



MEDICAL EXAMINING BOARD
Room N208, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
December 19, 2018

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

8:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-5)**
- B. Approval of Minutes of November 14, 2018 (6-11)**
- C. Conflicts of Interest**
- D. Administrative Matters**
 - 1. Department and Staff Updates
 - 2. Board Members – Term Expiration Dates
 - a. Alaa Abd-Elseyed – 07/01/2020
 - b. David Bryce – 07/01/2021
 - c. Mary Jo Capodice – 07/01/2018
 - d. Michael Carton – 07/01/2020
 - e. Padmaja Doniparthi – 07/01/2021
 - f. Rodney Erickson – 07/01/2019
 - g. Bradley Kudick – 07/01/2020
 - h. Lee Ann Lau – 07/01/2020
 - i. David Roelke – 07/01/2021
 - j. Kenneth Simons – 07/01/2018
 - k. Timothy Westlake – 07/01/2020
 - l. Robert Zoeller – 07/01/2019
 - m. Vacant Public Member
 - 3. Screening Panel and Examination Panel Appointments
 - 4. Wis. Stat. § 15.085 (3)(b) – Affiliated Credentialing Boards’ Biannual Meeting with the Medical Examining Board to Consider Matters of Joint Interest
- E. 8:00 A.M. PUBLIC HEARING: CR 18-072 – Med 13, Relating to Continuing Medical Education for Physicians (12-21)**
 - 1. Review and Respond to Public Comments and Clearinghouse Report

- F. 8:00 A.M. PUBLIC HEARING: CR 18-074 – Med 22, Relating to Perfusionists (22-36)**
 - 1. Review and Respond to Public Comments and Clearinghouse Report
- G. Legislation and Rule Matters – Discussion and Consideration (37-44)**
 - 1. Review of Proposed Changes to Pod 3, Relating to Continuing Podiatric Medical Education
 - 2. Update on Legislation and Pending or Possible Rulemaking Projects
- H. ProPublica Article, “A Surgeon So Bad It Was Criminal” (45)**
- I. Federation of State Medical Boards (FSMB) Matters (46)**
 - 1. 2018 U.S. Medical Regulatory Trends and Actions Report
- J. Governor’s Task Force on Opioid Abuse – Timothy Westlake**
- K. Wisconsin Medical Examining Board Opioid Prescribing Guideline – Review for Possible Amendments (47)**
- L. Controlled Substances Board Report – Timothy Westlake
- M. Interstate Medical Licensure Compact Commission (IMLCC) – Report from Wisconsin’s Commissioners
- N. Newsletter Matters**
- O. Screening Panel Report
- P. Informational Items
- Q. Items Added After Preparation of Agenda
 - 1. Introductions, Announcements and Recognition
 - 2. Administrative Updates
 - 3. Elections, Appointments, Reappointments, Confirmations, and Committee, Panel and Liaison Appointments
 - 4. Council Appointment Matters
 - 5. Education and Examination Matters
 - 6. Credentialing Matters
 - 7. Practice Matters
 - 8. Future Agenda Items
 - 9. Legislation/Administrative Rule Matters
 - 10. Liaison Report(s)
 - 11. Newsletter Matters
 - 12. Annual Report Matters
 - 13. Informational Item(s)
 - 14. Division of Legal Services and Compliance (DLSC) Matters
 - 15. Presentations of Petition(s) for Summary Suspension
 - 16. Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
 - 17. Presentation of Proposed Decisions
 - 18. Presentation of Interim Order(s)
 - 19. Petitions for Re-Hearing
 - 20. Petitions for Assessments
 - 21. Petitions to Vacate Order(s)
 - 22. Petitions for Designation of Hearing Examiner

23. Requests for Disciplinary Proceeding Presentations
24. Motions
25. Petitions
26. Appearances from Requests Received or Renewed
27. Speaking Engagement(s), Travel, or Public Relation Request(s), and Reports

R. Future Agenda Items

S. Public Comments

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.).

