



**VIRTUAL/TELECONFERENCE
MEDICAL EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Valerie Payne (608) 266-2112
June 16, 2021**

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

8:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-4)

B. Approval of Minutes of May 19, 2021 (5-9)

C. Introductions, Announcements and Recognition

- 1) Recognition of David A. Bryce, Physician Member
- 2) Recognition of Padmaja Doniparthi, Physician Member
- 3) Recognition of David Roelke, Physician Member

D. Reminders: Conflicts of Interest, Scheduling Concerns

E. Workforce Survey – Discussion and Consideration

F. Administrative Matters – Discussion and Consideration

- 1) Board, Department and Staff Updates
- 2) Board Members – Term Expiration Dates
 - a. Milton Bond, Jr. – 7/1/2023
 - b. David A. Bryce – 7/1/2021
 - c. Clarence Chou – 7/1/2023
 - d. Padmaja Doniparthi – 7/1/2021
 - e. Diane Gerlach – 7/1/2024
 - f. Sumeet Goel – 7/1/2023
 - g. Carmen Lerma – 7/1/2024
 - h. Michael Parish – 7/1/2023
 - i. David Roelke – 7/1/2021
 - j. Rachel Sattler – 7/1/2024
 - k. Sheldon Wasserman – 7/1/2023
 - l. Lemuel Yerby – 7/1/2024
 - m. Emily Yu – 7/1/2024
- 3) Appointments, Reappointments, Confirmations, and Committee, Panel and Liaison Appointments

- 4) Assignment of Screening Panel and Examination Panel Liaisons
 - a. July 2021 Screening Panels
- 5) Wis. Stat. § 15.085 (3)(b) – Affiliated Credentialing Boards’ Biannual Meeting with the Medical Examining Board to Consider Matters of Joint Interest

G. Legislative and Policy Matters – Discussion and Consideration

H. Administrative Rule Matters – Discussion and Consideration

- 1) Draft Med 10, Relating to Performance of Physical Examinations **(10)**
- 2) Cos 2, 3, 5, & 8, Relating to Scope of Practice, Mobile Practice, and Distance Learning – Preliminary Rule Draft **(11-16)**
- 3) Pending or Possible Rulemaking Projects

I. CE Broker – Discussion and Consideration

J. COVID-19 – Discussion and Consideration

K. Federation of State Medical Boards (FSMB) Matters – Discussion and Consideration

L. Controlled Substances Board Report

M. Interstate Medical Licensure Compact Commission (IMLCC) – Report from Wisconsin’s Commissioners – Discussion and Consideration

N. Newsletter Matters – Discussion and Consideration (17-21)

- 1) Review of Distribution Report and Future Planning

O. MED-PA Collaboration Committee Report

P. Screening Panel Report

Q. Future Agenda Items

R. Discussion and Consideration of Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Elections, Appointments, Reappointments, Confirmations, and Committee, Panel and Liaison Appointments
- 3) Administrative Matters
- 4) Election of Officers
- 5) Appointment of Liaisons and Alternates
- 6) Delegation of Authorities
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Practice Matters
- 10) Legislative and Policy Matters
- 11) Administrative Rule Matters
- 12) Liaison Reports
- 13) Board Liaison Training and Appointment of Mentors
- 14) Informational Items
- 15) Division of Legal Services and Compliance (DLSC) Matters
- 16) Presentations of Petitions for Summary Suspension
- 17) Petitions for Designation of Hearing Examiner
- 18) Presentation of Stipulations, Final Decisions and Orders

- 19) Presentation of Proposed Final Decisions and Orders
- 20) Presentation of Interim Orders
- 21) Petitions for Re-Hearing
- 22) Petitions for Assessments
- 23) Petitions to Vacate Orders
- 24) Requests for Disciplinary Proceeding Presentations
- 25) Motions
- 26) Petitions
- 27) Appearances from Requests Received or Renewed
- 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports

S. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 448.02(8), 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.).

