b)(f) and (g) for the purpose of conducting appearances, reviewing monitoring requests, requests for licensure, deliberate on stipulations, administrative warnings, proposed decisions and orders, consulting with Legal Counsel and Division of Legal Services and Compliance case status reports. The vote of each member was ascertained by voice vote. James Barr-yes; Jade Genereaux-yes; Russell Yale, MD-yes; Greg Collins-yes; Timothy Westlake, MD-yes; Rodney Erickson, MD-yes; Timothy Swan, MD-yes; Gene Musser, MD-yes; and Sheldon Wasserman, MD-yes. Motion carried unanimously.

The Board convened into Closed Session at 12:17 p.m.

DELIBERATION OF PROPOSED STIPULATIONS AND FINAL DECISIONS AND ORDERS

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Gene Musser, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Orders in the matter of disciplinary proceedings against David Israelstam, M.D. (13 MED 023.) Motion carried unanimously.

MOTION: Dr. Timothy Swan moved, seconded by Mr. Greg Collins, to grant authority to Tom Ryan to sign the stipulation on the Board's behalf. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Dr. Gene Musser moved, seconded by Ms. Jude Genereaux, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 12:18 p.m.

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Gene Musser, to affirm all motions made in closed session. Motion carried unanimously.

ADJOURNMENT

MOTION: Dr. Sridhar Vasudevan moved, seconded by Dr. Suresh Misra, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:19 p.m.

**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: March 20, 2013	5) Attachments: x Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Board Photo for Newsletter	
7) Place Item in: x 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? Becky Fry, JSPS – 8:05 a.m.	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Becky Fry will appear to take a photograph of the Board for the Spring Newsletter.			
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:		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: March 20, 2013	5) Attachments: x Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Spring Newsletter Content Review	
7) Place Item in: x 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?	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Review and make any changes to the draft of the Chair's Corner letter and also the Discipline Summaries. Appoint a Board member to review the final newsletter for approval prior to publication.			
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

Chair's Corner

When I was first appointed to the Wisconsin Medical Examining Board in early 2009, one important item signaled a needed change -- the administrative rules governing unprofessional conduct. The regulations were last revised in 1976, and many of them did not cover more modern standards and developments within the practice of medicine.

So when I began my first term as Chair of the Board in January, 2012, I made it a high priority to update the professional conduct rules, which are located in Wis. Admin. Code MED Chapter 10, Unprofessional Conduct. Hundreds of hours of time were put in by Board members, both physicians and non physicians, as well as staff members of the Department of Safety and Professional Services (DSPS) to revise the rules. Several others were involved in the process. We even invited the Wisconsin Medical Society and the Wisconsin Hospital Association to the table from time to time as the Board discussed the policies underlying the rules and changes that would govern the future of our profession.

As I worked with DSPS staff, more questions arose about rules that were so outdated compared to the current practice of medicine, the specialization of care delivery, and evolving standards of decency. The rule simply has not kept pace with the rapid changes the profession has witnessed in recent times, with new diagnosis, care and treatment methods emerging almost daily. This proposed rule overhauls the present version of the rules, introduces new areas of oversight, deletes outdated language, and augments existing regulations.

The new version of the Unprofessional Conduct Chapter is divided into four sections: 1) Definitions; 2) Physician Dishonesty and Character; 3) Direct Patient Care Violations; 4) Law Violations, Adverse Action and Required Reports to the Board. In these four sections we bring the rule current with contemporary standards. Here are some of the highlights:

1. Clarification of definitions surrounding supervision by physicians, including adequate supervision and the various types, including: direct, immediate, one to one; direct, on premises; and general supervision;
2. Improved language relating to sexual misconduct, inappropriate prescribing, and reporting of criminal acts;
3. A provision that specifically addresses wrong site, wrong patient and wrong procedure surgery;
4. New guidance regarding negligent practice reports received by the Board;
5. Further clarification of patient abandonment;
6. More direction about informed consent; and
7. A means to address disruptive behavior.

The current rule draft can be located here: [INSERT LINK](#).

We are in the final stages of rolling out Wisconsin's new Chapter 10. Much of the groundwork has been laid. A public hearing took place on March 20, 2013 during the Medical Examining Board's monthly meeting. The Board plans to send the rule to the Governor and Legislature for

review and approval after the hearing. When the reviews are complete, the Board will consider the rule for final approval.

I am proud of the work the Board, Department staff, and all the major stakeholders have put into this project. Wisconsin has first rate physicians and we will soon have updated rules that reflect modern practice.

Sheldon A. Wasserman M.D.
Chair

August 2012

Edwin E. Ferguson, Jr., Physician, Delafield, WI

The Medical Examining Board reprimanded Dr. Edwin Ferguson and imposed a 60-day suspension on his license to practice medicine and surgery for the following conduct. In the summer of 2006, Dr. Ferguson became acquainted with Patient A, who had been diagnosed with inflammatory polyarthritis/reactive arthritis. Over the following three years, Dr. Ferguson prescribed Patient A opioids in an unusual and unjustified amount. He also prescribed benzodiazepines, corticosteroids, anti-inflammatories, antibiotics, sulfa medications and other medications. Dr. Ferguson did not keep patient health care records concerning his prescriptions for Patient A. Dr. Ferguson reports that he saw Patient A at least monthly at Patient A's home and that on those occasions he took Patient A's blood pressure and performed an appropriate focused examination. Dr. Ferguson did not keep any patient health care records of those encounters. During the same time period Dr. Ferguson took guitar lessons from Patient A, co-signed a loan for Patient A, and loaned Patient A money. The Board's limitation required Dr. Ferguson to complete a class on professional boundaries and he may not order, prescribe, dispense or administer any controlled substance until he has completed a course on appropriate prescribing of controlled substances. The course must be approved by the Board.

Dated: August 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001967-00007672.pdf>

Gope Hotchandani, Physician, Green Bay, WI

The Medical Examining Board reprimanded Dr. Gope Hotchandani for conduct which fell below the minimum standards in the medical profession when he failed to properly perform facial hair removal by laser procedure on a patient with Fitzpatrick VI skin type resulting in the unacceptable risk of burns to the patient's face on the right side. The Board also limited Dr. Hotchandani's license by restricting him from performing any laser hair removal on persons with Fitzpatrick VI skin type.

August 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001966-00007671.pdf>

Mark E. Mc Dade, Physician, Janesville, WI

The Medical Examining Board reprimanded Dr. Mark E. Mc Dade for his care of a patient presenting with a hernia repair. On June 19, 2008, the patient arrived for surgery as she was recovering from a sinus infection. Dr. Mc Dade wrote in the record that the patient's head, ears, eyes, nose and throat were within normal limits. Dr. Mc Dade performed an incisional hernia repair with mesh as a day surgery. During the course of the patient's recovery the mesh became infected. Dr. Mc Dade removed the mesh. The Board found that moving forward with an elective surgery when the patient had an active infection in her body fell below the minimum

standard within the profession; and that Dr. Mc Dade should have known that there was an infection, and that it would increase the risk of infection in and around the mesh.

August 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001971-00007676.pdf>

Eileen M. Reardon, Physician, Oakdale, MN

The Medical Examining Board reprimanded Dr. Eileen M. Reardon for care she gave to Patient A and Patient B during their pregnancies. Specifically, Patient A, a 25 year-old obese female with a history of gestational diabetes presented to Dr. Reardon at 12 weeks gestation for her first obstetrics and lab exam. Patient A had a history of large babies resulting in difficult deliveries with severe shoulder dystocia. Dr. Reardon failed to perform an amniocentesis on Patient A at anytime during the pregnancy and failed to document that an amniocentesis had been attempted but failed. Dr. Reardon performed an elective cesarean section prior to term of 37 weeks in a patient with a history of diabetes. Dr. Reardon performed a colposcopy examination and biopsy on Patient B, a 29 year-old female. The biopsy showed a high grade dysplasia squamous intraepithelial lesion in the cervical region. A cesarean section was used to deliver the baby. The Board found that Dr. Reardon failed to monitor Patient B's cervical lesion during her pregnancy and should have evaluated it every trimester and performed repeat colposcopies. The Board also found Dr. Reardon failed to document adequate justification for doing an elective cesarean section.

August 15, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0001968-00007673.pdf>

September 2012

Amjad Butt, Physician, Haverton, PA

The Medical Examining Board reprimanded Dr. Amjad Butt for having an adverse action taken against his license to practice medicine and surgery by the Iowa Board of Medicine. On July 7, 2011, the Iowa Board held a hearing and concluded that Dr. Butt had engaged in unprofessional conduct and sexual harassment in the practice of medicine. On August 25, 2011, the Iowa Board issued a Findings of Fact, Conclusions of Law, Final Decision and Order. The Wisconsin Medical Examining Board also imposed limitations on Dr. Butt's license, requiring him to maintain compliance with all terms and conditions imposed by the Iowa Board, and if Dr. Butt ever applies for licensure in Wisconsin he must provide proof that he is in compliance with the Iowa Board's Order. The Wisconsin Medical Examining Board imposed this discipline as a default judgment due to Dr. Butt's failure to answer the underlying complaint, failure to provide a telephone number where he could be reached for the telephonic pre-hearing conference, and failure to appear at the prehearing conference.

September 19, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002062-00007804.pdf>

Rodrigo A. Castillo, Physician, Janesville, WI

The Medical Examining Board reprimanded Dr. Castillo for prescribing Duragesic patches to his patient from approximately July 2002 until October 2006 without seeing the patient for evaluation of her medical condition or determining the continuing need of the medication.

During that same time period, Dr. Castillo requested that his patient come see him but she told him she could not miss work. The Board recognized Dr. Castillo's 22 hours of education in the area of pain management.

September 19, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002059-00007801.pdf>

Bruce K. Jacobson, Physician, Rhinelander, WI

The Medical Examining Board accepted the voluntary surrender of Dr. Bruce K. Jacobson's license to practice medicine and surgery in Wisconsin as a result of his conviction for possessing child pornography.

September 19, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002056-00007798.pdf>

Paul E. Mannino, Physician, WI Clinton, WI

The Medical Examining Board reprimanded Dr. Paul E. Mannino for conduct that fell below the standard of care while treating two of his patients. With both patients, Dr. Mannino's physical examinations conducted were insufficient in that they did not support his diagnosis of each patient or justify an increase in pain medications prescribed to each patient. Dr. Mannino failed to obtain both patients' medical records and he failed to require that both patients receive pain medication from one medical provider and fill their prescriptions at one pharmacy. The Board recognized Dr. Mannino's completion of 7.25 continuing education credits in initiating, documenting, monitoring, and discontinuing opioid therapy.

September 19, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002052-00007794.pdf>

Behram Pastakia, Physician, Bethesda, MD

The Medical Examining Board reprimanded Dr. Behram Pastakia for failing to identify a retained sponge in his patient's left abdomen and a significant abscess in the bowel. By failing

to recognize the presence of the retained sponge and the bowel abscess, Dr. Pastakia exposed the patient to the risk that the patient's condition would not be diagnosed and treated in a timely manner. The Board also imposed a limitation on Dr. Pastakia's license by requiring him to complete continuing education in CT interpretation and radiographic interpretation.

