



VIRTUAL/TELECONFERENCE
PHYSICIAN ASSISTANT AFFILIATED CREDENTIALING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
December 15, 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

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-3)**
- B. Approval of Minutes of November 22, 2022 (4-6)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. Introductions, Announcements and Recognition
- E. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) 2023 Meeting Dates
 - 3) Board Members – Term Expiration Dates
 - a. Collins, Clark A. – 7/1/2023
 - b. Edwards, Jacqueline K. – 7/1/2025
 - c. Elliot, Eric M. – 7/1/2024
 - d. Fischer, Jean M. – 7/1/2023
 - e. Holmes-Drammeh, Emelle S. – 7/1/2024
 - f. Jarrett, Jennifer L. – 7/1/2024
 - g. Martin, Cynthia S. – 7/1/2023
 - h. Sanders, Robert W. – 7/1/2024
 - i. Streit, Tara E. – 7/1/2023
 - 4) Wis. Stat. s 15.085 (3)(b) – Biannual Meeting with the Medical Examining Board
- F. Applicant Criminal Background Checks – Discussion and Consideration**
- G. Board Chair Meetings and Option to Address Department Resources – Discussion and Consideration (7-8)**
 - a. Review Letter Sent to Legislature
- H. Update on Professional Assistance Procedure (PAP) Discussion of Expansion to Include Mental Health Disorders – Discussion and Consideration**

- I. Physician Assistant (PA) Licensure Compact – Discussion and Consideration (9)**
 - a. Article – Model Legislation Approved
 - b. Council of State Governments and National Center for Interstate Compacts Webinar Series to Introduce the PA Compact

- J. Legislation and Policy Matters – Discussion and Consideration

- K. Administrative Rule Matters – Discussion and Consideration (10)**
 - 1) Legislative Report and Final Rule Draft: PA 1 to 4, Relating to Physician Assistants **(11-35)**
 - 2) MED 26 – Update from the Chairperson
 - 3) Pending & Possible Rulemaking Projects

- L. COVID-19 – Discussion and Consideration

- M. Items Added After Preparation of Agenda:
 - 1) Introductions, Announcements and Recognition
 - 2) Administrative Matters
 - 3) Election of Officers
 - 4) Appointment of Liaisons and Alternates
 - 5) Delegation of Authorities
 - 6) Education and Examination Matters
 - 7) Credentialing Matters
 - 8) Practice Matters
 - 9) Administrative Rule Matters
 - 10) Legislative and Policy Matters
 - 11) Liaison Reports
 - 12) Board Liaison Training and Appointment of Mentors
 - 13) Informational Items
 - 14) Division of Legal Services and Compliance (DLSC) Matters
 - 15) Presentations of Petitions for Summary Suspension
 - 16) Petitions for Designation of Hearing Examiner
 - 17) Presentation of Stipulations, Final Decision and Orders
 - 18) Presentation of Proposed Final Decision and Orders
 - 19) Presentation of Interim Orders
 - 20) Petitions for Re-Hearing
 - 21) Petitions for Assessments
 - 22) Petitions to Vacate Orders
 - 23) Requests for Disciplinary Proceeding Presentations
 - 24) Motions
 - 25) Petitions
 - 26) Appearances from Requests Received or Renewed
 - 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

- N. Public Comments**

- O. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates**

ADJOURNMENT

VIRTUAL/TELECONFERENCE

ORAL INTERVIEW OF CANDIDATES FOR LICENSURE

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

CLOSED SESSION – Reviewing Applications and Conducting Oral Interview of **Zero (0)** (at time of agenda publication) Candidates for Licensure – **Jean Fischer** and **Clark Collins**.

NEXT MEETING: JANUARY 19, 2023 (TENTATIVE)

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 virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board’s agenda, please visit the Department website at <https://dps.wi.gov>. 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 hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, or reach the Meeting Staff by calling 608-267-7213.

**HYBRID (IN-PERSON/VIRTUAL)
PHYSICIAN ASSISTANT
AFFILIATED CREDENTIALING BOARD
NOVEMBER 22, 2022**

PRESENT: Clark Collins (*excused at 11:50*) (*via Zoom*), Jacqueline Edwards (*arrived at 9:28 a.m.*), Eric Elliot, Jean Fischer, Emelle Holmes-Drammeh (*excused at 12:20 p.m.*), Jennifer Jarrett, Cynthia Martin (*via Zoom*), Robert Sanders (*via Zoom*), Tara Streit (*via Zoom*)

STAFF: Tom Ryan, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Dialah Azam, Bureau Assistant; Katlin Schwartz, Bureau Assistant; and other Department Staff

CALL TO ORDER

Jennifer Jarrett, Chairperson, called the meeting to order at 9:02 a.m. A quorum was confirmed with eight (8) members present.

ADOPTION OF AGENDA

Amendments to the Agenda

- Open Session: Under the agenda title “October 20, 2022” **CHANGE** to “November 22, 2022”

MOTION: Eric Elliot moved, seconded by Jean Fischer, to adopt the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF OCTOBER 20, 2022

MOTION: Eric Elliot moved, seconded by Jean Fischer, to approve the Minutes of October 20, 2022 as published. Motion carried unanimously.

INTRODUCTIONS, ANNOUNCEMENTS AND RECOGNITION

MOTION: Jennifer Jarrett moved, seconded by Eric Elliot, to acknowledge Kimberly Wood for her years of service to the Physician Assistant Affiliated Credentialing Board and thank her for her expertise through the tenures of the members of the Board. Motion carried unanimously.

Wis. Stat. s 15.085 (3)(b) – Biannual Meeting with the Medical Examining Board

MOTION: Jennifer Jarrett moved, seconded by Eric Elliot, to request that the Medical Examining Board allow the Physician Assistant Affiliated Credentialing Board to review the Emergency Rule Draft for Med 26, relating to Military Medical Personnel prior or concurrent to its submission to the Board of Nursing and the Department of Veterans Affairs. Motion carried unanimously.

BOARD CHAIR MEETINGS AND OPTION TO ADDRESS DEPARTMENT RESOURCES

Review and Drafting of Letter to Legislature

MOTION: Eric Elliot moved, seconded by Jean Fischer, to approve the letter as presented in the November 22, 2022 agenda materials with authority granted to the

Chairperson to make final edits and to submit to the Legislature. Motion carried unanimously.

Jacqueline Edwards arrived at 9:28 a.m.

ADMINISTRATIVE RULE MATTERS

Permanent Rule Draft: PA 1 to 4, Relating to Physician Assistants

Review and Respond to Public Hearing Comments and Clearinghouse Report

MOTION: Eric Elliot moved, seconded by Jacqueline Edwards, to reject Clearinghouse comment number 4d, and to accept all remaining Clearinghouse comments for Clearinghouse Rule 22-064 (PA 1 to 4), relating to Physician Assistants. Motion carried unanimously.

