



**VIRTUAL/TELECONFERENCE
MEDICAL EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
March 16, 2022**

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 (1-5)

B. Approval of Minutes of February 16, 2022 (6-11)

C. Introductions, Announcements and Recognition

D. Reminders: Conflicts of Interest, Scheduling Concerns

E. Administrative Matters – Discussion and Consideration

- 1) Department, Staff and Board Updates
- 2) Board Members – Term Expiration Dates
 - a. Bond, Jr., Milton – 7/1/2023
 - b. Chou, Clarence P. – 7/1/2023
 - c. Ferguson, Kris – 7/1/2025
 - d. Gerlach, Diane M. – 7/1/2024
 - e. Goel, Sumeet K. – 7/1/2023
 - f. Lerma, Carmen – 7/1/2024
 - g. Parish, Michael A. – 7/1/2023
 - h. Sattler, Rachel E. – 7/1/2024
 - i. Schmeling, Gregory J. – 7/1/2025
 - j. Siebert, Derrick R. – 7/1/2025
 - k. Wasserman, Sheldon A. – 7/1/2023
 - l. Yerby, Lemuel G. – 7/1/2024
 - m. Yu, Emily S. – 7/1/2024
- 3) Appointments, Reappointments, Confirmations, and Committee, Panel and Liaison Appointments
- 4) Assignment of Screening Panel and Examination Panel Liaisons
- 5) Wis. Stat. § 15.085 (3)(b) – Affiliated Credentialing Boards’ Biannual Meeting with the Medical Examining Board to Consider Matters of Joint Interest

- F. Board Chair Meeting and Options to Address Department Resources – Discussion and Consideration**
- G. Legislative and Policy Matters – Discussion and Consideration**
- H. Administrative Rule Matters – Discussion and Consideration**
 - 1) Preliminary Rule Draft: Med 10, Relating to Performance of Physical Examinations **(12-14)**
 - 2) Status Update: Cos 2, 3, 5, & 8
 - 3) Scope Statement Request: 2021 Wisconsin Act 158 **(15-18)**
 - 4) Revised Scope Statement: Med 13, Relating to Continuing Medical Education for Physicians **(19-20)**
 - 5) Pending or Possible Rulemaking Projects
 - a. Rules Project Chart **(21)**
- I. Federation of State Medical Boards (FSMB) Matters – Discussion and Consideration**
- J. Controlled Substances Board Report**
- K. Interstate Medical Licensure Compact Commission (IMLCC) – Report from Wisconsin’s Commissioners – Discussion and Consideration**
- L. Newsletter Matters – Discussion and Consideration**
- M. MED-PA Collaboration Committee Report**
 - 1) Physician Assistant Affiliated Credentialing Board – Jennifer Jarrett, Chairperson
- N. Screening Panel Report**
- O. Future Agenda Items**
- P. 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

Q. 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.).

R. Deliberation on DLSC Matters

- 1) Proposed Stipulations, Final Decisions and Orders**
 - a. 21 MED 368 – Raju Fatehchand, MD **(22-27)**
 - b. 21 MED 389 – Shannon P. Calhoun, DO **(28-34)**
 - c. 21 MED 570 – Mark A. Janiga, MD **(35-41)**
- 2) Complaints**
 - a. 19 MED 044 – Steven E. Bondow, MD **(42-45)**
- 3) Administrative Warnings**
 - a. 21 MED 218 – R.W.O. **(46-47)**
- 4) Case Closings**
 - a. 20 MED 202 – Unknown **(48-54)**
 - b. 20 MED 269 – B.G.M. **(55-72)**
 - c. 20 MED 353 – P.L.L. **(73-95)**
 - d. 20 MED 495 – S.M.H. **(96-101)**
 - e. 21 MED 154 – T.L.N. **(102-109)**
 - f. 21 MED 287 – J.A.P. **(110-116)**
 - g. 21 MED 351 – C.S.B. **(117-128)**
 - h. 21 MED 399 – J.J.R. **(129-133)**
 - i. 21 MED 466 – M.C.C. **(134-144)**
 - j. 21 MED 476 – K.A.R., M.T.C. **(145-162)**

S. Deliberation on Orders Fixing Costs

- 1) James A. Puerner, MD (DHA Case Number SPS-19-0060/DSLSC Case Number 18 MED 331) **(163-185)**

