



**MEDICAL EXAMINING BOARD
LICENSING COMMITTEE
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
January 15, 2014**

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

12:30 P.M. OR IMMEDIATELY FOLLOWING THE FULL BOARD MEETING

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda**
- B) Approval of Minutes of December 11, 2013**
- C) Approval of Minutes of January 3, 2014**
- D) Administrative Updates**
 - 1) Staff Updates
- E) LRB Draft 13-2237/P3 – Discussion (3-14)**
- F) Administrative License – Discussion**
- G) Visiting Physician License – Discussion**
- H) Resident License – Discussion**
- I) Other Licensing Matters – Discussion**

ADJOURNMENT

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 448.04 (1) (b) 2. and 448.04 (1) (c); *to amend* 448.02 (1), 448.05
2 (1) (c), 448.05 (1) (d), 448.05 (6) (a), 448.06 (1), 448.065, 448.08 (1) (a), 462.01
3 (4) and 655.003 (title); *to repeal and recreate* 448.05 (2); and *to create* 448.02
4 (10), 448.04 (1) (ac), 448.04 (1) (bg) and (bm), 448.05 (2c), 448.05 (6) (at), 448.10
5 (2) and 655.003 (4) of the statutes; **relating to:** licensure of physicians;
6 providing an exemption from emergency rule procedures; and granting
7 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:

8 **SECTION 1.** 448.02 (1) of the statutes is amended to read:
9 448.02 (1) LICENSE. The board may grant licenses, including various classes
10 of temporary licenses, to practice medicine and surgery or as an administrative

1 physician, to practice perfusion, to practice as an anesthesiologist assistant, and to
2 practice as a physician assistant.

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

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

11 (b) 1. A license granted under s. 448.04 (1) (bg) may be issued, renewed, or
12 modified at a meeting of the board or between its meetings by the chairperson of the
13 board. Such an action is considered to be an action of the board.

****NOTE: I included this language as requested from the Nevada law. But note that
the language allowing the chairperson to act on his or her own would make this unique
among licenses.

14 2. If the holder of a license granted under s. 448.04 (1) (bg) ceases to teach,
15 research, or practice medicine and surgery at the medical education facility, medical
16 research facility, or medical school where he or she is visiting, the medical education
17 facility, medical research facility, or medical school shall notify the board.

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

19 448.04 (1) (ac) *Administrative physician license.* The board may grant an
20 administrative physician license to an applicant who satisfies the requirements
21 under s. 448.05 (2c). The board shall issue a license under this paragraph subject
22 to the same terms as a license issued under par. (a), except that, notwithstanding any
23 other provision of law that permits a physician to engage in any act that constitutes

1 the practice of medicine and surgery, the holder of a license issued under this
2 paragraph may not engage in the practice of medicine and surgery and may not
3 practice as provided in s. 448.035.

****NOTE: I wasn't sure exactly how to translate the requirements from Nevada law, and the requirement for a regular license described by Dr. Westlake that a physician be actively practicing does not appear to be in the statutes (so I assume this is an MEB requirement). So, please let me know if any changes are needed here.

4 **SECTION 4.** 448.04 (1) (b) 2. of the statutes is repealed.

5 **SECTION 5.** 448.04 (1) (bg) and (bm) of the statutes are created to read:

6 448.04 (1) (bg) *Restricted license to practice medicine and surgery as a visiting*
7 *physician.* 1. The board may, in accordance with s. 448.02 (10) (b), grant a restricted
8 license to practice medicine and surgery as a visiting physician to an applicant who
9 satisfies the requirements under s. 448.05 (2) (e).

10 2. The holder of a license issued under this paragraph may engage in the
11 practice of medicine and surgery only at the medical education facility, medical
12 research facility, or medical school where the person is teaching, researching, or
13 practicing, and only in accordance with the terms and restrictions established by the
14 board.

15 3. A license issued under this paragraph may be granted or renewed by the
16 board in accordance with s. 448.02 (10) (b).

17 4. Subject to subd. 5., a license issued under this paragraph is valid for one year
18 and may be renewed at the discretion of the board as provided in subd. 3.

19 5. A license issued under this paragraph remains valid only while the licensee
20 is actively engaged in teaching, researching, or practicing medicine and surgery and
21 is lawfully entitled to work in the United States.