Clark Collins excused at 11:50 a.m.

Emelle Holmes-Drammeh excused at 12:20 p.m.

CLOSED SESSION

MOTION: Jean Fischer moved, seconded by Eric Elliot, to 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 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Jennifer Jarrett, Chairperson read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Jacqueline Edwards-yes; Eric Elliot-yes; Jean Fischer-yes; Jennifer Jarrett-yes; Cynthia Martin-yes; Robert Sanders-yes; and Tara Streit-yes. Motion carried unanimously.

The Board convened into Closed Session at 1:21 p.m.

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

Case Closings

21 PAB 007 – B.S.A.

MOTION: Jacqueline Edwards moved, seconded by Jennifer Jarrett, to close DLSC Case Number 21 PAB 007, against B.S.A., for no violation. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Jacqueline Edwards moved, seconded by Jean Fischer, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 1:25 p.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Jean Fischer moved, seconded by Jacqueline Edwards, 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: Eric Elliot moved, seconded by Jacqueline Edwards, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

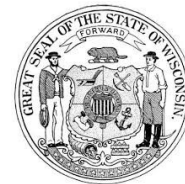
ADJOURNMENT

MOTION: Eric Elliot moved, seconded by Jacqueline Edwards, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:29 p.m.

Physician Assistant Affiliated Credentialing Board

Department of Safety and Professional Services
4822 Madison Yards Way
PO Box 8366
Madison WI 53708-8366



November 30, 2022

Members, Wisconsin Legislature Joint Committee on Finance c/o
Committee Clerk Joe Malkasian
Submitted via email: joe.malkasian@legis.wisconsin.gov

RE: Department of Safety and Professional Services (DSPS) Staffing Challenges and Request for Action

Dear Committee Members,

I am writing on behalf of the Physician Assistant Affiliated Credentialing Board. We are a newly formed board which plays an integral role in the regulation and licensing of our profession. We have received an increasing number of complaints from licensees and employers regarding delays in the processing of Wisconsin licenses. Physician Assistants have had their employment start dates delayed, which has had a direct financial impact. Employers have been frustrated in the delays while trying to replace or expand staffing during a time of increasing demand for medical services. Patient care has been directly impacted by these delays.

Our board members have heard the repeated complaints of phone calls to the Department of Safety and Professional Services (DSPS) being unanswered, messages left at DSPS not being returned, and applicants not being able to get questions answered about their applications. We have also heard of delays in applications taking over four months in some cases. We know DSPS has made efforts to improve the application process with the integration of LicenseE, the new, online, self-guided occupational license application platform, but there are still staffing challenges that create continued delays.

The increasing demand for services from DSPS exceeds the staff and resources available. It is our understanding that the fee revenue collected from professionals applying for and renewing their licenses is sufficient to cover the existing staffing needs, but the spending authority set by the Legislature has been restricted to an amount below the fee revenue available. It is also our understanding that any amount above the spending authority ceiling is diverted by the Legislature for other state budget purposes completely unrelated to the Board's charge of physician assistant licensing and regulation. This limited spending authority has imposed barriers to hiring sufficient staff at DSPS to do the day-to-day work of processing applications. The significant increase in the volume of work, combined with too few employees, has resulted in staff shortages, employee burnout and a work environment that inhibits retention.

On March 24, 2022, the Physician Assistant Affiliated Credentialing Board made a motion to express our concern about these ongoing restrictions that have created backlogs in licensing physician assistants and to urge the Legislature to take immediate action to increase the staffing and spending authority of DSPS.

We appreciate your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Jarrett", written in a cursive style.

Jennifer Jarrett (On behalf of the Board)

Chairperson, Wisconsin Physician Assistant Affiliated Credentialing Board c:

Legislative Council Study Committee on Occupational Licensing

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

AGENDA REQUEST FORM

| | | | |
|---|--|--|--|
| 1) Name and title of person submitting the request: Dialah Azam, Bureau Assistant | | 2) Date when request submitted: Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting | |
| 3) Name of Board, Committee, Council, Sections: Physician Assistant Affiliated Credentialing Board | | | |
| 4) Meeting Date: 12/15/2022 | 5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 6) How should the item be titled on the agenda page? A. Physician Assistant (PA) Licensure Compact – Discussion and Consideration a. Article – Model Legislation Approved b. Council of State Governments and National Center for Interstate Compacts Webinar Series to Introduce the PA Compact | |
| 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 applicable: N/A | |
| 10) Describe the issue and action that should be addressed: Review the PA Licensure Compact | | | |
| 11) Authorization | | | |
| Dialah Azam Signature of person making this request | | Date | |
| Supervisor (Only required for post agenda deadline items) | | Date | |
| Executive Director signature (Indicates approval for post agenda deadline items) | | Date | |
| Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the Agenda Items folders. 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
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: 12/05/22 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting | |
| 3) Name of Board, Committee, Council, Sections: Physician Assistant Affiliated Credentialing Board | | | |
| 4) Meeting Date: 12/15/22 | 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. Legislative Report and Final Rule Draft: PA 1 to 4, Relating to Physician Assistants 2. MED 26 - Update from the Chairperson 3. Pending or Possible Rulemaking Projects | |
| 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: Review Legislative Report and Final Rule Draft for PA 1 to 4 Attachments: 1. Legislative Report – PA 1 to 4 2. Final Rule Draft - PA 1 to 4 3. Economic Impact Analysis – PA 1 to 4 | | | |
| 11) Authorization | | | |
| 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
PHYSICIAN ASSISTANT AFFILIATED CREDENTIALING BOARD**

IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
PHYSICIAN ASSISTANT AFFILIATED : **CR 22-064**
CREDENTIALING BOARD :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The objective of the proposed rules is to implement the statutory changes from 2021 Wisconsin Act 23.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Physician Assistant Affiliated Credentialing Board ("Board") held a public hearing on October 20, 2022. The following people either testified at the hearing, or submitted written comments:

- Wisconsin Hospital Association
 - Matthew Stanford, JD, MHA, General Counsel
 - Ann Zenk, RN, BSN, MHA, Senior Vice President, Workforce and Clinical Practice
- Wisconsin Academy of Physician Assistants
 - Roger Lovelace, PA-C, President
 - Reid Bowers, MPAS, PA-C

The Board summarizes the comments received either by hearing testimony or by written submission as follows:

- The Wisconsin Hospital Association submitted the following recommended changes:
 - Remove the word "verified" from PA 2.01 (1) (c)
 - Amend PA 2.01 (1) (e) to only require employment information related to clinical health care practice be submitted with an application
 - Add requirements PA 2.01 for new graduates, who have not previously been credentialed as Physician Assistants, to attest to education program

completion without submission of primary source verification until after the credential has been issued.

