



STATE OF WISCONSIN
Department of Safety and Professional Services
1400 E Washington Ave.
Madison WI 53703

Mail to:
PO Box 8935
Madison WI 53708-8935

Email: dsps@wisconsin.gov
Web: <http://dsps.wi.gov>
Phone: 608-266-2112

Governor Scott Walker Secretary Dave Ross

PODIATRY AFFILIATED CREDENTIALING BOARD
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
July 30, 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

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A.** Recognition of Board Member(s)
- B.** Introduction of New Board Member(s)
- C.** Adoption of Agenda
- D.** Approval of Minutes – March 5, 2013
- E. DLSC Matters**
 - 1) **APPEARANCE – Attorney Arthur Thexton, DLSC, Attorney Kristen Nelson and John Lanham, DPM** - Presentation of Complaint and Proposed Summary Suspension in the Matter of Disciplinary Proceedings Against John Lanham, DPM – Case Numbers 12 POD 002, 12 POD 006, 12 POD 009, 12 POD 013, 12 POD 014, 12 POD 016, 13 POD 004, 13 POD 005, 13 POD 007 and 13 POD 008
- F. Administrative Updates**
 - 1) Staff Updates
 - 2) Public Board Agenda Item
 - 3) Paperless Initiative
- G. Credentialing Matters**
 - 1) Credentialing Procedures
- H. Education and Examination Matters**
 - 1) **APPEARANCE – Jill Remy, Office of Education and Examinations - CE Audit and Board Discussion**
- I. Legislative/Administrative Rule Matters:**
 - 1) Executive Order 50 Review

- 2) Executive Order 61 Review
- 3) Podiatry X-Ray Examinations Under the Supervision of a Podiatrists
 - a) Review of Discussions with the Radiography Examining Board
 - b) Review and Implementation of Scope Statement Regarding Requirements of a Course of Instruction Related to X-Ray Examinations by Persons Under Direct Supervision of Podiatrists Under § 462.02(2)(f)
 - c) Review Draft Language and Decide Whether to Amend or Adopt the Language

J. Practice Matters

K. Informational Items

L. 10:00 A.M. – Public Hearing on Rules Regarding POD 1.08 and POD 3.01 Relating to Temporary Educational Licenses and Continuing Education

M. Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Presentations of Petition(s) for Summary Suspension
- 3) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 4) Presentation of Final Decisions
- 5) Disciplinary Matters
- 6) Executive Director Matters
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Class 1 Hearing(s)
- 10) Practice Matters
- 11) Legislation/Administrative Rule Matters
- 12) Liaison Report(s)
- 13) Informational Item(s)
- 14) Speaking Engagement(s), Travel, or Public Relation Request(s)

N. 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.)

O. Presentation and Deliberation on Proposed Stipulations, Final Decisions and Orders by the Division of Legal Services and Compliance (DLSC):

P. Deliberation of Complaint

- 1) Case Nos. 12 POD 002, 12 POD 006, 12 POD 009, 12 POD 013, 12 POD 014, 12 POD 016, 13 POD 004, 13 POD 005, 13 POD 007 and 13 POD 008

Q. Deliberation of Proposed Summary Suspension

- 1) John Lanham, DPM - 12 POD 002, 12 POD 006, 12 POD 009, 12 POD 013, 12 POD 014, 12 POD 016, 13 POD 004, 13 POD 005, 13 POD 007 and 13 POD 008

Addenda Deliberation of Petition for Designation of Hearing Official

- 1) John Lanham, DPM - 12 POD 002, 12 POD 006, 12 POD 009, 12 POD 013, 12 POD 014, 12 POD 016, 13 POD 004, 13 POD 005, 13 POD 007 and 13 POD 008

R. DLSC Matters:

- 1) Case Status Report
- 2) Case Closing(s)

S. Deliberation of Items Received After Preparation of the Agenda

- 1) Disciplinary Matters
- 2) Education and Examination Matters
- 3) Credentialing Matters
- 4) Class 1 Hearings
- 5) Monitoring Matters
- 6) Professional Assistance Procedure (PAP) Matters
- 7) Petition(s) for Summary Suspensions
- 8) Petition(s) for Extension of Time
- 9) Proposed Stipulations, Final Decisions and Orders
- 10) Administrative Warnings
- 11) Proposed Decisions
- 12) Matters Relating to Costs
- 13) Motions
- 14) Petitions for Rehearing
- 15) Formal Complaints
- 16) Case Closings
- 17) Appearances from Requests Received or Renewed

T. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

V. Wis. Stat. s. 15.085, Chairperson Meeting with Medical Examining Board to Consider all Matters of Joint Interest

W. Training

- 1) Board Member Training
- 2) Case Advisor Training

ADJOURNMENT

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE. IF A BOARD ADJOURNS TO CLOSED SESSION, RECONVENES IN OPEN SESSION TO VOTE ON ITEMS CONSIDERED IN CLOSED SESSION, AND DURING VOTING DETERMINES THAT ADDITIONAL DELIBERATIONS ARE NECESSARY FOR VOTING, THE BOARD MAY ADJOURN TO CLOSED SESSION TO CONTINUE DELIBERATIONS AND THEN RECONVENE INTO OPEN SESSION FOR VOTING.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 1400 East Washington Avenue, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider in materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

Page intentionally left blank

**PODIATRY AFFILIATED CREDENTIALING BOARD
MARCH 5, 2013
MEETING MINUTES**

PRESENT: Gary Brown; Jeffery Giesking, DPM; Thomas Komp, DPM; William Weis, DPM

STAFF: Tom Ryan, Executive Director; Shawn Leatherwood, Paralegal; David Carlson, Bureau Assistant; other DSPS staff

CALL TO ORDER

Gary Brown called the meeting to order at 9:10 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

Amendments

- Item D2b (open) – Introduction of DLSC Med/Health Team – is removed from the agenda
- Credentialing Matters:
 - Application Review – Locum Tenens Application of I.V.J., DPM – insert after page 36 and after Item O in closed session
- Case Status Report – insert at the end of closed session

MOTION: Thomas Komp moved, seconded by Gary Brown, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF NOVEMBER 1, 2012

MOTION: Gary Brown moved, seconded by William Weis, to approve the minutes of November 1, 2012 as written. Motion carried unanimously.

EXECUTIVE DIRECTOR MATTERS

Election of Officers and Liaison Appointments

NOMINATION: Thomas Komp nominated William Weis for Chair.

Tom Ryan called for nominations three times. Hearing no additional nominations, a vote was called.

William Weis was elected Chair by unanimous vote.

NOMINATION: William Weis nominated Thomas Komp for Vice Chair.

Tom Ryan called for nominations three times. Hearing no additional nominations, a vote was called.

Thomas Komp was elected Vice Chair by unanimous vote.

NOMINATION: William Weis nominated Gary Brown for Secretary.

Tom Ryan called for nominations three times. Hearing no additional nominations, a vote was called.

Gary Brown was elected Secretary by unanimous vote.

2013 ELECTION RESULTS	
Chair	William Weis
Vice Chair	Thomas Komp
Secretary	Gary Brown

- Credentialing Liaison(s): William Weis, Thomas Komp (alternate)
- Monitoring Liaison(s): Thomas Komp, Jeffery Giesking (alternate)
- Education and Exams Liaison(s): Jeffery Giesking, Thomas Komp (alternate)
- Legislative Liaison(s): William Weis, Jeffery Giesking (alternate)
- Travel Liaison(s): Jeffery Giesking, Thomas Komp (alternate)
- Screening Panel: Thomas Komp, William Weis, and Gary Brown, Jeffery Giesking (alternate)

MOTION: Thomas Komp moved, seconded by Gary Brown, to appoint liaisons as listed above. Motion carried unanimously.