September 19, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002058-00007800.pdf>

Roger A. Pellmann, Physician, Morgantown, WV

The Medical Examining Board indefinitely suspended the license of Dr. Roger A. Pellman to practice medicine and surgery. Dr. Pellman was convicted in federal court of ten counts of possession with intent to distribute and distributing fentanyl outside his medical practice and not for a legitimate purpose in violation of 21 U.S.C. § 841 (a)(1) and six counts of knowingly obtaining morphine sulfate by misrepresentation, fraud and deception in violation of 21 U.S.C. §843 (1)(3).

September 19, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002065-00007807.pdf>

Donald Eugene Riemer, Physician, Eau Claire, WI

The Medical Examining Board reprimanded Dr. Eugene Reimer for repeatedly prescribing controlled substances over several months for chronic conditions without adequate medical histories or physical examinations to persons he should have known were not legitimate patients. Dr. Reimer also inappropriately self-prescribed or issued prescriptions to obtain a supply for general office dispensing of zolpidem. This occurred approximately between the dates of May 2010 until January 2011. The Board imposed several limitations on Dr. Riemer's license including but not limited to a neuropsychological evaluation, completion of courses in boundaries, making and keeping health records and professional ethics. The Board also imposed a permanent limitation on Dr. Riemer's license in that he may not prescribe, dispense, administer, or order any controlled substances.

September 19, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002060-00007802.pdf>

Anatol Stankevych, Physician, Green Bay, WI

The Medical Examining Board reprimanded Dr. Anatol Stankevych for his treatment of two patients. With regards to Patient A, Dr. Stankevych failed to perform and document an adequate physical examination of either of Patient A's eyes via gonioscopy, he failed to adequately describe the lens and cataract in Patient A's eye and he failed to perform visual field tests on more than one occasion. With regard to Patient B, Dr. Stankevych performed a phacomeulsification procedure and a trabeculectomy procedure which was not indicated based

on the patient's intraocular pressures, visual field tests and cup to disc ratios. The Board also imposed limitations requiring Dr. Stankevych to refrain from performing surgical procedures due to his hand injury until the Board grants permission and he may not apply any of the continuing education hours he completed to satisfy the biennial training CE requirement.

September 19, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002054-00007796.pdf>

Chinelo S. Ude, Physician, Andover, MN

The Medical Examining Board imposed an indefinite suspension on Dr. Chinelo S. Ude's license to practice medicine and surgery for the following conduct. On September 10, 2011 the Minnesota Board of Medical Practice suspended Dr. Ude's license to practice medicine and surgery in the state of Minnesota until she complied with the Order for Metal and Physical Examination dated August 22, 2011 and demonstrated the ability to resume the competent practice of medicine with reasonable skill and safety to patients. The Board imposed the discipline as a default judgment due to Dr. Ude's failure to answer the complaint, failure to provide a telephone number where she could be reached for the telephone pre-hearing conference, and failure to appear at the prehearing conference.

September 19, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002064-00007806.pdf>

October 2012

Stephanie Boyer

The Medical Examining Board reprimanded Dr. Stephanie Boyer for failing to identify that her patient needed a slip lamp examination and an intraocular pressure after the patient presented with symptoms of angle closure glaucoma. By failing to properly identify the patient's condition, Dr. Boyer created the risk that the patient's condition would not be properly diagnosed and treated in a timely manner thereby creating the additional risk of partial or total permanent vision loss.

October 17, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002092-00007858.pdf>

Thomas H. Kowalski, Physician, Greendale WI

The Medical Examining Board accepted the voluntary surrender of Dr. Thomas H. Kowalski's license to practice medicine and surgery due to the following conduct. On or about 2005, Dr. Kowalski admitted that during the 1970's he had sexual contact with his adolescent patient. In a separate incident, which occurred in approximately 1987, Dr. Kowalski was suspended from his

position as a volunteer camp doctor by the Milwaukee County Council of the Boy Scouts of America for masturbating while fondling the genitals of two junior staff members. The Board further limited Dr. Kowalski's license in that he is indefinitely restricted from applying for any credential in Wisconsin.

October 30, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002111-00007897.pdf>

Evan K. Saunders

The Medical Examining Board accepted the voluntary surrender of Evan K. Saunders' license to practice medicine and surgery following his conviction of four counts of fourth-degree sexual assault and four counts of disorderly conduct in Milwaukee County Case Number 2011CM005751.

October 17, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0000856-00007861.pdf>

November 2012

Donald R. Beaver, Physician, Wauwatosa WI

The Medical Examining Board reprimanded Dr. Donald R. Beaver, for conduct which fell below the minimum standards for the profession. While treating patients A, B, C and D, during a time period from July 2010 up to and including March 2012, Dr. Beaver failed to conduct or document physical examinations to support the diagnoses given to each of the patients and failed to justify the medication prescribed. The Board also imposed a limitation on Dr. Beaver's license. He is prohibited from prescribing, dispensing, administering, or ordering controlled substances in any schedule; and he must take and complete a multi-day education program addressing controlled substances management.

Dated: November 14, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002140-00007954.pdf>

George P. Boyum, Physician, Stillwater, MN

The Medical Examining Board reprimanded Dr. George P. Boyum for being disciplined by the Minnesota Board of Medical Practice. The Minnesota Board disciplined Dr. Boyum after he admitted that between January 2009 and September 2010, he authorized a series of prescriptions for family members and himself. Dr. Boyum also admitted that he failed to refer family members to other treatment providers for specialized care, failed to provide adequate monitoring, and to document the prescriptions in a clinic record. The Board also concluded that Dr. Boyum's acts constituted a danger to the health, welfare, or safety of his patients and that he failed to maintain

patient health care records in accordance with Wis. Admin Code Chapter Med 21. The Board further limited Dr. Boyum's license in that he must comply with the terms of the Minnesota Board Order.

Dated: November 14, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002144-00007959.pdf>

Mark Fantauzzi, Physician, Circleville, OH

The Medical Examining Board revoked Dr. Mark Fantauzzi's license to practice medicine and surgery for being disciplined by the State Medical Board of Ohio. The Ohio Board revoked Dr. Fantauzzi's license for making a false statement to the Ohio State Board of Pharmacy on his application for registration as a Distributor of Dangerous Drugs. The United States Department of Justice, Drug Enforcement Administration (DEA) subsequently issued an Order to Show Cause and Immediate Suspension of Registration as a practitioner in Schedule II-V based on allegations concerning Dr. Fantauzzi raised by the Ohio Board of Pharmacy. On September 14, 2011, Dr. Fantauzzi voluntarily surrendered his DEA controlled substances privileges. On October 11, 2011, Dr. Fantauzzi entered into an agreement to surrender his license to practice osteopathic medicine and surgery in Ohio with a consent to revocation.

Dated: November 14, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002138-00007952.pdf>

John M. Hale, Physician, Green Bay, WI

The Medical Examining Board indefinitely suspended the license of Dr. John M. Hale which may be stayed after 90 days as long as certain conditions are met. The Board suspended Dr. Hale's license for admitting that he had smoked marijuana and ingested morphine, which was obtained from a supply of medications that was intended for a medical missions trip to Haiti. By obtaining a controlled substance other than in the course of legitimate professional practice, Dr. Hale has committed unprofessional conduct. The Board may grant a stay of the suspension provided Dr. Hale is in compliance with certain conditions including but not limited to the following: entering into a drug and alcohol treatment program; attending alcoholic and narcotic anonymous meetings; and submitting to urinalysis screens as well as a neuropsychological examination.

Dated: November 14, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002143-00007957.pdf>

Gerhard K. Kraske, Physician, Middleton, WI

The Medical Examining Board reprimanded Dr. Gerhard K. Kraske for being disciplined by the Virginia Board of Medicine. The Virginia Board disciplined Dr. Kraske for failing to obtain a

comprehensive patient history, failing to obtain treatment records from prior physicians before prescribing Tazodone for insomnia and Prozac for anxiety and depression. Dr. Kraske also failed to perform a physical exam, evaluation or assessment and failed to obtain prior records for the patient's shoulder pain prior to prescribing Dilaudid and continued to prescribe Dilaudid in varying strengths for approximately eight months without an examination and without monitoring his patient's pain levels or the medication as prescribed. The Board also imposed a limitation. Dr. Kraske must complete a minimum of 12 hours of education on the topic of appropriate prescribing within 9 months of the date of the Board's Order.

Dated: November 14, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002141-00007955.pdf>

Kevin D. Krembs, Physician, Munster, IN

The Medical Examining Board reprimanded Dr. Kevin Krembs for being disciplined by the Licensing Board of Indiana. The Indiana Board disciplined Dr. Krembs for prescribing medications to patients without a physical examination. During 2007, Dr. Krembs worked for a variety of telemedicine companies. While employed with these companies, Dr. Krembs wrote prescriptions for patients based on a review of medical files and phone conversations with patients and no physical examinations. Dr. Krembs voluntarily discontinued the unprofessional conduct.

Dated: November 14, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002142-00007956.pdf>

Richard M. Roach, Physician, Minocqua, WI

The Medical Examining Board reprimanded Dr. Roach for conduct which tended to constitute a danger to the health, welfare, and safety of his patient. In September of 2009 Patient A presented to Dr. Roach for consultation in regard to her bilateral hydronephrosis. Dr. Roach thoroughly explained complications of the surgical procedure. However, Dr. Roach did not obtain or document obtaining informed consent from Patient A regarding the use of contrast dye even though it was noted in Patient A's allergies and alerts. In October of 2009, Patient A presented to Dr. Roach for surgery. During the procedure Dr. Roach used contrast dye for the high-pressure balloon dilation. During the procedure, Patient A experienced anaphylactic reaction secondary to extravasated contrast at the high-pressure balloon dilated UPJ stricture site. The Board imposed an education limitation requiring Dr. Roach to take 2 hours of medical education on management of allergic reactions and anaphylactic shock within 4 months of the Board's Order.

Dated: November 14, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002146-00007961.pdf>

Edward J. Rosenthal, Physician, Glendale, WI

The Medical Examining Board reprimanded and imposed a limitation on Dr. Rosenthal based on the following conduct. From approximately March of 2009 until approximately June of 2010, Dr. Rosenthal treated his patient for a gross hematuria. On or about May of 2009, Dr. Rosenthal performed a cystoscopy on his patient and followed up with his patient on several occasions closely monitoring his patient's PSA levels. However, he failed to conduct a digital rectal exam or other diagnostics during this time. Dr. Rosenthal also failed to inform his patient of the availability of all alternative, viable medical modes of treatment and about the benefits and risks of the treatment. Lastly, Dr. Rosenthal failed to respond to the Board's request for information. The Board imposed a continuing education limitation requiring 4 hours in appropriate monitoring and evaluation including further diagnostics, after increase in free PSA levels and 2 hours of education in informed consent.