T. Credentialing Matters

1. Application Reviews

- a. Full Board Oral Examination for Dr. Patrick Chau **(48)**

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

- a. Jerry Childs Jr., D.O. **(49-81)**
- b. Nishant Saran, M.D. **(82-112)**

U. Deliberation on DLSC Matters

1. Monitoring

- a. Ronald Rubin, M.D. – Requesting Full Licensure **(113-217)**

2. Complaints

- a. 15 MED 234 – V.F. **(218-221)**
- b. 17 MED 010 – E.R.W. **(222-224)**
- c. 17 MED 010 – J.J.K. **(225-227)**

3. Stipulations, Final Decisions and Orders

- a. 16 MED 159 – Lori A. Leiser, R.C.P. **(228-239)**
- b. 16 MED 483 – John Braem, R.C.P. **(240-245)**
- c. 17 MED 010 – John J. Kelemen, M.D. **(246-251)**
- d. 17 MED 010 – Eric R. Wohlfeil, M.D. **(252-257)**
- e. 17 MED 307 – David M. Hammond-Koskey, P.A. **(258-263)**
- f. 17 MED 348 – Anatol J. Stankevych **(264-269)**
- g. 17 MED 412 – Blaise P. Vitale, M.D. **(270-275)**

4. Case Closings

- a. 17 MED 004 – E.R. **(276-279)**
- b. 17 MED 126 – C.S. & J.S. **(280-287)**
- c. 17 MED 325 – M.L. **(288-297)**
- d. 17 MED 403 – K.A.K. **(298-309)**
- e. 17 MED 405 – N.B. **(310-313)**
- f. 17 MED 424 – M.B. **(314-318)**
- g. 18 MED 027 – M.R. **(319-329)**

- h. 18 MED 056 – J.M. **(330-338)**
- i. 18 MED 181 – A.B. **(339-344)**
- j. 18 MED 212 – M.B. **(345-347)**
- k. 18 MED 323 – J.F. **(348-354)**

5. Petitions for Extension of Time

- a. 16 MED 014 – John Horan, M.D. **(355-360)**

V. Open Cases

W. Consulting with Legal Counsel

X. 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. Petition(s) for Summary Suspensions
- 7. Proposed Stipulations, Final Decisions and Orders
- 8. Administrative Warnings
- 9. Proposed Decisions
- 10. Matters Relating to Costs
- 11. Complaints
- 12. Case Closings
- 13. Case Status Report
- 14. Petition(s) for Extension of Time
- 15. Proposed Interim Orders
- 16. Petitions for Assessments and Evaluations
- 17. Petitions to Vacate Orders
- 18. Remedial Education Cases
- 19. Motions
- 20. Petitions for Re-Hearing
- 21. Appearances from Requests Received or Renewed

Y. RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

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

ADJOURNMENT

ORAL EXAMINATION OF CANDIDATES FOR LICENSURE

ROOM N207

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

CLOSED SESSION – Reviewing Applications and Conducting Oral Examination of zero (0) (at time of agenda publication) Candidates for Licensure – Dr. Lee Ann Lau and Dr. David Roelke

NEXT MEETING DATE: JANUARY 16, 2019

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 council's agenda, please call the listed contact person. The council may consider materials or items filed after the transmission of this notice. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112

**MEDICAL EXAMINING BOARD
MEETING MINUTES
NOVEMBER 14, 2018**

PRESENT: Alaa Abd-Elseyed, M.D.; David Bryce, M.D.; Mary Jo Capodice, D.O.; Michael Carton; Padmaja Doniparthi, M.D.; Rodney Erickson, M.D. (*arrived at 8:15 a.m.*); Bradley Kudick, Lee Ann Lau, M.D.; David Roelke, M.D.; Timothy Westlake, M.D.; Robert Zoeller, M.D.

EXCUSED: Kenneth Simons, M.D.

STAFF: Tom Ryan, Executive Director; Dale Kleven, Rule Coordinator; Kate Stolarzyk, Bureau Assistant; and other Department staff

CALL TO ORDER

Timothy Westlake, Vice Chair, called the meeting to order at 8:03 a.m. A quorum of ten (10) members was confirmed.