MOTION: Jeffery Giesking moved, seconded by Gary Brown, to authorize the Department to apply the signature of a member of the Board to documents as necessary and in accordance with the law. Motion carried unanimously.

MOTION: William Weis moved, seconded by Gary Brown, to appoint the highest ranking member of the Board, in succession, or in the event there are no Board officers, the longest serving member of the Board to delegate authority to the Department to appoint liaisons and to carry out Board business as needed and in accordance with the law. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Executive Order 50

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to acknowledge that the Board reviewed its position statements and found no changes are necessary at this time. Motion carried unanimously.

Executive Order 61

MOTION: William Weis moved, seconded by Jeffery Giesking, to appoint Thomas Komp to review rules in accordance with EO-61 and report back to the Board. Motion carried unanimously.

Statutory Requirement to Consult With the Radiography Examining Board Regarding Rules For a Course of Instruction Relating to Examinations by Persons Supervised Directly By a Podiatrist

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to appoint William Weis to consult with James Lemerond of the Radiography Examining Board regarding rules related to the course of instruction for X-Ray examinations by persons under the direct supervision of a podiatrist. Motion carried unanimously.

Review of Clearinghouse Rule 12-047, POD 1 and POD 3

MOTION: Thomas Komp moved, seconded by William Weis, to adopt the changes recommended in the Clearinghouse Report. Motion carried unanimously.

CLOSED SESSION

MOTION: William Weis moved, seconded by Jeffery Giesking, to convene to closed session to deliberate on cases following hearing (Wis. Stat. § 19.85 (1))

(a)); consider closing disciplinary investigation with administrative warning (Wis. Stat. § 19.85 (1) (b), and Wis. Stat. § 440.205); consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)) Roll call vote: Gary Brown-yes; Jeffery Giesking-yes; Thomas Komp-yes; William Weis-yes. Motion carried unanimously.

Open session recessed at 10:05 a.m.

**RECONVENE INTO OPEN SESSION IMMEDIATELY
FOLLOWING CLOSED SESSION**

MOTION: William Weis moved, seconded by Thomas Komp, to reconvene into open session. Motion carried unanimously.

The Board reconvened into open session at 10:09 a.m.

ADJOURNMENT

MOTION: William Weis moved, seconded by Jeffery Giesking, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:11 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Karen Rude-Evans, Bureau Assistant		2) Date When Request Submitted: 6/28/2013 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: Podiatry Examining Board			
4) Meeting Date: July 30, 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Paperless Initiative	
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? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Brief presentation of how Board Members can sign up for SharePoint as a part of the paperless initiative, as well as instructions on using DSPS laptops.			
11) Authorization			
Karen Rude-Evans		6/28/2013	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

How to register for a username/password on <http://register.wisconsin.gov> .

In order to access the Board SharePoint site, Board Members must obtain a State of WI/DOA username/password from this site <http://register.wisconsin.gov> . Once registered, Board Members will be provided a DOA credential under the Wisconsin External (wiext) domain. This account is intended to provide users with access to multiple State of Wisconsin web applications, including the DSPS SharePoint site.

10

To Begin, use the 'Self Registration' link

DOA/Wisconsin Logon Management System

The DOA/Wisconsin Logon Management System allows authorized individuals to access many DOA Internet applications using a single ID and password. When access to information or services is restricted to protect your privacy or the privacy of others, you will be asked to provide your DOA/Wisconsin Logon and password to access DOA/Wisconsin Logon and password verifies your identity so that we can provide you with access to your information and services and prevent access by unauthorized individuals.

User Acceptance Agreement

Please note that only certain types of information will be stored in your user profile, as described in the **User Acceptance Agreement**. Your user profile will never contain records such as driving history, tax information, unemployment compensation, vehicle registrations or prison records.

Sign Up for your DOA/Wisconsin Logon

Self Registration (Request a DOA/Wisconsin Logon and Password.)

Self Registration allows you to create your **personal** DOA/Wisconsin Logon. This is your key to doing secure business with DOA over the Internet.

Change / Update Your Information

Profile Management allows you to change your account information, e-mail address and other information.

Change Your Password

Password Management allows you to change your password.

Forgot Your Logon ID or Password?

Logon ID/Password Recovery allows you to recover a forgotten DOA/Wisconsin Logon and/or Password.

Updated February 6, 2009
DOA/Wisconsin Logon Management System
Direct Contact: [BISS@DOA](mailto:BISS@DOA.wisconsin.gov)
Content Contact: [BISS@DOA](mailto:BISS@DOA.wisconsin.gov)

[Wisconsin.gov](#) | [Search](#) | [Legal](#) | [DOA Home](#)

Not sure if you already have DOA/State of WI account?

Use the 'Forgot Your Logon ID or Password' link to check

After accepting the user agreement, complete the 'Account Creation' form.

Indicate 'SharePoint' under the section entitled, 'Systems You Will Access'

Account Creation

* Indicates Required Field

Profile Information

First Name *

Middle Initial *

Last Name *

Suffix

E-Mail *

Phone ext.

Mailing Address

Street Address

City

State/Province

Zip Code

Systems You Will Access

Use your mouse to highlight the system that you want to access.

Systems *

SharePoint
 iWinCC

Account Information

Your Logon ID must be between 5-20 characters and **CAN** be a combination of letters and numbers. Your Logon ID must not contain spaces or special characters.

Logon ID *

Your Password must be 7-20 characters long and **MUST** contain a combination of letters and either numbers or special characters (except the @ ? / signs). Passwords are case sensitive. Your Password cannot contain the Logon ID.

Password *

Re-enter Password *

Logon ID/Password Recovery

Enter a question and answer for use if you forget your DOA/Wisconsin Logon ID or Password. Your Secret Question and Secret Answer cannot contain your password.

Secret Question *

Secret Answer *

Verification

This step helps prevent automated registrations.
If you cannot see the number below click here.

