



**VIRTUAL/TELECONFERENCE
MEDICAL EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Valerie Payne (608) 266-2112
March 17, 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 February 17, 2021 (5-9)**
- C. 8:00 A.M. PUBLIC HEARING: CR 21-017 – Med 13, Relating to Continuing Medical Education for Physicians (10-19)**
 - 1) Review and Respond to Public Hearing Comments and Clearinghouse Report
- D. Introductions, Announcements and Recognition**
- E. Reminders: Conflicts of Interest, Scheduling Concerns**
- 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. Michael Parish – 7/1/2023
 - h. David Roelke – 7/1/2021
 - i. Rachel Sattler – 7/1/2024
 - j. Sheldon Wasserman – 7/1/2023
 - k. Lemuel Yerby – 7/1/2024
 - l. Emily Yu – 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

- G. Legislative and Policy Matters – Discussion and Consideration
- H. Administrative Rule Matters – Discussion and Consideration**
 - 1) Proposals for Med 10, Relating to Performance of Physical Examinations **(20-25)**
 - 2) 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**
- 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. 16 MED 207 – Jay C. Lick, D.O. **(26-33)**
 - b. 18 MED 366 – Christopher N. Deyo, M.D. **(34-39)**
 - c. 18 MED 502 – Adnan I. Qureshi, M.D. **(40-45)**
 - d. 19 MED 079 – Ann E. Ruscher, M.D. **(46-52)**
 - e. 19 MED 345 – Michael D. Hazelbert, D.O. **(53-61)**
- 2) **Stipulations and Interim Orders**
 - a. 19 MED 007 and 19 MED 346 – John D. Whelan, M.D. **(62-67)**
- 3) **Administrative Warnings**
 - a. 19 MED 493 – B.M.H. **(68-69)**
 - b. 20 MED 322 – J.H.M. **(70-71)**
- 4) **Case Closings**
 - a. 18 MED 311 – D.J.R. **(72-76)**
 - b. 19 MED 035 – A.T. **(77-82)**
 - c. 19 MED 079 – M.R.C. **(83-115)**
 - d. 19 MED 192 – C.B. **(116-126)**
 - e. 19 MED 518 – J.S.H. **(127-130)**
 - f. 19 MED 559 – W.D.P. **(131-138)**
 - g. 20 MED 162 – E.S.Y. **(139-148)**
 - h. 20 MED 217 – K.E.A. **(149-155)**
 - i. 20 MED 459 – B.N.H. **(156-160)**
- 5) **Monitoring Matters (161-162)**
 - a. Roy Ozanne, M.D. – Requesting Reinstatement of Full Licensure **(163-171)**
 - b. Farid Ahmad, M.D. – Requesting Reinstatement of Full Licensure **(172-195)**

U. Credentialing Matters

- 1) **Full Board Oral Exam**
 - a. 10:00 A.M. APPEARANCE – Tiffany Brown **(196-255)**

V. 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

W. Open Cases

X. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

AA. 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 **two (2)** (at time of agenda publication) Candidates for Licensure – **Dr. Roelke** and **Dr. Wasserman**

NEXT DATE: APRIL 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
FEBRUARY 17, 2021**

PRESENT: Milton Bond, Jr., David Bryce, M.D.; Clarence Chou, M.D.; Padmaja Doniparthi, M.D. (*arrived at 8:02 a.m.*); Diane Gerlach, D.O.; Sumeet Goel, D.O.; Michael Parish, M.D.; David Roelke, M.D.; Rachel Sattler; Sheldon Wasserman, M.D.; Lemuel Yerby, M.D.

EXCUSED: Emily Yu, M.D.

STAFF: Valerie Payne, Executive Director; Jameson Whitney, Legal Counsel; Dale Kleven, 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.

(*Padmaja Doniparthi arrived at 8:02 a.m.*)

ADOPTION OF AGENDA

MOTION: David Bryce moved, seconded by Sumeet Goel, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 20, 2021

MOTION: Michael Parish moved, seconded by David Roelke, to approve the Minutes of January 20, 2021 as published. Motion carried unanimously.