T. Deliberation on DLSC Matters

- 1) Proposed Stipulations, Final Decisions and Orders**
 - a. 20 MED 287 – Stacey N. Colyer, RCP **(22-27)**
 - b. 20 MED 348 – Clarence D. Engstrom, MD **(28-34)**
 - c. 20 MED 497 – Anthony F. Novak, MD **(35-40)**
 - d. 21 MED 097 – James E. Meade, MD **(41-47)**
- 2) Administrative Warnings**
 - a. 19 MED 263 – B.K. **(48-49)**
 - b. 20 MED 396 – E.S.B. **(50-51)**
 - c. 21 MED 029 – R.F.A. **(52-53)**
- 3) Case Closings**
 - a. 19 MED 289 – Unknown **(54-63)**
 - b. 19 MED 390 – J.L.H. **(64-73)**
 - c. 19 MED 440 – C.D.C. **(74-80)**
 - d. 19 MED 447 – D.P.A. **(81-83)**
 - e. 19 MED 456 – C.L., J.H. **(84-95)**
 - f. 19 MED 584 – Z.F. **(96-99)**
 - g. 20 MED 015 – A.W.T. **(100-105)**
 - h. 20 MED 431 – T.G.S. **(106-109)**
 - i. 21 MED 024 – D.P.P. **(110-118)**
 - j. 21 MED 030 – J.A. **(119-126)**

U. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner

- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Complaints
- 15) Case Closings
- 16) Board Liaison Training
- 17) Petitions for Extension of Time
- 18) Petitions for Assessments and Evaluations
- 19) Petitions to Vacate Orders
- 20) Remedial Education Cases
- 21) Motions
- 22) Petitions for Re-Hearing
- 23) Appearances from Requests Received or Renewed

V. Open Cases

W. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

Y. Open Session Items Noticed Above Not Completed in the Initial Open Session

Z. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

ADJOURNMENT

ORAL EXAMINATION OF CANDIDATES FOR LICENSURE

VIRTUAL/TELECONFERENCE

10:00 A.M. OR IMMEDIATELY FOLLOWING THE FULL BOARD MEETING

CLOSED SESSION – Reviewing Applications and Conducting Oral Examination of **four (4)** (at time of agenda publication) Candidates for Licensure – **Dr. Doniparthi** and **Dr. Yu**

NEXT MEETING: JULY 21, 2021

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, 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 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. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
MEDICAL EXAMINING BOARD
MEETING MINUTES
MAY 19, 2021**

PRESENT: Milton Bond, Jr. (*arrived at 8:05 a.m.*), David Bryce, M.D; Clarence Chou, M.D. (*excused at 9:16 a.m.*); Padmaja Doniparthi, M.D.; Diane Gerlach, D.O.; Sumeet Goel, D.O.; Carmen Lerma (*arrived at 8:53 a.m.*); Michael Parish, M.D.; Rachel Sattler; Sheldon Wasserman, M.D.; Lemuel Yerby, M.D., Emily Yu, M.D.

EXCUSED: David Roelke, M.D.

STAFF: Valerie Payne, Executive Director; Jameson Whitney, Legal Counsel; Kassandra Walbrun, Administrative Rules Coordinator; Megan Glaeser, Bureau Assistant; and other Department staff

CALL TO ORDER

Sheldon Wasserman, Chairperson, called the meeting to order at 8:00 a.m. A quorum was confirmed with ten (10) members present.

ADOPTION OF AGENDA

MOTION: Diane Gerlach moved, seconded by Michael Parish, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF APRIL 21, 2021

MOTION: Clarence Chou moved, seconded by Lemuel Yerby, to approve the Minutes of April 21, 2021 as published. Motion carried unanimously.

(Milton Bond, Jr. arrived at 8:05 a.m.)

CLOSED SESSION

MOTION: David Bryce moved, seconded by Diane Gerlach, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1)(a), Stats.); to consider licensure or certification of individuals (§ 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85(1)(b), Stats. and § 448.02(8), Stats.); to consider individual histories or disciplinary data (§ 19.85(1)(f), Stats.); and to confer with legal counsel (§ 19.85(1)(g), Stats.). Sheldon Wasserman, Chairperson, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: David Bryce-yes; Clarence Chou-yes; Padmaja Doniparthi-yes; Diane Gerlach-yes; Sumeet Goel-yes; Michael Parish-yes; Rachel Sattler-yes; Sheldon Wasserman-yes; Lemuel Yerby-yes; and Emily Yu-yes. Motion carried.

The Board convened into Closed Session at 8:41 a.m.