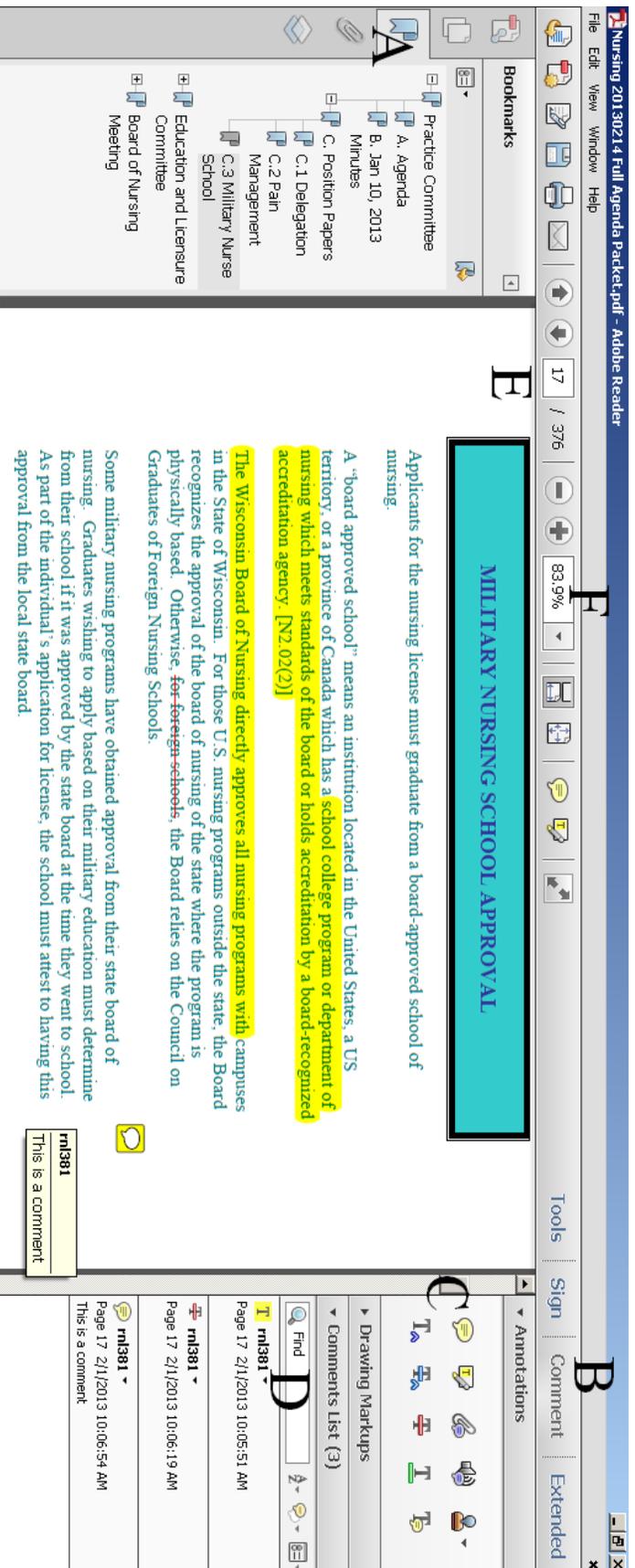
Please enter the number as it is shown in the box to the left.

*

Please use a login ID of your first initial followed by your middle initial followed by your last name, as in the example to the left.

Remember your logon ID, as you will need to provide that to DSPS staff in order for you to receive proper access rights.

Once you have been granted permission to access the Board's website, you should receive an automated 'Welcome to SharePoint' email with a link to the site.



Above is an example of an agenda packet page, with some features you can access through Adobe Reader.

A: Bookmarks – When the Bureau Assistant creates the Agenda Packet, it is possible to place in bookmarks for quick reference during meetings. You can expand and minimize categories to better enable you to jump from section to section of your agenda here.

B: Comment – On specially designated .pdf files, it is possible for Adobe Reader to be given comment privileges. This allows a Board member to make comments on documents, as well as edit, highlight, or insert text in suitable files. Please note, if the file is a scanned copy, it is likely that the highlight and text editing features will not be usable. The comment feature will still work in such an issue.

C: Annotations & Drawing Markups – These are the different options you can use to mark up your document for your reference. If you mouse over an option, it will give a brief description of what it can do for you. Feel free to experiment and find out what works best for you!

D: Comments List – Quickly jump between your comments by selecting them in this list. Never again will you miss out on a note during a discussion with this handy tool.

E: Page List – No more rifling through papers in order to track down that page someone mentioned! With this handy bar, you can simply type in the page you are looking for, hit enter, and Adobe Reader will take you directly to the page.

F: Zoom – Having trouble reading something? You can zoom in and out on a document with this bar. The plus and minus signs to the left can be used to make quick adjustments as well.

Credentialing Procedures (Podiatry Affiliated Credentialing Board)

Date of Motion:

Delegated Authority to Take Action

Action	Person with delegated authority to act on behalf of the board [Either Dept staff, cred liaison (<i>name</i>) or None (<i>goes to full board</i>)]	Notes or Comments
Grant a credential within the board's jurisdiction when all information required by law is submitted and there is discipline.	<p>Low Risk Discipline:</p> <p>Medium Risk Discipline:</p> <p>High Risk Discipline:</p>	<p>Criteria used to determine whether past discipline is low, medium or high risk:</p> <ul style="list-style-type: none"> • Minor misconduct vs. serious misconduct • First occurrence • Time elapsed since the misconduct • Requirements stemming from the misconduct completed • License fully restored • Any further discipline • Potential for harm or recurrence • Current license limitations
Grant a credential within the board's jurisdiction for active practice requirement		
Grant a credential within the board's jurisdiction for reinstatement of license		
Issue an intent to deny on behalf of the board		
Issue a denial on behalf of the board for any basis authorized by law		
<p>When a full board takes action, Department staff will prepare the order reflecting the action taken. Who has the authority to sign these orders between meetings? (e.g. Executive Director with approval from a designated board member)</p>		

Page intentionally left blank

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Karen Rude-Evans, Bureau Assistant, on behalf of Executive Director Tom Ryan		2) Date When Request Submitted: June 25, 2013 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: Podiatry Examining Board			
4) Meeting Date: July 30, 3012	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? CE Audit - 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? <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Jill Remy, Office of Education and Examinations, will appear before the Board to discuss the CE Audit.			
11) Authorization			
Karen Rude-Evans		June 25, 2013	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Page intentionally left blank

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Karen Rude-Evans, Bureau Assistant on behalf of Executive Director Tom Ryan		2) Date When Request Submitted: 6/28/2013 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: Podiatry Examining Board			
4) Meeting Date: July 30, 2013	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Executive Order 50 - Board Review	
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? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Karen Rude-Evans		6/28/2013	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Page intentionally left blank

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Karen Rude-Evans, Bureau Assistant on behalf of Executive Director Tom Ryan		2) Date When Request Submitted: 6/28/2013 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: Podiatry Examining Board			
4) Meeting Date: July 30, 2013	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Executive Order 61 - Board Review	
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? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Karen Rude-Evans		6/28/2013	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Page intentionally left blank

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Shawn Leatherwood		2) Date When Request Submitted: 6/28/2013	
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: Podiatry Affiliated Credentialing Board			
4) Meeting Date: July 30, 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Podiatry X-Ray Examinations Under the Supervision of a Podiatrist	
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? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: 1. Review of Discussions with the Radiography Examining Board <p style="text-align: center;"> Motion from 12/11/12 Radiography Examining Board: MOTION: Gregg Bogost moved, Seconded by Kelley Grant, to appoint James Lemerond to consult with the Podiatry Examining Board as necessary to develop a plan for a course of instruction for X-Ray examination by persons under the direct supervision of a Podiatrist. Motion carried unanimously. </p> 2. Review and Implementation of Scope Statement Regarding Requirements of a Course of Instruction Related to X-Ray Examinations by Persons Under Direct Supervision of Podiatrists Under s. 462.02(2)(f) 3. Review Draft Language and Decide Whether to Amend or Adopt the Language.			
11) Authorization			
Shawn Leatherwood		6/28/2013	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: 165-POD X-ray Exams-SS

Relating to: Requirements of a course of instruction related to X-ray examinations by persons under direct supervision of podiatrists under § 462.02(2)(f)

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

None.

2. Detailed description of the objective of the proposed rule:

The rule is intended to comply with the legislative directive in Wis. Stat. § 448.695 that the Podiatry Affiliated Credentialing Board, "shall promulgate rules specifying the requirements for a course of instruction related to X-ray examinations by persons under the direct supervision of a podiatrist under § 462(2)(f).