- Add requirements to PA 2.01 that allow the applicant to not have to include information on specific minor, non-violent, or older convictions or gaps in employment not related to clinical health practice.
- Add requirements to PA 2.01 for the Board to review and make changes to the application form every other odd-numbered year.
- Amend PA 2.01 (2) to include exception language for minor, non-violent or old convictions listed as exempted from application requirements in PA 2.01
- Amend PA 2.03 (1) to begin with “the board may require an applicant to...”, instead of “each applicant shall...”.
- Amend PA 2.03 (1) (d) to add exemption for convictions listed as not required in PA 2.01.
- Amend PA 2.03 (1) (f) to require someone who “is currently” a party in a lawsuit where negligent practice has been alleged to do an oral interview or personal appearance
- Amend PA 2.03 (1) (i) to require someone who has had adverse formal action that limited the applicant’s clinical practice or activities to do an oral interview or personal appearance.
- Amend PA 2.04 (1) to reference the statute for renewal.
- Amend PA 2.04 (2) to reference the statute for renewal and that the renewal application shall be approved by the Board.
- Amend PA 2.04 (3) to require that each licensee shall attest to completion of continuing medical education every two years.
- Amend PA 2.04 (4) to reflect that the 30 hours of continuing medical education is not required for the first two years following initial licensure.
- Amend PA 3.01 (1) to read “Except as provided in sub. (2), PA 2.03, PA 3.03, and PA 3.04, a physician assistant shall maintain and practice in accordance with a written collaborative agreement with a physician as specified in s. 448.975 (2) (a), Stats.”
- Amend PA 3.01 (2) to read “(a) A physician assistant may practice without a written collaborative agreement specified in s. 448.975 (2) (a), if the physician assistant’s practice is pursuant to an employment arrangement specified in s. 448.975 (2) (a) 1. a.
(b) The requirement specified in s. 448.975 (2) (a) 1. a. is met if the physician assistant or his or her employer maintains and can provide to the board upon request a position description, policy document, organizational chart, or other document from the employer indicating that an administrator for the employing organization who is a physician has managerial responsibility for overseeing the overall direction, management, and clinical care delivered in the clinical department in which the physician assistant is a clinical employee. Such document is not the exclusive means for a physician assistant to comply with s. 448.975 (2) (a) 1. a. A physician assistant may meet the requirements for maintaining the evidence specified in s. 448.975 (2) (a) 1. a. if the physician assistant has reasonable belief that his or her employer maintains such evidence.

- Create PA 3.01 (3) to read “As provided by s. 448.975 (2) (a) 2. subs. (1) and (2) do not require the physical presence of a physician at the time and place a physician assistant renders a service.”
- Amend s. PA 3.06 (4) to include that physician assistants shall maintain records of all prescriptions dispensed or disposed of by the physician assistant.
- Amend PA 3.06 (4) (a) to read “records required by the federal controlled substances and ch. 961, Stats shall be maintained as required by Wisconsin and federal law.”
- Remove PA 3.06 (4) (b).
- Amend PA 3.08 (2) (a) so that the end of the requirement reads “...or other medical data related to the care of patients in this state.”
- Remove PA 3.08 (8).
- Amend PA 4.01 (2) (k) to read “Aiding or abetting the practice of an unlicensed, incompetent, or impaired person or allowing another person or organization to use his or her license to practice as a physician assistant.
- Create PA. 4.01 (3) (h) 3. to include the list of minor, non-violent, or older convictions from PA 2.01 as not substantially related to the practice of a physician assistant.
- The Wisconsin Academy of Physician Assistants submitted the following recommended changes:
 - Amend PA 3.01 (1) to more closely mirror the statutory language.
 - Amend PA 2.01 to include an attestation that the applicant is at least 18 years old.
 - Amend PA 2.01 (4) to use the word “qualified” instead of the phrase “minimally competent.”
 - Amend PA 3.01 (2) to use the phrase “time and place” instead of the word “location”

The Board explains modifications to its rule-making proposal prompted by public comments as follows:

- Amend PA 2.01 (2) (c) to remove the word “verified.”
- Create PA 2.01 (1) (f) to read “An attestation that the applicant is at least 18 years old.”
- Amend PA 2.01 (4) to read “The board may require an applicant to complete a personal appearance for purposes or an interview, or review of credentials, or both.”
- Amend PA 2.03 (1) (intro.) to read “The board may require an applicant to complete an oral interview or personal appearance before the board if any of the following circumstances apply:”
- Amend PA 2.03 (1) (f) to read “The applicant has been found to have been negligent in the practice as a physician assistant or is currently a party in a lawsuit in which it was alleged that the applicant has been negligent in the practice of medicine.
- Amend PA 2.04 (1) to read “A licensee shall renew their license as specified by ss. 440.03 (9) (a) and 440.08 (2) (a), Stats.”

- Amend PA 2.04 (2) to read “A licensee shall complete a renewal application approved by the board and return it with the required fee prior to the date specified by ss. 440.03 (9) (a) and 440.08 (2) (a), Stats.”
- Amend PA 2.04 (3) to read “Except as provided under subsection (4) and specified by s. 440.08 (2) (a), a licensee shall attest to the completion of the following:”
- Amend PA 2.04 (4) to read “Section (3) does not apply to the first renewal following the date a license is issued.”
- Amend Chapter PA 3 (title) to read “Practice.”
- Amend PA 3.01 (1) to read “Except as provided in sub. (2), PA 3.02, 3.03, and 3.04, a physician assistant shall maintain and practice in accordance with a written collaborative agreement with a physician as specified in s. 448.975 (2) (a), Stats.”
- Amend PA 3.01 (2) to read “(a) A physician assistant may practice without a written collaborative agreement specified in s. 448.975 (2) (a), Stats., if the physician assistant’s practice is pursuant to an employment arrangement specified in s. 448.975 (2) (a) 1. a., Stats.
(b) The requirement specified in s. 448.975 (2) (a) 1. a., Stats. is met if the physician assistant or his or her employer maintains and can provide to the board upon request a position description, policy document, organizational chart, or other document from the employer indicating that an administrator for the employing organization who is a physician has managerial responsibility for overseeing the overall direction, management, and clinical care delivered in the organization or clinical department in which the physician assistant is a clinical employee. Such document is not the exclusive means for a physician assistant to comply with s. 448.975 (2) (a) 1. a., Stats. A physician assistant may meet the requirements for maintaining the evidence specified in s. 448.975 (2) (a) 1. a., Stats. if the physician assistant has reasonable belief that his or her employer maintains such evidence.”
- Create PA 3.01 (3) to read “As provided by s. 448.975 (2) (a) 2., Stats., ss. (1) and (2) do not require the physical presence of a physician at the time and place a physician assistant renders a service.”
- Amend PA 3.06 (4) (a) and (b) to read “(a) Unless otherwise maintained by an organization, a physician assistant shall maintain complete and accurate records of each prescription drug received, dispensed, or disposed of in any other manner.
(b) Records for controlled substances shall be maintained as required by the federal controlled substances act and ch. 961, Stats.”
- Remove PA 3.06 (4) (a) and (b).
- Amend PA 3.08 (2) (a) to read “Consultations between physician assistants, or between physician assistants and other medical professionals, or the transmission and review of digital images, pathology specimens, test results, or other medical data related to the care of patients in this state.”
- Remove PA 3.08 (8).
- Amend PA 4.01 (2) (k) to read “Aiding or abetting the practice of an unlicensed, incompetent, or impaired person or allowing another person or organization to use his or her license to practice as a physician assistant.”