(Milton Bond, Jr. was disconnected for the vote to convene to Closed Session.)

**DELIBERATION ON DIVISION OF LEGAL SERVICES AND
COMPLIANCE (DLSC) MATTERS**

Stipulations, Final Decisions and Orders

18 MED 432 – Balaji Kalyanaraman, MD

MOTION: Michael Parish moved, seconded by Diane Gerlach, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Balaji Kalyanaraman, MD, DLSC Case Number 18 MED 432. Motion carried unanimously.

(Carmen Lerma arrived at 8:53 a.m.)

19 MED 153 – Kathleen A. Baugrud, MD

MOTION: Diane Gerlach moved, seconded by Michael Parish, to reject the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Kathleen A. Baugrud, MD, DLSC Case Number 19 MED 153 and refer the matter to DLSC for further action. Motion carried unanimously.

(Clarence Chou recused himself and disconnected for deliberation and voting in the matter concerning Kathleen A. Baugrud, MD, DLSC Case Number 19 MED 153)

19 MED 314 and 20 MED 276 – David A. Onsrud, DO

MOTION: Michael Parish moved, seconded by Milton Bond, Jr., to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against David A. Onsrud, DO, DLSC Case Numbers 19 MED 314 and 20 MED 276. Motion carried unanimously.

19 MED 512 – James R. Richter, MD

MOTION: Sumeet Goel moved, seconded by Diane Gerlach, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against James R. Richter, MD, DLSC Case Number 19 MED 512. Motion carried unanimously.

20 MED 226 – Ravi Murali, MD

MOTION: Diane Gerlach moved, seconded by Lemuel Yerby, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Ravi Murali, MD, DLSC Case Number 20 MED 226. Motion carried unanimously.

20 MED 249 – Rupesh P. Patel, MD

MOTION: Michael Parish moved, seconded by Sumeet Goel, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Rupesh P. Patel, MD, DLSC Case Number 20 MED 249. Motion carried unanimously.

20 MED 354 – Harry D. Malcolm, MD

MOTION: David Bryce moved, seconded by Clarence Chou, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Harry D. Malcolm, MD, DLSC Case Number 20 MED 354. Motion carried unanimously.

20 MED 437 – Robert J. Stevens, MD

MOTION: Diane Gerlach moved, seconded by Michael Parish, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Robert J. Stevens, MD, DLSC Case Number 20 MED 437. Motion carried unanimously.

21 MED 042 – Stanley M. Higgins, MD

MOTION: Sumeet Goel moved, seconded by Lemuel Yerby, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Stanley M. Higgins, MD, DLSC Case Number 21 MED 042. Motion carried unanimously.

21 MED 056 – Satwant S. Dhillon, MD

MOTION: Clarence Chou moved, seconded by Diane Gerlach, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Satwant S. Dhillon, MD, DLSC Case Number 21 MED 056. Motion carried unanimously.

Case Closings

MOTION: Michael Parish moved, seconded by Diane Gerlach, to close the following DLSC Cases for the reasons outlined below:

1. 19 MED 108 – R.S.M. – No Violation
2. 19 MED 337 – D.M.B. – No Violation
3. 19 MED 339 – Unknown – Insufficient Evidence
4. 19 MED 353 – G.L.L. – No Violation
5. 19 MED 509 – H.E.C. – No Violation
6. 19 MED 578 – L.M.K. – No Violation
7. 20 MED 132 – T.J.G. – No Violation
8. 20 MED 164 – J.M.W. – Insufficient Evidence
9. 20 MED 178 – R.S. – Prosecutorial Discretion (P1)
10. 20 MED 343 – M.M.W. – No Violation

11. 20 MED 367 – F.M.I. – No Violation
 12. 20 MED 453 – I.A.A. – No Violation, and J.J.G. – Prosecutorial Discretion (P1)
 13. 21 MED 003 – G.T.G. – No Violation
 14. 21 MED 068 – A.E.S. – No Violation
- Motion carried unanimously.

20 MED 297 – B.W.B.

MOTION: Lemuel Yerby moved, seconded by Michael Parish, to close DLSC Case Number 20 MED 297, against B.W.B., for No Violation. Motion carried unanimously.

(Diane Gerlach recused herself and disconnected for deliberation and voting in the matter concerning B.W.B., DLSC Case Number 20 MED 297.)