Generally, persons who practice radiography are required to be credentialed by the Radiography Examining Board. Wis. Stat. § 462.02(1). An exception exists for uncredentialed persons who practice under the direct supervision of a podiatrist. Wis. Stat. § 462.02(2)(f). The proposed rule is intended to specify education requirements for these unlicensed delegates that provide for patient safety, without unduly burdening the unlicensed delegate or the podiatrist/employer.

Additionally, the proposed rule will define "direct supervision" and any other terms, as yet unidentified, which become apparent during the process, and which the Board deems necessary to comply with § 448.695.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

In 2009 Wisconsin Act 106, the legislature determined that persons who engage in the practice of radiography should be regulated. The purpose of professional regulation is primarily to remove unacceptable risks of harm to patients under the care of licensees.

Radiographers use radioactivity in the diagnostic process. Radioactivity, at certain levels or with repeat imaging, creates a risk of harm to patients. In the hands of unqualified persons, the risk of harm is unacceptable.

There are differences between radiography performed in the practice of podiatric medicine and surgery and that in other settings. Those differences result in fewer and less potentially harmful collateral consequences in podiatric medicine than in radiography generally. First, the proposed rule is applicable to persons who take x-rays only under the direct supervision of podiatrists. Persons credentialed by the Radiography Board practice without direct supervision in most

instances. Second, radiography equipment used in podiatrists' offices is much less powerful than more comprehensive equipment used in other health care settings. Third, in podiatric medicine diagnostic x-rays are limited to extremities--the foot, ankle and lower leg below the knee. These areas of the body are less vulnerable to the collateral consequences of an x-ray than are chest, head and other more vascular areas of the body for which more powerful radiology equipment is used.

Because the practice of radiography within podiatric medicine is inherently less dangerous to patients than radiography is in other settings, this rule will further the social policies of avoiding unnecessary restrictions on employment of health care professionals and potentially reducing costs to health care consumers.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Generally, persons who practice radiography are required to be credentialed by the Radiography Examining Board. Wis. Stat. § 462.02(1). An exception exists for uncredentialed persons who practice under the direct supervision of a podiatrist. Wisconsin Stat. § 462.02(2)(f) specifies that credentialing by the Radiography Examining Board is not required for:

A podiatrist licensed under s. 448.63 or a person under the direct supervision of such a podiatrist, if the person has successfully completed a course of instruction approved by the podiatrists affiliated credentialing board related to X-ray examinations under s. 448.695 (3).

The legislature has directed the Podiatry Affiliated Credentialing Board to identify education requirements for persons who practice radiography only under the direct supervision of licensed podiatrists:

448.695 (3) The[podiatry] affiliated credentialing board shall promulgate rules specifying the requirements for a course of instruction related to X-ray examinations by persons under the direct supervision of a podiatrist under s. 462.02 (2) (f). In promulgating the rules, the affiliated credentialing board shall consult with the radiography examining board and shall examine laws and rules in other states. The affiliated credentialing board shall approve courses that meet the requirements set forth in the rules.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

60 hours.

6. List with description of all entities that may be affected by the proposed rule:

Podiatry patients, podiatrists, unlicensed persons employed by podiatrists, third-party payers and educational organizations.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The Consumer-Patient Radiation Health & Safety Act of 1981 (42 USC 10001, et seq, is relevant because it specifies education and credentialing standards for radiographers, radiation therapists, dental radiographers, sonographers and nuclear medicine technologists. More research would be necessary to confirm whether or not the Act concerns radiography in podiatric medicine and surgery. Regardless, there are no enforcement provisions in current law and therefore, compliance with the Act is voluntary and dependent upon state regulation.

However, the proposed amendments to federal law could make enforcement of federal standards relevant to Medicare funding. The Consistency, Accuracy, Responsibility and Excellence (CARE) in Medical Imaging and Radiation Therapy bill, H.B. 2104 would amend current law by creating an enforcement provision in federal standards for education and certification of certain radiography professionals. In short, if a state declined to adopt federal standards for education and credentialing of certain radiography professionals, the state would lose certain federal Medicare funding.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

Any resulting course of instruction could result in more business opportunity for private vocational educators.

Contact Person: Shawn Leathewrood

Dr. Van Lamm, DPM *SL*
Department Head or Authorized Signature
8/1/12

8/1/12
Date Submitted

Proposed changes after consultation with Radiology Board appointee.

Underlined is added text.

~~Strikeout~~ text is to be removed.

448.695(3) (3) The affiliated credentialing board shall promulgate rules specifying the requirements for a course of instruction related to X-ray examinations by persons under the direct supervision of a podiatrist under s. 462.02 (2) (f). In promulgating the rules, the affiliated credentialing board shall consult with the radiography examining board and shall examine laws and rules in other states. The affiliated credentialing board shall approve courses that meet the requirements set forth in the rules.

Podiatric x-ray assistants.

Definitions:

“Podiatric x-ray assistant” means a person who is under the direct supervision of a licensed podiatric physician to perform only those radiographic functions that are within the scope of practice of a podiatric physician licensed under Wis. Stat. § 448.61; and that the podiatric physician is competent to perform.

“Direct supervision” means a physician has assumed responsibility for directing, supervising and inspecting the work of the person being supervised and the supervising physician is physically present on the same premises ~~as~~as the person being supervised, with face-to-face contact as necessary. The podiatrist is ultimately responsible for the care provided by the podiatric x-ray assistant.

A podiatric physician may not delegate x-ray tasks to an unlicensed person unless the delegate has successfully completed a course of instruction for podiatric x-ray assistants approved by the Board.

Patients must be informed that the x-ray assistant is practicing under the supervision of the podiatric physician.

A course of instruction for podiatric x-ray assistants is approved by the Board if the following are true:

1. The instructor is a physician or radiographer whose license to practice in Wisconsin is current and unlimited;
2. The program consists of at least 8 hours of instruction;
3. The course of instruction addresses, and attendees demonstrate knowledge and understanding of, all of the following topics:
 - Terminology.
 - Science of radiation in x-rays.
 - Radiation exposure and monitoring including dose limits for exposure to ionizing radiation.
 - Health risks of radiation exposure.
 - Safety techniques to minimize radiation exposure to staff and patients-ALARA (As Low As Reasonably Achievable).
 - Processing chemical safety/OSHA and MSDS.
 - Anatomy and function of foot and leg.
 - Positioning for podiatric x-rays.
 - Equipment operation, technique, and quality control including analog and digital.

Infection control.

Legal and ethical issues.

A podiatric physician who uses the services of a podiatric x-ray assistant shall keep at each practice site, a copy of documentation that the podiatric x-ray assistant satisfactorily completed a course of instruction that meets the requirements set out above.

**State of Wisconsin
Department of Regulation and Licensing**

AGENDA REQUEST FORM

Name and Title of Person Submitting the Request: Shawn Leatherwood, Division of Policy and Development		Date When Request Submitted: 12/04/12
		Items will be considered late if submitted after 5 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before meeting for all other boards
Name of Board, Committee, Council: Podiatrists Affiliated Credentialing Board		
Board Meeting Date: 07/30/2013	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How should the item be titled on the agenda page? Public Hearing on rules regarding POD 1.08 and POD 3.01 relating to temporary educational licenses and continuing education
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 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 and review and discuss the clearinghouse report and accept or reject the amendments recommended by the legislative council of POD 1.08 and POD 3.01 relating to temporary educational licenses and continuing education.		
If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:		
<p>Directions for including supporting documents:</p> <ol style="list-style-type: none"> 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>		12/04/12
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
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : PODIATRISTS AFFILIATED
PODIATRISTS AFFILIATED : CREDENTIALING BOARD
CREDENTIALING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 10-)

PROPOSED ORDER

An order of the Podiatrists Affiliated Credentialing Board to amend Pod 1.08 (5); and to create Pod 3.02 (4) and 3.03 (3), relating to temporary educational license and continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

s. 448.63 (3), Stats.

