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Governor Scott Walker Secretary Dave Ross

**MEDICAL EXAMINING BOARD
LICENSING COMMITTEE
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
November 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 record of the actions of the Board.

AGENDA

12:00 P.M. OR IMMEDIATELY FOLLOWING THE FULL BOARD MEETING

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-2)**
- B. Approval of Minutes – October 16, 2013 (3-4)**
- C. Administrative Matters**
 - 1. Election of Officers
- D. LRB 2237 – Discussion (5-14)**
- E. Administrative and Visiting Professor Licenses - Discussion**

ADJOURNMENT

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**LICENSURE COMMITTEE
MEDICAL EXAMINING BOARD
MEETING MINUTES
OCTOBER 16, 2013**

PRESENT: Timothy Swan, Gene Musser, Timothy Westlake

EXCUSED: Kenneth Simons

STAFF: Tom Ryan, Executive Director; Joshua Archiquette, Bureau Assistant; and other Department staff

CALL TO ORDER

Tom Ryan, Executive Director; called the meeting to order at 1:03 a.m. A quorum of three (3) members was confirmed.

ADOPTION OF AGENDA

MOTION: Swan moved, seconded by Westlake, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Swan moved, seconded by Westlake, to approve the minutes from August 14, 2013 as published. Motion carried unanimously.

MOTION: Swan moved, seconded by Westlake, to approve the minutes from August 23, 2013 as published. Motion carried unanimously.

The Committee discussed upcoming changes in legislation regarding medical licensure, but took no action.

ADJOURNMENT

MOTION: Swan moved, seconded by Westlake, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:23 p.m.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2237/P2dn
MED:jld:jf

October 29, 2013

I drafted this /P2 version based on the instructions provided to me. However, the instructions did not show what was being stricken from or scored into current law, so please review this draft carefully, including the embedded notes, to make sure I made each intended change to current law.

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to amend** 448.05 (1) (d) and 448.05 (6) (a); **to repeal and recreate**
2 448.05 (2); and **to create** 448.015 (4) (am) 4., 448.02 (10), 448.04 (1) (bm) and
3 448.05 (6) (at) of the statutes; **relating to:** licensure of physicians and granting
4 rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

5 **SECTION 1.** 448.015 (4) (am) 4. of the statutes is created to read:
6 448.015 (4) (am) 4. Failure to surrender a resident educational license when
7 required under s. 448.04 (1) (bm) 3.

****NOTE: I included language here providing that a failure to surrender a license when required constitutes unprofessional conduct. However, this seems like it may be somewhat inconsistent with ss. 440.19 and 448.02 (5), stats. These sections suggest that the effect of a surrender is to allow one to *avoid* professional discipline and that DSPS and Boards may refuse to accept a surrender if a complaint has been filed, presumably

because disciplinary proceedings cannot commence if the license has been surrendered. Therefore, if a licensee is required to surrender his or her license, could (or should) he or she avoid professional discipline by doing so and, if so, is that consistent with the intent?

1 **SECTION 2.** 448.02 (10) of the statutes is created to read:

2 448.02 (10) DISCONTINUANCE OF POSTGRADUATE EDUCATION. If the holder of a
3 license granted under the authority of s. 448.05 (2) (a) 2. b. subsequently
4 discontinues his or her postgraduate training program at any time prior to the
5 completion of the program, the program director shall notify the board, providing full
6 details of the cause of the discontinuance and the holder's plans, if any, for completion
7 of the postgraduate training program. The board shall review the matter and may
8 take any appropriate action.

9 **SECTION 3.** 448.04 (1) (bm) of the statutes is created to read:

10 448.04 (1) (bm) *Resident educational license to practice medicine and surgery.*

11 1. The board may grant a resident educational license to practice medicine and
12 surgery to an applicant who satisfies all of the following:

13 a. The applicant is a graduate of and possesses a diploma from a medical or
14 osteopathic college that is accredited by the Liaison Committee on Medical
15 Education, the American Osteopathic Association, or a successor organization and
16 that is approved by the board.

17 b. The applicant has received credit for 12 months of postgraduate training in
18 one or more postgraduate training programs accredited by the Accreditation Council
19 for Graduate Medical Education, the American Osteopathic Association, or a
20 successor organization.