(Clarence Chou was excused at 9:16 a.m.)

CREDENTIALING MATTERS

Consideration of Waiver of 24 Months of ACGME/AOA Approved Post-Graduate Training

Samiksha Foudzar Jain, MD

MOTION: Sumeet Goel moved, seconded by Diane Gerlach, to approve the waiver of the 24 months of ACGME/AOA approved post-graduate training for Samiksha Foudzar Jain, MD. Motion carried unanimously.

Application Review

Kristin Mikkelson, RCP

MOTION: Sumeet Goel moved, seconded by Milton Bond, Jr., to deny the Respiratory Care Therapist application of Kristin Mikkelson, RCP, but to offer a 2-year impairment with the following conditions:

1. Show order to employer
2. Submission of quarterly work reports
3. Abstain from alcohol or non-prescribed drugs
4. Participate in approved program at a frequency set by treatment provider with quarterly reports from treatment provider
5. Participate in an approved AODA program with daily call-ins, random UAs at 28 per year, and one hair test
6. Attend an AA or NA or similar support group meeting at a frequency set by treatment provider, but no less than 2 times per week

Reason for Denial: MED 10.03(2)(a) and (b).
Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Diane Gerlach moved, seconded by Lemuel Yerby, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 9:39 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Milton Bond, Jr. moved, seconded by Michael Parish, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

**DELEGATION OF RATIFICATION OF EXAMINATION RESULTS AND
RATIFICATION OF LICENSES AND CERTIFICATES**

MOTION: Sumeet Goel moved, seconded by Diane Gerlach, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Diane Gerlach moved, seconded by Lemuel Yerby, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 9:41 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Cassandra Walbrun Administrative Rules Coordinator		2) Date When Request Submitted: 5/26/21 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting									
3) Name of Board, Committee, Council, Sections: Medical Examining Board											
4) Meeting Date: 06/16/21	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Draft Med 10, Relating to Performance of Physical Examinations 2. Pending or Possible Rulemaking Projects									
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session 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. Update and discussion. 2. Update on ongoing rule projects.											
11) Authorization <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; border-bottom: 1px solid black;">Cassandra Walbrun</td> <td style="width: 40%; border-bottom: 1px solid black; text-align: right;">May 26, 2021</td> </tr> <tr> <td style="border-top: 1px solid black; border-bottom: 1px solid black;">Signature of person making this request</td> <td style="border-top: 1px solid black; border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-top: 1px solid black; border-bottom: 1px solid black;">Supervisor (if required)</td> <td style="border-top: 1px solid black; border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black; border-bottom: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				Cassandra Walbrun	May 26, 2021	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	
Cassandra Walbrun	May 26, 2021										
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.											

Revised 8/13

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Kevyn Radcliffe, Administrative Rules Coordinator		2) Date when request submitted: June 4, 2021 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Medical Examining Board			
4) Meeting Date: June 16, 2021	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rules Matters – Discussion and Consideration 1. Cos 2, 3, 5, & 8 related to scope of practice, mobile practice, and distance learning – Preliminary Rule Draft 2. Pending Rule Matters	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: <p>The Cosmetology Examining Board is considering a Preliminary Draft rule, Cos 2, 3, 5, & 8 related to scope of practice, mobile practice, and distance learning, that would include microblading, dermaplaning, and microdermabrasion under the practice of aesthetics, without any additional conditions or training. Microdermabrasion is currently considered a medical procedure that must be supervised, with exceptions laid out in Cos 2.025 (2r). The proposed rule removes microdermabrasion as a delegated medical procedure and provides that the scope of practice for aesthetics includes dermaplaning, microblading, and microdermabrasion.</p> <p>The Medical Examining Board has specifically exempted tattoo and body piercing, when done for the purposes of personal adornment, from the practice of medicine and surgery in Med 15.02. The Medical Examining Board may wish to consider a future rule project to specifically exempt dermaplaning, microblading, and microdermabrasion from the practice of medicine and surgery by adding the three procedures to Med 15.</p> <p>Cos 2, 3, 5, & 8 is being presented to the Medical Examining Board for discussion and feedback. No action is required.</p>			
11) Authorization			
<i>Kevyn Radcliffe</i>		June 4, 2021	
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.			

STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD

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

PROPOSED ORDER

An order of the Cosmetology Examining Board to repeal Cos 2.025 (2) (b) and (2r); to renumber Cos 1.01 (11g) and (11n); to renumber and amend Cos 1.01 (2m); to amend Cos 1.01 (6e), 2.03 (8), 2.05 (2); to repeal and recreate Cos 5.01; and to create Cos 1.01 (2g), (4m), (11n), and 2.015.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 454.02, 454.04, and 440.62 (5) (b) 1., Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2) (a), and 440.62 (5) (b) 1., Stats.

Explanation of board authority:

Section 15.08 (5) (b), Stats., provides that an examining board, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 227.11 (2) (a), Stats., states that an agency, “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.” This section allows an agency to promulgate administrative rules which interpret the statutes it enforces or administers if the proposed rule does not exceed proper interpretation of the statute.

Section 440.62 (5) (b) 1., Stats., states that “[t]he cosmetology examining board shall promulgate rules prescribing the subjects required to be included in courses of instruction at schools of cosmetology and specialty schools and establishing minimum standards for courses of instruction and instructional materials and equipment at schools of cosmetology and specialty schools.”

Section 454.01 (2), Stats., defines “aesthetics” as ... caring for or beautifying the skin of the human body, including but not limited to cleaning, applying cosmetics, oils, lotions, clay, creams, antiseptics, powders or tonics to or massaging, stimulating, wrapping or exercising the skin of the human body.

Related statute or rule:

Microdermabrasion is currently considered a delegated medical procedure that must be supervised, with exceptions laid out in Cos 2.025 (2r).

Plain language analysis:

Microdermabrasion is currently considered a medical procedure that must be supervised, with exceptions laid out in Cos 2.025 (2r). The proposed rule removes microdermabrasion as a delegated medical procedure and provides that the scope of practice for aesthetics includes dermaplaning, microblading, and microdermabrasion. The proposed rule also clarifies that courses may be offered to students remotely as deemed appropriate by the school. Schools may use simulated patrons for practical training upon prior written approval from the Board. The proposed rule makes other changes to definitions consistent with industry practice.

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

There are no existing or proposed federal requirements.

Comparison with rules in adjacent states:

Illinois:

Cosmetologists are prohibited from using any technique, product, or practice intended to affect the living layers of the skin. Estheticians are prohibited from using techniques, products, and practices intended to affect the living layers of the skin.

Iowa:

Iowa code prohibits cosmetologists/estheticians from administering any procedure in which the human tissue is cut, shaped, vaporized, or otherwise structurally altered. The code specifically prohibits dermaplaning.

Michigan:

Under Michigan law, the practice of microdermabrasion is limited to the direct supervision and control of a licensed physician. Microblading is considered a body art procedure that must be performed at a licensed body art facility.

Minnesota:

Minnesota allows cosmetologists to perform dermaplaning and microdermabrasion unsupervised if they have additional training and an advanced practice esthetician license. Minnesota requires a tattoo license to perform microblading, and does not allow cosmetologists/estheticians/advanced practice estheticians to perform it unless under supervision of a physician.

Summary of factual data and analytical methodologies:

The Cosmology Examining Board reviewed their rules to ensure statutory compliance and that the rules are consistent with current practices.

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

The rule will be posted for 14 days on the department’s website to solicit economic impact comments from stakeholders.

Fiscal Estimate and Economic Impact Analysis:

The fiscal estimate and economic impact analysis will be attached upon completion.

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 Daniel.Hereth @wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Kevyn Radcliffe, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Kevyn Radcliffe, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing to be held at a time and place to be announced in the Administrative Register to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Cos 1.01 (2g) is created to read:

Cos 1.01 (2g) “Chemical process” means the use of chemical reactions to change the texture, style, or length of hair, skin, or nails.

Section 2. Cos 1.01 (2m) is renumbered to Cos 1.01 (2r) and amended to read:

Cos 1.01 (2r) “Chemical waving" means a system of permanent waving ~~employing~~ catalyzed or executed by chemicals rather than heat.

SECTION 3. Cos 1.01 (4m) is created to read:

Cos 1.01 (4m) “Dermaplaning” means the removal of skin layers by use of a razor-edged instrument.