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 4d. “Section PA 3.02 provides that “a physician assistant may practice with the supervision and direction of a podiatrist pursuant to s. 448.975 (1) (b) 2., stats. and the rule promulgated under s. 448.695 (4) (b), Stats.” Should further reference to the actual rules promulgated under s. 448.695 (4) (b), Stats., be made in this rule? For example, it appears ch. Pod 9 addresses podiatrist supervision of a physician assistant, and that administrative code chapter contains further references to requirements found in other statutes and administrative code provisions.”

Response: The Board is rejecting comment #4d, as it would prefer to reference the statute instead of areas of the administrative code that may change without the Board’s knowledge or input.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A

DRAFT

STATE OF WISCONSIN
PHYSICIAN ASSISTANT AFFILIATED CREDENTIALING BOARD

| | | |
|--------------------------------|---|--------------------------------|
| IN THE MATTER OF RULEMAKING | : | PROPOSED ORDER OF THE |
| PROCEEDINGS BEFORE THE | : | PHYSICIAN ASSISTANT AFFILIATED |
| PHYSICIAN ASSISTANT AFFILIATED | : | CREDENTIALING BOARD |
| CREDENTIALING BOARD | : | ADOPTING RULES |
| | : | (CLEARINGHOUSE RULE 22-064) |

PROPOSED ORDER

An order of the Physician Assistant Affiliated Credentialing Board to create PA 1 to 4, relating to Physician Assistants.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 448.973 (1), Stats.

Statutory authority: ss. 15.085 (5) (b) and 448.973 (1), Stats.

Explanation of agency authority:

Section 15.085 (5) (b) states that “[each affiliated credentialing board] shall promulgate rules for its own guidance and for the guidance of the trader or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 448.973 (1) states that: “

- (a) The board shall promulgate rules implementing s. 448.9785.
- (b) The board shall promulgate rules establishing continuing education requirements for physician assistants.
- (c) The board may promulgate other rules to carry out the purposes of this subchapter, including any of the following
 1. Rules defining what constitutes unprofessional conduct for physician assistants for purposes of s. 448.978 (2) (d).
 2. Rules under s. 448.977 (2).”

Related statute or rule: None.

Plain language analysis:

The objective of the proposed rules is to implement the statutory changes from 2021 Wisconsin Act 23.

Summary of, and comparison with, existing or proposed federal regulation: None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: None.

Comparison with rules in adjacent states:

Illinois: Physician Assistants in Illinois are licensed through the Illinois Department of Financial and Professional Regulation. The Physician Assistant Practice Act of 1987 governs the practice of physician assistants in Illinois and includes statutes on licensure, collaboration, prescribing, continuing education, and grounds for disciplinary action. Physician Assistants in Illinois are required to complete 50 hours of continuing education per 2-year license renewal cycle [225 Illinois Compiled Statutes 95].

Part 1350 of the Illinois Administrative Code further details rules for physician assistants in the areas of licensure, collaboration, and prescribing. These sections also detail scope and function, employment, approved programs, and unprofessional conduct [Illinois Administrative Code s. 1350].

Iowa: Physician Assistants in Iowa are licensed through the Iowa Department of Public Health and the Board of Physician Assistants. Chapter 148C of the Iowa Code governs the practice of physician assistants in Iowa and includes statutes on licensure and grants administrative rulemaking authority to their Board [Iowa Code ch. 148C].

Chapters 326 through 329 of the Professional Licensure Division Section 645 of the Iowa Administrative Code further details rules for physician assistants in the areas of licensure, practice, continuing education, and discipline. Each licensee is required to complete at least 100 hours of continuing education approved by the board per biennium. [645 Iowa Administrative Code chs. 326 to 329].

Michigan: Physician Assistants in Michigan are licensed through the Michigan Department of Licensing and Regulatory Affairs. Part 170 of The Public Health Code Act 368 governs the practice of physician assistants in Michigan. This section of the Michigan Compiled Laws includes requirements for physician assistants on licensure, practice, informed consent, continuing education, and delegation of care. The Michigan Board of Medicine is also responsible for the regulation of Physician Assistants in Michigan. The board may require each licensee to provide evidence of completion of at least 150 hours within the three years immediately preceding the application for renewal [Michigan Compiled Laws ss. 333.17001 to 333.17084].

Minnesota: Physician Assistants in Minnesota are licensed through the Minnesota Board of Medical Practice. Chapter 147A of the Minnesota Statutes includes requirements for licensure, scope of practice, grounds for disciplinary action, accountability, prescribing drugs, continuing education and responding to disaster situations. Physician Assistants in Minnesota must either meet the standards for continuing education through current certification by the National Commission on Certification of Physician Assistants or

provide evidence of completion of at least 50 hours of continuing education within the two years preceding renewal [Minnesota Statutes ch. 147A].

The Minnesota Board of Medical Practice has administrative rules which also include requirements for physician assistants including licensure and registration, continuing education, emeritus registrations, professional corporation rules, hearings before the board, and fee splitting [Minnesota Administrative Rules chs. 5600, 5605, 5606, 5610, 5615, and 5620].

Summary of factual data and analytical methodologies:

The Board reviewed the statutory changes from 2021 Wisconsin Act 23 and promulgated rules as needed for the profession. While promulgating these rules, the Board referenced Wisconsin Administrative Code ss. Med 8, 10, 13, and 24, among other sources.

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 are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8306; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on October 20, 2022, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1 Chapters PA 1 to 4 are created to read:

CHAPTER PA 1
AUTHORITY AND DEFINITIONS

PA 1.01 Authority. The rules in chapters PA 1 to 4 are adopted by the Physician Assistant Affiliated Credentialing Board pursuant to the authority delegated by ss. 15.085 (5) (b), 440.09 (5), 448.973 (1), and 448.975 (5) (a), Stats.