ADOPTION OF AGENDA

MOTION: Mary Jo Capodice moved, seconded by David Roelke, to adopt the agenda as published. Motion carried unanimously.

MINUTES OF OCTOBER 17, 2018

MOTION: Robert Zoeller moved, seconded by Alaa Abd-Elseyed, to approve the minutes of October 17, 2018 as published. Motion carried unanimously.

(Rodney Erickson, M.D. arrived at 8:15 a.m.)

ITEMS ADDED AFTER PREPARATION OF AGENDA

MOTION: Robert Zoeller moved, seconded by Bradley Kudick, to appoint Timothy Westlake as a liaison to consult with the Pharmacy Examining Board regarding automatic dispensing machines. Motion carried unanimously.

CLOSED SESSION

MOTION: Lee Ann Lau moved, seconded by Alaa Abd-Elseyed, 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.). Timothy Westlake, Vice Chair, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Alaa Abd-Elseyed-yes; David Bryce-yes; Mary Jo Capodice-yes; Padmaja Doniparthi-yes; Rodney Erickson-yes; Bradley Kudick-yes; Lee Ann Lau-yes; David Roelke-yes; Timothy Westlake-yes; Robert Zondag-yes; and Robert Zoeller-yes. Motion carried unanimously.

The Board convened into Closed Session at 8:44 a.m.

RECONVENE TO OPEN SESSION

MOTION: Alaa Abd-Elsayed moved, seconded by Rodney Erickson, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 10:09 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Lee Ann Lau moved, seconded by Robert Zoeller, 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.)

DELIBERATION ON CREDENTIALING MATTERS

Full Board Reviews

Steven Armus, M.D.

MOTION: Lee Ann Lau moved, seconded by Robert Zoeller, to deny the petition for reinstatement of Steven Armus, M.D. and to place conditions on any future petitions. Motion carried unanimously.

Raul Lupia, M.D.

MOTION: Padmaja Doniparthi moved, seconded by Robert Zoeller, to deny the application of Raul Lupia, M.D., per Wis. Stat. §448.05(2)(b)4.a. Motion carried.

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

Complaints

16 MED 014 – J.H.

MOTION: Mary Jo Capodice moved, seconded by David Roelke, to find probable cause to believe that J.H., DLSC Case Number 16 MED 014, 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.

(Lee Ann Lau recused herself and left the room for deliberation and voting in the matter concerning J.H., DLSC Case Number 16 MED 014.)

Administrative Warnings

16 MED 468 – K.L.B.

MOTION: David Roelke moved, seconded by David Bryce, to issue an Administrative Warning in the matter of K.L.B., DLSC Case Number 16 MED 468. Motion carried unanimously.

17 MED 045 – S.R.P.

MOTION: Robert Zoeller moved, seconded by Bradley Kudick, to issue an Administrative Warning in the matter of S.R.P., DLSC Case Number 17 MED 045. Motion carried unanimously.

17 MED 427 – R.M.E.

MOTION: Lee Ann Lau moved, seconded by Bradley Kudick, to issue an Administrative Warning in the matter of R.M.E., DLSC Case Number 17 MED 427. Motion carried unanimously.

Stipulations, Final Decisions and Orders

16 MED 165 – Geoffrey C. Nkwazi, M.D.

MOTION: Lee Ann Lau moved, seconded by David Roelke, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Geoffrey C. Nkwazi, M.D., DLSC Case Number 16 MED 165. Motion carried unanimously.

16 MED 320 – Edgar Basil Jackson, M.D.

MOTION: David Bryce moved, seconded by Robert Zoeller, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Edgar Basil Jackson, M.D., DLSC Case Number 16 MED 320. Motion carried unanimously.

16 MED 366 – Warren Dunn, M.D.

MOTION: Robert Zoeller moved, seconded by David Roelke, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Warren Dunn, M.D., DLSC Case Number 16 MED 366. Motion carried unanimously.