SECTION 4. Cos 1.01 (6e) is amended to read:

Cos 1.01 (6e) "Disinfection" means application of a disinfectant following thorough cleaning of the utensil or surface.

SECTION 5. Cos 1.01 (11g) and (11n) are renumbered Cos. 1.01 (11c) and (11g).

SECTION 6. Cos 1.01 (11n) is created to read:

Cos 1.01 (11n) "Microblading" means the insertion of semipermanent pigment under the skin in order to change its appearance.

SECTION 7. Cos 2.015 is created to read:

Cos 2.015 Scope of Practice The scope of practice of aesthetics under s. 454.01, Stats., includes dermaplaning, microblading, and microdermabrasion.

SECTION 8. Cos 2.025 (2) (b) and (2r) are repealed.

SECTION 9. Cos 2.03 (8) is amended to read:

Cos 2.03 (8) Licensees may not provide the following services unless both the licensee and the establishment are properly licensed by the department of ~~health services~~ safety and professional services:

SECTION 10. Cos 2.05 (2) is amended to read:

Cos 2.05 (2) An establishment shall either post a list of cost of services in a conspicuous place or display a sign which states: "All establishment patrons have the right to be informed of the cost of services ~~before the services are provided~~ prior to being serviced."

SECTION 11. Cos 5.01 is repealed and recreated to read:

Cos 5.01 General course requirements. (1) Schools which provide instruction to students for cosmetology practitioner, or specialty schools which provide instruction to students for aesthetician, electrologist, or manicurist licenses, shall develop curricula for instruction which are based on the applicable syllabus approved by the board in this chapter.

(2) A school or specialty school shall offer at a minimum the practical and theory hours listed for subjects in the appropriate syllabus included in this section chapter.

(3) Courses may be offered to students remotely as deemed appropriate by the school.

(4) Simulated patrons, such as mannequins, may be used for practical training as deemed appropriate by the board. Schools utilizing simulated patrons must obtain prior written approval from the board.

SECTION 12. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Kimberly Wood, Program Assistant Supervisor-Adv.		2) Date when request submitted: 6/3/2021 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Medical Examining Board			
4) Meeting Date: 6/16/2021	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Newsletter Matters <ul style="list-style-type: none"> • Review of Distribution Report and Future Planning 	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled?) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: <u>Newsletter Distribution Report:</u> The Board should review the attached report outlining the distribution and open rates of the recently distributed newsletter. <u>Future Planning (July Newsletter):</u> The next newsletter will be due out after the July 2021 meeting. The deadline for article submission will be July 2, 2021. The Board should discuss topics for the July newsletter and assign article authors. <u>Proposed Article: Physician Member Positions on MEB Councils</u> The Respiratory Care Practitioners Examining Council and the Perfusionists Examining Council currently have Physician Member vacancies. If you are interested in serving on one of these MEB Councils, please review the position information provided below. To apply to serve simply complete the application for appointment and return it to the Department of Safety and Professional Services with a cover letter and resume as outlined in the application. Respiratory Care Practitioners Examining Council – Created at Wis. Stat. § 15.407(1m) <ul style="list-style-type: none"> • Position Info: Physician Member: Serves a 3-year term with no term limits • Council Webpage: Respiratory Care Practitioners Examining Council Perfusionists Examining Council – Created at Wis. Stat. § 15.407(2m) <ul style="list-style-type: none"> • Position Info: Cardiothoracic Surgeon or Cardiovascular Anesthesiologist Member: Serves a 3-year term with no more than 2 consecutive terms • Council Webpage: Perfusionists Examining Council 			
11) Authorization <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"><i>Kimberly Wood</i></div> <div style="width: 35%; text-align: right;"><i>6/3/2021</i></div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Signature of person making this request</div> <div style="width: 35%; text-align: right;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Supervisor (if required)</div> <div style="width: 35%; text-align: right;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</div> <div style="width: 35%; text-align: right;">Date</div> </div>			
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.			