****NOTE: I assumed for this provision that the applicant could have completed the 12 months of training in more than one program. Is that correct?

1 c. The applicant is currently enrolled in a postgraduate training program
2 accredited by the Accreditation Council for Graduate Medical Education, the
3 American Osteopathic Association, or a successor organization.

****NOTE: I had to restructure this provision because of the changes that were made to s. 448.05 (2), stats. I instead put the requirements for the resident educational license directly in this provision. Let me know if any changes are needed here.

4 2. Subject to subd. 3., a license issued under this paragraph is valid for one year
5 and may be renewed for additional one-year terms while the licensee is enrolled in
6 the postgraduate training program under subd. 1. c.

7 3. A license issued under this paragraph remains valid only while the licensee
8 is actively engaged in the practice of medicine and surgery in the postgraduate
9 training program under subd. 1. c. and is lawfully entitled to work in the United
10 States. If at any time a license no longer remains valid as provided in this
11 subdivision, the licensee shall surrender his or her license.

****NOTE: Please review this language. I tried to draft this more consistent with other language in the DSPTS chapters dealing with surrender of a license. However, see the note under SECTION 1.

12 4. The holder of a license issued under this paragraph may engage in the
13 practice of medicine and surgery only in connection with his or her duties under the
14 postgraduate training program under subd. 1. c.

15 **SECTION 4.** 448.05 (1) (d) of the statutes is amended to read:

16 448.05 (1) (d) Be found qualified by three-fourths of the members of the board,
17 except that an applicant for a temporary license or certificate under s. 448.04 (1) (b)
18 1. and 3., (e), ~~and~~ (g), or (i) or a resident educational license under s. 448.04 (1) (bm)
19 must be found qualified by 2 members of the board.

****NOTE: The supplied language also appeared to be adding in a cross-reference here to s. 448.04 (1) (i), stats., which relates to certificates to practice respiratory care issued by the MEB, and so I made this change. I assume that this change is simply to be consistent with other provisions in subchapter II of chapter 448 and is otherwise

unrelated to the other changes in the bill regarding physician licensure. If this change was not intended or other changes are needed here, let me know.

1 **SECTION 5.** 448.05 (2) of the statutes is repealed and recreated to read:

2 448.05 (2) LICENSE TO PRACTICE MEDICINE AND SURGERY. (a) Except as provided
3 in pars. (b) and (c), an applicant for any class of license to practice medicine and
4 surgery, other than a resident educational license under s. 448.04 (1) (bm), must
5 supply evidence satisfactory to the board of all of the following:

 ****NOTE: There are certain kinds of temporary licenses under s. 448.04 (1) (b) 2.
and 3. Are those individuals also subject to the requirements in this subsection? If the
answer is not yes, then we should add a cross-reference here to except those licensed
under s. 448.04 (1) (b) 2. and 3. from the requirements of this subsection.

6 1. That the applicant is a graduate of and possesses a diploma from a medical
7 or osteopathic college that is accredited by the Liaison Committee on Medical
8 Education, the American Osteopathic Association, or a successor organization and
9 that is approved by the board.

10 2. That the applicant satisfies one of the following:

11 a. The applicant has successfully completed 24 months of postgraduate
12 training in one or more programs accredited by the Accreditation Council for
13 Graduate Medical Education, the American Osteopathic Association, or a successor
14 organization.

 ****NOTE: I assumed for this provision that the applicant could have completed the
24 months of training in more than one program. If so, I would assume that, under subd.
3., the applicant need only be in good standing with the program in which the applicant
was most recently enrolled. Is that correct?

15 b. The applicant is currently enrolled in a postgraduate training program
16 accredited by the Accreditation Council for Graduate Medical Education, the
17 American Osteopathic Association, or a successor organization; the applicant has
18 received credit for 12 consecutive months of postgraduate training in that program;
19 and the applicant has received an unrestricted endorsement from the postgraduate

1 educational program director that includes confirmation that the applicant is
2 expected to continue in the program and complete at least 24 months of postgraduate
3 training.

4 3. That the applicant is in good standing with the postgraduate training
5 program completed by the applicant under subd. 2. a. or in which the applicant is
6 currently enrolled under subd. 2. b. If the applicant completed training under subd.
7 2. a. in more than one program, the applicant must be in good standing with the
8 program in which the applicant was most recently enrolled.