17 MED 053 – Kwesi K. Grant-Acquah, M.D.

MOTION: David Roelke moved, seconded by David Bryce, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Kwesi K. Grant-Acquah, M.D., DLSC Case Number 17 MED 053. Motion carried unanimously.

17 MED 137 – John W. Oren, M.D.

MOTION: David Roelke moved, seconded by Bradley Kudick, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against John W. Oren, M.D., DLSC Case Number 17 MED 137. Motion carried unanimously.

17 MED 178 – Keith A. Henry, M.D.

MOTION: David Roelke moved, seconded by Robert Zoeller, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Keith A. Henry, M.D., DLSC Case Number 17 MED 178. Motion carried unanimously.

17 MED 273 – Stephen C. Westcott, M.D.

MOTION: David Roelke moved, seconded by Rodney Erickson, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Stephen C. Westcott, M.D., DLSC Case Number 17 MED 273. Motion carried unanimously.

Case Closings

17 MED 015 – G.A.H.

MOTION: Alaa Abd-Elsayed moved, seconded by Robert Zoeller, to close DLSC Case Number 17 MED 015, against G.A.H., for No Violation. Motion carried unanimously.

17 MED 047 – V.V.B.

MOTION: Lee Ann Lau moved, seconded by David Bryce, to close DLSC Case Number 17 MED 047, against V.V.B., for Prosecutorial Discretion (P5 Flag). Motion carried unanimously.

17 MED 244 – J.J.

MOTION: Robert Zoeller moved, seconded by David Roelke, to close DLSC Case Number 17 MED 244, against J.J., for No Violation. Motion carried unanimously.

17 MED 360 – G.Y.

MOTION: Mary Jo Capodice moved, seconded by Robert Zoeller, to close DLSC Case Number 17 MED 360, against G.Y., for No Violation. Motion carried unanimously.

18 MED 093 – D.S.H.

MOTION: David Roelke moved, seconded by Lee Ann Lau, to close DLSC Case Number 18 MED 093, against D.S.H., for Lack of Jurisdiction (L2). Motion carried unanimously.

18 MED 112 – T.S.

MOTION: Mary Jo Capodice moved, seconded by David Roelke, to close DLSC Case Number 18 MED 112, against T.S, for No Violation. Motion carried unanimously.

18 MED 168 – A.F.

MOTION: Padmaja Doniparthi moved, seconded by Michael Carton, to close DLSC Case Number 18 MED 168, against A.F., for No Violation. Motion carried unanimously.

Petitions for Extension of Time

15 MED 418 – Ricardo Sinense, M.D.

MOTION: Lee Ann Lau moved, seconded by Mary Jo Capodice, to file a Petition and Request for an Extension of Time in the matter of DLSC Case Number 15 MED 418 against Ricardo Sinense, M.D. Motion carried unanimously.

15 MED 419 and 15 MED 472 – R. Stephen Callaghan, M.D.

MOTION: David Roelke moved, seconded by Robert Zoeller, to file a Petition and Request for an Extension of Time in the matter of DLSC Case Number 15 MED 419 and 15 MED 472 against R. Stephen Callaghan, M.D. Motion carried unanimously.

17 MED 145 – Dixon B. Kaufman, M.D.

MOTION: David Roelke moved, seconded by David Bryce, to file a Petition and Request for an Extension of Time in the matter of DLSC Case Number 17 MED 145 against Dixon B. Kaufman, M.D. Motion carried unanimously.

18 MED 001 – Barbara Gonzales, M.D., Ricardo Sinense, M.D., and Douglas Woida, P.A.

MOTION: Mary Jo Capodice moved, seconded by David Bryce, to file a Petition and Request for an Extension of Time in the matter of DLSC Case Number 18 MED 001 against Barbara Gonzales, M.D., Ricardo Sinense, M.D., and Douglas Woida, P.A. Motion carried unanimously.

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

MOTION: David Roelke moved, seconded by Mary Jo Capodice, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Lee Ann Lau moved, seconded by David Roelke, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:10 a.m.