LEGISLATIVE AND POLICY MATTERS

LRB 0506 – Temporary Practice at Camps

MOTION: Michael Parish moved, seconded by Clarence Chou, to express support for LRB 0506 in its amended form, to limit temporary camp practice to domestic and Canadian physicians. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Preliminary Rule Draft – Med 10, Relating to Unprofessional Conduct

MOTION: Rachel Sattler moved, seconded by David Roelke, to approve the preliminary rule draft of Med 10, relating to unprofessional conduct, for posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Scope Statement – Med 1, Relating to Licenses to Practice Medicine and Surgery

MOTION: David Roelke moved, seconded by Michael Parish, to approve the Scope Statement revising Med 1, relating to licenses to practice medicine and surgery, for submission to the Department of Administration and Governor’s Office and for publication. Additionally, the Board authorizes the Chairperson to approve the Scope Statement for implementation no less than 10 days after publication. If the Board is directed to hold a preliminary public hearing on the Scope Statement, the Chairperson is authorized to approve the required notice of hearing. Motion carried unanimously.

CLOSED SESSION

MOTION: Davie Roelke moved, seconded by Clarence Chou, 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; David Bryce-yes; Clarence Chou-yes; Padmaja Doniparthi-yes; Diane Gerlach-yes; Sumeet Goel-yes; Michael Parish-yes; David Roelke-yes; Rachel Sattler-yes; Sheldon Wasserman-yes; and Lemuel Yerby-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:27 a.m.

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

Stipulations, Final Decisions and Orders

19 MED 101 – Constance R. Tambakis-Odom, M.D.

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 Constance R. Tambakis-Odom, M.D., DLSC Case Number 19 MED 101. Motion carried unanimously.

19 MED 125 – Craig D. Maskil, M.D.

MOTION: Lemuel Yerby moved, seconded by David Roelke, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Craig D. Maskil, M.D., DLSC Case Number 19 MED 125. Motion carried unanimously.

19 MED 407 – Thulasiraman Ravichandran, M.D.

MOTION: Michael Parish moved, seconded by David Roelke, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Thulasiraman Ravichandran, M.D., DLSC Case Number 19 MED 407. Motion carried unanimously.

20 MED 190 – Ralph J. Galdieri, Jr., M.D.

MOTION: Diane Gerlach moved, seconded by David Roelke, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Ralph J. Galdieri, Jr., M.D., DLSC Case Number 20 MED 190. Motion carried unanimously.

Complaints

18 MED 421 – B.M.H.

MOTION: Padmaja Doniparthi moved, seconded by David Bryce, to find probable cause in DLSC Case Number 18 MED 421, to believe that B.M.H. 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.

(David Roelke recused himself and left the room for deliberation and voting in the matter concerning B.M.H., DLSC Case Number 18 MED 421.)

18 MED 486 – C.M.B.

MOTION: David Roelke moved, seconded by Diane Gerlach, to find probable cause in DLSC Case Number 18 MED 486, to believe that C.M.B. 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.

(Sumeet Goel recused himself and left the room for deliberation and voting in the matter concerning C.M.B., DLSC Case Number 18 MED 486.)

Administrative Warnings

20 MED 383 – A.J.

MOTION: Michael Parish moved, seconded by David Roelke, to issue an Administrative Warning in the matter of A.J., DLSC Case Number 20 MED 383. Motion carried unanimously.

Case Closings

MOTION: David Bryce moved, seconded by David Roelke, to close the following DLSC Cases for the reasons outlined below:

1. 18 MED 282 – A.R. – Insufficient Evidence
2. 19 MED 029 – B.J.W. – Prosecutorial Discretion (P3)
3. 19 MED 076 – J.A.C. – Insufficient Evidence
4. 19 MED 253 – G.M.M. – Insufficient Evidence
5. 19 MED 349 – Unknown – No Violation
6. 20 MED 106 – J.A.C. – Insufficient Evidence
7. 20 MED 246 – A.A.T. – No Violation
8. 20 MED 421 – T.M.D. – No Violation

Motion carried unanimously.

19 MED 390 – J.H.

MOTION: Sumeet Goel moved, seconded by Clarence Chou, to refer DLSC Case Number 19 MED 390, against J.H. back to the department for further investigation. Motion carried unanimously.

Monitoring Matters

Jessica Varnam, M.D. – Requesting Reinstatement of Full Licensure

MOTION: David Roelke moved, seconded by Clarence Chou, to grant the request of Jessica Varnam, M.D. for Full Licensure. Motion carried unanimously.