Dated: November 14, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002145-00007960.pdf>

Alan C. Schold, Physician, Glendale, AZ

The Medical Examining Board reprimanded Dr. Alan C. Schold for being disciplined by the Commonwealth of Kentucky Examining Board of Medical Licensure. Dr. Schold and the Kentucky Board entered into an Agreed Order of Indefinite Restriction limiting his license for inappropriate prescribing practices while working for Central Kentucky Bariatric and Pain Management. The Board imposed the following limitations: he may practice medicine in the specialty of anesthesiology in a perioperative practice environment only; he may only dispense or otherwise professionally utilize controlled substances on patients undergoing surgical or diagnostic procedures; he must maintain compliance with the requirements of the Kentucky Order; and he must provide the Board with any documents issued by the Kentucky Board.

Dated: November 14, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002137-00007951.pdf>

David A. Van De Loo, Physician, Eau Claire, WI

The Medical Examining Board issued an interim order suspending Dr. Van De Loo's license to practice medicine and surgery while the Board continues to investigate allegations that on or about August 30, 2012, Dr. Van De Loo inappropriately touched his 16-year-old patient's genitals while conducting a physical examination. The Board has not made a final determination as to the validity of the above allegations. The suspension shall remain in effect until the Board issues a Final Decision and Order.

Dated: November 14, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002093-00007958.pdf>

December 2012

Floyd O. Anderson, Physician, Golden Valley, MN

The Medical Examining Board indefinitely suspended the license to practice medicine and surgery of Dr. Floyd Anderson for having his license to practice medicine and surgery suspended by the Minnesota Board of Medical Practice. The Minnesota Board took action against Dr. Floyd's license due to his repeated arrests related to driving under the influence of alcohol and marihuana and his initial refusal to participate in a voluntary monitoring program. The Board stayed the indefinite suspension and imposed the limitation that Dr. Floyd must remain in compliance with the Minnesota Board Order.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002202-00008037.pdf>

Sean M. Cashin, Physician, Wisconsin Rapids, WI

The Medical Examining Board reprimanded Dr. Cashin's license for conduct which fell below the minimum standards of competence within the profession. During a laparoscopic cholecystectomy for acute acaculous cholecystitis Dr. Cashin failed to properly identify the cystic duct consequently leaving part of the gall bladder in his patient. The patient continuously complained of pain after the surgery but Dr. Cashin did not order a HIDA scan or ultrasound in order to identify the source of the pain in a timely manner. The Board also imposed a limitation requiring Dr. Cashin to complete 4 hours of education on laproscopic gallbladder surgery.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002205-00008040.pdf>

Susan J. Carson, Physician, Madison, WI

The Medical Examining Board reprimanded Dr. Susan Carson for providing work excuse notes to patients without adequately documenting the interactions in a health care record that would meet the requirements of Wis. Admin. Code § Med 21.03. The Board limited Dr. Carson's license by requiring her to complete 4 hours of education in medical recordkeeping.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002200-00008035.pdf>

Jennifer Y. Edgoose, Physician, Madison, WI

The Medical Examining Board reprimanded Dr. Jennifer Edgoose for providing work excuse notes to patients without adequately documenting the interaction in a health care record that

would meet the requirements of Wis. Admin. Code § Med 21.03. The Board limited Dr. Edgoose's license by requiring her to complete 4 hours of education in medical record keeping.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002199-00008034.pdf>

Tilok Ghose, Physician, Eden Prairie, MN

The Medical Examining Board reprimanded Dr. Tilok Ghose for having his license to practice medicine and surgery conditioned and restricted by the Minnesota Board of Medical practice. The Minnesota Board's action was based, in part, on Dr. Ghose's failure to appropriately diagnose compartment syndrome and to perform orthopedic surgery in an emergent manner on his patient.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002195-00008030.pdf>

Peter S. Jerome, Physician, Frisco, TX

The Medical Examining Board reprimanded Dr. Peter Jerome due to an adverse action taken against his license to practice medicine and surgery in Texas. The Texas Medical Board took an adverse action against Dr. Jerome's license based on a submission of a false or misleading statement on his license application. The Texas Medical Board took an adverse action against Dr. Jerome's license due to a submission of a false or misleading statement on his license application. On or about July 5, 2012 Dr. Jerome applied for Texas licensure. At that time he failed to report that between 2003 and 2007, his clinical privileges had been suspended four times at two different hospitals due to delinquent medical records

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002207-00008042.pdf>

Gloria Lopez, Physician, Orlando, FL

The Medical Examining Board accepted the voluntary surrender of Dr. Lopez's license to practice medicine and surgery. The Board based its action on the Minnesota Board of Medical Practice indefinitely suspending Dr. Lopez's license to practice medicine and surgery in that state. Dr. Lopez may not reapply for licensure to practice medicine and surgery in Wisconsin at any time in the future and the Department of Safety and Professional Services will not process any future application for renewal of her license.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002206-00008041.pdf>

Michael C. Macatol, Physician, Marietta, OH

The Medical Examining Board imposed an indefinite suspension of Dr. Macatol's license to practice medicine and surgery in Wisconsin due to the Kentucky Board of Medical Licensure issuing a default of revocation against his medical license in Kentucky. The Kentucky Board issued its order due to Dr. Macatol reporting to work under the influence of alcohol with a blood level of .13%. As a result of the Kentucky Order, Dr. Macatol also entered into a consent order with the Medical Board of Ohio which provided for monitored treatment. The Board's indefinite suspension is stayed provided Dr. Macatol remains in compliance with the Ohio Board's consent order.

Dated December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002204-00008039.pdf>

Laurel B. Mark, Physician, Madison, WI

The Medical Examining Board reprimanded Dr. Laurel Mark for providing work excuse notes to patients without adequately documenting the interaction in a health care record that would meet the requirements of Wis. Admin. Code § Med 21.03. The Board limited Dr. Mark's license by requiring her to complete 4 hours of education in medical record keeping.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002211-00008046.pdf>

Heath J. Meyer, Physician, Minocqua, WI

The Medical Examining Board indefinitely suspended Dr. Heath Myer's license to practice medicine and surgery due to forging prescriptions for schedule III controlled substances under another provider's name from approximately February 2011 through December 2011 and January 2012 through June 2012. The Board stayed the suspension provided Dr. Meyer complies with certain conditions of the Board's order including but not limited to individual or group therapy sessions as determined by his therapist, attendance in AA/NA meetings, and drug and alcohol screens.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002196-00008031.pdf>

Dipesh Navsaria, Physician, Madison, WI

The Medical Examining Board reprimanded Dr. Dipesh Navsaria for providing work excuse notes to patients without adequately documenting the interaction in a health care record that

would meet the requirements of Wis. Admin. Code § Med 21.03. The Board limited Dr. Navsaria's license by requiring him to complete 4 hours of education in medical record keeping.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002210-00008045.pdf>

Sami A. Roumani, Physician, Milwaukee, WI

The Medical Examining Board reprimanded Dr. Sami Roumani for his conduct during the care of his patient's pregnancy. Over the course of several prenatal visits Dr. Roumani failed to properly advise his patient of the risk caused by high blood pressure during pregnancy. At one visit the patient's blood pressure was 158/120. Dr. Roumani charted the possibility of pre-eclampsia. However the chart did not reflect whether the patient had been advised about the risk of death. The Board also imposed a limitation requiring Dr. Roumani to complete 6 hours of category I continuing medical education in recognizing and managing preeclampsia and obstetrical emergencies.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002197-00008032.pdf>

Hans P. Schlecht, Physician, Fond du lac, WI

The Medical Examining Board reprimanded Dr. Hans P. Schlect for the following conduct. From approximately 2009 to 2010 Dr. Schlect dispensed clonazepam to his wife, a schedule IV controlled substance, without keeping a proper medical record. Dr. Schlecht represents that the clonazepam was prescribed to his wife by her authorized prescriber. However, a review of his wife's medical record revealed no prescription was documented after 2001.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002198-00008033.pdf>

Richard G. Schmelzer, Physician, Madison, WI

The Medical Examining Board reprimanded Dr. Richard Schmelzer for providing work excuse notes to individuals without an adequate examination. The Board limited Dr. Schmelzer's license by requiring him to complete a 1 hour face-to-face ethics consultation with an expert in the area of medical ethics.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002209-00008044.pdf>

Melissa M. Stiles, Physician, Madison, WI

The Medical Examining Board reprimanded Dr. Melissa Stiles for providing work excuse notes to patients without adequately documenting the interaction in a health care record that would meet the requirements of Wis. Admin. Code § Med 21.03. The Board limited Dr. Stiles' license by requiring her to complete 4 hours of education in medical record keeping.

Dated: December 12, 2012

<http://online.drl.wi.gov/decisions/2012/ORDER0002201-00008036.pdf>

January 2013

Paul K. Awa, Physician, Inglis, FL

The Medical Examining Board reprimanded Dr. Paul Awa for being disciplined by the State of Florida Board of Medicine. The Florida Board of Medicine issued a Final Order adopting the Settlement agreement due to allegations concerning deficiencies in Dr. Awa's care of a patient.

Dated: January 16, 2013

<http://online.drl.wi.gov/decisions/2013/ORDER0002257-00008126.pdf>

Stephen R. Kreuser, Physician, Washburn, WI

The Medical Examining Board reprimanded Dr. Kreuser for treatment of his patient from approximately June of 2010 until October of 2010. Dr. Kreuser treated his patient for stable chronic renal insufficiency, atrial fibrillation hypertension, hypothyroidism, and pneumonia. During the course of treatment, Dr. Kreuser's care fell below the standards in the profession when he charted notes that were illegible, failed to chart vital signs, inadequately charted basis for continuing diagnosis of pneumonia, ordered excessive x-rays and failed to closely monitor INR after new medications were prescribed. The Board limited Dr. Kreuser's license by requiring him to pass the SPEX exam and undergo an assessment to evaluate his current ability to practice.

Date: January 16, 2013

<http://online.drl.wi.gov/decisions/2013/ORDER0002255-00008124.pdf>

Edward J. Muellerleile, Physician, Waukesha, WI

The Medical Examining Board indefinitely suspended Dr. Edward J. Muellerleile's license to practice medicine and surgery. The Board found that Dr. Muellerleile practiced medicine while suffering from alcohol and cannabis dependence and without being in treatment. Dr. Muellerleile may ask the Board to impose a stay of the suspension as long as he is in compliance with the Board's conditions.

Date: January 16, 2013

<https://online.drl.wi.gov/decisions/2013/ORDER0002256-00008125.pdf>

February 2013

Eric Brekke, Physician, La Crosse, WI

The Medical Examining Board reprimanded Dr. Eric Brekke for the following conduct. Dr. Brekke saw his patient in the emergency room in July of 2007. The patient was complaining of abdominal pain for six days. The patient was admitted with a diagnosis of subacute appendicitis. Dr. Brekke ordered a CT scan of the abdomen and pelvis. The abdominal CT revealed an incidental finding of a left renal mass. In April of 2011 the patient was admitted to the hospital again complaining of lower back pain and he was diagnosed with metastatic clear cell carcinoma of the kidney. The Board reprimanded Dr. Brekke for failing to timely diagnose and treat the renal mass in his patient as early as June of 2007.