Statutory authority:

ss. 15.085 (5) (b), 440.035 (1), 448.63 (3), 448.665, Stats.

Explanation of agency authority:

The Podiatrists Affiliated Credentialing Boards is charged with promulgating rules that govern their profession via s. 15.085 (5) (b), and 440.035 (1), Stats., under the oversight of the Medical Examining Board. Pursuant to s. 448.63 (3), Stats., the Podiatrists Affiliated Credentialing Board has authority to write rules concerning various classes of temporary licensure. Section 448.665, Stats., grants rule writing authority for establishing requirements for continuing education. Therefore the Podiatrists Affiliated Credentialing Board is generally and specifically vested with the authority to promulgate these rules.

Related statute or rule:

Wis. Admin. Code Pod 1 and Pod 3

Plain language analysis:

The proposed rule will address two issues: license holders having to reapply for a temporary license half way through their post graduate training and the requirements for

licensees seeking first time renewal. By changing the duration of the temporary license from 1 year to 2 years, the proposed rule eliminates the need for temporary licensees to reapply for licensure while they are completing their post graduate training. As to the second issue, the proposed rule allows first time renewal applicants to use proof of graduation from a school of podiatric medicine to comply with the 50 requisite continuing education hours currently required by rule. This alleviates the burden on new licensees who's first time renewal occurs towards the end of a renewal period.

SECTION 1. amends the provision governing the duration of temporary licensure changing the requirement from 1 year to 2 years.

SECTION 2. creates a provision for accepting proof that the podiatrist graduated from a school of podiatric medicine.

SECTION 3. creates a provision accepting a certified copy of an official transcript or a certified copy of a diploma from a school of podiatric medicine and surgery to verify, when audited, compliance with the continuing education requirement.

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

None

Comparison with rules in adjacent states:

Illinois:

A temporary license is valid for one year. 68 Ill. Adm. Code 1360.65(b) (2012) A renewal applicant is not required to comply with continuing education requirements for his/her first renewal. 68 Ill. Adm. Code 1360.70(a)(3) (2012).

Iowa:

A temporary license is valid for one year. 645 IAC 220.6(149)(1) (2012) First time licensees are not required to complete continuing education requirements for their first renewal period. 645 IAC 222.2(149,272C)(2) (2012)

Michigan:

There is no language stating the duration for a temporary license. MICH. ADMIN. CODE R 338.8109 (2012) The Administrative code is silent with regards to the continuing education requirements for a first renewal. MICH. ADMIN. CODE R 338.3703 (2012)

Minnesota:

A temporary permit is valid for 12 months, starting on the first day of graduate training. Minn. R. 6900.0160 Subp. 2. (2011) The continuing education requirement for a first renewal is not entirely waived, but rather the hours are prorated according to how long the applicant has had his/her license. Minn. R. 6900.0300 Subp.1a. (2011)

Summary of factual data and analytical methodologies:

The Podiatrists Affiliated Credentialing Board reviewed the pertinent rules and determined that s. Pod 1.08 (5) should be revised to address the issue of podiatric temporary license holders reapplying for a temporary license half way through their required 2-year post graduate training. The issue is resolved by these proposed rules by changing the duration of temporary licensure from 1 year to 2 years. There was also a need to resolve the issue of licensees who are first time renewals seeking to fulfill their 50 hours of continuing education. These proposed rules will allow applicants, in the first year of their renewal period, to satisfy the continuing education requirement with approved verified documentary evidence of graduation from a school of podiatric medicine and surgery such as a verified copy of the diploma conferring the degree of doctor of podiatric medicine.

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

This rule has no impact on small business.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jeffrey.Weigand@wisconsin.gov, or by calling (608) 267-9794.

Agency contact person:

Comments may be submitted to Shawn Leatherwood, Department of Safety and Professional Services, 1400 East Washington Avenue, Room 116, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to Shancethea.leatherwood@wiscosin.gov. Comments must be received on or before December XX, 2012 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Pod 1.08 (5) is amended to read:

Pod 1.08 (5) Temporary educational licenses granted under this chapter shall expire ~~one year~~ 2 years from date of issuance.

SECTION 2. Pod 3.02 (4) is created to read:

Pod 3.02 (4) The Board shall accept as satisfaction of the requirements of s. 448.665, Stats., proof that the podiatrists graduated from school of podiatric medicine and surgery approved by the Board pursuant to s. Pod 1.03 (2), as long as both of the following are in effect:

(a) The podiatrists is, for the first time, renewing a license to practice podiatric medicine and surgery in Wisconsin

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

SECTION 3. Pod 3.03 (3) is created to read:

Pod 3.03 (3) A certified copy of an official transcript or a diploma is satisfactory evidence of compliance with s. 3.02 (4) of this chapter.

SECTION 4. 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 _____

Member
Podiatry Affiliated Credentialing Board



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Pam Shannon
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Assistant Directors

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 12-047

AN ORDER to amend Pod 1.08 (5); and to create Pod 3.02 (4) and 3.03 (3), relating to temporary educational licenses and continuing education requirements for podiatrists.

Submitted by **DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES/PODIATRY AFFILIATED CREDENTIALING BOARD**

11-02-2012 RECEIVED BY LEGISLATIVE COUNCIL.

11-29-2012 REPORT SENT TO AGENCY.

JKR:BTL



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Pam Shannon
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Assistant Directors

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 12-047

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

The agency might consider including an initial applicability clause in the proposed rule to specify when the changes made by the rule first apply. [s. 1.02 (3m), Stats.]

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

a. On page 1 of the rule summary, in the explanation of agency authority, “s. 15.085 (5) (b), and 440.035 (1), Stats.” should be replaced with “ss. 15.085 (5) (b) and 440.035 (1), Stats.” [s. 1.07 (2), Manual.]

b. On page 1 of the rule summary, in the related statute or rule section, “Wis. Admin. Code Pod 1 and Pod 3” should be replaced with “chs. Pod 1 and 3”. [s. 1.07 (2), Manual.]

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

a. On page 1 of the rule summary, in the explanation of agency authority, “Boards” should be replaced with “Board”; and “their” should be replaced with “its”.

b. On page 2 of the rule summary, in the plain language analysis, the word “who’s” should be replaced with “whose”.

c. On page 2 of the rule summary, in the plain language analysis, the agency should describe the "audit" that is referenced in the description of SECTION 3, perhaps by referencing s. Pod 3.04.

d. In SECTION 2 of the proposed rule, the words "satisfaction of the requirements of s. 448.665, Stats." should be replaced with "satisfaction of the biennial training requirement under s. 448.665, Stats." to be consistent with language in ss. Pod 3.01 (1) and 3.02 (1) (intro.).

e. In SECTION 2 of the proposed rule, all references to "podiatrists" should be replaced with "podiatrist"; all references to "Board" should be replaced with "board"; the word "a" should be inserted before "school"; and a period should be inserted after "Wisconsin".

f. In SECTION 2 of the proposed rule, the agency should consider replacing "proof" with "evidence".

g. The agency should consider rewriting the text of SECTION 3 of the proposed rule, as follows, to clarify that provision:

Pod 3.03 (3) A certified copy of an official transcript or diploma from an approved school of podiatric medicine and surgery from which the podiatrist graduated is satisfactory evidence of compliance with s. Pod 3.02 (4), provided that the requirements of s. Pod 3.02 (4) (a) and (b) have been met.

h. In SECTION 4 of the proposed rule, a period should be inserted at the end of the section.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Karen Rude-Evans, Bureau Assistant on behalf of Executive Director Tom Ryan		2) Date When Request Submitted: 6/28/2013 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: Podiatry Examining Board			
4) Meeting Date: July 30, 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Board Member Training	
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? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Karen Rude-Evans		6/28/2013	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Page intentionally left blank

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Hannah Whaley, Investigator On behalf of Attorney Sandra L. Nowack Division of Legal Services and Compliance		2) Date When Request Submitted: March 28, 2013 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Podiatrists Affiliated Credentialing Board			
4) Meeting Date: 07/30/2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Case Advisor Training Overview	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input checked="" type="checkbox"/> Yes by Attorney Sandra L. Nowack (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. 			