DRAFT

**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: 12/7/18 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: 12/19/18	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 18-072 – Med 13 Relating to Continuing Medical Education for Physicians 1. Review and Respond to Public Comments and Clearinghouse Report 8:00 A.M. Public Hearing: CR 18-074 – Med 22 Relating to Perfusionists 1. Review and Respond to Public Comments and Clearinghouse Report Legislative/Administrative Rule Matters: 1. Review of Proposed Changes to Pod 3, Relating to Continuing Podiatric Medical Education 2. Update on Other Legislation and 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: 1. Under s. 15.085 (5), Stats., the Podiatry Affiliated Credentialing Board is required to submit a proposed rule to the Medical Examining Board for comment at least 60 days before the proposed rule is submitted to the Legislative Clearinghouse. Any comments on the proposed rule must be considered and included in the report on the proposed rule submitted to the Legislature.			
11) <i>Dale Kleven</i>		Authorization <i>December 7, 2018</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:

None.

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 the opioid prescribing guidelines issued by the Board. As this requirement expires after the renewal date occurring on November 1, 2019, the proposed rules define requirements for the completion of continuing education hours related to prescribing controlled substances for the renewal date occurring on November 1, 2021.

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.

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 regularly provides primary health care to patients in Iowa to complete at least two hours of credit for chronic pain management every five years. “A licensee who regularly provides primary health care to patients” means all emergency physicians, family physicians, general practice physicians, internists, neurologists, pain medicine specialists, psychiatrists, and any other physician who regularly provides primary health care to patients [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 the area of pain and symptom management (Mich Admin Code, R 338.2443). Continuing education hours in pain and symptom management may include any of the following:

- 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.

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 NathanielL.Ristow@wisconsin.gov, or by calling (608) 266-3445.

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 December 19, 2018, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Med 13.02 (1g) and (1r) are amended to read:

Med 13.02 (1g) (a) Except as provided ~~in~~ under par. (b), for a renewal date occurring in 2017 or 2018, 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 the guidelines issued by the board under s. 440.035 (2m), Stats., that is approved under s. Med 13.03 (3) at the time of the physician's attendance.

(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~~ drug enforcement administration number to prescribe controlled substances.

(1r) (a) Except as provided ~~in~~ under par. (b), for a ~~the~~ renewal date occurring ~~in 2019 or 2020~~ on November 1, 2019, 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 the guidelines issued by the board under s. 440.035 (2m), Stats., that is approved under s. Med 13.03 (3) at the time of the physician's attendance.

(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~~ drug enforcement administration number to prescribe controlled substances.

SECTION 2. Med 13.02 (1v) is created to read:

Med 13.02 (1v) (a) Except as provided under par. (b), for the renewal date occurring on November 1, 2021, 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 opioid prescribing that is approved under s. Med 13.03 (3) at the time of the physician's attendance.

(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 3. Med 13.03 (3) (b) 2. is amended to read:

Med 13.03 (3) (b) 2. The subject matter of ~~the a~~ a course ~~pertains~~ under s. Med 13.02 (1g) (a) or (1r) (a) shall pertain to the guidelines issued by the board under s. 440.035 (2m), Stats.

SECTION 4. Med 13.03 (3) (b) 2m. is created to read:

Med 13.03 (3) (b) 2m. The subject matter of a course under s. Med 13.02 (1v) (a) shall pertain to opioid prescribing.

SECTION 5. 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

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date August 23, 2018</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Med 13</p>	
<p>4. Subject Continuing medical education for physicians</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 20.165(1)(hg)</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 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 the opioid prescribing guidelines issued by the Board. As this requirement expires after the renewal date occurring on November 1, 2019, the proposed rules define requirements for the completion of continuing education hours related to prescribing controlled substances for the renewal date occurring on November 1, 2021.</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 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.</p>	
<p>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.</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 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. The Department estimates one-time administrative costs of \$65.42. These costs may be absorbed in the agency budget.</p>	
<p>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.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is increased physician awareness of prescription drug abuse.</p>	

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.