T. Credentialing Matters

- 1) Application Reviews**
 - a. George Butler – Medicine and Surgery Applicant (MD) **(186-264)**
 - b. Alexander Sommers – Medicine and Surgery Renewal Applicant (MD) **(265-305)**

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

11:30 A.M. OR IMMEDIATELY FOLLOWING THE FULL BOARD MEETING

CLOSED SESSION – Reviewing Applications and Conducting Oral Examination of **two (2)** (at time of agenda publication) Candidates for Licensure – **Dr. Goel** and **Dr. Yu**

NEXT MEETING: APRIL 20, 2022

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
FEBRUARY 16, 2022**

PRESENT: Milton Bond, Jr., Clarence Chou, M.D.; Kris Ferguson, M.D.; Diane Gerlach, D.O.; Sumeet Goel, D.O. (*arrived at 8:02 a.m.*); Carmen Lerma; Michael Parish, M.D.; Rachel Sattler; Gregory Schmeling, M.D.; Derrick Siebert, M.D. (*arrived at 8:03 a.m.*); Sheldon Wasserman, M.D.; Lemuel Yerby, M.D.; Emily Yu, M.D.

STAFF: Tom Ryan, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, 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 eleven (11) members present.

ADOPTION OF AGENDA

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

(Sumeet Goel arrived at 8:02 a.m.)

APPROVAL OF MINUTES OF JANUARY 19, 2022

MOTION: Michael Parish moved, seconded by Kris Ferguson, to approve the Minutes of January 19, 2022 as published. Motion carried unanimously.

(Derrick Siebert arrived at 8:03 a.m.)

ADMINISTRATIVE MATTERS

Delegation of Authorities

Credentialing Authority Delegations

Delegation of Authority for Conviction Reviews

MOTION: Michael Parish moved, seconded by Kris Ferguson, to delegate authority to the Department Attorneys to review and approve applications with convictions which are not substantially related to the practice of medicine. The Board requests that the Department provide a statistics report by January 2023. Motion carried unanimously.

CLOSED SESSION

MOTION: Sumeet Goel moved, seconded by Carmen Lerma, 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: Milton Bond, Jr.-yes; Clarence Chou-yes; Kris Ferguson-yes; Diane Gerlach-yes; Carmen Lerma-yes; Sumeet Goel-yes; Michael Parish-yes; Rachel Sattler-yes; Gregory Schmeling-yes; Derrick Siebert-yes; Sheldon Wasserman-yes; Lemuel Yerby-yes; and Emily Yu-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:41 a.m.

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

Proposed Stipulations, Final Decisions and Orders

20 MED 076 – Stephen J. Muehlenbein, 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 Stephen J. Muehlenbein, MD, DLSC Case Number 20 MED 076. Motion carried unanimously.

20 MED 501 – Sameh M. Said, MD

MOTION: Lemuel Yerby moved, seconded by Michael Parish, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Sameh M. Said, MD, DLSC Case Number 20 MED 501. Motion carried unanimously.

21 MED 134 – Shawn X. Wu, MD

MOTION: Gregory Schmeling moved, seconded by Carmen Lerma, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Shawn X. Wu, MD, DLSC Case Number 21 MED 134. Motion carried unanimously.

21 MED 176 – Isaac Dor, 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 Isaac Dor, MD, DLSC Case Number 21 MED 176. Motion carried unanimously.

21 MED 179 – Charles E. Nelson, 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 Charles E. Nelson, MD, DLSC Case Number 21 MED 179. Motion carried unanimously.

21 MED 302 – Eric G. Eberts, 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 Eric G. Eberts, MD, DLSC Case Number 21 MED 302. Motion carried unanimously.

(Sheldon Wasserman recused himself and left the room for deliberation and voting in the matter concerning Eric G. Eberts, MD, DLSC Case Number 21 MED 302. Clarence Chou assumed the role of Chairperson for the duration of deliberation and voting.)

21 MED 503 – Jonathan R. Hayward, PA

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 Jonathan R. Hayward, PA, DLSC Case Number 21 MED 503. Motion carried unanimously.

21 MED 505 – Dennys E. Maldonado, MD

MOTION: Michael Parish moved, seconded by Kris Ferguson, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Dennys E. Maldonado, MD, DLSC Case Number 21 MED 505. Motion carried unanimously.