PA 1.02 Definitions. As used in chapters PA 1 to 4:

- (1) “Alternate Collaborator” means a physician or physician assistant who is designated temporary duties of collaboration by the collaborating physician when the collaborating physician is temporarily unavailable.
- (2) “Board” means the Physician Assistant Affiliated Credentialing Board.
- (3) “Department” means the Department of Safety and Professional Services.
- (4) “Educational Program” means a program for educating and preparing physician assistants which is approved by the board.
- (5) “Physician” has the meaning given in s. 448.01 (5), Stats.
- (6) “Physician Assistant” means a person licensed under s. 448.974, Stats.
- (7) “Physician Associate” is analogous to and has the same meaning as “physician assistant”.
- (8) “Podiatrist” has the meaning given in s. 448.60 (3), Stats.
- (9) “Podiatry” or “Podiatric Medicine and Surgery” has the meaning given in s. 448.60 (4), Stats.

CHAPTER PA 2
LICENSE TO PRACTICE AS A PHYSICIAN ASSISTANT

PA 2.01 Initial Licensure. Except as provided under sub. (3), the board shall grant an initial license to practice as a physician assistant to any applicant who has been found qualified by three-fourths of the members of the Board and satisfies all of the following requirements, as determined by the board:

- (1) The applicant shall submit all of the following:
 - (a) A completed application form.
Note: Application forms are available from the department of safety and professional services’ website at <http://dsps.wi.gov>.
 - (b) The fee determined by the Department under s. 448.07 (2), Stats.
 - (c) Evidence of graduation from an educational program approved under s. PA 2.02.

- (d) Evidence of having successfully passed the National Commission on Certification of Physician Assistants (NCCPA) Certification Examination or an equivalent national examination approved by the board.
 - (e) A listing of all employers, practice settings, internships, residencies, fellowships, and other employment for the past 7 years.
 - (f) An attestation that the applicant is at least 18 years old.
- (2) Subject to ss. 111.321, 111.322, and 111.335, Stats., the applicant does not have an arrest or conviction record.
 - (3) Subsection (1) (c) does not apply to an applicant who provides evidence that the applicant is a licensed physician assistant or physician associate in another state, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States and the board determines that the requirements for obtaining the license in that state or territory are substantially equivalent to the requirements under sub. (1) (c) of this section.
 - (4) The board may require an applicant to complete a personal appearance for purposes of an interview, or review of credentials, or both.
 - (5) Notwithstanding sub. (1), an individual who, as of April 1, 2022, was licensed by the medical examining board as a physician assistant under subchapter II of chapter 448, 2017 stats., shall be considered to have been licensed as a physician assistant for the purposes of these rules, and, upon the license's expiration, shall renew in accordance with the provisions of s. PA 2.04.
 - (6) If any of the documents required under this chapter are in a language other than English, the applicant shall also submit a verified English translation and the cost of that translation shall be borne by the applicant.
 - (7) An applicant who fails to receive a passing score on the examination required under subsection (1) (d) may reapply by payment of the fee specified in subsection (1) (b). An applicant may reapply twice at not less than 4-month intervals. If an applicant fails the examination 3 times, he or she may not be admitted to an examination unless the applicant submits proof of having completed further professional training or education as the board may prescribe.

PA 2.02 Education Program Approval. The board shall only approve an education program for a physician assistant or physician associate that is accredited by the Accreditation Review Commission on Education for the Physician Assistant or its successor, or, prior to 2001, by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs. If the applicant does not satisfy this requirement, the applicant may show that, prior to January 1, 1986, the applicant successfully passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants.

PA 2.03 Oral Interviews and Personal Appearances. (1) The board may require an applicant to complete an oral interview or personal appearance before the board, if any of the following circumstances apply:

- (a) The applicant has a medical condition which in any way impairs or limits the applicant's ability to practice as a physician assistant with reasonable skill and safety.
- (b) The applicant uses chemical substances that impair in any way the applicant's ability to practice as a physician assistant with reasonable skill and safety.
- (c) The applicant has been disciplined or had certification denied by a licensing or regulatory authority in Wisconsin or another jurisdiction.
- (d) The applicant has been convicted of a crime, the circumstances of which substantially relate to the practice of physician assistants.
- (e) The applicant has not practiced as a physician assistant for a period of 3 years prior to application, unless the applicant has graduated from an approved educational program in the last 3 years under PA 2.02.
- (f) The applicant has been found to have been negligent in the practice as a physician assistant or is currently a party in a lawsuit in which it was alleged that the applicant has been negligent in the practice of medicine.
- (g) The applicant has been diagnosed with any condition that may create a risk of harm to a patient or the public.
- (h) The applicant has within the last 2 years engaged in the illegal use of controlled substances.
- (i) The applicant has been subject to adverse formal action during the course of physician assistant education, postgraduate training, hospital practice, or other physician assistant employment.

(2) An application filed under this chapter shall be reviewed by an application review panel, designated by the chairperson of the board, to determine whether an applicant is required to complete an oral interview or a personal appearance or both under sub. (1). If the application review panel is not able to reach unanimous agreement on whether an applicant is eligible for licensure without completing an oral interview or a personal appearance or both, the application shall be referred to the board for a final determination.

(3) The board shall notify an applicant requiring an oral interview or appearance of the time and place scheduled for that applicant's interview or appearance.

(4) Otherwise qualified applicants with disabilities, as defined by the Americans with Disabilities Act, shall be provided with reasonable accommodations.

PA 2.04 License Renewal and Continuing Medical Education. (1) A licensee shall renew their license as specified by ss. 440.03 (9) (a) and 440.08 (2) (a), Stats.

(2) A licensee shall complete a renewal application approved by the board and return it with the required fee prior to the date specified by ss. 440.03 (9) (a) and 440.08 (2) (a), Stats.

Note: Instructions for renewal applications can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.

- (3) Except as provided under subsection (4) and specified by s. 440.08 (2) (a), Stats., a licensee shall attest to the completion of the following:
 - (a) At least 30 hours of continuing medical education.
 - (b) Of the required 30 hours of continuing medical education, at least 2 hours are on the topic of responsible controlled substances prescribing.
- (4) Section (3) does not apply to the first renewal following the date a license is issued.
- (5) Licensees shall retain certificates of continuing medical education attendance for a minimum of four years to be provided to the Board upon request.
- (6) Licensees may submit evidence of active certification from the NCCPA or a board approved successor organization and the Board shall accept such certification as meeting the requirements under subsection (3) (a).

PA 2.05 Reinstatement. (1) A licensee who fails for any reason to be licensed as required under this chapter may not exercise the rights or privileges conferred by any license granted by the board.