Channing Wiersema, M.D. – Requesting Reinstatement of Full Licensure

MOTION: Diane Gerlach moved, seconded by David Roelke, to grant the request of Channing Wiersema, M.D. for Full Licensure. Motion carried unanimously.

Jennifer Fick, P.A. – Requesting Reinstatement of Full Licensure

MOTION: David Roelke moved, seconded by Milton Bond, Jr., to grant the request of Jennifer Fick, P.A. for Full Licensure. Motion carried unanimously.

CREDENTIALING MATTERS

Full Board License Review

Dai Yamanouchi, M.D.

MOTION: Michael Parish moved, seconded by Milton Bond, Jr., to approve the Visiting Physician License application of Dai Yamanouchi, M.D., once all requirements are met. Motion carried unanimously.

RECONVENE TO OPEN SESSION

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

The Board reconvened to Open Session at 10:39 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

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

ADJOURNMENT

MOTION: Milton Bond moved, seconded by Sumeet Goel, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:40 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 3/5/21 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: 3/17/21	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 8:00 A.M. Public Hearing: CR 21-017 – Med 13, Relating to Continuing Medical Education for Physicians 1. Review and Respond to Public Comments and Clearinghouse Report	
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) <i>Dale Kleven</i>		Authorization <i>March 5, 2021</i>	
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
MEDICAL EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD
MEDICAL EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Medical Examining Board to amend Med 13.02 (1g) and (1r) and 13.03 (3) (b) 2. and to create Med 13.02 (1v) and 13.03 (3) (b) 2m., relating to continuing medical education for physicians.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.13, Stats.

Statutory authority:

Sections 15.08 (5) (b) and 448.40 (1), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides an examining board “shall 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 the Medical Examining 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.”

Related statute or rule:

Section 440.035 (2m), Stats., allows the Medical Examining Board to issue guidelines regarding best practices in prescribing controlled substances. Section 440.08 (2) (a) 58. and 58m., Stats., provide the credential renewal date for physicians is November 1 of each odd numbered year.

Plain language analysis:

Current rules require a physician who holds a U.S. Drug Enforcement Administration number to complete 2 of the 30 required hours of continuing medical education from a Board-approved educational course or program related to opioid prescribing. As this requirement applies only to the renewal date occurring on November 1, 2021, the proposed rules establish a requirement for the completion of continuing education hours related to responsible prescribing of opioids and other controlled substances for the renewal date occurring on November 1, 2023.

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

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation establish continuing medical education requirements for physicians licensed in Illinois [68 Ill. Adm. Code 1285.110]. The rules do not require continuing education related to prescribing opioids or other controlled substances.

Iowa:

Rules of the Iowa Board of Medicine establish continuing education requirements for physicians licensed in Iowa [653 IAC 11]. The rules require a licensee who has prescribed opioids to a patient during the previous license period to complete at least 2 hours of category 1 credit regarding the United States Centers for Disease Control and Prevention (CDC) guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, every 5 years [653 IAC 11.4(1) d. (1)].

Michigan:

Rules of the Michigan Department of Licensing and Regulatory Affairs establish continuing medical education requirements for physicians licensed in Michigan [Mich Admin Code, R 338.2441 to R 338.2443]. The rules require a minimum of 3 hours of continuing education to be earned in pain and symptom management, including any of the following areas:

- Public health burden of pain.
- Ethics and health policy related to pain.
- Michigan pain and controlled substance laws.
- Pain definitions.
- Basic sciences related to pain including pharmacology.
- Clinical sciences related to pain.
- Specific pain conditions.
- Clinical physician communication related to pain.
- Management of pain, including evaluation and treatment and nonpharmacological and pharmacological management.
- Ensuring quality pain care.
- Michigan programs and resources relevant to pain.

Minnesota:

Rules of the Minnesota Board of Medical Practice establish continuing education requirements for physicians licensed in Minnesota [Minnesota Rules, chapter 5605]. The rules do not require continuing education related to prescribing opioids or other controlled substances.

Summary of factual data and analytical methodologies:

The proposed rules were developed by obtaining input and feedback from the Medical Examining Board.

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is 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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 8:00 a.m. on March 17, 2021, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Med 13.02 (1x) is created to read:

Med 13.02 (1x) (a) Except as provided under par. (b), for the renewal date occurring on November 1, 2023, a minimum of 2 of the 30 hours of continuing medical education required under sub. (1) shall be an educational course or program related to prescribing opioids and other controlled substances that is approved under s. Med 13.03 (3) at the time of the physician's attendance, and whose subject matter meets the requirements of s. Med 13.03 (3) (b) 2s.