Complaints

19 MED 053 – D.I.S.

MOTION: Gregory Schmeling moved, seconded by Sumeet Goel, to find probable cause in DLSC Case Number 19 MED 053, to believe that D.I.S. has committed unprofessional conduct, and therefore, to issue the Complaint and hold a hearing on such conduct pursuant to Wis. Stat§ 448.02(3)(b). Motion carried unanimously.

(Sheldon Wasserman recused himself and left the room for deliberation and voting in the matter concerning D.I.S., DLSC Case Number 19 MED 053. Clarence Chou assumed the role of Chairperson for the duration of deliberation and voting.)

(Jameson Whitney recused himself and left the room for deliberation and voting in the matter concerning D.I.S., DLSC Case Number 19 MED 053. Jon Derenne assumed the role of Legal Counsel for the duration of deliberation and voting.)

Administrative Warnings

19 MED 086 – A.M.M.

MOTION: Michael Parish moved, seconded by Emily Yu, to issue an Administrative Warning in the matter of A.M.M., DLSC Case Number 19 MED 086. Motion carried unanimously.

19 MED 343 – S.K.

MOTION: Diane Gerlach moved, seconded by Rachel Sattler, to issue an Administrative Warning in the matter of S.K., DLSC Case Number 19 MED 343. Motion carried unanimously.

20 MED 435 – R.R.

MOTION: Michael Parish moved, seconded by Sumeet Goel, to issue an Administrative Warning in the matter of R.R., DLSC Case Number 20 MED 435. Motion carried unanimously.

21 MED 239 – M.S.H.

MOTION: Gregory Schmeling moved, seconded by Sumeet Goel, to issue an Administrative Warning in the matter of M.S.H., DLSC Case Number 21 MED 239. Motion carried unanimously.

21 MED 369 – M.S.P.

MOTION: Clarence Chou moved, seconded by Michael Parish, to issue an Administrative Warning in the matter of M.S.P., DLSC Case Number 21 MED 369. Motion carried unanimously.

Case Closings

MOTION: Clarence Chou moved, seconded by Sumeet Goel, to close the following DLSC Cases for the reasons outlined below:

1. 19 MED 343 – B.M.A. – No Violation
2. 19 MED 588 – Y.S.P. – No Violation
3. 20 MED 108 – J.B.V. – Lack of Jurisdiction (L2)
4. 20 MED 244 – Unknown – No Violation
5. 21 MED 203 – C.I.M. – No Violation
6. 21 MED 205 – M.B. – No Violation
7. 21 MED 238 – K.E.B. – No Violation

8. 21 MED 281 – J.W.M.R. – No Violation
 9. 21 MED 310 – R.J.P. – No Violation
 10. 21 MED 319 – A.S.G. – Lack of Jurisdiction (L2)
 11. 21 MED 320 – C.I.M. – No Violation
 12. 21 MED 327 – L.W.B. – No Violation
 13. 21 MED 339 – R.N.B. – Prosecutorial Discretion (P2)
 14. 21 MED 422 – D.P.G. – No Violation
 15. 21 MED 428 – J.A.B. – No Violation
 16. 21 MED 453 – F.T.N. – No Violation
- Motion carried unanimously.

CREDENTIALING MATTERS

Full Board Review

Dai Yamanouchi, MD

MOTION: Sumeet Goel moved, seconded by Michael Parish, to approve the Medicine and Surgery application of Dai Yamanouchi, MD, once all requirements are met. Motion carried unanimously.

Application Review

Zarina Markova

MOTION: Clarence Chou moved, seconded by Michael Parish, to table the matter of the application of Zarina Markova, to delegate Sumeet Goel to investigate this matter further, and to delegate to Sumeet Goel the authority to approve the application if appropriate. Motion carried unanimously.

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

Michael Deininger, MD

MOTION: Michael Parish moved, seconded by Sumeet Goel, to approve the waiver of the 24 months of ACGME/AOA approved post-graduate training for Michael Deininger, MD. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Gregory Schmeling moved, seconded by Kris Ferguson, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 10:57 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

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

ADJOURNMENT

MOTION: Michael Parish moved, seconded by Carmen Lerma, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:58 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Jameson Whitney, Board Counsel		2) Date When Request Submitted: 3/3/22 <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: 3/16/22	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 -Med 10, Physical Examinations – preliminary draft	
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 (<u>Fill out Board Appearance Request</u>) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: The Board should review the revised draft of Med 10 and take any necessary action.			
11) Signature of person making this request Jameson Whitney		Authorization	Date 3/3/22
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.			