****NOTE: Instead of requiring the licensee to notify the institution and requiring the institution to notify the MEB, I included this provision, similar to what is in par. (bm), below, for RELs. Will that work?

1 (bm) *Resident educational license to practice medicine and surgery.* 1. The
2 board may grant a resident educational license to practice medicine and surgery to
3 an applicant who satisfies the requirements under s. 448.05 (2) (d).

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 s. 448.05 (2) (d) 1.

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 s. 448.05 (2) (d) 1. and is lawfully entitled to work in the
10 United States.

11 4. The holder of a license issued under this paragraph may engage in the
12 practice of medicine and surgery only in connection with his or her duties under the
13 postgraduate training program under s. 448.05 (2) (d) 1.

14 **SECTION 6.** 448.04 (1) (c) of the statutes is repealed.

15 **SECTION 7.** 448.05 (1) (c) of the statutes is amended to read:

16 448.05 (1) (c) Achieve a passing grade in the any examinations required in this
17 section.

****NOTE: I made this change because it seems like examinations may not be
required for all types of licenses and this accounts for this better. Is that OK?

18 **SECTION 8.** 448.05 (1) (d) of the statutes is amended to read:

19 448.05 (1) (d) Be Except as otherwise provided in s. 448.02 (10) (b), be found
20 qualified by three-fourths of the members of the board, except that an applicant for
21 a temporary license or certificate under s. 448.04 (1) (b) 1. and 3., (e), and (g), or (i)
22 or a resident educational license under s. 448.04 (1) (bm) must be found qualified by
23 2 members of the board.

1 **SECTION 9.** 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) to (e), an applicant for any class of license to practice medicine and surgery
4 must supply evidence satisfactory to the board of all of the following:

 ****NOTE: Let me know if this should not apply to a camp or substitute physician
 under s. 448.04 (1) (b) 3.

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

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

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

14 b. The applicant is currently enrolled in a postgraduate training program
15 accredited by the Accreditation Council for Graduate Medical Education, the
16 American Osteopathic Association, or a successor organization; the applicant has
17 successfully completed and received credit for 12 consecutive months of
18 postgraduate training in that program; and the applicant has received an
19 unrestricted endorsement from the postgraduate educational program director that
20 includes confirmation that the applicant is expected to continue in the program and
21 complete at least 24 months of postgraduate training.

22 3. That the applicant satisfies any other requirement established by the board
23 for issuing the license.

****NOTE: In order to better distinguish the requirements for a regular license from an administrative license, I added this provision. Is that OK?

1 (b) Except as provided in pars. (c) to (e), an applicant for a license to practice
2 medicine and surgery who is a graduate of a foreign medical school must supply
3 evidence satisfactory to the board of all of the following:

4 1. That the applicant is a graduate of and possesses a diploma from a foreign
5 medical school credentialed by an agency approved by the board.

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

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

11 4. That the applicant has successfully completed and received credit for 24
12 months of postgraduate training in one or more programs accredited by the
13 Accreditation Council for Graduate Medical Education or the American Osteopathic
14 Association or a successor organization, the last 12 months of which were completed
15 in a single program.

16 5. That the applicant satisfies any other requirement established by the board
17 for issuing the license.

****NOTE: In order to better distinguish the requirements for a regular license from an administrative license, I added this provision. Is that OK?

18 (c) The board may promulgate rules specifying circumstances in which the
19 board, in cases of hardship or in cases in which the applicant possesses a medical
20 license issued by another jurisdiction, may grant a waiver from any requirement
21 under par. (a) or (b). The board may grant such a waiver only in accordance with
22 those rules.

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

3 1. Proof that the applicant has been accepted into a postgraduate training
4 program accredited by the Accreditation Council for Graduate Medical Education,
5 the American Osteopathic Association, or a successor organization.

6 2. Written confirmation from the institution sponsoring the postgraduate
7 training program into which the applicant has been accepted confirming that the
8 applicant has been or will be appointed to a position in the program.

9 3. Proof that the applicant is a graduate of and possesses a diploma from a
10 medical or osteopathic college that is approved by the board.