Dated: February 20, 2013

<http://online.drl.wi.gov/decisions/2013/ORDER0002306-00008239.pdf>

Thomas A. Londergan, Physician, La Crosse, WI

The Medical Examining Board reprimanded Dr. Thomas Londergan for failing to timely diagnose and treat a renal mass found in his patient as early as 2008. In April of 2008 the patient presented to Dr. Londergan with pain on his left side and a hematuria. A CT scan of the patient's abdomen and pelvis of the patient was performed. The radiologist report indicated a 4.8cm left renal mass and blood in the left renal pelvis. Without reviewing the radiology report, Dr. Londergan sent the patient home with a prescription of Potassium Citrate suspecting the patient had a left kidney stone. After reviewing the radiology report on the next day Dr. Londergan added Allopuinol in addition to the Potassium Citrate and ordered a one month follow up with the patient. Dr. Londergran did not discuss at any time in 2008 the renal mass indicated in the radiology report. In April 2011, the patient was admitted to the hospital for lower back pain. At that time the kidney tumor was identified and the patient was diagnosed with metastatic clear cell carcinoma of the kidney.

Dated: February 20, 2013

<http://online.drl.wi.gov/decisions/2013/ORDER0002305-00008238.pdf>

Victoria Mondloch, Physician, Waukesha, WI

The Medical Examining Board reprimanded Dr. Victoria Mondloch for her obstetrical and gynecological surgical treatment of five of her patients. The treatment included failure to properly and timely evaluate a patient for a possible ectopic pregnancy, failure to properly diagnose a patient's condition as a molar pregnancy, failure to properly diagnose a patient with

polycystic Ovary Syndrome (PCOS) and performing an ovarian drilling for treatment of metabolic abnormalities caused by PCOS or hormone imbalance when such treatment is not indicated by those conditions. The Board limited Dr. Mondloch's license to practice medicine and surgery by restricting her from practicing obstetrics, she must refer all patients that are pregnant to another obstetrician, she must refer all patients with abnormal bleeding or cramping where there's a possible pregnancy of any type including but not limited to uterine, ectopic, or molar, she must not perform any surgical or gynecological procedure on any patient with the exception of pelvic examinations and pap smears, she must transfer all patients requiring all other gynecological procedures to another gynecologist, and she may not perform ultrasounds.

Dated: February 20, 2013

<http://online.drl.wi.gov/decisions/2013/ORDER0002309-00008242.pdf>

Charles D. Pratt, Physician, Bayside, WI

The Medical Examining Board reprimanded Dr. Charles Pratt for treatment of his patient during an emergency room visit. The patient presented with shortness of breath and difficulty speaking. When Dr. Pratt evaluated the patient he noted that there were no focal neurological deficits and that the patient had normal sensory, motor, speech and coordination. His impression was dyspnea. The patient was treated for dyspnea. When Dr. Pratt reevaluated the patient he noticed a right facial droop and tongue protrusion. He also noted pronounced right arm and leg ataxia and weakness. At that time Dr. Pratt diagnosed that the patient had a stroke and a CT scan was performed. The Board found that Dr. Pratt failed to timely diagnose a stroke. The Board limited Dr. Pratt's license to practice medicine and surgery by requiring him to complete 4 hours of medical education on the topic of diagnosis and management of strokes.

Dated February 20, 2013

<http://online.drl.wi.gov/decisions/2013/ORDER0002304-00008237.pdf>

James J. Young, Physician, Weston, WI

The Medical Examining Board reprimanded Dr. James J. Young due to his failure to conduct a competent examination and evaluation of his patient and failure to detect necrotic tissue resulting in his failure to properly diagnose the patient's condition. The patient presented to Dr. Young complaining of persistent sinusitis. Her blood pressure was 180/100, pulse 135, temperature 98.9. No respiratory rate was charted. After Dr. Young's examination, the patient was given moxifloxacin and prescriptions for prednisone and hydrocodone. The patient was later seen by another health care practitioner who diagnosed the patient with severe metabolic acidosis from diabetic ketoacidosis, maxillary sinusitis, and acute necrotizing ulcerative gingivostomatitis. The patient was admitted to an intensive care unit where she recovered.

Dated: February 20, 2013

<http://online.drl.wi.gov/decisions/2013/ORDER0002307-00008240.pdf>

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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: March 20, 2013	5) Attachments: x Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Budget Report	
7) Place Item in: x 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? Yes, Department Budget Director Bea Beasley	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Department Budget Director Bea Beasley will appear before the Board to deliver a budget report.			
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: Sheldon Wasserman		2) Date When Request Submitted: <div style="border: 1px solid black; padding: 2px;"> 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 </div>	
3) Name of Board, Committee, Council, Sections: Medical Examining Board			
4) Meeting Date: March 20, 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Consideration of Board Mini-Retreat - May 15, 2013	
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?	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Consider May 15 as the date for a Board mini-retreat, to be held at the Department after the full Board meeting.			
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

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		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: March 20, 2013	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Review April Screening and Examination Assignments	
7) Place Item in: x 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?	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Review April screening panel and examiner assignments.			
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:		2) Date When Request Submitted:	
		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: March 20, 2013	5) Attachments: x Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? FSMB House of Delegates Meeting Resolutions	
7) Place Item in: x 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?	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Review, discuss and consider providing guidance to the Board's FSMB voting delegate.			
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

Resolution 13-1

Federation of State Medical Boards
House of Delegates Meeting
April 20, 2013

Subject: Working with Hospitals to Encourage Quality Improvement
Introduced by: Michigan Board of Medicine
Approved: January 2013

- Whereas,* It is well known that quality improvement programs are more successful than other methods of bringing about change and improvement in professional practice; and
- Whereas,* Most physicians now work within or are affiliated with a medical care delivery system; and
- Whereas,* Quality improvement programs require cooperation by physicians, administrators and other medical care team members within any medical care system; and
- Whereas,* At present, medical boards are unable to communicate or work in mutually beneficial ways with health care delivery systems, such as hospitals or provider organizations, or to gain their assistance in looking into potential system-related problems identified through the board's investigative and disciplinary processes because of barriers, both perceived and real; and
- Whereas,* Medical boards in the course of their investigative and disciplinary work directed at individual physicians nevertheless often identify areas of possible health care system weakness; and
- Whereas,* It could be of great benefit for hospitals and health care provider organizations to identify areas in which they could improve delivery of care while at the same time helping individual physicians to improve their practices; and
- Whereas,* Being able to do this would further the mission of the medical boards to protect the public;

Therefore, be it hereby

Resolution 13-1

Resolved,

That the FSMB should study the barriers that exist at the state level that prevent state medical boards from communicating with hospitals and medical care provider organizations in ways that could potentially improve the quality of care through quality improvement programs carried out by hospitals and medical care provider organizations, and make recommendations as to how these barriers can be overcome; and be it further

Resolved,

That the FSMB investigate ways in which medical boards can incorporate quality improvement principles into disciplinary actions when appropriate to do so, as part of their mission to protect the public and improve patient care.

**Federation of State Medical Boards
House of Delegates Meeting
April 20, 2013**

Subject: Setting Higher Standards for Unrestricted Medical Licensure
Introduced by: Michigan Board of Medicine
Approved: January 2013

- Whereas,* The present requirement for granting an unrestricted license to practice medicine in all but two states with only one or two years of postgraduate training after graduation from medical school; and
- Whereas,* This minimal requirement for postgraduate education and training is antiquated, dating back decades to a time when there were limited postgraduate training opportunities and few specialists, and most physicians were expected to become general practitioners; and
- Whereas,* Medical practice in the United States has moved increasingly to a multispecialty model that includes primary care specialties; and
- Whereas,* Hospitals, health systems and provider groups are applying more stringent standards and criteria to the credentialing of physicians; and
- Whereas,* There are no longer beneficial medical practice roles for physicians that have not successfully completed an ACGME-approved postgraduate training program that confers eligibility for certification by a specialty board recognized by the American Board of Medical Specialties (ABMS), and
- Whereas,* Physicians who have achieved a higher level of education and training will improve quality of patient care; and
- Whereas,* Concerns have been raised that a requirement such as this would reduce access to medical care, rural and emergency care in particular, and hamper the ability of physicians to earn needed income during their training;

Therefore, be it hereby

Resolved,

That the FSMB examine the potential benefits as well as the potential harms that could occur as a result of upgrading and modernizing licensing standards in all states, taking into account contemporary training and practice patterns and requiring successful completion of an ACGME-approved postgraduate training program as a prerequisite for granting an unrestricted medical license.

Resolution 13-3

**The Federation of State Medical Boards
House of Delegates Meeting
April 20, 2013**

Subject: Shortening Undergraduate Medical Education
Introduced by: The Federation of State Medical Boards Board of Directors
Approved: February 2013

Whereas, The Affordable Care Act (ACA) expands access to health insurance coverage to millions of Americans by making health coverage more affordable. As such, the number of Americans with coverage will expand drastically leading to over 30 million additional people needing health care; and

Whereas, Recent studies indicate that the United States faces current and future shortages in the physician healthcare workforce. By the year 2025, the Association of American Medical Colleges (AAMC) predicts that the nation will face a shortage of 130,000 physicians to provide care to its citizens; and

Whereas, The Liaison Committee on Medical Education (LCME) and the Commission on Osteopathic College Accreditation (COCA) are recognized by the United States Department of Education (USDE) for accreditation of programs of medical education leading to the M.D. and D.O. degrees in the United States, respectively. Accreditation signifies that a medical college or a college of osteopathic medicine has met established standards for function, structure, and performance; and

Whereas, Medical student debt is significant. The median annual tuition for medical education, or the yearly cost for attending classes, is now more than \$32,000 at public medical schools, and over \$50,000 at private institutions. Additionally, students must also pay for textbooks, equipment, room, board and travel expenses, adding \$20,000 to \$30,000 to each year's expenses and pushing the total four-year cost of attending medical school to more than \$200,000 at public institutions and close to \$300,000 at private schools. According to the AAMC, today's medical school graduates enter residency with a mean debt of just over \$150,000 if they attended a public institution, and more than \$176,000 for private school graduates; and

Resolution 13-3

Whereas, According to the Journal of the American Medical Association, “there is substantial waste in the education and training of U.S. physicians. Years of training have been added without evidence that they enhance clinical skills or the quality of care.” Moreover, the fourth year of medical school is generally considered as a year of “electives” that may not be essential for undergraduate medical education; and

Whereas, The AAMC and the American Osteopathic Association (AOA) are experimenting with curricular innovations that may require only three years of medical school education. The New York University School of Medicine is piloting a program to graduate a group of students a year early by eliminating redundancies in their science curriculum, getting students into clinical training more quickly, and adding additional class time in the summer;

Therefore, be it hereby

Resolved, That the FSMB work in collaboration with the AAMC and the AOA to study the value of shortening the duration of undergraduate medical education from four years to three years and its impact on access to care, patient outcomes, patient safety and medical student indebtedness.