(b) This subsection does not apply to a physician who, at the time of making application for a certificate of registration, does not hold a U.S. drug enforcement administration number to prescribe controlled substances.

SECTION 2. Med 13.03 (2) (b) (Note) and (3) (a) (intro.) are amended to read:

Med 13.03 (2) (b) (Note) Forms to apply for continuing medical education credit are available ~~upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708~~ from the department of safety and professional services' website at <http://dsps.wi.gov>, by phone at (608) 266-2112, or by email at dsps@wisconsin.gov.

(3) (a) (intro.) Only educational courses and programs approved by the board may be used to satisfy the requirement under s. Med 13.02 (1g) (a), ~~and (1r) (a), (1v) (a), and (1x) (a)~~. To apply for approval of a continuing education course or program, a provider shall submit to the board an application on forms provided by the department. The application shall include all of the following concerning the course or program:

SECTION 3. Med 13.03 (3) (b) 2s. is created to read:

Med 13.03 (3) (b) 2s. The subject matter of a course under s. Med 13.02 (1x) (a) shall pertain to responsible prescribing of opioids and other controlled substances, with an emphasis on informed consent of all patients on opioid therapy and other controlled substances.

SECTION 4. 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)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date February 11, 2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Med 13	
4. Subject Continuing medical education for physicians	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule Current rules require a physician who holds a U.S. Drug Enforcement Administration number to complete 2 of the 30 required hours of continuing medical education from a Board-approved educational course or program related to opioid prescribing. As this requirement applies only to the renewal date occurring on November 1, 2021, the proposed rules establish a requirement for the completion of continuing education hours related to responsible prescribing of opioids and other controlled substances for the renewal date occurring on November 1, 2023.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is extending an initiative to address prescription drug abuse. Not implementing the rule would be inconsistent with the statewide initiative to address this issue.	
16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is increased physician awareness of prescription drug abuse.	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

17. Compare With Approaches Being Used by Federal Government
None

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation establish continuing medical education requirements for physicians licensed in Illinois [68 Ill. Adm. Code 1285.110]. The rules do not require continuing education related to prescribing opioids or other controlled substances.

Iowa:

Rules of the Iowa Board of Medicine establish continuing education requirements for physicians licensed in Iowa [653 IAC 11]. The rules require a licensee who has prescribed opioids to a patient during the previous license period to complete at least 2 hours of category 1 credit regarding the United States Centers for Disease Control and Prevention (CDC) guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, every 5 years [653 IAC 11.4(1) d. (1)].

Michigan:

Rules of the Michigan Department of Licensing and Regulatory Affairs establish continuing medical education requirements for physicians licensed in Michigan [Mich Admin Code, R 338.2441 to R 338.2443]. The rules require a minimum of 3 hours of continuing education to be earned in pain and symptom management, including any of the following areas:

- Public health burden of pain.
- Ethics and health policy related to pain.
- Michigan pain and controlled substance laws.
- Pain definitions.
- Basic sciences related to pain including pharmacology.
- Clinical sciences related to pain.
- Specific pain conditions.
- Clinical physician communication related to pain.
- Management of pain, including evaluation and treatment and nonpharmacological and pharmacological management.
- Ensuring quality pain care.
- Michigan programs and resources relevant to pain.

Minnesota:

Rules of the Minnesota Board of Medical Practice establish continuing education requirements for physicians licensed in Minnesota [Minnesota Rules, chapter 5605]. The rules do not require continuing education related to prescribing opioids or other controlled substances.

19. Contact Name

Dale Kleven

20. Contact Phone Number

(608) 261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant 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 **21-017**

AN ORDER to amend Med 13.02 (1g) and (1r) and 13.03 (3) (b) 2.; and to create Med 13.02 (1v) and 13.03 (3) (b) 2m., relating to continuing medical education for physicians.

Submitted by **MEDICAL EXAMINING BOARD**

02-11-2021 RECEIVED BY LEGISLATIVE COUNCIL.

02-24-2021 REPORT SENT TO AGENCY.

SG:BL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 3/5/21 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: 3/17/21	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. Proposals for 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 <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) <i>Dale Kleven</i>		Authorization <i>March 5, 2021</i>	
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.			