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 regularly provides primary health care to patients in Iowa to complete at least two hours of credit for chronic pain management every five years. "A licensee who regularly provides primary health care to patients" means all emergency physicians, family physicians, general practice physicians, internists, neurologists, pain medicine specialists, psychiatrists, and any other physician who regularly provides primary health care to patients [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 the area of pain and symptom management (Mich Admin Code, R 338.2443). Continuing education hours in pain and symptom management may include any of the following:

- 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.

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

Jessica Karls-Ruplinger
Legislative Council Acting Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 18-072

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

In s. Med 13.02 (1v) (a), if it is anticipated that the requirement is likely to continue to apply in future renewal periods, consider revising the phrase “occurring on November 1, 2021,” to the phrase “occurring November 1 of each odd-numbered year, beginning in 2021,”.

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

In the rule summary’s listing of related statutes or rules, consider including a reference to s. 448.08 (2) (a) 58., Stats., which provides that the credential renewal date for a physician, other than a physician who possesses the degree of doctor of osteopathy, is November 1 of each odd-numbered year. Consider also including a reference to s. 440.035 (2m), Stats., which allows the Medical Examining Board to issue guidelines regarding best practices in prescribing controlled substances.

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

a. In the rule summary’s plain language analysis, consider more clearly describing the goal of the proposed rule. It appears that the effect of the rule is to require that, beginning with the renewal date occurring on November 1, 2021, a physician must complete two hours of a course or program related to “opioid prescribing”, rather than to “the guidelines issued by the board”.

b. In the rule summary’s plain language analysis, the second sentence references the expiration of a “requirement” but it is not clear what “requirement” is expiring that necessitates

the proposed rule. This could be clarified by specifying in the first sentence that current rules include a continuing medical education requirement that applies only to a renewal date occurring in 2019 or 2020.

c. The second sentence of the plain language analysis states that the continuing medical education hours for the renewal occurring on November 1, 2021, must relate to prescribing “controlled substances”. However, the text of the rule, in ss. Med 13.02 (1v) (a) and 13.03 (3) (b) 2m., references “opioid” prescribing. Review and revise the use of these terms to consistently refer to either “controlled substances” or “opioids”, whichever is intended.

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 **repeal** Med 22.03 (3) (intro.), (a), and (b) 3., 22.04 (1) and (2), 22.05 (1) (d) and (f), and 22.08 (Note); to **renumber** Med 22.03 (3) (b) 1.; to **renumber and amend** Med 22.03 (3) (b) 2. and 22.07 (6); to **amend** Med 22.01, 22.02 (intro.), (3), and (4), 22.03 (intro.), (1), and (Note), 22.04 (3), (4), (5) (intro.), (c), (e), (f), and (h), (6), (9), and (10), 22.05 (1) (intro.), (a), (b), (c), and (e), (2), and (3) (a), 22.06 (1), (2) (intro.), (a), (d), and (e), (3), and (5), 22.07 (1) to (5), (7), and (8), 22.08 (2), 22.09 (4), and 22.10 (2), (3), (4) (a) to (c), and (5); and to **create** Med 22.04 (5) (k), 22.05 (1m), 22.07 (5m) and (6) (a) to (d), and 22.10 (1) (am), relating to perfusionists.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 440.03 (4m), Stats.

Statutory authority:

Sections 15.08 (5) (b) and 448.40 (2) (c), 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 (2) (c), Stats., requires the Medical Examining Board to promulgate rules “[e]stablishing continuing education requirements for renewal of a license to practice perfusion under s. 448.13 (2).”

Related statute or rule:

None.