BOARD APPEARANCE REQUEST FORM

Board Name: Podiatrists Affiliated Credentialing Board

Board Meeting Date: 07/30/2013

Person Submitting Agenda Request: Hannah Whaley, Investigator

Person requesting an appearance: Attorney Sandra L. Nowack

Mailing address: Division of Legal Services and Compliance

Email address: sandra.nowack@wisconsin.gov

Telephone #: 608-266-8098

Reason for Appearance: Attorney Nowack will give an overview of the Case Advisor Training to the Board members.

Is the person represented by an attorney? If so, who?

Attorney's mailing address:

Attorney's e-mail address:

Phone Attorney:



**OVERVIEW OF
DPS REGULATORY
STRUCTURE**

The Department and the Boards

The **Department** of Safety and Professional Services (Department) and the attached Boards are distinct legal entities with different functions, working toward the same goal.

The Department was created to perform a wide range of duties, including providing legal expertise and administrative support to the Boards. Legal expertise is provided to the Boards in three ways: by a legal counsel, who has a fiduciary responsibility to provide legal advice to the board in exercising its duties and responsibilities; by the assignment of an administrative law judge when disciplinary action goes to a formal hearing; and by the prosecutor of each case opened for investigation.

The Department provides administrative support by the assignment of an Executive Director, Bureau Assistant and Rules Coordinator to each board. These staff members manage board meeting agendas, handle a range of board related business and serve as a liaison between the board and the Department.

The Division of Legal Services and Compliance (**DLSC**) is the part of the Department tasked with the responsibility of enforcing licensee compliance with State laws and professional codes. DLSC is the physical extension of Boards' authority in disciplining misconduct. DLSC works collaboratively as the Board's partner in ensuring that fair and just discipline is imposed on violators of professional rules in a way that accomplishes the State's goals in protection, deterrence and rehabilitation.

Boards are established to perform many functions, including setting entry and practice standards through rule-making and regulating the professions through disciplinary actions. Within disciplinary actions, individual Board members may have two roles: the judicial role of a final decision-maker and the consultant role of case advisor.

As a consultant, the case advisor of a particular case assists DLSC's prosecuting attorney with professional expertise on the licensee's misconduct and necessary discipline to bring the licensee into compliance. If the attorney and licensee reach an informal resolution, the Board as a whole (including the case advisor of that case) will hear relevant facts, as the judge, and determine whether the agreed-upon resolution is sufficient. The consulting and judicial roles must be kept distinct and separate. To blur the line between the roles violates due process. Many of the safeguards and specific prohibitions are discussed below.

Common terms/definitions

- Respondent
- Licensee

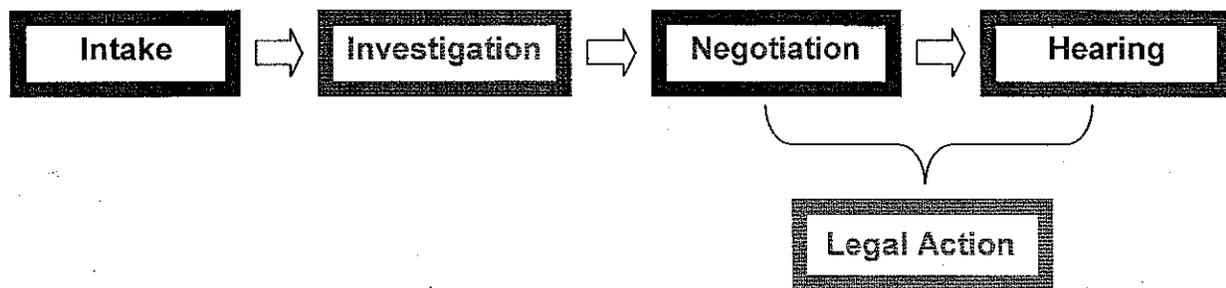
The Disciplinary Process

The Department operates on a complaint driven process, meaning all compliance actions are results of submitted complaints against alleged licensee misconduct, not from the Department's active search for misconduct. The Complaint itself may come from a variety of sources, such as consumers, professionals, or other cases that alerted us to misconduct of another licensee.

The State of Wisconsin recognizes and respects an individual's interest in earning a living. However, the individual's interest must be balanced with the public's interest in obtaining services that are safe and effective. In disciplining licensees, the State has three goals:

- 1. Protect the public;**
- 2. Deter the conduct; and**
- 3. Rehabilitate the respondent.**

The State does not punish licensees for misconduct, but provides them with the necessary tools and opportunities to regain compliance. This protects both the public's and the individual's interests.



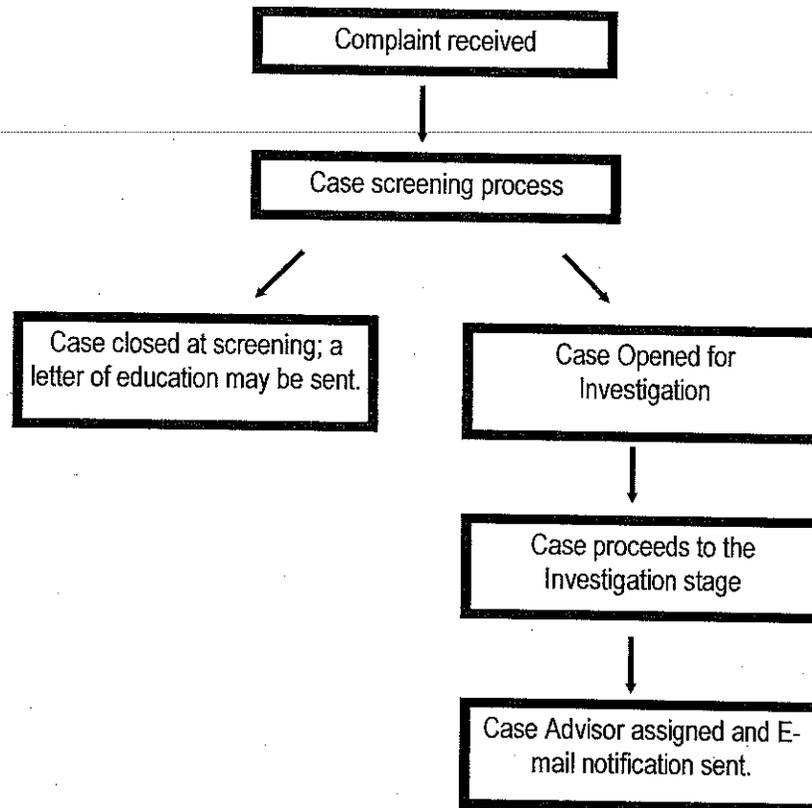
Intake Process

The Intake stage is the first stage in the case handling process.