SUMMARY OF OTHER STATES – USE OF CHAPERONES FOR EXAMINATIONS

I was unable to locate requirements or guidance concerning the use of chaperones for our adjacent states (Illinois, Iowa, Michigan, and Minnesota). I was able to locate requirements, guidance, or both for the following states:

Alabama

The Alabama Administrative Code provides that “[a] physician should have a chaperone present during the examination of any sensitive parts of the body for the protection of both the patient and the physician. A physician should refuse to examine sensitive parts of the patient’s body without a chaperon present if the physician believes the patient is sexualizing the examination.” (Alabama Administrative Code 540-X-9-.08, *Sexual Misconduct In The Practice Of Medicine: A Joint Statement Of Policy And Guidelines By The State Board Of Medical Examiners And The Medical Licensure Commission*)

Delaware

Delaware law contains provisions specific to the treatment or examination of minors:

§ 1769B. Treatment or examination of minors.

(a) A parent, guardian or other caretaker, or an adult staff member, shall be present when a person licensed to practice medicine under this chapter provides outpatient treatment to a minor patient who is disrobed or partially disrobed or during an outpatient physical examination involving the breasts, genitalia or rectum, regardless of sex of the licensed person and patient, except when rendering care during an emergency. When using an adult staff member to observe the treatment or examination, the adult staff member shall be of the same gender as the patient when practicable. The minor patient may decline the presence of a third person only with consent of a parent, guardian or other caretaker. The minor patient may request private consultation with the person licensed to practice medicine without the presence of a third person after the physical examination. Every hospital and long-term care facility that provides treatment to minors shall develop and implement policies regarding the treatment of minor patients that are consistent with the purposes of this section and will submit those policies for approval by the Department of Health and Social Services. Violations of approved policies will be treated as a violation of this section.

(b) When a minor patient is to be disrobed, partially disrobed or will undergo a physical examination involving the breasts, genitalia or rectum, a person licensed to practice medicine under this chapter shall provide notice to the person providing consent to treatment of the rights under this section. The notice shall be provided in written form or be conspicuously posted in a manner in which minor patients and their parent, guardian or other caretaker are made aware of the notice. In circumstances in which the posting or the provision to the patient of the written notice would not convey the right to have a chaperone present, the person licensed to practice medicine shall use another means to ensure that the patient or person understands the right under this section.

(c) For the purposes of this section, “minor” is defined as a person 15 years of age or younger, “adult staff member” is defined as a person 18 years of age or older who acting under the direction of the licensed person or the employer of the licensed person or who is otherwise licensed under this chapter, “hospital” has the meaning prescribed by Chapter 10 of Title 16, and “long-term care facility” has the meaning prescribed by Chapter 11 of Title 16.

(d) The person licensed under this chapter that provides outpatient treatment to a minor pursuant to this section shall, contemporaneously with such treatment, note in the child’s medical record the name of each person present when such treatment is being provided.

Georgia

Georgia Administrative Code includes “[c]onducting a physical examination of the breast and/or genitalia of a patient of the opposite sex without a chaperone present” in its definition of physician unprofessional conduct (Rule 360-3-.02 - Unprofessional Conduct Defined).

New Jersey

An Appendix to the New Jersey Administrative Code (*Policy Statement Regarding Sexual Activity Between Physicians and Patients and in the Practice of Medicine*) provides “a licensee shall provide notice to a patient, or any other person who is to be examined, of the right to have a chaperone present during breast and pelvic examinations of females and during genitalia and rectal examinations of both males and females. In all other instances, consistent with promoting patient privacy, licensees should inform patients of the option of having a chaperone present during examination and should provide a chaperone when requested by a patient.” The policy statement indicates it is meant as an advisory to licensees to guide professional behavior.

Ohio

The Ohio State Medical Board’s Administrative Rules concerning sexual misconduct and impropriety defines sexual impropriety as including “[f]ailing to offer the patient the opportunity to have a third person or chaperone in the examining room during an intimate examination and/or failing to provide a third person or chaperone in the examining room during an intimate examination upon the request of the patient.” A chaperone is defined as “a third person who, with the patient's consent, is present during a medical examination.” (Ohio Administrative Code 4731-26-01 – Definitions)

Tennessee

In its *Policy Regarding Sexual Misconduct*, the Tennessee Board of Medical Examiners encourages and strongly recommends the following:

“A patient agreement should be obtained for the presence of any persons in the room while dressing, undressing, or being examined. The physician should consider having a chaperone present during any physical examination. The request, whether by the patient or physician, for a chaperone during physical examination should be accommodated.”