Plain language analysis:

A comprehensive review of ch. Med 22 was conducted to ensure the rules are consistent with current standards for drafting style and format and applicable Wisconsin statutes. As a result, the following updates have been made:

- Sections Med 20.03 and 22.04 are revised to remove requirements for applications submitted prior to January 1, 2004.
- Revisions to s. Med 22.04 (3), (4), and (6) are made to, as required under s. 448.05 (6) (a), Stats., specify the passing score for the Perfusion Basic Science Examination, the Clinical Applications in Perfusion Examination, the statutes and rules examination, and the oral examination.
- Section Med 22.04 (9) is revised to clarify the requirement to complete further professional training or education before retaking an exam after a third failure does not apply to the Perfusion Basic Science Examination or the Clinical Applications in Perfusion Examination.
- Section Med 22.07 (5m) is created to void the application of an applicant who uses a recording device when reviewing an examination, and requires the applicant to reapply for licensure. A provision is created under s. Med 22.04 (5) that will allow the Board to require an applicant who has violated s. Med 22.07 (5m) to complete an oral examination.
- Section Med 22.10 (5) is revised to comply with s. 440.03 (4m), Stats., as created by 2017 Wisconsin Act 59. Under this provision, the Board may require a credential holder to submit proof of completing continuing education programs or courses only if a complaint is made against the credential holder.
- Other provisions throughout ch. Med 22 have been updated to provide clarity and conform to current standards for drafting style and format.

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 address the practice of perfusion in Illinois (68 Ill. Adm. Code 1335.10 to 1335.100). Although underlying statutes authorize the Department to establish rules requiring 30 hours of continuing education per 2-year license renewal cycle (225 ILCS 125/75 – Perfusionist Practice Act), the rules currently do not have such a requirement.

Iowa:

Iowa rules and statutes do not specifically address the practice of perfusion.

Michigan:

Michigan rules and statutes do not specifically address the practice of perfusion.

Minnesota:

Minnesota rules and statutes do not specifically address the practice of perfusion.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of ch. Med 22 for consistency with current standards for drafting style and format and applicable Wisconsin statutes and 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 NathanielL.Ristow@wisconsin.gov, or by calling (608) 266-3445.

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 December 19, 2018, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Med 22.01 is amended to read:

Med 22.01 Authority and purpose. The rules in this chapter are adopted by the medical examining board under the authority of ss. 15.08 (5) (b), ~~and 227.11 (2), Stats., and ss. 448.02, 448.04, 448.05, 448.13, and 448.40, Stats.~~

SECTION 2. Med 22.02 (intro.), (3), and (4) are amended to read:

Med 22.02 (intro.) Definitions. ~~As used in~~ In this chapter:

(3) “Perfusion” has the meaning ~~set forth~~ given in s. 448.015 (1m), Stats.

(4) “Perfusionist” has the meaning ~~set forth~~ given in s. 448.015 (1s), Stats.

SECTION 3. Med 22.03 (intro.) and (1) are amended to read:

Med 22.03 (intro.) Applications and credentials. Every applicant for initial licensure as a perfusionist shall submit all of the following:

(1) A completed application on a form provided by the board.

SECTION 4. Med 22.03 (3) (intro.) and (a) are repealed.

SECTION 5. Med 22.03 (3) (b) 1. is renumbered Med 22.03 (3).

SECTION 6. Med 22.03 (3) (b) 2. is renumbered Med 22.03 (4) and amended to read:

Med 22.03 (4) ~~Written verification that~~ Evidence the applicant has passed ~~both the perfusion basic science examination and the clinical application in perfusion examination of the American Board of Cardiovascular Perfusion~~ the examinations required under s. Med 22.04.

SECTION 7. Med 22.03 (3) (b) 3. is repealed.

SECTION 8. Med 22.03 (Note) is amended to read:

Med 22.03 (Note) Application forms are available ~~on request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708~~ from the department of safety and professional services at (608) 266-2112 or from the department's website at www.dsps.wi.gov.

SECTION 9. Med 22.04 (1) and (2) are repealed.

SECTION 10. Med 22.04 (3), (4), (5) (intro.), (c), (e), (f), and (h) are amended to read:

Med 22.04 (3) An applicant for licensure as a perfusionist ~~under s. Med 22.03 (3) (b),~~ shall pass both the ~~perfusion basic science examination~~ Perfusion Basic Science Examination and the ~~clinical application in perfusion examination~~ Clinical Applications in Perfusion Examination of the American Board of Cardiovascular Perfusion. The board adopts the passing scores of the examination provider.