**Federation of State Medical Boards
House of Delegates Meeting
April 20, 2013**

Subject Reporting of Drug Diversion by Healthcare Employers

Introduced by: Minnesota Board of Medical Practice

Approved: January 2013

Whereas, Controlled substance abuse, addiction, and overdose deaths are a national concern; and

Whereas, Controlled substance diversion from healthcare workplaces is increasing in frequency; and

Whereas, Such diversion presents significant risks to public and patient safety; and

Whereas, Such diversion constitutes a felony level crime; and

Whereas, Health Licensing Boards (HLBs) are charged with protecting public and patient safety and investigating crimes related to the practice of health care professions; and

Whereas, HLBs need information related to diversion by licensees; and

Whereas, Healthcare workplace employers often fail to report diversion by licensees to HLBs;

Therefore, be it hereby

Resolved, That the Federation of State Medical Boards (FSMB) develop model legislation to require all healthcare workplace employers to report any discipline based on such diversion to HLBs under penalty of significant fines; and be it further resolved

Resolved, That the FSMB encourage all states which do not possess such legislation to promote legislation requiring all healthcare workplace employers to report such diversion by healthcare licensees to the respective HLBs under penalty of significant fines.

**The Federation of State Medical Boards
House of Delegates Meeting
April 20, 2013**

Subject: Development of an Interstate Compact to Expedite Medical Licensure and Facilitate Multi-State Practice

Introduced by: Wyoming Board of Medicine

Approved: February 2013

Whereas, All state medical and osteopathic boards share a common duty to verify the education, training, and qualifications of physicians applying for medical licensure; and

Whereas, The high standards and qualifications necessary for licensure are consistent among all state medical and osteopathic boards; and

Whereas, The FSMB Report of the Special Committee on License Portability (2002) recommended policy for state medical boards to offer an expedited licensure by endorsement process to physicians meeting pre-defined, high qualifications; and

Whereas, More than 25% of U.S. physicians, and more than 70% of all physicians licensed in Wyoming, hold more than one active state license; and

Whereas, Federal and state policymakers have called upon state medical boards to streamline and expedite the licensure process in order to facilitate multi-state practice, especially given the expanded use of telemedicine; and

Whereas, Some within the public and private sectors are using telemedicine as rationale for a national medical licensure system, or the expansion of state licensure exceptions, that will compromise state medical boards' abilities to protect the public; and

Whereas, In order to protect the public, state medical boards must retain jurisdiction over physicians practicing, electronically or otherwise, in the state; and

Resolution 13-5

Whereas, The investigatory and disciplinary processes of state medical boards, which are vital to the safety of the public, are necessarily funded with the fees from state-based licensure of physicians; and

Whereas, In January 2013, representatives from 48 state medical boards came together for a special meeting to 1) raise awareness of advances in technology and the pressures which it is posing on the ability of state boards to ensure public safety through the effective regulation of the practice of medicine across state lines; 2) discuss existing and proposed licensure models that could enable the multi-state practice of medicine while preserving the current state-based regulatory system; and 3) to achieve consensus on one or more licensure models; and

Whereas, A voluntary Interstate Compact could be established to expand the use of an expedited endorsement medical licensure model, based upon common standards agreed to by the states; and

Whereas, An Interstate Compact could provide a mechanism for “one-stop shopping” to initially license, and renew the licenses of, physicians practicing in multiple states; and

Whereas, An Interstate Compact for medical licensure would preserve states’ autonomy in licensing and disciplining physicians treating patients in their state;

Therefore, be it hereby

Resolved, That the FSMB convene representatives from state medical boards and special experts as needed to aggressively explore the development of an Interstate Compact to facilitate license portability hereinafter known as the Medical License Portability Interstate Compact project; and be it further

Resolved, That the Medical License Portability Interstate Compact project be initiated no later than July 2013.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Ken Simons		2) Date When Request Submitted: <div style="border: 1px solid black; padding: 2px;"> 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 </div>	
3) Name of Board, Committee, Council, Sections: Medical Examining Board			
4) Meeting Date: March 20, 2013	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Non-clinical physician license – Board Discussion	
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?	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: The question of physicians who do not have a clinical practice yet wish to maintain a license is the topic of this discussion.			
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 and Professional Services**

AGENDA REQUEST FORM

Name and Title of Person Submitting the Request: Shawn Leatherwood		Date When Request Submitted: 03/25/2013
		Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before meeting for all other boards
Name of Board, Committee, Council: Medical Examining Board		
Board Meeting Date: 03/20/2013	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How should the item be titled on the agenda page? 9:00 A.M. Public Hearing: MED 10 relating to Unprofessional Conduct
Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	Is an appearance before the Board being scheduled? If yes, by whom? Yes by _____ (name) <input checked="" type="checkbox"/> No	Name of Case Advisor(s), if required: N/A
Describe the issue and action the Board should address: The Board will conduct a public hearing.		
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Documents submitted to the agenda must be single-sided. 3. Only copies of the original document will be accepted. 4. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.		
Authorization:		
<i>Shancethea N. Leatherwood</i>	02/25/13	
Signature of person making this request	Date	
Supervisor signature (if required)	Date	
Bureau Director signature (indicates approval to add late items to agenda)	Date	

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	MEDICAL EXAMINING
MEDICAL EXAMINING BOARD	:	BOARD
	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 13-008)

PROPOSED ORDER

The Wisconsin Medical Examining Board proposes an order to repeal s. Med 10.02 (2); to amend Med 10.01 (1) (title); to repeal and recreate 10.02 (1); and to create Med 10.01 (1) and 10.03 (title) relating to unprofessional conduct.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.40 (1), Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), and 448.40 (1), Stats.

Explanation of agency authority:

The legislature, via. ss. 15.08 (5) (b), and 227.11 (2) (a), Stats., conferred upon the Medical Examining Board general power to promulgate rules for the guidance of the profession and to interpret the provisions of statutes it enforces. Section 448.40 (1), Stats., authorizes the Board to promulgate rules that carry out the purposes of the Medical Practices sub chapter. Wis. Admin. Code ch. Med 10 Unprofessional Conduct is administered by the Medical Examining Board; as such the Board has statutory authority to revise Wis. Admin. Code ch. Med 10 for the purpose of providing guidance within the profession.

Related statute or rule:

Chapter Med 10

Plain language analysis:

This proposed rule seeks to modernize Wis. Admin Code Ch. Med 10 Unprofessional Conduct by overhauling the current version of the rules, adding language that specifically

addresses new topic areas, delete outdated language of some provisions and augment others.

SECTION 1. amends the title of the authority provision.

SECTION 2. amends the rule by adopting an statement of intent that provides guidance on how the rules should be interpreted.

SECTION 3. repeals and recreates the definitions section adding several new terms.

SECTION 4. This section repeals the current definitions of unprofessional conduct.

SECTION 5. creates a new section defining unprofessional conduct.

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

There is no comparative existing or proposed federal rule.

Comparison with rules in adjacent states:

The following comparisons are the result of various internet searches:

Illinois: The grounds for administering disciplinary actions against physicians in Illinois are set forth in 225 ILCS 60/ 22 (2012). The processes for administering the disciplinary proceedings are stated in the Illinois Code of Regulation Title 68: Professions and Occupations Chapter VII: Department of Financial and Professional Regulation Subchapter B: Professions and Occupations PART 1285.200-1285.275 MEDICAL PRACTICE ACT OF 1987: Sections Listing

Iowa: Grounds for disciplining health care professionals in Iowa are codified in Iowa Code § 147.55 and through the Iowa Administrative Code 653-23.1(272C).
<http://www.legis.state.ia.us/asp/ACODocs/DOCS/4-21-2010.653.23.pdf>

Michigan: The grounds for disciplinary action against health care professionals in Michigan are codified in the Public Health Code, Public Act 368 of 1978 (2010 PA 101, MCL 333.16221.

[http://www.legislature.mi.gov/\(S\(j4bg0h454voc1545vsgjncnx\)\)/documents/mcl/pdf/mcl-333-16221.pdf](http://www.legislature.mi.gov/(S(j4bg0h454voc1545vsgjncnx))/documents/mcl/pdf/mcl-333-16221.pdf)

Minnesota: The grounds for administering disciplinary action against physicians in Minnesota are stated in Minn. Stat. §147.091.
<https://www.revisor.mn.gov/data/revisor/statute/2009/147/2009-147.091.pdf>

Summary of factual data and analytical methodologies:

The Medical Examining Board approved a work group which was convened to gather information and consider unprofessional conduct rules from different states. The work group, over a series of board meetings, presented the full Medical Examining Board recommended language. The recommend language drafted by the work group was then considered by the full board. The work group also sought out input from stakeholders such as the Wisconsin Medical Society (WMS) and the Wisconsin Hospital Association (WHA). The full board compared and contrasted the work group language with language from WHA and WMS as well as recommended language from the Federation of State Medical Boards (FSMB). This collaboration resulted in a comprehensive review of the rules in their entirety. The board ensures the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis

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

The department finds that this rule will have no effect on small business as small business is defined in s. 227.114 (1), Stats.

Anticipated costs incurred by the private sector:

The department finds that this rule will incur no additional cost to the private sector.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

The department finds that this rule will have no effect on small business as small business is defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted at Greg.Gasper@wisconsin.gov or by calling (608) 266-8608.

Agency contact person:

Shawn Leatherwood Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

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

Comments may be submitted to Shawn Leatherwood Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to Shancethea.L Leatherwood@wisconsin.gov.

Comments must be received on or before XX/XX/XX, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Med. 10.01 (title) is amended to read:

MED 10.01 (title) Authority and purpose intent. The definitions of this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5), 227.11, and 448.40, Stats., for the purposes of ch. 448, Stats.

SECTION 2. Med 10.01 (1) is created to read:

(1) 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 minimally competent practice of medicine and surgery require 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.

SECTION 3. MED 10.02 (1) is repealed and recreated to read:

Med 10.02 Definitions. For the purposes of these rules:

(1) "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 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, risk of harm to the patient due to the nature of the procedure, and risk of harm due to characteristics of the patient.

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

(3) "Direct, immediate, one-to-one supervision" means 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.

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

(5) "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 a period of time necessary to avoid unacceptable risk of harm to the patient, establish direct telecommunication with the supervisor.

(6) "Intimate parts" has the meaning set forth in s. 939.22 (19), Stats.

(7) "License" means any license, permit, certificate, or registration issued by the board or by any other credentialing jurisdiction with the authority to grant credentials to practice medicine and surgery, or any other practice authorized within ch. 448, Stats.

(8) "Patient health care records" means a health care record as set forth in s. 146.82 (4), Stats.

(9) "Sexual contact" means contact as defined in s. 948.01 (5), Stats.

(10) "Sexually explicit conduct" means conduct as defined in s. 948.01 (7), Stats.

SECTION 4. MED 10.02 (2) is repealed.

SECTION 5. MED 10.03 (title) is created to read:

Med 10.03 (title) Unprofessional conduct. The term "unprofessional conduct" is defined to mean and include, but not be limited to, the following or aiding or abetting the same:

Med 10.03 (1) DISHONESTY AND CHARACTER. (a) Violating or attempting to violate any term, provision, or condition of any order of the board.