11 (e) An applicant for a restricted license to practice medicine and surgery as a
12 visiting physician under s. 448.04 (1) (bg) shall provide the board with all of the
13 following:

14 1. Proof that the applicant is a graduate of and possesses a diploma from a
15 medical or osteopathic college that is approved by the board.

16 2. Proof that the applicant teaches medicine, engages in medical research, or
17 practices medicine and surgery outside this state.

****NOTE: Is this correct? I assumed this would not be available to someone
practicing or researching who already resides in the state.

18 3. Documentation that the applicant intends to teach, research, or practice
19 medicine and surgery at a medical education facility, medical research facility, or
20 medical school in this state, which must include a signed letter from the dean or
21 president of the facility or school.

22 4. Proof that the applicant satisfies any other requirement established by the
23 board for issuing the license.

1 **SECTION 10.** 448.05 (2c) of the statutes is created to read:

2 448.05 **(2c)** ADMINISTRATIVE PHYSICIAN LICENSE. An applicant for an
3 administrative physician license must supply evidence satisfactory to the board that
4 he or she satisfies the requirements for a license to practice medicine and surgery
5 under sub. (2) (a) or (b), subject to any waiver granted under sub. (2) (c), other than
6 any requirement established by the board relating to the active practice of medicine
7 and surgery.

 ****NOTE: Please review this provision and let me know if any changes or other
provisions related to this administrative license are needed. Could an administrative
physician engage in the practice of medicine and surgery under another physician's
delegated practice?

8 **SECTION 11.** 448.05 (6) (a) of the statutes is amended to read:

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

18 **SECTION 12.** 448.05 (6) (at) of the statutes is created to read:

19 448.05 **(6)** (at) When examining an applicant for a license to practice medicine
20 and surgery or an administrative physician license under par. (a), the board may only
21 use examinations prepared, administered, and scored by national examining
22 agencies, except that the board may interview an individual applicant as needed to
23 determine information specific to that applicant.

1 **SECTION 13.** 448.06 (1) of the statutes is amended to read:

2 448.06 (1) GRANT OF LICENSE, CERTIFICATE, OR LIMITED PERMIT. If Subject to s.
3 448.05 (1) (d), if three-fourths of the members of the board find that an applicant who
4 has passed the required examinations is qualified, the board shall so notify the
5 applicant and shall grant the license, certificate, or limited permit.

6 **SECTION 14.** 448.065 of the statutes is amended to read:

7 **448.065 Permanent license for certain professors.** A person who
8 possesses a temporary license under s. 448.04 (1) (b) 2., 2011 stats., and who has
9 practiced under such license for 4 or more years may apply for a license to practice
10 medicine and surgery under s. 448.04 (1) (a). If the applicant achieves a passing
11 grade in the examination for a license to practice medicine and surgery and
12 three-fourths of the board find that the applicant is qualified, notwithstanding s.
13 448.05 (1) (b) and (2), the board may grant the license. The board may limit the
14 license and, notwithstanding s. 448.02 (3) (e), may continue such limits indefinitely
15 or may remove the limits when it is satisfied that the reasons for the limits no longer
16 exist, except that the board shall remove any limitations on the geographical areas
17 of this state in which the physician may practice and any limitations on the persons
18 with whom the physician may associate, after a period of 5 years of continuous
19 medical practice within this state by the physician.

 ***NOTE: Do you want to repeal this provision instead, or allow licensees under s.
 448.04 (1) (bg), as created in the bill, to obtain a permanent license in this manner?

20 **SECTION 15.** 448.08 (1) (a) of the statutes is amended to read:

21 448.08 (1) (a) “Hospital” means an institution providing 24-hour continuous
22 service to patients confined therein which is primarily engaged in providing facilities
23 for diagnostic and therapeutic services for the surgical and medical diagnosis,

1 treatment and care, of injured or sick persons, by or under the supervision of a
2 professional staff of physicians and surgeons, and which is not primarily a place of
3 rest for the aged, drug addicts or alcoholics, or a nursing home. Such hospitals may
4 charge patients directly for the services of their employee nurses, nonphysician
5 anesthetists, physical therapists and medical assistants other than physicians or
6 dentists, and may engage on a salary basis interns and residents who are
7 participating in an accredited training program under the supervision of the medical
8 staff, and persons with a resident educational license issued under s. 448.04 (1) (bm)
9 or a temporary educational certificate issued under s. 448.04 (1) (c), 2011 stats.