TEXT OF RULE

SECTION 1. Med 10.02 (2m) and (5m) are created to read:

Med 10.02 (2m) “Chaperone” means an individual whom a physician provides to be present during an examination or inspection that exposes the breasts, genitals, or rectal area. This may include any person who has received basic training in the responsibility to protect patient privacy, the confidentiality of health information, and the requirements of clinical practice in the setting where the examination or inspection takes place. This training may be in-person, remote, or recorded, and need not be of any specific duration. Clinic staff, medical students or other allied health professional students, residents, or fellows are presumed to be appropriately trained to serve as chaperones.

(5m) “Observer” means an individual chosen by the patient to be present during an examination or inspection that exposes the breasts, genitals, or rectal area. A patient’s adult family member, legal guardian, or legal custodian is presumed to be able to act as an observer if the patient is twelve years of age or under.

SECTION 2. Med 10.03 (2)(f)4 is created to read:

Med 10.03 (2)(f)4. a. Regardless of the setting in which an examination or inspection that exposes the breasts, genitals, or rectal area takes place, or the sex or gender of the person performing the examination, the Board may make a rebuttable presumption that misconduct has occurred based on an allegation made under Med 10.03 (2)(f), unless one of the following applies and is properly documented in the patient record:

1. The examination is overseen by a chaperone as defined in Med 10.02 (2m) or another observer as defined in Med 10.02 (5m) chosen by the patient.
2. Failure to examine the patient would likely result in significant and imminent harm to the patient, including during a medical emergency.
3. After being adequately counseled on the use of a chaperone, the patient refuses a chaperoned examination. Any concerns a patient has may be elicited and addressed by the physician, where feasible. A signed informed consent document should be signed by the patient.
4. If, after counseling, the patient refuses a chaperone and signs an informed consent document, physicians are to respect the patient’s decision and document the details of the counseling, decision, consent document, and detailed reasons in the patient’s medical record.
5. If, after counseling, the patient refuses a chaperone and refuses to sign an informed consent document, a physician may refuse to perform the examination. Physicians must document the details of the counseling, decision, and detailed reasons in the patient’s medical record.
6. The examination is being performed in relation to an incident of interpersonal violence, and the physician reasonably believes that the presence of a chaperone

and/or counseling the patient regarding a chaperone will cause unnecessary trauma or is otherwise contraindicated. The examining physician shall document this determination in the patient record.

b. Notwithstanding the exceptions in par. a. of this subsection, the Board is not obligated to apply the presumption if it believes in its discretion that the application of the presumption would not be appropriate under the specific circumstances.


c. If the presumption under subsection (2)(f)4. a. is applied, it may be rebutted if the accused is able to present sufficient evidence to convince the Board that it is more likely than not that the alleged misconduct did not occur.

SECTION 3. 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: Nilajah Hardin, Administrative Rules Coordinator		2) Date when request submitted: 03/09/22 <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: 03/16/22	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. Scope Statement Request: 2021 Wisconsin Act 158 2. Revised Scope Statement: Med 13, relating to Continuing Medical Education for Physicians 3. Pending or Possible Rulemaking Projects a. Rule Projects Chart	
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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Attachments: 2021 WI Act 158 Med 13 Scope Statement Rule Project Chart (Board Rule projects can be Viewed Here if Needed: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx)			
11) Authorization			
 Signature of person making this request		03/09/22 Date	
Supervisor (if required)		Date	
Approved by Tom Ryan via Email on 03/09/22			
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



2021 Assembly Bill 720

Date of enactment: **March 8, 2022**

Date of publication*: **March 9, 2022**

2021 WISCONSIN ACT 158

AN ACT *to amend* 441.06 (4) and 448.61; and *to create* 440.077, 448.03 (2) (bm) and 448.40 (1m) of the statutes; **relating to:** practice of certain skilled health services by military medical personnel, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.

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

SECTION 1. 440.077 of the statutes is created to read:
440.077 Military medical personnel program. (1)

In this section:

(a) "Advanced practice nurse prescriber" means an advanced practice nurse prescriber certified under s. 441.16 (2).

(am) "Community-based residential facility" has the meaning given in s. 50.01 (1g).

(b) "Disease" means any pain, injury, deformity, physical or mental illness, or departure from complete health or the proper condition of the human body or any of its parts.

(c) "Inpatient health care facility" has the meaning given in s. 50.135 (1).