(b) Knowingly engaging in fraud or misrepresentation or dishonesty in applying, procuring or by examination for a medical license, or in connection with applying for or procuring periodic renewal of a medical license, or in otherwise maintaining such licensure.

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

(d) Employing illegal or unethical business practices.

(e) Knowingly, negligently, or recklessly making any false statement, written or oral, in the practice of medicine and surgery which creates an unacceptable risk of harm to a patient, the public or both.

(f) Engaging in any act of fraud, deceit, or misrepresentation, including acts of omission to the board or any person acting on the board's behalf.

(g) Obtaining any fee by fraud, deceit or misrepresentation.

(h) Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, unless allowed by law. This prohibition does not preclude the legal functioning of lawful professional partnerships, corporations or associations.

(i) Representing or claiming as true the appearance that a physician possesses a medical specialty, certification by a board recognized certifying organization, such as the American Board of Medical Specialties, or the American Osteopathic Association, if it is not true.

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

Med 10.03 (2) DIRECT PATIENT CARE VIOLATIONS.

(a) Negligence in the practice of medicine.

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

2. A certified copy of a relevant decision by a state or federal agency charged with making relevant legal determinations shall be conclusive evidence of findings of facts and conclusions of law contained therein.

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

1. 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.

(c) Departing from or failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient or the public whether or not the act or omission resulted in actual harm to any person.

(d) Prescribing, ordering, dispensing, administering, supplying, selling, giving, or obtaining any prescription medication in any manner that is inconsistent with the standard of minimal competence and that creates an unacceptable risk of harm to a patient.

(e) 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.

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

1. 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 shall be conclusive evidence of findings of facts and conclusions of law contained therein.

2. 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 and surgery is conclusive evidence of a violation of this section.

(g) 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 or a person responsible for the patient's welfare.

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

2. For the purpose of this subsection, an adult receiving treatment shall continue to be a patient for 2 years after the termination of professional services.

3. If the person receiving treatment is a child, 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.

4. A physician engaging in any sexual contact or conduct with or in the presence of a patient or a former patient who lacks the ability to consent for any reason, including, but not limited to, medication or psychological or cognitive disability.

(h) 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.

(i) 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.

(j) Subject to and limited by s. 448.30, Stats., performing an act constituting the practice of medicine and surgery without required informed consent.

(k) Aiding or abetting the practice of medicine by an unlicensed, incompetent, or impaired person or allowing another person or organization to use his or her license to practice medicine.

1. This provision does not prohibit a Wisconsin physician or any other practitioner subject to this rule from providing outpatient services ordered by a physician licensed in another state. If the physician who wrote the order saw the patient in the state in which the physician is licensed and the physician who wrote the order remains responsible for the patient.

(L) Violating the standard of minimal competence to practice medicine and surgery while serving as a medical director or physician who delegates and supervises services performed by non-physicians as set forth in s. BC 2.03, including aiding or abetting any person's violation of s. BC 2.03.

(m) Prescribing controlled substances to oneself as defined in s. 961.38 (5), Stats.

(n) Practicing medicine in another state or jurisdiction without appropriate licensure. A physician has not violated this subsection if, after issuing an order for services that complies with the laws of Wisconsin, his or her patient requests that the services ordered are provided in another state or jurisdiction.

(o) Patient abandonment occurs when an active professional relationship between physician and patient is terminated by the physician and any of the following occur:

1. The physician fails to give the patient notice at least 30 days in advance of the date on which the physician's withdrawal becomes effective.

2. The physician fails to allow for patient access or transfer of the patient's health care record as required by law.

3. If necessary to avoid unacceptable risk of harm, the physician fails to provide for continuity of prescription medications.

4. The physician fails to provide for emergency care during the period between the notice of intent to withdraw from the physician-patient relationship and the date on which the physician-patient relationship ends.

Med 10.03 (3) LAW VIOLATIONS, ADVERSE ACTION AND REQUIRED REPORTS TO THE BOARD.

(a) Failing, within 30 days, to report to the board any final adverse action taken against the licensee's authority to practice medicine and surgery by another licensing jurisdiction concerned with the practice of medicine and surgery.

(b) Failing, within 30 days, to report to the board any adverse action taken by the Drug Enforcement Administration against the licensee's authority to prescribe controlled substances within the federal government.

(c) 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.

(d) Failing to comply with state and federal laws regarding access to patient health care records.

(e) Failing to establish and maintain timely patient health care records, including records of prescription orders, as required by s. Med 21, or as otherwise required by law.

(f) Violating the duty to report as defined in s.448.115, Stats.

(g) After a request by the board, failing to cooperate in a timely manner with the board's investigation of a complaint filed against a license 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.

(h) Failing, within 30 days of conviction of any crime, to provide the board with certified copies of the criminal complaint and judgment of conviction.

(i) Except as provided in s.10.03 (3) (j), a violation or conviction of any federal or state law or rule that may relate to the practice of medicine and surgery.

(1) 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.

(2) The department has the burden of proving that the circumstances of the crime are substantially related to the practice of medicine and surgery.

(j) Violating or being convicted of any of the following so listed in Table 10.03, any successor statute criminalizing the same conduct, or if in another jurisdiction, any act which, if committed in Wisconsin would constitute a violation of any of the following:

Table 10.03
Violations or Convictions
Cited by Statute

Statute Section	Description of Violation or Conviction
940.01, Stats.	First degree intentional homicide

940.02, Stats.	First degree reckless homicide
940.03, Stats.	Felony murder
940.05, Stats.	Second degree intentional homicide
940.12, Stats.	Assisting suicide
940.19 (2), (4), (5) and (6)	Battery, substantial battery, or aggravated battery
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report
940.225 (1), (2) or (3)	First, second, or third degree sexual assault
940.285 (2)	Abuse of individuals at risk
940.29	Abuse of residents of penal facilities
940.295	Abuse and neglect of patients and residents
948.02 (1) or (2)	First and second degree sexual assault of a child
948.03 (2) (a), (b) or (c)	Physical abuse of a child, intentional causation of bodily harm
948.05	Sexual exploitation of a child
948.051	Trafficking of a child
948.055	Causing a child to view or listen to sexual activity
948.06	Incest with a child
948.07	Child enticement
948.08	Soliciting a child for prostitution
948.085	Sexual assault of a child placed in substitute care

SECTION 6. EFFECTIVE DATE the rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

 (END OF TEXT OF RULE)

Dated _____

Agency _____

Chairperson
 Medical Examining Board

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

AGENDA REQUEST FORM

Name and Title of Person Submitting the Request: Shawn Leatherwood		Date When Request Submitted: 03/25/2013
Items will be considered late if submitted after 5 p.m. and less than:		
<ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before meeting for all other boards 		
Name of Board, Committee, Council: Medical Examining Board		
Board Meeting Date: 03/20/2013	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How should the item be titled on the agenda page? Review and Discuss Clearinghouse report related to MED 10 Unprofessional Conduct
Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	Is an appearance before the Board being scheduled? If yes, by whom? Yes by _____ (name) <input checked="" type="checkbox"/> No	Name of Case Advisor(s), if required: N/A
Describe the issue and action the Board should address: The Board will review and discuss the clearinghouse report and accept or reject the amendments recommended by Legislative Council. The Board will approve the proposed rule draft as amended for filing with the legislature through a designated member of the Board.		
If this is a "Late Add" provide a justification utilizing the Agenda Request Policy: _____		
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Documents submitted to the agenda must be single-sided. 3. Only copies of the original document will be accepted. 4. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.		
Authorization:		
<i>Shancethea N. Leatherwood</i>		02/25/13
Signature of person making this request		Date
Supervisor signature (if required)		Date
Bureau Director signature (indicates approval to add late items to agenda)		Date



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 13-008

AN ORDER to repeal Med 10.02 (2); to amend Med 10.01 (1) (title); to repeal and recreate 10.02 (1); and to create Med 10.01 (1) and 10.03 (title), relating to unprofessional conduct.

Submitted by **DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

01-24-2013 RECEIVED BY LEGISLATIVE COUNCIL.

02-19-2013 REPORT SENT TO AGENCY.

JKR:MSK

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
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CLEARINGHOUSE RULE 13-008

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

2. Form, Style and Placement in Administrative Code

a. In SECTION 1, the rule language after the title should be removed, as that language is not amended in the proposed rule.

b. The agency should create SECTION 1m with the following treatment: “Med 10.01 is renumbered Med 10.01 (1).” Then, in SECTION 2, “(2)” should replace “(1)” in both the treatment clause and the body of the rule.

c. In SECTION 3, “(1)” should be deleted from the treatment clause, so that SECTION 3 is repealing and recreating s. Med 10.02, not s. Med 10.02 (1). In addition, SECTION 4 should be deleted in its entirety.

d. SECTION 5 should be numbered SECTION 4. Also, in that SECTION, the following corrections should be made:

- (1) The word “(title)” should be deleted from both the treatment clause and the text of the proposed rule, so that the SECTION is creating s. Med 10.03, not s. Med 10.03 (title).
- (2) In s. Med 10.03 (1) (title), the initial letter in “CHARACTER” should not be capitalized. [s. 1.05 (2) (c), Manual.]
- (3) In s. Med 10.03 (2) (title), the initial letters in “PATIENT CARE VIOLATIONS” should not be capitalized. [s. 1.05 (2) (c), Manual.]

- (4) In s. Med 10.03 (2) (b), the numbering of subd. "1." should be deleted, combining the two sentences of par. (b) into one paragraph. [s. 1.03 (1), Manual.]
- (5) In s. Med 10.03 (2) (k), the numbering of subd. "1." should be deleted, combining the two sentences of par. (k) into one paragraph. [s. 1.03 (1), Manual.]
- (6) In s. Med 10.03 (3) (title), the initial letter in "VIOLATIONS" should not be capitalized. [s. 1.05 (2) (c), Manual.]
- (7) In s. Med 10.03 (3) (i), the format for the numbering of the subdivisions should be corrected to "1." and "2.". [s. 1.03 (2) (e), Manual.]

e. SECTION 6 should be numbered SECTION 5, and, in that SECTION, a period should be inserted after the title, and "the" at the beginning of the sentence should be capitalized.

f. The introductory clause that enumerates the rule provisions treated by the proposed order should be updated to reflect the revisions noted in comments b. to d. of this section. [s. 1.02 (1), Manual.]

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

a. In the "comparison with rules in adjacent states" section of the analysis, a brief description of the other states' regulations for unprofessional conduct by physicians should be included.

b. In s. Med 10.02 (intro.), "this chapter" should replace "these rules". [ss. 1.01 (7) (a) and 1.07 (2), Manual.]

c. In s. Med 10.02 (8), "s. 146.81 (4), Stats." should replace "s. 146.82 (4), Stats.".

d. In s. Med 10.03 (2) (a) 1., the reference to s. 655.02, Stats., should be removed, because that is an invalid statute section. It is unclear what section is intended for that reference.

e. In s. Med 10.03 (2) (L), the reference to "as set forth in s. BC 2.03" is unclear. Are the practice standards under s. BC 2.03 intended to apply to the medical director or physician, or to a non-physician? If intended to apply to a medical director or physician, "practice standards under s. BC 2.03" should replace "standard of minimal competence", and "as set forth in s. BC 2.03" should be deleted. If intended to apply to non-physicians, "who must meet the practice standards under" should replace "as set forth in".

f. In s. Med 10.03 (3) (e), "Med 21.03" should replace "Med 21". Alternatively, "ch." could replace "s." [s. 1.07 (2), Manual.]