Prepared by: Dale Kleven, Administrative Rules Coordinator

Chapter Med 10

UNPROFESSIONAL CONDUCT

Med 10.01 Authority and intent.
Med 10.02 Definitions.

Med 10.03 Unprofessional conduct.

Note: Chapter Med 16 as it existed on October 31, 1976 was repealed and a new Chapter Med 10 was created effective November 1, 1976.

Med 10.01 Authority and intent. (1) The definitions of this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5) 227.11, and 448.40, Stats., for the purposes of ch. 448, Stats.

(2) Physicians act with a high level of independence and responsibility, often in emergencies. Every physician represents the medical profession in the community and must do so in a manner worthy of the trust bestowed upon the physician and the profession. The minimally competent practice of medicine and surgery require that care of the patient is paramount. Physicians must therefore act with honesty, respect for the law, reasonable judgment, competence, and respect for patient boundaries.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; correction made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1989, No. 401; CR 13-008: am. (title), renum. to (1), cr. (2) Register September 2013 No. 693 eff. 10-1-13.

Med 10.02 Definitions. For the purposes of this chapter:

(1) "Adequate supervision" means a physician should be competent to perform the delegated medical act, and must have reasonable evidence that the supervised individual is minimally competent to perform the act under the circumstances.

(2) "Board" means the medical examining board.

(3) "Intimate parts" has the meaning given in s. 939.22 (19), Stats.

(4) "License" means any license, permit, certificate, or registration issued by the board or by any other credentialing jurisdiction with the authority to grant credentials to practice medicine and surgery, or any other practice authorized within ch. 448, Stats.

(5) "Patient health care records" has the meaning given in s. 146.81 (4), Stats.

(6) "Sexual contact" has the meaning given in s. 948.01 (5), Stats.

(7) "Sexually explicit conduct" has the meaning given in s. 948.01 (7), Stats.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; cr. (2)(s), Register, October, 1977, No. 262, eff. 11-1-77; am. (2) (m), Register, April, 1978, No. 268, eff. 5-1-78; am. (2) (s), Register, May, 1978, No. 269, eff. 6-1-78; reprinted to correct History note, Register, June, 1980, No. 294; r. and recr. (2) (o), cr. (2) (t), Register, September, 1985, No. 357, eff. 10-1-85; cr. (2) (u), Register, April, 1987, No. 376, eff. 5-1-87; cr. (2) (v), Register, January, 1988, No. 385, eff. 2-1-88; am. (2) (s), Register, March, 1990, No. 411, eff. 3-1-90; cr. (2) (x), Register, September, 1990, No. 417, eff. 10-1-90; cr. (2) (w), Register, October, 1990, No. 418, eff. 11-1-90; am. (2) (q), Register, August, 1992, No. 440, eff. 9-1-92; cr. (2) (y), Register, September, 1992, No. 441, eff. 10-1-92; cr. (2) (z), Register, May, 1995, No. 473, eff. 6-1-95; cr. (2) (za), Register, April, 1996, No. 484, eff. 5-1-96; am. (2) (q), Register, September, 1996, No. 489, eff. 10-1-96; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1997, No. 494; cr. (2) (zb), Register, May, 1998, No. 509, eff. 6-1-98; r. (2) (v) and (y), am. (2) (za), Register, December, 1999, No. 528, eff. 1-1-00; CR 01-031: am. (2) (s) (intro.) and (zb) (intro.), Register October 2001 No. 550, eff. 11-1-01; CR 02-008: cr. (2) (zc), CR 02-055: cr. (2) (zd), Register November 2002 No. 563, eff. 12-1-02; CR 13-008: r. and recr. Register September 2013 No. 693, eff. 10-1-13.

Med 10.03 Unprofessional conduct. "Unprofessional conduct" includes the following, or aiding or abetting the same:

(1) DISHONESTY AND CHARACTER. (a) Violating or attempting to violate ch. 448, Stats., or any provision, condition, or term of a valid rule or order of the board.

(b) Knowingly engaging in fraud or misrepresentation or dishonesty in applying, for or procuring a medical license, by exami-

nation for a medical license, or in connection with applying for or procuring periodic renewal of a medical license, or in otherwise maintaining such licensure.