- (2) Failure to renew a license as specified in s. PA 2.04. shall cause the license to lapse. A licensee who allows the license to lapse may apply for reinstatement of the license by the board, subject to 440.08 (4), Stats., as follows:
 - (a) If the licensee applies for renewal of the license less than five years after its expiration, the license shall be renewed upon payment of the renewal fee.
 - (b) If the licensee applies for renewal of the license more than five years after its expiration, the board shall make an inquiry to determine whether the applicant is competent to practice under the license in this state and shall impose any reasonable conditions on the renewal of the license. This paragraph does not apply to licensees who have unmet disciplinary requirements or whose licenses have been surrendered or revoked.
- (3) A licensee who has unmet disciplinary requirements and failed to renew a license within five years of the renewal date or whose license has been surrendered or revoked may apply to have a license reinstated if the applicant provides all of the following:
 - (a) Evidence of completion of requirements under s. PA 2.05 (2) (b) if the licensee has not held an active Wisconsin license in the last five years.
 - (b) Evidence of completion of disciplinary requirements, if applicable.
 - (c) Evidence of rehabilitation or a change in circumstances, warranting reinstatement of the license.

PA 2.06 Reciprocal Credentials for Service Members, Former Service Members, and their Spouses. A reciprocal license shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. subject to s. 440.09 (2m), Stats. The board may request verification necessary to make a determination under this section.

PA 2.07 Title Protection. No person may designate himself or herself as a “physician assistant” or “physician associate” or use or assume the title “physician assistant” or “physician associate” or append to the person’s name the words or letters “physician assistant”, “physician associate” or “P.A.” or any other titles, letters, or designation which represents or may tend to represent that person as a physician assistant or physician associate unless that person is a physician assistant licensed by the board or a federally credentialed physician assistant or physician associate.

CHAPTER PA 3 PRACTICE

PA 3.01 Practice Standards. (1) Except as provided in sub. (2), PA 3.02, 3.03, and 3.04, a physician assistant shall maintain and practice in accordance with a written collaborative agreement with a physician as specified in s. 448.975 (2) (a), Stats.

(2) (a) A physician assistant may practice without a written collaborative agreement specified in s. 448.975 (2) (a), Stats., if the physician assistant’s practice is pursuant to an employment arrangement specified in s. 448.975 (2) (a) 1. a., Stats.

(b) The requirement specified in s. 448.975 (2) (a) 1. a., Stats. is met if the physician assistant or his or her employer maintains and can provide to the board upon request a position description, policy document, organizational chart, or other document from the employer indicating that an administrator for the employing organization who is a physician has managerial responsibility for overseeing the overall direction, management, and clinical care delivered in the organization or clinical department in which the physician assistant is a clinical employee. Such document is not the exclusive means for a physician assistant to comply with s. 448.975 (2) (a) 1. a., Stats.

(3) As provided by s. 448.975 (2) (a) 2. Stats., ss. (1) and (2) do not require the physical presence of a physician at the time and place a physician assistant renders a service.

PA 3.02 Practice of Podiatry. A physician assistant may practice with the supervision and direction of a podiatrist pursuant to ss. 448.695 (4) (b) and 448.975 (1) (b) 2., Stats.

PA 3.03 Emergency, Disaster, and Volunteer Practice. (1) A physician assistant licensed under ch. PA 2 may perform any of the following:

- (a)** Render such emergency medical care that they are able to provide at the scene of an accident or emergency situation, not to be defined as an emergency situation that occurs in the place of one’s employment, in the absence of an employment or collaborative agreement entered into under s. PA 3.01.
- (b)** Render such medical care that they are able to provide during a declared state of emergency or other disaster, notwithstanding an employment or collaborative agreement entered into under s. PA 3.01.
- (c)** Provide volunteer medical care at camps or sporting events, notwithstanding an employment or collaborative agreement entered into under s. PA 3.01.

(2) Pursuant to ss. 448.975 (5) (a) b 1. and 257.03 (3), Stats., a physician assistant who voluntarily and gratuitously renders emergency, disaster, or volunteer care pursuant to sub. (1) is not liable for civil damages for any personal injuries that result from acts or omissions which may constitute ordinary negligence. The immunity granted by this section shall not apply to acts or omissions constituting reckless, wanton, or intentional misconduct.

PA 3.04 Practice During Interruption in Collaboration. If a physician assistant's collaborating physician under s. PA 3.01 (2) is unable to collaborate as specified in that section due to an interruption in licensed practice, a leave of absence of 30 days or longer such that the physician is unreachable, change in employment, change in license or privileges, or death, then the following requirements apply:

- (1) When the interruption is temporary, and an alternate has not been identified in the current agreement, or is otherwise not available, a new alternate physician may provide temporary collaboration to the physician assistant. An interim collaborative agreement shall be documented within and maintained at the site of practice in accordance with s. PA 3.01 (2).
- (2) If the collaborating physician will be unavailable for more than 90 business days due to an interruption in licensure or privileges, employment, extended leave of absence or death, the physician assistant shall secure a new collaborating physician and document the agreement in accordance with s. PA s. 3.01 (2).
- (3) If no physician is available to collaborate with the physician assistant, then either of the following apply:
 - (a) A Physician Assistant possessing at least 2,080 hours of practice experience in the same specialty or concentration shall notify the board within 3 business days of the collaborating physician's absence and attest to active search for replacement. The physician assistant may continue to practice under the current terms of the physician assistant's collaboration agreement without physician collaboration for up to 120 business days, at which time the physician assistant may petition the board to extend practice under the same terms. The board shall consider the practice setting, experience, and qualifications of the physician assistant, and potential availability of collaborating physicians when reviewing requests to extend practice under this subsection; or
 - (b) A Physician Assistant possessing less than 2,080 hours of practice experience in the same specialty or concentration shall enter into a written interim collaborative agreement with a physician assistant possessing at least 10,000 hours of practice experience in the same specialty or concentration; and shall notify the board within 3 business days of the collaborating physician's absence, provide a copy of the interim written collaborative agreement and, attest to active search for replacement of the collaborating physician. The physician assistant may continue to practice under the current terms of the physician assistant's interim collaboration agreement with physician assistant collaboration for up to 120 business days, at which time the physician assistant may petition the board to extend practice under the same terms. The board shall consider the practice setting, experience, and qualifications of the physician assistant, the collaborating physician assistant and potential availability of collaborating

physicians when reviewing requests to extend practice under this subsection.

This interim collaborative agreement may not exceed 270 consecutive days.

- (4) The board may audit and review the practice of a physician assistant temporarily practicing without a collaborating physician under sub. (3) of this section at any time during or after the collaborating physician's absence.

PA 3.05 Minimum Standards for Patient Health Care Records. (1) When patient healthcare records are not maintained by a separate entity, a physician assistant shall ensure patient health care records are maintained on every patient for a period of not less than 5 years after the date of the last entry, or for a longer period as may be otherwise required by law.

(2) A patient health care record shall contain all of the following clinical health care information which applies to the patient's medical condition:

- (a) Pertinent patient history.
- (b) Pertinent objective findings related to examination and test results.
- (c) Assessment or diagnosis.
- (d) Plan of treatment for the patient.