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

a. Throughout the rule-making order, each numbered text "SECTION" should appear in small caps font as "SECTION". [s. 1.04, Manual.]

b. In the introductory clause that enumerates the rule provisions treated by the proposed order, a comma should be inserted before “relating”. [s. 1.02 (1), Manual.]

c. In the “explanation of agency authority” section of the analysis, the following corrections should be made:

- (1) The period after “via” should be deleted.
- (2) The space between “sub” and “chapter” should be deleted, to create the word “subchapter”.
- (3) The two references to “Wis. Admin. Code” should be deleted. [s. 1.07 (2), Manual.]
- (4) “Chapter” should replace the first instance of “ch.” [s. 1.07 (2), Manual.]

d. In the “plain language analysis” section of the analysis, the following corrections should be made:

- (1) “Wis. Admin Code” should be deleted. [s. 1.07 (2), Manual.]
- (2) “Chapter” should replace “Ch.” [s. 1.07 (2), Manual.]
- (3) The word “deleting” should replace “delete”, and “augmenting” should replace “augment”.
- (4) The period after “augment” should be deleted.
- (5) In the description of SECTION 2, “a” should replace “an”.
- (6) The description of SECTION 4 should be deleted, and the description of SECTION 5 should be renumbered SECTION 4. [See comments 2. c. and d.]

e. In the “summary of factual data and analytical methodologies” section of the analysis, the following corrections should be made:

- (1) In the second sentence, the word “to” should be inserted before “the full Medical Examining Board”.
- (2) In the third sentence, “recommended” should replace “recommend”.
- (3) In the last sentence, “were” should be deleted, and a period should be inserted at the end of the sentence.

f. In the “place where comments are to be submitted” section of the analysis, the deadline for submitting comments should be filled in.

g. In s. Med 10.01 (title), the period after “intent” should not be underscored because it is not new text. [s. 1.06 (1), Manual.]

h. In s. Med 10.01 (2) [in SECTION 2], “Act” should not be capitalized.

i. In SECTION 3, it appears that the defined words “adequate supervision”, “direct, immediate, one-to-one supervision”, “direct, on-premises supervision”, and “general supervision” are not used in the proposed rule. If these words are not used in the proposed rule,

it is not necessary to define them. [See also comment k., below.] In addition, consider whether a definition should be created for a "standard of minimally competent medical practice" or "standard of minimal competence", as that standard is referred to in the proposed rule but appears to be undefined.

j. In s. Med 10.02 (4), "between the person being supervised and the supervisor" should be inserted after "contact".

k. In s. Med 10.02 (5), in the first sentence, could "direct, on-premises supervision" (as defined in s. Med 10.02 (4)) replace "direct, on-premises or direct face-to-face contact between the supervisor and person being supervised as necessary"? In the second sentence, "shall" should replace "is required to", and "may" should replace "can". [s. 1.01 (2), Manual.]

l. In s. Med 10.02 (6), "given" should replace "set forth". [s. 1.01 (7) (d), Manual.]

m. In s. Med 10.02 (8), "has the meaning given" should replace "means a health care record as set forth". [s. 1.01 (7) (d), Manual.]

n. In s. Med 10.02 (9), "has the meaning given" should replace "means contact as defined". [s. 1.01 (7) (d), Manual.]

o. In s. Med 10.02 (10), "has the meaning given" should replace "means conduct as defined". [s. 1.01 (7) (d), Manual.]

p. In s. Med 10.03 (intro.), the following corrections should be made:

(1) "The term" should be deleted.

(2) The word "unprofessional" should be capitalized.

(3) The word "includes" should replace "is defined to mean and include, but not be limited to,". [s. 1.01 (7) (c) and (d), Manual.]

(4) A comma should be inserted after "following".

q. In s. Med 10.03 (1) (b), it appears that "applying for or procuring a medical license, by examination for a medical license" should replace "applying, procuring or by examination for a medical license" to make the paragraph more readable.

r. In s. Med 10.03 (1) (i), should "or" be added before "certification"?

s. Section Med 10.03 (1) (k) should be numbered s. Med 10.03 (1) (j), and, in that paragraph, "may be" should replace "maybe". Also, it appears that the second sentence should be numbered as par. (k).

t. In s. Med 10.03 (2) (a), the following corrections should be made:

(1) In subd. 1., "a finding, order, or judgment issued by" should replace "any document demonstrating that", and "finding" should replace "has found".

(2) In subd. 1., if "panel" is described using a statutory reference, a comma should be inserted after "court", and the comma after "panel" should be deleted. [See comment 4. d.]

- (3) In subd. 1., "paragraph" should replace "subsection". [s. 1.07 (2), Manual.]
 - (4) In subd. 2., "finding, order, or judgment" should replace "decision", and "court or" should be inserted before "agency".
 - (5) In subd. 2., consider whether "determining whether a physician has been negligent in the course of practicing medicine or surgery" should replace "making relevant legal determinations".
 - (6) In subd. 2., "its" should be inserted after "evidence of", and "contained therein" should be deleted. [s. 1.01 (9) (c), Manual.]
- u. In s. Med 10.03 (2) (b), "for any period covered by the order" should replace "at the time the order was entered".
- v. In s. Med 10.03 (2) (f) (intro.), "a" should be inserted after "obtaining", and "substance" should replace "substances". In addition, should "permitted" or "provided" replace "prohibited"?
- w. In s. Med 10.03 (2) (f) 1., "finding, order, or judgment" should replace "decision". Also, "its" should be inserted after "evidence of", and "contained therein" should be deleted. [s. 1.01 (9) (c), Manual.]
- x. In s. Med 10.03 (2) (f) 2., "a finding, order, or judgment" should replace "any document". Also, "paragraph" should replace "section". [s. 1.07 (2), Manual.]
- y. In s. Med 10.03 (2) (g) 2. and 3., "be considered" should replace both instances of "continue to be". In addition, "paragraph" should replace "subsection" in both subdivisions. [s. 1.07 (2), Manual.]
- z. In s. Med 10.03 (2) (g) 4., the phrase ", but not limited to," should be deleted. Also, it appears that this subdivision is an incomplete sentence. Should "is a violation of this paragraph" be inserted at the end of the sentence? Or, should the subdivision be numbered as a subsection? If so, "A physician" should be deleted, and "engaging" should be capitalized.
- aa. In s. Med 10.03 (2) (j), "Subject to and limited by s. 448.30, Stats.," should be deleted; "performing" should be capitalized; and "under s. 448.30, Stats." should be inserted after "consent".
- bb. In s. Med 10.03 (2) (k) 1., the period between the two sentences should be replaced with a comma, and "If" should not be capitalized. In addition, "rule" should be replaced with "chapter". [s. 1.07 (2), Manual.]
- cc. In s. Med 10.03 (2) (m), "a" should be inserted after "Prescribing"; "substance" should replace "substances"; and "described" should replace "defined".
- dd. In s. Med 10.03 (2) (n), it appears that "be" should replace "are". In addition, it appears that "paragraph" should replace "subsection". [s. 1.07 (2), Manual.]
- ee. In s. Med 10.03 (2) (o) (intro.), "Abandoning a patient." should be inserted before "Patient abandonment".

ff. In s. Med 10.03 (2) (o) 3., reverse the order of the two phrases to appear as follows: "The physician fails to provide for continuity of prescription medications, if the medications are necessary to avoid unacceptable risk of harm."

gg. In s. Med 10.03 (3) (b), "within the federal government" should be deleted or revised as it is unclear what it means in that sentence.

hh. In s. Med 10.03 (3) (c), "federal" should be inserted before "agency or authority", and "within the federal government" should be deleted. Also, what does "become subject to adverse action" mean? Does that mean only an adverse determination, or does it include investigation?

ii. In s. Med 10.03 (3) (e), "under" should replace "as required by".

jj. In s. Med 10.03 (3) (f), "under" should replace "as defined in", and a space should be inserted between "s." and "448.115".

kk. In s. Med 10.03 (3) (i) (intro.):

- (1) The word "par." should replace "s. 10.03 (3)". [s. 1.07 (2), Manual.]
- (2) Does "state law or rule" apply only to Wisconsin law or to the laws of other states as well? If "state law or rule" is intended to apply only to Wisconsin law, "any laws or rules of this state or any federal law or regulation" should replace "any federal or state law or rule". If "state law" is intended to apply to the laws of other states as well, "any laws or rules of this state, or of any other state, or any federal law or regulation" should replace "any federal or state law or rule".
- (3) The phrase "is substantially related" should replace "may relate", in order to be consistent with subd. 2.

ll. In s. Med 10.03 (3) (i) 1., consider whether "determining whether a person has violated a law or rule" should replace "making legal determinations". In addition, "paragraph" should replace "subsection". [s. 1.07 (2), Manual.]

mm. In s. Med 10.03 (3) (j), "conduct" should replace "following so". In addition, "any statute listed in Table 10.03." should replace "any of the following:".

nn. In Table 10.03:

- (1) The word ", Stats." should be removed from the first five entries.
- (2) In the entry for s. 940.19, Stats., "or" should replace "and".
- (3) In the entry for s. 948.03 (2), Stats., "(a), (b) or (c)" should be deleted.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sheldon Wasserman		2) Date When Request Submitted:	
		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: March 20, 2013	5) Attachments: x Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Correspondence and Proposed Legislation Relating to Retstictions on Applicants for a License to Carry a Concealed Weapon Based on the Threat of Disclosures by Mental Health Professionals, and Threat Disclosures by Mental Health Professionals to the Department of Justice	
7) Place Item in: x 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?	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Board Review			
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	



WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

DATE: February 18, 2013

TO: Chairperson Sheldon Wasserman
Wisconsin Medical Examining Board

FROM: State Senator John Lehman
State Representative Fred Kessler

RE: Proposed Legislation

We are writing today to directly seek the input of the Wisconsin Medical Examining Board on legislation intended to empower mental health professionals to further protect those receiving care and the public from firearms tragedies. The attached proposed draft legislation is intended to give professionals the option, in cases where a person in their care is considered to pose a threat to themselves or others, to also report that threat to the Department of Justice.

DOJ issues and regulates concealed carry permits, and under this proposal would be required to revoke an existing permit held if a threat is reported – and to maintain a record of any reported threat for purposes of denying a future application.

Our intention with this proposal is to cast a narrow net and avoid unnecessary stigmatization. The intent of this bill is simply to add the option of reporting, for purposes of limiting their ability to carry a concealed weapon, a person whom a mental health professional considers enough of a threat to themselves or others to warrant a report under current practices.