(c) Knowingly giving false, fraudulent, or deceptive testimony while serving as an expert witness.

(d) Employing illegal or unethical business practices.

(e) Knowingly, negligently, or recklessly making any false statement, written or oral, in the practice of medicine and surgery which creates an unacceptable risk of harm to a patient, the public, or both.

(f) Engaging in any act of fraud, deceit, or misrepresentation, including acts of omission to the board or any person acting on the board's behalf.

(g) Obtaining any fee by fraud, deceit, or misrepresentation.

(h) Directly or indirectly giving or receiving any fee, commission, rebate, or other compensation for professional services not actually and personally rendered, unless allowed by law. This prohibition does not preclude the legal functioning of lawful professional partnerships, corporations, or associations.

(i) Representing or claiming as true the appearance that a physician possesses a medical specialty certification by a board recognized certifying organization, such as the American Board of Medical Specialties, or the American Osteopathic Association, if it is not true.

(j) Engaging in uninvited in-person solicitation of actual or potential patients who, because of their particular circumstances, may be vulnerable to undue influence.

(k) Engaging in false, misleading, or deceptive advertising.

(L) Failure to adequately supervise delegated medical acts performed by licensed or unlicensed personnel.

(2) DIRECT PATIENT CARE VIOLATIONS. (a) Practicing or attempting to practice under any license when unable or unwilling to do so with reasonable skill and safety. A certified copy of an order issued by a court of competent jurisdiction finding that a person is mentally incompetent is conclusive evidence that the physician was, for any period covered by the order, unable to practice medicine and surgery with reasonable skill and safety.

(b) Departing from or failing to conform to the standard of minimally competent medical practice which creates an unacceptable risk of harm to a patient or the public whether or not the act or omission resulted in actual harm to any person.

(c) Prescribing, ordering, dispensing, administering, supplying, selling, giving, or obtaining any prescription medication in any manner that is inconsistent with the standard of minimal competence.

(d) Performing or attempting to perform any surgical or invasive procedure on the wrong patient, or at the wrong anatomical site, or performing the wrong procedure on any patient.

(e) Administering, dispensing, prescribing, supplying, or obtaining a controlled substance as defined in s. 961.01 (4), Stats., other than in the course of legitimate professional practice, or as otherwise permitted by law.

1. Except as otherwise provided by law, a certified copy of a relevant finding, order, or judgment by a state or federal court or

agency charged with making legal determinations shall be conclusive evidence of its findings of facts and conclusions of law.

2. A certified copy of a finding, order, or judgment demonstrating the entry of a guilty plea, nolo contendere plea or deferred adjudication, with or without expungement, of a crime substantially related to the practice of medicine and surgery is conclusive evidence of a violation of this paragraph.

(f) Engaging in sexually explicit conduct, sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient, a patient's immediate family, or a person responsible for the patient's welfare.

1. Sexual motivation may be determined from the totality of the circumstances and shall be presumed when the physician has contact with a patient's intimate parts without legitimate medical justification for doing so.

2. For the purpose of this paragraph, an adult receiving treatment shall be considered a patient for 2 years after the termination of professional services.

3. If the person receiving treatment is a child, the person shall be considered a patient for the purposes of this paragraph for 2 years after termination of services or for 2 years after the patient reaches the age of majority, whichever is longer.

(g) Engaging in any sexual contact or conduct with or in the presence of a patient or a former patient who lacks the ability to consent for any reason, including medication or psychological or cognitive disability.

(h) Engaging in repeated or significant disruptive behavior or interaction with physicians, hospital personnel, patients, family members, or others that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered.

(i) Knowingly, recklessly, or negligently divulging a privileged communication or other confidential patient health care information except as required or permitted by state or federal law.

(j) Performing an act constituting the practice of medicine and surgery without required informed consent under s. 448.30, Stats.

(k) Aiding or abetting the practice of medicine by an unlicensed, incompetent, or impaired person or allowing another person or organization to use his or her license to practice medicine. This provision does not prohibit a Wisconsin physician or any other practitioner subject to this chapter from providing outpatient services ordered by a physician licensed in another state, if the physician who wrote the order saw the patient in the state in which the physician is licensed and the physician who wrote the order remains responsible for the patient.