As a complaint is received by the Department, Intake Staff collect relevant information (such as records, follow-up from the Complainant if the information is incomplete or an initial response from the accused licensee) and send the complaint to the Screening Panel, which may consist of several Board members and a DLSC attorney. The Screening panel, at a predetermined time, will confer and determine whether, from the information provided, a violation may have occurred. The panel may consider many factors, such as the seriousness of the allegations, the harm or threat of harm, whether the dispute is already resolved, and whether the matter is primarily a civil or private dispute. If a complaint does not warrant further action, it is closed under appropriate codes depending on the facts of the case, and a letter is sent out to the parties. If a complaint does have merit, or require further investigation, the case is opened and goes on to the Investigation stage.

The Intake stage is especially important as a gatekeeper against trivial complaints and cases without proof. This stage protects licensed professionals from meritless attacks on their

reputation and livelihood. In certain circumstances, a licensee may be close to violating a professional standard, but did not violate it. Through the Screening process, the Panel may choose to issue a letter of education that warns the licensee of the risks of his conduct to prevent future violations.



Case Assigning

When a case is opened, a case advisor will be assigned, along with an investigator, paralegal and attorney. The advisor can be assigned to a particular case by:

1. The screening panel - initial assignment made by screening panel during screening.
2. DLSC staff - when a conflict is identified or replacement for a previous case advisor is necessary, another case advisor will be assigned.
3. Expertise - in some cases the case advisor is assigned (either by the screening panel or DLSC) based on his or her expertise in a particular area relevant to the case. In cases where professional expertise is not required, a Public Member may be assigned as the advisor.
4. General rotation - case advisor assignments are made generally based on a rotation system so that the caseload is distributed as evenly as possible among board members.

5. Geographical area – case advisor is assigned based on *not* being in the same geographical area as Respondent [Exception: Real Estate Appraisers are assigned by geographical area due to the importance of local area knowledge].

Once assigned, the advisor will receive an email or letter from the Intake staff with notification of the assignment. The notification will include the case number, name of the Complainant, Respondent, original complaint and all supplemental information obtained since the complaint was received. At this time, the assigned advisor should review the materials and determine if there is any conflict of interest or bias that would require reassignment. If a conflict does exist, or if the advisor is uncertain if one exists, the advisor should contact DLSC staff immediately.

Forms of “Discipline”

It is important to understand and remember that almost all professionals hold a certain level of pride in their professional career. The State does not regulate professionals to all operate at the highest standard possible, which is a system better controlled by the market and individual professional’s reputation. Instead, we regulate professionals to operate *above the minimum standard*. At times, licensees may be careless, incompetent or reckless. As the embodiment of the profession, Boards must make sure that the imposed discipline is appropriate to address the misconduct when the entire circumstance is taken into account. In addition to formal discipline, Boards also have non-disciplinary options that may more appropriately correct the licensee’s failure. The case must always be reviewed and determined case-by-case, taking into account all facts specific to that particular case.

Forms of Informal Discipline: Useful Non-Disciplinary Tools

1. Case Closure: Prosecutorial Discretion
 - a. Sometimes, the simple act of opening a case against the licensee is enough to alert the licensee to improve his practices.
 - b. Some examples of situations:
 - i. The incident in question was not seriously harmful to the public;
 - ii. Compliance with the statutes or rules has been gained;
 - iii. The expenditure of resources to pursue the violation greatly exceeds the value to the public in pursuing the matter; or
 - iv. The Board has taken action in regard to the licensee that addressed the conduct and no further action is necessary.
2. Remedial Education
 - a. Requiring licensee to complete education that addresses his failure through a Board Order that does not include specific finding of a violation.
 - b. Remedial education allows the licensee to gain compliance with less embarrassment to his or her professional pride.
3. Administrative Warning:
 - a. Requires that the misconduct is a minor violation, and the misconduct is a first occurrence for the licensee (Wis. Admin. Code ch. SPS 8)

- b. The fact that the warning was issued is a public record, but the content of the warning is private and confidential.
 - c. Licensee may request review of the warning within 20 days and make an appearance before the Board. If a warning is appealed, the Board may re-examine the case and request DLSC to pursue a different resolution, if warranted.
4. The Professional Assistance Procedure (PAP):
- a. PAP is an alternative to formal disciplinary process for an impaired professional; it encourages individuals to seek help for their impairment in a non-disciplinary environment.
 - b. If an individual is released from PAP for failure to comply with the program, the Department Monitor at that time may refer the individual to DLSC for formal disciplinary procedures, if appropriate.

Forms of Formal Discipline

If the licensee's misconduct cannot be corrected with a non-disciplinary option, or if the misconduct is common enough that all licensees within the profession must be alerted to its substandard nature, formal discipline may be warranted.

1. Reprimand – to “publicly warn the holder of a credential” (Wis. Stat. § 440.01(1)(e))
2. Limited License – to “impose conditions and requirements upon the holder of the credential, and to restrict the scope of the holder’s practice” (Wis. Stat. § 440.01(1)(d))
 - a. A credential can be limited in many ways, allowing Boards to creatively and most appropriately address the credential holder’s deficiency. For example:
 - i. Education – can the misconduct be resolved by re-education?
 - ii. Testing – can the misconduct be resolved by re-testing?
 - iii. Assessment or Treatment – can the licensee practice safely and competently if AODA impairment is treated?
 - iv. Supervision, Work Reports or Auditing
 - v. Other options by limiting:
 1. Practice scope
 2. Geographic practice area
 3. Types of procedures
 4. Types of clients
 - b. Time period – can be permanent or for a set period of time (e.g. until education is completed, testing passed, or licensee is deemed safe to practice).
 - c. Measurability – when determining the appropriate limitation, please choose limitations that are clearly measurable and enforceable. Establish guidelines on how the licensee can show his or her compliance with the Board’s intended restrictions.
3. Suspension – to “completely and absolutely withdraw and withhold for a period of time all rights, privileges and authority previously conferred by the credential” (Wis. Stat. § 440.01(h))
 - a. Suspension should only be used when the conduct was egregious, as it is a form of deterrence rather than rehabilitation.

- b. Suspensions can be imposed by length of time, completion of other Board requirements, or indefinitely, requiring a successful petition to the Board to lift the suspension.
4. Revocation or Voluntary Surrender – to revoke is to “completely and absolutely terminate the credential and all rights, privileges and authority previously conferred by the credential” (Wis. Stat. § 440.01(f))
 - a. Revocation is only appropriate for the most serious conduct
 - b. Not all revocations are permanent: licensees may re-apply (but it is up to the Board whether a license will be granted) unless the Order specifically prohibits or limits it.
 - c. Voluntary surrender is essentially identical to a revocation, except that it causes less embarrassment.
5. Voluntary Surrender or Retirement without a Finding of Violation
 - a. There are instances where, regardless of the egregiousness of the conduct, the licensee wishes to stop practicing.
 - b. In these circumstances, the licensee can retire or surrender his or her license without a formal finding of violation.
6. Forfeiture or Citations - some boards have the ability to impose monetary forfeitures or citations, which serve a deterrent function rather than rehabilitative.

The legal team assigned to a case will always assist the Case Advisor in determining the most appropriate discipline. The legal team may have additional information such as historical data and recent trend or change in discipline for similar conduct. Also, because the legal team has direct interactions with respondents, the team may have important insight as to what may be the most efficient and effective way to bring a particular respondent into compliance.