(3) Each patient health care record entry shall be dated, shall identify the physician assistant, and shall be sufficiently legible to allow interpretation by other health care practitioners.

PA 3.06 Standards for Dispensing and Prescribing Drugs. (1) PRESCRIPTIVE AUTHORITY.

- (a) A physician assistant may order, prescribe, procure, dispense, and administer prescription drugs, medical devices, services, and supplies.
- (b) A physician assistant practicing under the supervision and direction of a podiatrist may issue a prescription order for a drug or device in accordance with guidelines established by the supervising podiatrist and the physician assistant.

(2) **PACKAGING.** A prescription drug dispensed by a physician assistant shall be dispensed in a child-resistant container if it is a substance requiring special packaging under 16 CFR 1700.14 (1982) of the federal regulations for the federal poison packaging act of 1970.

(3) **LABELING.** A prescription drug dispensed by a physician assistant shall contain a legible label affixed to the immediate container disclosing all of the following:

- (a) The name and address of the facility from which the prescribed drug is dispensed.
- (b) The date on which the prescription is dispensed.
- (c) The name of the physician assistant who prescribed the drug.
- (d) The full name of the patient.
- (e) The generic name and strength of the prescription drug dispensed unless the prescribing physician assistant requests omission of the name and strength of the drug dispensed.
- (f) Directions for the use of the prescribed drug and cautionary statements, if any, contained in the prescription or required by law.

- (4) RECORDKEEPING. (a) Unless otherwise maintained by an organization, a physician assistant shall maintain complete and accurate records of each prescription drug received, dispensed, or disposed of in any other manner.
- (b) Records for controlled substances shall be maintained as required by the federal controlled substances act and ch. 961, Stats.

PA 3.07 Informed Consent. (1) Pursuant to s. 448.9785, Stats., a physician assistant shall communicate alternate modes of treatment to a patient.

(2) Any physician assistant who treats a patient shall inform the patient about the availability of reasonable alternative modes of treatment and about the benefits and risks of these treatments. The reasonable physician assistant standard is the standard for informing a patient under this section. The reasonable physician assistant standard requires disclosure only of information that a reasonable physician assistant in the same or a similar medical specialty would know and disclose under the circumstances.

(3) The physician assistant's duty to inform the patient under this section does not require disclosure of any of the following:

- (a) Detailed technical information that in all probability a patient would not understand.
- (b) Risks apparent or known to the patient.
- (c) Extremely remote possibilities that might falsely or detrimentally alarm the patient.
- (d) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.
- (e) Information in cases where the patient is incapable of consenting.
- (f) Information about alternate modes of treatment for any condition the physician assistant has not included in the physician assistant's diagnosis at the time the physician assistant informs the patient.

(4) A physician assistant's record shall include documentation that alternate modes of treatment have been communicated to the patient and informed consent has been obtained from the patient.

PA 3.08 Telemedicine and Telehealth Practice. (1) In this section:

- (a) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention will result in serious jeopardy to patient health, serious impairment of bodily functions, or serious dysfunction of a body organ or part.
- (b) "Telehealth" has the meaning given in s. 440.01 (1) (hm), Stats.
- (c) "Telemedicine" is analogous to and has the same meaning as "telehealth." in par. (b).

(2) The rules in this section do not prohibit any of the following:

- (a) Consultations between physician assistants, or between physician assistants and other medical professionals, or the transmission and review of digital images, pathology specimens, test results, or other medical data related to the care of patients in this state.
- (b) Patient care in consultations with another healthcare provider who has an established provider-patient relationship with the patient.

- (c) Patient care in on-call or cross-coverage situations in which the physician assistant has access to patient records.
- (d) Treating a patient with an emergency medical condition.
- (3) A physician assistant-patient relationship may be established via telehealth.
- (4) A physician assistant who uses telemedicine in the diagnosis and treatment of a patient located in this state shall be licensed to practice as a physician assistant by the Physician Assistant Affiliated Credentialing Board.
- (5) A licensed physician assistant shall be held to the same standards of practice and conduct including patient confidentiality and recordkeeping, regardless of whether health care services are provided in person or by telemedicine.
- (6) A licensed physician assistant who provides health care services by telehealth is responsible for the quality and safe use of equipment and technology that is integral to patient diagnosis and treatment.
- (7) The equipment and technology used by a physician assistant to provide health care services by telehealth shall provide, at a minimum, information that will enable the physician assistant to meet or exceed the standard of minimally competent physician assistant practice.

CHAPTER PA 4 UNPROFESSIONAL CONDUCT

PA 4.01 Unprofessional Conduct. “Unprofessional conduct” includes the following, or aiding or abetting the same:

- (1) **DISHONESTY AND CHARACTER.** (a) Violating or attempting to violate any provision or term of subch. VIII of ch. 448, Stats., or of any valid rule of the board.
 - (b) Violating or attempting to violate any term, provision, or condition of any order of the board.
 - (c) Knowingly engaging in fraud or misrepresentation or dishonesty in applying, for or procuring a physician assistant license, or in connection with applying for or procuring periodic renewal of a physician assistant license, or in otherwise maintaining such licensure.
 - (d) Knowingly giving false, fraudulent, or deceptive testimony while serving as an expert witness.
 - (e) Employing illegal or unethical business practices.
 - (f) Knowingly, negligently, or recklessly making any false statement, written or oral, as a physician assistant which creates an unacceptable risk of harm to a patient, the public, or both.
 - (g) 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.
 - (h) Obtaining any fee by fraud, deceit or misrepresentation.

- (i) 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.
 - (j) Engaging in uninvited in-person solicitation of actual or potential patients who, because of their circumstances, may be vulnerable to undue influence.
 - (k) Engaging in false, misleading, or deceptive advertising.
 - (L) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.
- (2) DIRECT PATIENT CARE VIOLATIONS.** (a) Practicing or attempting to practice under any license when unable 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 assistant was, for any period covered by the order, unable to practice with reasonable skill and safety.
- (b) Departing from or failing to conform to the standard of minimally competent 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 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 controlled substances as defined in s. 961.01 (4), Stats., other than in the course of legitimate professional practice, or as otherwise prohibited by law.
 - 1. Except as otherwise provided by law, a certified copy of a relevant finding, order, or judgement by a state or federal court or agency charged with making legal determinations shall be conclusive evidence of its findings of fact and conclusions of law.
 - 2. A certificate copy of a finding, order, or judgement demonstrating that entry of a guilty plea, nolo contendere plea or deferred adjudication, with or without expungement, of a crime substantially related to the practice of a physician assistant 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 assistant 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 conduct with or in the presence of a patient or 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 physician assistants, 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 physician assistant services without required informed consent under s. 448.9785, Stats. or s. PA 3.07.
- (k) Aiding or abetting the practice of an unlicensed, incompetent, or impaired person or allowing another person or organization to use his or her license to practice as a physician assistant.
- (L) Prescribing a controlled substance to oneself as described in s. 961.38 (5), Stats.
- (m) Practicing as a physician assistant in another state or jurisdiction without appropriate licensure. A physician assistant has not violated this paragraph if, after issuing an order for services that complies with the laws of Wisconsin, their patient requests that the services ordered be provided in another state or jurisdiction.
- (n) Patient abandonment occurs when a physician assistant without reasonable justification unilaterally withdraws from a physician assistant-patient relationship by discontinuing a patient's treatment regimen when further treatment is medically indicated and any of the following occur:
1. The physician assistant fails to give the patient at least 30 days' notice in advance of the date on which the physician assistant's withdrawal becomes effective.
 2. The physician assistant fails to allow for patient access to or transfer of the patient's health record as required by law.