10 **SECTION 16.** 448.10 (2) of the statutes is created to read:

11 448.10 (2) LICENSES TO PRACTICE MEDICINE AND SURGERY. (a) Notwithstanding
12 s. 448.05 (2), a person who, on the effective date of this paragraph [LRB inserts
13 date], possessed a valid license to practice medicine and surgery under s. 448.05 (2),
14 2011 stats., may retain, practice under, and continue to renew that license, subject
15 to any other provisions in this subchapter or any requirements established by the
16 board governing a license to practice medicine and surgery.

17 (b) A person who, on the effective date of this paragraph [LRB inserts date],
18 possessed a valid temporary license to practice medicine and surgery under s. 448.04
19 (1) (b) 2., 2011 stats., may retain, practice under, and continue to renew that license
20 in accordance with s. 448.04 (1) (b) 2., 2011 stats., subject to any other provisions in
21 this subchapter or any requirements established by the board governing that license.

22 (c) A person who, on the effective date of this paragraph [LRB inserts date],
23 possessed a valid temporary educational permit to practice medicine and surgery
24 under s. 448.04 (1) (c), 2011 stats., may retain, practice under, and continue to renew
25 that permit in accordance with s. 448.04 (1) (c), 2011 stats., subject to any other

1 provisions in this subchapter or any requirements established by the board
2 governing that permit, or may apply for a resident educational license under s.
3 448.04 (1) (bm).

****NOTE: Please review these three grandfathering provisions and let me know if further changes are needed. You may wish to have DSPS review these. Paragraph (a) lets physicians who currently hold licenses retain those licenses even if they would not be able to qualify for one under the new law. Paragraphs (b) and (c) allow holders of licenses and permits under the repealed provisions to keep them in accordance with prior law. The MEB may also want to take a look at s. 448.10 (1), (4), and (5), stats., and see if those are still relevant. If not, I could repeal them in this bill.

4 **SECTION 17.** 462.01 (4) of the statutes is amended to read:

5 462.01 (4) “Physician” means a person licensed to practice medicine and
6 surgery under s. 448.04 (1) (a) ~~or~~, (b), or (bg).

****NOTE: This provision relates to the practice of radiography and appears to exclude those possessing temporary educational permits under s. 448.04 (1) (c), so I did not include REL holders in this provision. Let me know if this is incorrect or if other changes are needed here. Please also see s. 462.04, stats.

7 **SECTION 18.** 655.003 (title) of the statutes is amended to read:

8 **655.003 (title) Exemptions for ~~public employees and facilities and~~**
9 **~~volunteers~~ certain persons and facilities.**

10 **SECTION 19.** 655.003 (4) of the statutes is created to read:

11 655.003 (4) A physician who holds an administrative physician license issued
12 under s. 448.04 (1) (ac).

13 **SECTION 20. Nonstatutory provisions.**

14 (1) Using the procedure under section 227.24 of the statutes, the medical
15 examining board may promulgate rules under section 448.40 (1) of the statutes that
16 are necessary to implement the changes in this act and rules under section 448.05
17 (2) (c), as affected by this act, for the period before the effective date of any permanent
18 rules promulgated under section 448.40 (1) of the statutes, but not to exceed the
19 period authorized under section 227.24 (1) (c) of the statutes, subject to extension

1 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
2 (b), and (3) of the statutes, the board is not required to provide evidence that
3 promulgating a rule under this subsection as an emergency rule is necessary for the
4 preservation of the public peace, health, safety, or welfare and is not required to
5 provide a finding of emergency for a rule promulgated under this subsection.

****NOTE: This provision gives the MEB the authority to promulgate emergency
rules if doing so is necessary to implement the changes in this act. Note that these rules,
under this provision, could only be in effect for a maximum of 270 days. If more time
would be needed for permanent rules, this provision could be modified to allow the
emergency rules to remain in place for a longer period.

6 **SECTION 21. Initial applicability.**

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

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

15 **SECTION 22. Effective date.**

16 (1) This act takes effect on the first day of the 12th month beginning after
17 publication.

18 (END)