Subject: Wisconsin Medical Examining Board Newsletter
 Sent: 05/20/2021 05:13 PM CDT
 Sent By: Kimberly.Wood@wisconsin.gov
 Sent To: Subscribers of Medical Examining Board

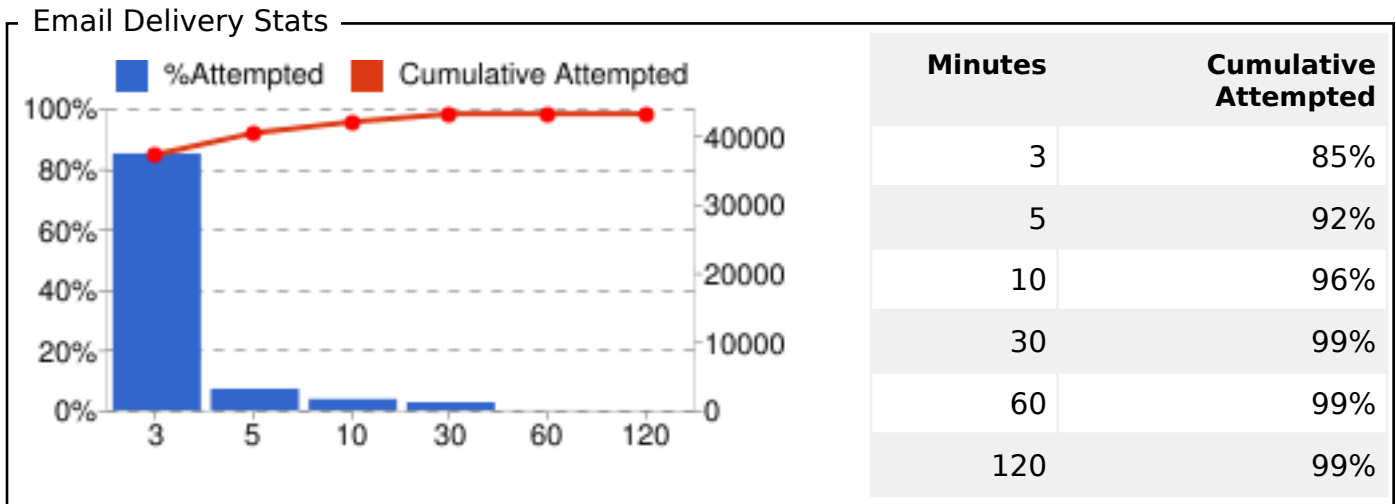
43,940
 Recipients

- ✓ Email
- ✗ SMS
- ✗ Facebook
- ✗ Twitter
- ✓ RSS

95%
 Delivered



- 0% Pending
- 5% Bounced
- 31% Open Rate
- 20% Click Rate



Delivery Metrics - Details

- 43,940** Total Sent
- 41,637 (95%)** Delivered
- 0 (0%)** Pending
- 2,303 (5%)** Bounced
- 0 (0%)** Unsubscribed

Bulletin Analytics

- 23,078** Total Opens
- 12,906 (31%)** Unique Opens
- 11,572** Total Clicks
- 8,471 (20%)** Unique Clicks
- 59** # of Links

Delivery and performance

These figures represent all data since the bulletin was first sent to present time.

	Progress	% Delivered	Recipients	# Delivered	Opened Unique	Bounced/Failed	Unsubscribes
Email Bulletin	Delivered	94.7%	43,742	41,439	12906 / 31.1%	2,303	0
Digest	n/a	n/a	198	198	0 / 0.0%	0	0
SMS Message	Delivered	0.0%	0	0	n/a	0	n/a