3. The physician assistant fails to provide for continuity of prescription medications between the notice of intent to withdraw from the physician assistant-patient relationship and the date on which the physician assistant-patient relationship ends, if the prescription medications are necessary to avoid unacceptable risk of harm.
 4. The physician assistant fails to provide for continuity of care during the period between the notice of intent to withdraw from the physician assistant-patient relationship and the date on which the physician assistant-patient relationship ends. Nothing in this section shall be interpreted to imposed upon the physician assistant a greater duty to provide continuity 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 by another licensing jurisdiction.
 - (b) Failing, within 30 days, to report the board any adverse action taken by the Drug Enforcement Administration against the licensee's authority to prescribe controlled substances.
 - (c) Failing to comply with state and federal laws regarding access to patient health care records.
 - (d) Failure by a licensee to establish and maintain patient health care records consistent with the requirements of ss. PA 3.05 and 3.06 (4), or as otherwise required by law.
 - (e) Violating the duty to report under s. 448.9795, Stats.
 - (f) After a request by the board, failing to cooperate in a timely manner with the board's investigation of a complaint filed against a licensee. There is a rebuttable presumption that a licensee who takes longer than 30 days to respond to a request of the board has not acted within a timely manner.
 - (g) Failing, within 48 hours of the entry of judgement of conviction of any crime, to provide notice to the department of safety and professional services required under s. SPS 4.09 (2), or failing within 30 days of conviction of any crime, to provide the board with certified copies of the criminal complaint and judgement of conviction.
 - (h) Except as provided under par. (i), 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 a physician assistant.
 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 therein.

2. The department of safety and professional services has the burden of proving that the circumstances of the crime are substantially related to the practice of a physician assistant.
 - (i) Violating or being convicted of any the conduct listed under in Table PA 4.01, 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 PA 4.01:

**Table PA 4.01
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 at 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 |

PA 4.02 Discipline. (1) The board may conduct investigations and hearings to determine whether a licensee has violated s. PA 4.01 or has violated any state or federal law or any other jurisdiction that substantially relates to the practice of a physician assistant.

(2) The board may reprimand a physician assistant or deny, limit, suspend, or revoke a physician assistant’s license if the physician assistant has violated s. PA 4.01.

SECTION 2 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)

This Proposed Order of the Physician Assistant Affiliated Credentialing Board is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chairperson
Physician Assistant Affiliated
Credentialing Board

DRAFT

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

| | |
|--|--|
| <p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p> | <p>2. Date September 23, 2022</p> |
| <p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) PA 1 to 4 - Permanent Rule</p> | |
| <p>4. Subject Physician Assistants</p> | |
| <p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p> | <p>6. Chapter 20, Stats. Appropriations Affected s. 20.165 (1) (g)</p> |
| <p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</p> | |
| <p>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)</p> | |
| <p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p> | |
| <p>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</p> | |
| <p>11. Policy Problem Addressed by the Rule These rules implement the statute changes from 2021 Wisconsin Act 23.</p> | |
| <p>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 rule was posted for 14 days on the Department of Safety and Professional Services' website to solicit comments on the potential economic impact. No comments were received.</p> | |
| <p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.</p> | |
| <p>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 rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole. The Department estimates a total of \$2, 760.00 one-time administrative costs, which may be absorbed in the agency budget.</p> | |
| <p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefits of implementing this rule are that there will be detailed rules for the practice of Physician Assistants in place. The alternative to implementing this rule is that the statute will continue to govern the practice of Physician Assistants in Wisconsin.</p> | |
| <p>16. Long Range Implications of Implementing the Rule The long range implications of implementing this rule are improved practice for Physician Assistants in Wisconsin as a result of having rules for the profession in place</p> | |
| <p>17. Compare With Approaches Being Used by Federal Government None.</p> | |
| <p>18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</p> | |

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

Illinois: Physician Assistants in Illinois are licensed through the Illinois Department of Financial and Professional Regulation. The Physician Assistant Practice Act of 1987 governs the practice of physician assistants in Illinois and includes statutes on licensure, collaboration, prescribing, continuing education, and grounds for disciplinary action [225 Illinois Compiled Statutes 95].

Part 1350 of the Illinois Administrative Code further details rules for physician assistants in the areas of licensure, collaboration, and prescribing. These sections also detail scope and function, employment, approved programs, and unprofessional conduct [Illinois Administrative Code s. 1350].

Iowa: Physician Assistants in Iowa are licensed through the Iowa Department of Public Health and the Board of Physician Assistants. Chapter 148C of the Iowa Code governs the practice of physician assistants in Iowa and includes statutes on licensure and grants administrative rulemaking authority to their Board [Iowa Code ch. 148C].

Chapters 326 through 329 of the Iowa Administrative Code further details rules for physician assistants in the areas of licensure, practice, and discipline [Iowa Administrative Code chs. 326 to 329].

Michigan: Physician Assistants in Michigan are licensed through the Michigan Department of Licensing and Regulatory Affairs. Part 170 of The Public Health Code governs the practice of physician assistants in Michigan. This section of the Michigan Compiled Laws includes requirements for physician assistants on licensure, practice, informed consent, and delegation of care [Michigan Compiled Laws ss. 333.17001 to 333.17084].

Minnesota: Physician Assistants in Minnesota are licensed through the Minnesota Board of Medical Practice. Chapter 147A of the Minnesota Statutes includes requirements for licensure, scope of practice, grounds for disciplinary action, accountability, prescribing drugs, continuing education and responding to disaster situations [Minnesota Statutes ch. 147A].

The Minnesota Board of Medical Practice has administrative rules which also include requirements for physician assistants including licensure and registration, continuing education, emeritus registrations, professional corporation rules, hearings before the board, and fee splitting [Minnesota Administrative Rules chs. 5600, 5605, 5606, 5610, 5615, and 5620].

| | |
|--|--|
| 19. Contact Name Nilajah Hardin, Administrative Rules Coordinator | 20. Contact Phone Number 608-267-7139 |
|--|--|

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
-