(d) "Military medical personnel" means a person who has served as an army medic, a navy or coast guard corpsman, or an air force aerospace medical technician in the U.S. armed forces and who was discharged or released from such service in the previous 12 months under honorable or general conditions.

(e) "Physician assistant" has the meaning given in s. 448.971 (2).

(f) "Podiatrist" has the meaning given in s. 448.60 (3).

(g) "Registered professional nurse" means a registered nurse who is licensed under ch. 441 or who holds a multistate license, as defined in s. 441.51 (2) (h), issued in a party state, as defined in s. 441.51 (2) (k).

(gm) "Residential care apartment complex" has the meaning given in s. 50.01 (6d).

(h) 1. "Skilled health services" means any of the following:

a. To examine into the fact, condition, or cause of human health or disease, or to treat, operate, prescribe, or advise for the same, by any means or instrumentality.

b. To apply principles or techniques of medical sciences in the diagnosis or prevention of any of the conditions in subd. 1. a. and par. (b).

c. To penetrate, pierce, or sever the tissues of a human being.

d. To offer, undertake, attempt, or hold oneself out in any manner as able to do any of the acts described in this paragraph.

2. "Skilled health services" does not include surgical procedures or issuing prescription orders.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(2) (a) The department, in collaboration with the department of veterans affairs, the medical examining board, and the board of nursing, shall establish a program in which military medical personnel may temporarily perform certain skilled health services while supervised in an inpatient health care facility, outpatient health care facility, community-based residential facility, or a residential care apartment complex without having to obtain a license under s. 441.06, 441.10, 448.04, 448.61, or 448.974.

(b) Under the program under par. (a), the services that a military medical personnel may provide shall reflect the level of training and experience of the military medical personnel. Before performing any services under the program under par. (a), the military medical personnel shall complete and sign a memorandum of understanding on a form prescribed by the medical examining board and shall submit the memorandum of understanding to their employer. The memorandum of understanding shall detail the military medical personnel's scope of practice.

(c) Under the program under par. (a), a participating military medical personnel shall be supervised by a physician, physician assistant, podiatrist, registered professional nurse, or advanced practice nurse prescriber. The supervising physician, physician assistant, podiatrist, registered professional nurse, or advanced practice nurse prescriber shall retain responsibility for the care of the patient.

(3) (a) In order to participate in the program under sub. (2) (a), a military medical personnel shall establish a reasonable timeline with his or her employer that describes the actions the military medical personnel intends to take to acquire a license under s. 441.06, 441.10, 448.04, 448.61, or 448.974 including the date by which the military medical personnel agrees to acquire the license. The military medical personnel shall submit the timeline to the department on a form provided by the department.

(b) A military medical personnel becomes ineligible to participate in the program under sub. (2) (a) beginning on the day after the date that the military medical personnel agreed to acquire a license under par. (a).

(c) The timeline to acquire a license under par. (a) may not be longer than is reasonably necessary considering the license the military medical personnel intends to acquire, his or her education and experience, and any other relevant factors.

(d) The medical examining board may extend the timeline under par. (a) if it appears that, because of unforeseen circumstances, the applicant requires more time to receive a license under s. 441.06, 441.10, 448.04, 448.61, or 448.974.

(4) The medical examining board shall oversee the operations of the program under sub. (2) (a).

(5) The department may promulgate any rules necessary for the administration of this section.

SECTION 2. 441.06 (4) of the statutes is amended to read:

441.06 (4) Except as provided in ~~s. ss. 257.03 and 440.077~~, no person may practice or attempt to practice professional nursing, nor use the title, letters, or anything else to indicate that he or she is a registered or professional nurse unless he or she is licensed under this section. Except as provided in ~~s. ss. 257.03 and 440.077~~, no person not so licensed may use in connection with his or her nursing employment or vocation any title or anything else to indicate that he or she is a trained, certified or graduate nurse. This subsection does not apply to any registered nurse who holds a multistate license, as defined in s. 441.51 (2) (h), issued by a jurisdiction, other than this state, that has adopted the enhanced nurse licensure compact under s. 441.51.

SECTION 3. 448.03 (2) (bm) of the statutes is created to read:

448.03 (2) (bm) The activities of military medical personnel, as defined in s. 440.077 (1) (d), while supervised under s. 440.077.