Summary Suspensions

Summary suspension is a special tool that allows us to suspend a licensee without a stipulated agreement and before a full hearing. Because this tool circumvents certain due process, it can be used only when the facts establish that the licensee has engaged in and/or is likely to engage in conduct that threatens the health, safety or welfare of the public, which requires emergency suspension.

If a Board uses summary suspension, a formal complaint must be filed shortly after and a hearing held promptly. It is critical that all evidence is ready for the hearing.

Obtaining a summary suspension against a licensee does not necessarily mean that licensee has indeed engaged in misconduct; it only means that we have enough reason to believe he did, **AND** that he will continue to do so, placing the public in danger. Without evidence that the dangerous conduct will continue unless the licensee is suspended, summary suspension should not be granted.

Informal Settlement Conferences

Another special tool ...

Costs

The Department has the authority to recoup time and money spent on a case if discipline is ultimately imposed. Costs include recovery for investigator, paralegal and attorney time, Administrative Law Judge's time if the matter goes to hearing, witness fees, postage, costs paid out for certified copies of records, court reporter fees, etc.

Case Advisor Role

The board member, while acting as a case advisor, has the responsibility to:

1. review the case materials;
2. identify additional materials required in order to make a determination;
3. provide expert and technical advice and assistance to the DLSC staff;
4. assist the attorney in determining the merits of the case;
5. assist the attorney in determining whether a violation occurred;
6. assist the attorney in determining the appropriate discipline if a violation occurred; and
7. assist with finding expert witnesses.

The case advisor is the prosecuting attorney's consultant in determining if a violation occurred, what is the exact nature of that violation, the egregiousness of the violation, and what is necessary to bring the violator back into compliance. While the prosecuting attorney is an expert of the law, without the case advisor's expertise in a particular professional field, the attorney will be unable to adequately determine the facts of the case.

The most important factor in ensuring efficient and effective discipline of a licensee is clear communication between the case advisor and the legal team. With clear direction and expertise, the case advisor can assist the team's investigation and imposition of appropriate discipline. The case advisor and the legal team assigned to a particular case should maintain open communication through telephone, email, fax or regular mail. Complex issues may require telephone discussions. The legal team would always be happy to set up a phone conference at the case advisor's convenience. Communication between the case advisor and the legal team is an on-going process, as the case advisor's expertise may be needed each time new information is discovered.

The case advisor should provide the legal team with an opinion or request for additional information within **two (2) weeks** of receiving the investigative materials (**3 days for appraisers**). Timeliness is critical, allowing the legal team to conduct additional investigation or collect evidence as needed. Licensees also wish to have their cases resolved as soon as possible, as any case open against their license may jeopardize their employment or professional pride and reputation. If a case advisor knows there may be a delay, or if an unexpected event occurs, please contact your legal team immediately and we can set a new date for completion or discuss case transfer options.

The case advisor's opinion/communication should be clear and answer each of these questions: is additional information required? Did a violation occur? What is the violation? What would a *minimally competent* licensee have done in the same circumstance? How egregious is this conduct? What is the root issue? What would adequately address this issue and bring the licensee into compliance?

Please keep in mind that the violation often is not as clear to the legal team as to someone within the particular profession. However, the case advisor's analysis should serve to clear up any confusion or lack of understanding.

Being privy to private (oftentimes unproven) information, the case advisor has a duty to maintain confidentiality. Pending cases cannot be discussed with other board members, colleagues or friends.

Curbside consults with other experts

Occasionally, an issue may arise that is outside the case advisor's specialty or area of expertise. In certain circumstances, the advisor may consult with a colleague in that particular field or specialty in order to form an opinion on the violation and appropriate discipline. However, there are two prohibitions:

1. consultations may not be with another board member
2. do not disclose any identifying information specific to the case

If other questions or concerns arise with who may be consulted, the case advisor should discuss those concerns with the legal team assigned to that case.

Ex-Parte Communication

As both a board member (who act as the decision maker or "judge") and a case advisor (who act as the expert witness), it is essential that all decisions or recommendations are made with objectivity. The advisor must protect against conflicts of interest, as well as the *perception* of a conflict. As such, the board member/advisor must not communicate with individuals involved in a pending case (including complainant(s), respondent(s) and witness(es)).

If a party of a case (whether it's assigned to you or not) attempts to contact you, please advise him or her that you cannot discuss the case with them, and inform your legal team immediately.

Case Advisor Participation in Board Deliberations

When a proposed resolution (whether as a result of a stipulated agreement by the respondent or a proposed decision by the Administrative Law Judge) is before the board for consideration, the board member that served as advisor for the case may or may not be a part of the deliberation, depending on what type of case it is:

- Proposed stipulations, administrative warnings or case closures – the case advisor may participate in discussions and may vote on the matter. The advisor should be prepared to speak in support of the agreed upon resolution, discipline or closure. The advisor can always contact the case’s attorney prior to the meeting in order to refresh his or her memory on why a particular discipline is the most appropriate one.
- Proposed decision following an evidentiary hearing – the case advisor may not participate in discussions. The advisor likely has access to information that was not presented or admitted as evidence during the hearing, and it would be unfair and unjust to the licensee for the advisor to report on conclusions or information that was not proven at the hearing.

Disposal of Materials

All materials you receive during the course of the case investigation and disposition are confidential. They should be kept in a secure location and not shared with others. When the case is closed, you may destroy all copies or return them to the Division of Legal Services and Compliance for disposal.

Caution: Please make certain that none of the materials to be destroyed are originals. If they are, please return these items to the Division of Legal Services and Compliance.

PURPOSE, MISSION AND CORE VALUES

Purpose: The purpose of the Department of Safety and Professional Services is to ensure:

- The safety of consumers of licensed professional services;
- Licensure to competent professionals;
- Compliance with professional and industry standards; and
- Safety in the construction and use of public and private buildings.

DLSC promotes safety through complaint intake and the investigation, inspection, audit and discipline of regulated professionals and businesses. We provide legal services to professional boards, monitor order compliance and administer a program for impaired professionals. Our stakeholders are the public, boards, regulated professionals/businesses and Agency divisions.

Mission: We provide legal services to ensure consumer protection and we courteously assist professionals in achieving compliance with professional standards. We are responsive and respectful to all stakeholders and fiscally responsible to the taxpayers, boards and licensed professionals who bear our financial burden.

Core Values: Our core values are:

- **Integrity:** We treat each other and our stakeholders with courtesy, ensuring decency, honesty and fairness in all of our efforts and communications. We competently and enthusiastically provide our services in a fair and fiscally prudent manner.

- **Accountability:** We take personal responsibility for our results through objective standards, which help us to deliver measureable results within expected timelines.
 - **Teamwork:** We foster a winning environment and healthy culture by taking pride in our work, displaying a sense of urgency in our mission and elevating Team success above self. We ensure success through strong relationships with our stakeholders.
 - **Service:** We provide exemplary customer-service and value to our stakeholders through effectively responding to their needs in a timely and courteous manner.
-
- **Continuous Improvement:** We embrace innovative solutions for the continuous improvement of services and efficiency, and we demand an environment of operational excellence and a culture of positive enthusiasm.

Conclusion

We are here to assist case advisors and board members every step of the way to accomplish our joint mission. We thank you for your voluntary service to the State of Wisconsin and your commitment to your profession.

Page intentionally left blank