Link URL	Unique Clicks	Total Clicks
https://online.drl.wi.gov/decisions/2021/ORDER0002256-000...	466	616
https://online.drl.wi.gov/decisions/2021/ORDER0007329-000...	369	466
https://online.drl.wi.gov/decisions/2021/ORDER0002362-000...	298	425
https://online.drl.wi.gov/decisions/2021/ORDER0007335-000...	306	401
https://online.drl.wi.gov/decisions/2021/ORDER0007170-000...	282	397
https://online.drl.wi.gov/decisions/2021/ORDER0007326-000...	292	391
https://online.drl.wi.gov/decisions/2021/ORDER0007274-000...	286	375
https://online.drl.wi.gov/decisions/2021/ORDER0007331-000...	262	352
https://online.drl.wi.gov/decisions/2021/ORDER0007333-000...	252	344
https://online.drl.wi.gov/decisions/2021/ORDER0002362-000...	249	341
https://online.drl.wi.gov/decisions/2021/ORDER0007272-000...	227	304
https://dsps.wi.gov/Pages/SelfService/OrdersDisciplinaryActio...	203	302
https://online.drl.wi.gov/decisions/2021/ORDER0007325-000...	211	286
https://online.drl.wi.gov/decisions/2021/LS0708153MED-000...	221	286
https://online.drl.wi.gov/decisions/2021/ORDER0007172-000...	186	266
https://online.drl.wi.gov/decisions/2021/ORDER0007324-000...	190	258
https://online.drl.wi.gov/decisions/2021/ORDER0007273-000...	177	254
https://online.drl.wi.gov/decisions/2021/ORDER0007229-000...	176	249
https://online.drl.wi.gov/decisions/2021/ORDER0007276-000...	199	246
https://online.drl.wi.gov/decisions/2021/ORDER0005699-000...	168	243
https://online.drl.wi.gov/decisions/2021/ORDER0007330-000...	169	239
https://online.drl.wi.gov/decisions/2021/ORDER0007332-000...	174	237

Link URL	Unique Clicks	Total Clicks
https://online.drl.wi.gov/decisions/2021/ORDER0007169-000...	172	235
https://online.drl.wi.gov/decisions/2021/ORDER0007328-000...	157	221
https://online.drl.wi.gov/decisions/2021/ORDER0002832-000...	173	221
https://online.drl.wi.gov/decisions/2021/ORDER0006795-000...	158	221
https://dsps.wi.gov/Pages/BoardsCouncils/CSB/Reports.aspx?...	124	218
https://online.drl.wi.gov/decisions/2021/ORDER0007167-000...	140	183
https://online.drl.wi.gov/decisions/2021/ORDER0007323-000...	128	176
https://online.drl.wi.gov/decisions/2021/ORDER0007226-000...	138	174
https://online.drl.wi.gov/decisions/2021/ORDER0007168-000...	128	173
https://online.drl.wi.gov/decisions/2021/ORDER0007047-000...	122	173
https://online.drl.wi.gov/decisions/2021/ORDER0007275-000...	136	172
https://online.drl.wi.gov/decisions/2021/ORDER0007227-000...	126	166
https://online.drl.wi.gov/decisions/2021/ORDER0006002-000...	118	165
https://online.drl.wi.gov/decisions/2021/ORDER0007334-000...	113	158
https://online.drl.wi.gov/decisions/2021/ORDER0007166-000...	114	156
https://online.drl.wi.gov/decisions/2021/ORDER0006620-000...	115	144
https://online.drl.wi.gov/decisions/2021/ORDER0007228-000...	104	137
https://online.drl.wi.gov/decisions/2021/ORDER0007327-000...	99	132
https://online.drl.wi.gov/decisions/2021/ORDER0006948-000...	104	128
https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx?...	96	127
https://online.drl.wi.gov/decisions/2021/ORDER0006810-000...	88	124
https://online.drl.wi.gov/decisions/2021/ORDER0006947-000...	90	115
https://public.govdelivery.com/accounts/WIDSPS/subscriber/e...	77	96
https://dsps.wi.gov/Pages/BoardsCouncils/MEB/Default.aspx?...	52	96
https://evers.wi.gov/Pages/Application_Process.aspx?utm_me...	48	93
https://online.drl.wi.gov/decisions/2021/ORDER0007171-000...	59	85
https://dsps.wi.gov/Pages/BoardsCouncils/MEB/Meetings.asp...	38	59
https://dsps.wi.gov/Pages/RulesStatutes/Medicine.aspx?utm_...	44	56
https://content.govdelivery.com/accounts/WIDSPS/bulletins/2...	27	51

Link URL	Unique Clicks	Total Clicks
https://pdmp.wi.gov/?utm_medium=email&utm_source=gov...	14	22
https://dsps.wi.gov/Pages/RulesStatutes/RealEstate.aspx?ut...	8	19
https://docs.legis.wisconsin.gov/code/admin_code/med/10/03...	7	7
https://subscriberhelp.granicus.com/?utm_medium=email&u...	7	7
https://subscriberhelp.govdelivery.com/	6	6
https://twitter.com/wi_dsps?utm_medium=email&utm_sourc...	6	6