This draft is being circulated to our fellow legislators for review and consideration, and would not be introduced for at least two weeks. We are writing to seek any input you may have on the legislation as drafted. We welcome any suggestions you may have for modifications or additions that maintain the intent of the bill to empower professionals to make these additional reports while respecting professional discretion, protecting professional credential-holders' integrity and record security and guarding against liability while providing reasonable opportunity for challenge.

We believe options that increase opportunities for law enforcement to stop potential firearms violence by a person considered to be a threat to themselves or others need to be explored. We very much welcome your input on the attached proposal and any recommendations you may have that maintain its intent.

Thank you for your time and consideration, and please feel free to contact us at the phone numbers or e-mails listed below. Best wishes.

State Senator John Lehman
21st Senate District
(608) 266-1832
Sen.lehman@legis.wi.gov

State Representative Fred Kessler
12th Assembly District
(608) 266-5813
Rep.kessler@legis.wi.gov



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to amend** 175.60 (5) (a) 1., 175.60 (9) (b) 2., 175.60 (14) (a), 175.60 (14)
2 (am) and 175.60 (14m) (title); and **to create** 51.30 (4) (b) 29., 175.60 (3) (h),
3 175.60 (11) (am), 175.60 (12) (bm), 175.60 (14) (ag), 175.60 (14n), 448.117,
4 455.085 and 457.29 of the statutes; **relating to:** restrictions on applicants for
5 a license to carry a concealed weapon based on threat disclosures by mental
6 health professionals, and threat disclosures by mental health professionals to
7 the Department of Justice.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Justice (DOJ) must issue a license to carry a concealed weapon to a qualified applicant and may not issue a license to an applicant who is not qualified. An applicant is not qualified if he or she is under 21 years of age, is prohibited from possessing a firearm, has not completed specified firearm training, or is not a Wisconsin resident. Under this bill, an applicant is not qualified if a licensed psychiatrist, a licensed psychologist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional counselor has, within the three years preceding the application, disclosed to DOJ a threat of harm by the applicant. If the psychiatrist, psychologist, social worker, therapist, or counselor discloses such a threat about a current licensee, DOJ must revoke the license. This bill also creates a procedure to appeal the decision to deny or revoke a license because of the disclosure.

This bill provides that a licensed psychiatrist, a licensed psychologist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional counselor who has a duty to warn others about a threat by a patient or client may also disclose the threat to DOJ so that the patient or client will be ineligible for a license to carry a concealed weapon. The bill provides that a psychiatrist, psychologist, clinical social worker, marriage and family therapist, or professional counselor who makes such a disclosure is not liable for damages in any civil action for disclosing that threat.

Under current law, mental health treatment records are confidential but may be released without the consent of the subject of the record in certain circumstances. This bill adds to the circumstances in which a record may be released without consent a release to a law enforcement officer or DOJ for the purpose of disclosing a threat of harm.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 51.30 (4) (b) 29. of the statutes is created to read:

2 51.30 (4) (b) 29. To a law enforcement officer or the department of justice, for
3 the purpose of disclosing a threat of harm under s. 448.117, 455.085, or 457.29.

4 **SECTION 2.** 175.60 (3) (h) of the statutes is created to read:

5 175.60 (3) (h) A person has disclosed to the department under s. 448.117,
6 455.085, or 457.29 a threat of harm made by the individual and the disclosure was
7 no earlier than 3 years before the individual submitted his or her application.

8 **SECTION 3.** 175.60 (5) (a) 1. of the statutes is amended to read:

9 175.60 (5) (a) 1. A statement that the applicant is ineligible for a license if sub.
10 (3) (a), (b), (c), (d), (e), (f), ~~or~~ (g), or (h) applies to the applicant.

11 **SECTION 4.** 175.60 (9) (b) 2. of the statutes is amended to read:

12 175.60 (9) (b) 2. Deny the application, but only if sub. (3) (a), (b), (c), (d), (e), (f),
13 ~~or~~ (g), or (h) applies to the applicant. If the department denies the application, the

1 department shall inform the applicant in writing, stating the reason and factual
2 basis for the denial.

3 **SECTION 5.** 175.60 (11) (am) of the statutes is created to read:

4 175.60 (11) (am) Upon receiving a disclosure under s. 448.117, 455.085, or
5 457.29, the department shall immediately determine if the individual who is the
6 subject of the disclosure is a licensee, using the list maintained under sub. (12) (a).

7 **SECTION 6.** 175.60 (12) (bm) of the statutes is created to read:

8 175.60 (12) (bm) The department shall maintain any disclosure it receives
9 under s. 448.117, 455.085, or 457.29 in the form and for the period the department
10 determines is necessary to ensure that any application for a license under this
11 section is denied if the applicant is prohibited under sub. (3) (h) from being issued
12 a license.

13 **SECTION 7.** 175.60 (14) (a) of the statutes is amended to read:

14 175.60 (14) (a) The department shall revoke a license issued under this section
15 if the department determines that sub. (3) (b), (c), (d), (e), (f), ~~or (g)~~, or (h) applies to
16 the licensee.

17 **SECTION 8.** 175.60 (14) (ag) of the statutes is created to read:

18 175.60 (14) (ag) If the department revokes a license under par. (a) because the
19 department determines that sub. (3) (h) applies to the individual, the department
20 may not reinstate the license at the expiration of the period under sub. (3) (h) even
21 if the license would not have expired under sub. (15) (a) had it not been revoked, but
22 the individual may apply for a new license.

23 **SECTION 9.** 175.60 (14) (am) of the statutes is amended to read:

24 175.60 (14) (am) 1. The department shall suspend a license issued under this
25 section if a court has prohibited the licensee from possessing a dangerous weapon

1 under s. 969.02 (3) (c) or 969.03 (1) (c). If the individual whose license was suspended
2 is no longer subject to the prohibition under s. 969.02 (3) (c) or 969.03 (1) (c),
3 whichever is applicable, sub. (3) (b), (c), (d), (e), (f), ~~or~~ (g), or (h) does not apply to the
4 individual, and the suspended license would not have expired under sub. (15) (a) had
5 it not been suspended, the department shall restore the license within 5 business
6 days of notification that the licensee is no longer subject to the prohibition.

7 SECTION 10. 175.60 (14m) (title) of the statutes is amended to read:

8 175.60 (14m) (title) APPEALS TO THE CIRCUIT COURT OVER DEPARTMENT ACTION.

9 SECTION 11. 175.60 (14n) of the statutes is created to read:

10 175.60 (14n) APPEALS TO THE CIRCUIT COURT OVER MENTAL HEALTH PROFESSIONAL
11 ACTION. (ag) In this subsection, "mental health professional" means a person who is
12 authorized under s. 448.117, 455.085, or 457.29 to disclose threats to the department.

13 (ar) An individual aggrieved by any action by a mental health professional that
14 resulted in a license denial under sub. (9) (b) 2. or a license revocation under sub. (14)
15 (a) may appeal directly to the circuit court of the county in which the individual
16 resides.

17 (b) To begin an appeal under this subsection, the aggrieved individual shall file
18 a petition for review with the clerk of the applicable circuit court within 30 days of
19 receiving notice of denial of an application for a license or of revocation of a license.
20 The petition shall state the substance of the mental health professional's action from
21 which the individual is appealing and the grounds upon which the individual
22 believes the mental health professional's action to be improper. The petition may
23 include a copy of any records or documents that are relevant to the grounds upon
24 which the individual believes the mental health professional's action to be improper.

1 (c) A copy of the petition shall be served upon the mental health professional
2 and on the department either personally or by registered or certified mail within 5
3 days after the individual files his or her petition under par. (b). The mental health
4 professional and the department may file an answer, including a brief statement of
5 any actions taken, any relevant documents, and any relevant records, within 15 days
6 after being served with the petition.

7 (d) The court shall review the petition, the answer, and any records or
8 documents submitted with the petition or the answer. The review under this
9 paragraph shall be conducted by the court without a jury but the court may schedule
10 a hearing and take testimony.

11 (e) The court shall reverse the department's action if the court finds that the
12 mental health professional's actions were improper.

13 (f) The court's decision shall provide whatever relief is appropriate regardless
14 of the original form of the petition.

15 **SECTION 12.** 448.117 of the statutes is created to read:

16 **448.117 Disclosure of threats.** (1) In this section, "psychiatrist" means a
17 physician who specializes in psychiatry.

18 (2) A psychiatrist who has a duty to warn others about a threat of harm by a
19 patient, whether arising under the common law, a statute, or a rule of professional
20 conduct, may also, without the consent of the patient, disclose the threat to the
21 department of justice so that the patient will be ineligible for a license as provided
22 in s. 175.60 (3) (h). A psychiatrist is not liable for damages in any civil action for
23 disclosing a threat under this subsection.

24 **SECTION 13.** 455.085 of the statutes is created to read:

**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: March 20, 2013	5) Attachments: x Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? The Physician's Duty to Report – Board Review for Approval	
7) Place Item in: x 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?	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: The attached document amends the current website posting providing information about the physician's duty to report, as requested by the Board at the February meeting. The Board should consider any amendments and whether to approve for posting to the website.			
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

The Physician's Duty to Report – 2009 Wisconsin Act 382

On May 18th, 2009, the Physician's Duty to Report Act was signed into law. 2009 Wisconsin Act 382 places a legal duty upon all licensed physicians (MDs and DOs) to report the unsafe practice of other physicians to the Medical Examining Board (MEB) under circumstances detailed in the law.

This bill was initiated by the MEB in an effort to improve its ability to protect the public from physicians who may pose a threat to their patients.

The duty to report codifies ethical obligations which exist in policy statements of the Wisconsin Medical Society and American Medical Association and creates a duty similar to what exists in the laws of many other states. It was written with the knowledge that physicians are in the best position to be aware of colleagues who may engage in a pattern of unprofessional conduct; engage in acts creating an immediate or continuing danger to patients or the public; may be medically incompetent; or may be mentally or physically unable to safely practice medicine. Failure to report such physicians may lead to discipline by the MEB. A summary of the law is available in the July 2010 MEB Newsletter.

Click here to review the July 2010 MEB Newsletter:

[July 2010 MEB Newsletter](#)

This law applies to all licensed physicians without exclusion and thus may in some instances create a conflict for some physicians, particularly those engaged in medical management/peer review and those physicians treating other physicians for psychiatric and substance abuse problems. Additional guidance about possible conflicts can be located in the March 2011 MEB Newsletter.

Click here to review the March 2011 MEB Newsletter:

[March 2011 MEB Newsletter](#)

Reports from physicians about unsafe practice should be made to the Wisconsin Department of Safety and Professional Services (DSPS) in writing and contain sufficient detail to allow appropriate investigation. Note that the filing of a complaint does not automatically result in a disciplinary action. Actions by the MEB are judicial in nature and respondents (those reported) have full rights to due process before any adverse action may be taken against them.

Click here for more information on how to file a complaint:

[File a Complaint](#)

Click here for the full text of 2009 Wisconsin Act 382:

[Act 382](#)