(L) Violating the practice standards under s. Cos 2.03 to practice medicine and surgery while serving as a medical director or physician who delegates and supervises services performed by non-physicians, including aiding or abetting any person's violation of s. Cos 2.03.

(m) Prescribing a controlled substance to oneself as described in s. 961.38 (5), Stats.

(n) Practicing medicine in another state or jurisdiction without appropriate licensure. A physician has not violated this paragraph if, after issuing an order for services that complies with the laws of Wisconsin, his or her patient requests that the services ordered be provided in another state or jurisdiction.

(o) Patient abandonment occurs when a physician without reasonable justification unilaterally withdraws from a physician-patient relationship by discontinuing a patient's treatment regimen when further treatment is medically indicated and any of the following occur:

1. The physician fails to give the patient at least 30 days notice in advance of the date on which the physician's withdrawal becomes effective.

2. The physician fails to allow for patient access to or transfer of the patient's health record as required by law.

3. The physician fails to provide for continuity of prescription medications between the notice of intent to withdraw from the physician-patient relationship and the date on which the physician-patient relationship ends, if the prescription medications are necessary to avoid unacceptable risk of harm.

4. The physician fails to provide for emergency care during the period between the notice of intent to withdraw from the physician-patient relationship and the date on which the physician-patient relationship ends. Nothing in this section shall be interpreted to impose upon the physician a greater duty to provide emergency care to a patient than otherwise required by law.

(3) LAW VIOLATIONS, ADVERSE ACTION, AND REQUIRED REPORTS TO THE BOARD. (a) Failing, within 30 days, to report to the board any final adverse action taken against the licensee's authority to practice medicine and surgery by another licensing jurisdiction concerned with the practice of medicine and surgery.

(b) Failing, within 30 days, to report to the board any adverse action taken by the Drug Enforcement Administration against the licensee's authority to prescribe controlled substances.

(c) Having any credential pertaining to the practice of medicine and surgery or any act constituting the practice of medicine and surgery become subject to adverse determination by any agency of this or another state, or by any federal agency or authority.

(d) Failing to comply with state and federal laws regarding access to patient health care records.

(e) Failing to establish and maintain timely patient health care records, including records of prescription orders, under s. Med 21.03, or as otherwise required by law.

(f) Violating the duty to report under s. 448.115, Stats.

(g) After a request by the board, failing to cooperate in a timely manner with the board's investigation of a complaint filed against a license holder. There is a rebuttable presumption that a credential holder who takes longer than 30 days to respond to a request of the board has not acted in a timely manner.

(h) Failing, within 30 days of conviction of any crime, to provide the board with certified copies of the criminal complaint and judgment of conviction.

(i) Except as provided in par. (j), a violation or conviction of any laws or rules of this state, or of any other state, or any federal law or regulation that is substantially related to the practice of medicine and surgery.

1. Except as otherwise provided by law, a certified copy of a relevant decision by a state or federal court or agency charged with determining whether a person has violated a law or rule relevant to this paragraph is conclusive evidence of findings of facts and conclusions of law contained therein.

2. The department has the burden of proving that the circumstances of the crime are substantially related to the practice of medicine and surgery.

(j) Violating or being convicted of any of the conduct listed in Table 10.03, any successor statute criminalizing the same conduct, or if in another jurisdiction, any act which, if committed in Wisconsin would constitute a violation of any statute listed in Table 10.03:

Table 10.03
Violations or Convictions Cited by Statute

Statute Section	Description of Violation or Conviction
940.01	First degree intentional homicide
940.02	First degree reckless homicide
940.03	Felony murder
940.05	Second degree intentional homicide
940.12	Assisting suicide
940.19 (2), (4), (5), or (6)	Battery, substantial battery, or aggravated battery
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report
940.225 (1), (2), or (3)	First, second, or third degree sexual assault
940.285 (2)	Abuse of individuals at risk
940.29	Abuse of residents of penal facilities
940.295	Abuse and neglect of patients and residents
948.02 (1) or (2)	First and second degree sexual assault of a child
948.03 (2)	Physical abuse of a child, intentional causation of bodily harm
948.05	Sexual exploitation of a child
948.051	Trafficking of a child
948.055	Causing a child to view or listen to sexual activity
948.06	Incest with a child
948.07	Child enticement
948.08	Soliciting a child for prostitution
948.085	Sexual assault of a child placed in substitute care

History: CR 13-008: cr. Register September 2013 No. 693, eff. 10-1-13.