SECTION 4. 448.40 (1m) of the statutes is created to read:

448.40 (1m) The board may promulgate rules to establish minimum standards for military medical personnel, as defined in s. 440.077 (1) (d), who perform skilled health services, as defined in s. 440.077 (1) (g), that are supervised under s. 440.077.

SECTION 5. 448.61 of the statutes is amended to read:

448.61 License required. Except as provided in ss. 257.03, ~~440.077~~, and 448.62, no person may practice podiatry, designate himself or herself as a podiatrist, use or assume the title "doctor of surgical chiropody", "doctor of podiatry" or "doctor of podiatric medicine", or append to the person's name the words or letters "doctor", "Dr.", "D.S.C.", "D.P.M.", "foot doctor", "foot specialist" or any other title, letters or designation which represents or may tend to represent the person as a podiatrist unless the person is licensed under this subchapter.

SECTION 6. Nonstatutory provisions.

(1) The department of safety and professional services may promulgate emergency rules under s. 227.24 to implement s. 440.077 (5). Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until December 1, 2023, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the department of safety and professional services is not required to provide evidence that promulgating a rule under this subsection as emergency rules is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(2) The medical examining board may promulgate emergency rules under s. 227.24 to establish minimum standards for military medical personnel under s. 448.40

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(1m). Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until December 1, 2023, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the medical examining board is not required to provide evidence that promulgating a rule under this subsection as emergency rules is necessary for the preservation of public peace, health, safety,

or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

SECTION 7. Effective dates. This act takes effect on April 2, 2022, or on the day after publication, whichever is later, except as follows:

(1) SECTION 6 of this act takes effect on the day after publication.

STATEMENT OF SCOPE

Medical Examining Board

Rule No.: Med 13

Relating to: Continuing Medical Education for Physicians

Rule Type: Permanent

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

N/A

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

The Medical Examining Board will update ch. Med 13 to extend the requirement that 2 of the 30 required continuing medical education (CME) hours per biennium shall be in a course or program related to opioid prescribing into the biennium ending November 2023, and to modify the requirement to include courses or programs concerning controlled substances generally. Additionally, the Board will re-evaluate and modify or remove the requirement that educational programs related to opioid prescribing or controlled substances be pre-approved by the Board.

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:

Chapter Med 13 currently requires that licensees take 2 hours of their 30 hours of required CME per biennium in courses or programs related to opioid prescribing for the biennium ending in November 2021. In order to continue this requirement into the next biennium, an update to the rule is required. The Board has also identified a need to re-evaluate the pre-approval requirement for courses or programs related to opioid prescribing.

The alternative of not conducting this evaluation and update would be to leave the rules unchanged, which would result in the requirement not continuing into the next biennium, and would limit the courses available to licensees.

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

Section 15.08 (5) (b), Stats., provides each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 448.40 (1), Stats., provides that “[t]he board may promulgate rules to carry out the purposes of this subchapter, including rules requiring the completion of continuing education, professional development, and maintenance of certification or performance improvement or continuing medical education programs for renewal of a license to practice medicine and surgery.”

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

80 hours

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

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Wisconsin licensed physicians and providers of continuing medical education for physicians

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:

None.

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

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Nilajah Hardin, Administrative Rules Coordinator, DSPSAdminRules@wisconsin.gov, (608) 267-7139.

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

**Medical Examining Board
Rule Projects (updated 03/09/22)**

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause (description)	Current Stage	Next Step
Not Assigned Yet	040-21	10/26/2023	Med 1	Licenses to Practice Medicine and Surgery (Comprehensive Review)	The Board will not be moving forward with this project	N/A
Not Assigned Yet	012-21	08/08/2023	Med 10	Performance of Physical Examinations (Chaperones and Observers during Physical Examinations)	Updated Draft Reviewed at 03/16/22 Meeting	Post for EIA Comment and Submission to Clearinghouse
20-053	094-20	01/20/2023	Med 13	Continuing Medical Education (Physician use of Electronic CE Tracking)	Approved by the Governor's Office on 03/08/22	Submission to the Legislature
Not Assigned Yet	006-22	07/24/2024	Med 13	Continuing Medical Education (Controlled Substances Prescribing CE)	Revised Scope Reviewed at 03/16/22 meeting	Submission to the Governor' Office for Approval and for Publication in Administrative Register
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	Med 20	Respiratory Care Practitioner Examinations (RCP Jurisprudence Exam)	Project on hold pending results of spring 2022 test software update	N/A