9 4. That the applicant has no material restrictions on or past discipline
10 involving a license to practice medicine and surgery that was issued to the applicant
11 in any other jurisdiction.

***NOTE: Does this mean to say that, if a licensee is from another state, he or she
may never be licensed in Wisconsin if he or she has ever had any past discipline?

12 (b) Except as provided in par. (d), an applicant for a license to practice medicine
13 and surgery who is a graduate of a foreign medical school must supply evidence
14 satisfactory to the board of all of the following:

15 1. That the applicant is a graduate of and possesses a diploma from a foreign
16 medical school credentialed by an agency accepted by the board.

17 2. That the applicant has obtained certification by the Educational Council for
18 Foreign Medical Graduates or a successor organization.

19 3. That the applicant has passed all steps of the United States Medical
20 Licensing Examination administered by the National Board of Medical Examiners
21 and the Federation of State Medical Boards, or their successor organizations.

22 4. That the applicant has successfully completed 24 months of postgraduate
23 training in one or more programs accredited by the Accreditation Council for

1 Graduate Medical Education or the American Osteopathic Association or a successor
2 organization.

****NOTE: Does this mean that, without a waiver under par. (c), foreign grads won't be able to obtain any type of license until they complete their second year of residency? (As currently drafted, I believe the resident educational license would not be available to foreign grads.) Let me know if this is incorrect, or if the resident educational license provision should be modified to make it available to foreign grads.

3 5. That the applicant is in good standing with the postgraduate training
4 program in which the applicant completed the training under subd. 4. or, if the
5 applicant completed the training in more than one program, that the applicant is in
6 good standing with the program in which the applicant was most recently enrolled.

7 6. That the applicant has no material restrictions on or past discipline
8 involving a license to practice medicine and surgery that was issued to the applicant
9 in any other jurisdiction.

****NOTE: Does this mean to say that, if a licensee is from another jurisdiction, he or she may never be licensed in Wisconsin if he or she has ever had any past discipline?

10 (c) The board may promulgate rules specifying circumstances in which the
11 board, in cases of hardship or in cases in which the applicant possesses a medical
12 license issued by another jurisdiction, may grant a waiver from any requirement
13 under par. (a) or (b). The board may grant such a waiver in accordance with those
14 rules.

15 (d) An applicant for a resident educational license under s. 448.04 (1) (bm) shall
16 provide the board with all of the following:

17 1. Written confirmation from the medical school or other institution sponsoring
18 the postgraduate training program in which the applicant is enrolled confirming
19 that the applicant has been appointed to a position in the program.

20 2. Evidence that the applicant is a U.S. citizen or is otherwise lawfully entitled
21 to work in the United States.

1 **SECTION 6.** 448.05 (6) (a) of the statutes is amended to read:

2 448.05 (6) (a) Except as provided in pars. (am) ~~and~~, (ar), and (at), the board
3 shall examine each applicant it finds eligible under this section in such subject
4 matters as the board deems applicable to the class of license or certificate which the
5 applicant seeks to have granted. Examinations may be both written and oral. In lieu
6 of its own examinations, in whole or in part, the board may make such use as it deems
7 appropriate of examinations prepared, administered, and scored by national
8 examining agencies, or by other licensing jurisdictions of the United States or
9 Canada. The board shall specify passing grades for any and all examinations
10 required.

11 **SECTION 7.** 448.05 (6) (at) of the statutes is created to read:

12 448.05 (6) (at) When examining an applicant for a license to practice medicine
13 and surgery under par. (a), the board may only use examinations prepared,
14 administered, and scored by national examining agencies, except that the board may
15 interview an individual applicant as needed to determine information specific to that
16 applicant.

17 **SECTION 8. Initial applicability.**

18 (1) The treatment of section 448.05 (6) (a) and (at) of the statutes first applies
19 to an applicant who is admitted to examination for a license to practice medicine and
20 surgery by the medical examining board under section 448.05 (2) of the statutes, as
21 affected by this act, on the effective date of this subsection.

22 (2) The treatment of section 448.05 (2) of the statutes first applies to an
23 application for a license to practice medicine and surgery under section 448.05 (2) of
24 the statutes, as affected by this act, that is received by the medical examining board
25 on the effective date of this subsection.

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