(4) An applicant for licensure as a perfusionist ~~under s. Med 22.03 (3) (b),~~ shall pass a state board statutes and rules examination conducted by the council ~~as evidenced by documents submitted directly to the council by the department's office of examinations.~~ The passing score for the examination under this subsection is 85 percent.

(5) (intro.) An applicant ~~who meets the criteria under s. Med 22.03 (3) (b),~~ may be required to complete an oral examination if the applicant:

(c) Has been disciplined or had licensure denied by a licensing or regulatory authority in ~~Wisconsin~~ this state or another jurisdiction.

(e) Has ~~not~~ practiced perfusion for ~~more than~~ 1,200 hours or less during the 3-year period preceding the date of application.

(f) Has practiced ~~over~~ perfusion for more than 1,200 hours in the last 3 years, but practice was limited.

(h) Has been diagnosed as suffering from pedophilia, exhibitionism, or voyeurism.

SECTION 11. Med 22.04 (5) (k) is created to read:

Med 22.04 (5) (k) Has violated s. Med 22.07 (5m).

SECTION 12. Med 22.04 (6), (9), and (10) are amended to read:

Med 22.04 (6) The council shall conduct oral examinations ~~and interviews~~. At the request of the council, the board shall provide a medical consultant to ~~the council to provide assistance~~ assist in evaluating applicants examined under ~~s. Med 22.03 (3) sub. (5) (a) and or (b)~~. The passing score for an oral examination is 90 percent.

(9) An applicant who fails to receive a passing grade on an examination under sub. (4) or (5) may reapply by payment of the fee specified in s. 440.05, Stats. If an applicant fails ~~an~~ the examination under sub. (4) 3 times, the applicant may not retake ~~that~~ the examination unless the applicant submits proof evidence of having completed further professional training or education as the board may prescribe. An applicant ~~for an oral examination~~ may reapply for an oral examination twice at not less than 4-month intervals.

(10) ~~If after receipt of additional information from applicants who have been treated for alcohol or drug abuse or impairment or from applicants who have been treated for an acute or chronic psychological impairment the council decides that an oral interview or examination shall be administered, the~~ An oral examination concerning the circumstances described in sub. (5) (a) or (b) shall be limited to a determination whether, at the time of application, ~~the applicant's disability appears to pose an actual risk to the health, safety, or welfare of patient or public arising~~ arises from the applicant's demonstrated inability to safely carry out necessary duties and responsibilities inherent to the practice of perfusion.

SECTION 13. Med 22.05 (1) (intro.), (a), (b), and (c) are amended to read:

Med 22.05 (1) (intro.) An applicant for licensure ~~who meets the criteria under s. Med 22.03 (3) (b)~~ may apply to the board for a temporary license to practice perfusion prior to licensure if the applicant ~~does~~ submits all of the following:

(a) ~~Submits a~~ A completed application on a form provided by the board.

(b) ~~Remits the~~ The fee specified in s. 440.05, Stats.

(c) ~~Has~~ Evidence the applicant has successfully completed an educational program ~~as defined in~~ under s. Med 22.03 (3) ~~(b) 1.~~

SECTION 14. Med 22.05 (1) (d) is repealed.

SECTION 15. Med 22.05 (1) (e) is amended to read:

Med 22.05 (1) (e) ~~Has~~ Evidence the applicant has passed the ~~state board statutes and rules~~ examination under s. Med 22.04 (4).

SECTION 16. Med 22.05 (1) (f) is repealed.

SECTION 17. Med 22.05 (1m) is created to read:

Med 22.05 (1m) The board may not issue a license under this section if any of the following applies:

(a) The applicant has failed either of the examinations under s. Med 22.04 (3) and has not subsequently passed the examination.

(b) The applicant is required to complete an oral examination.

SECTION 18. Med 22.05 (2) and (3) (a) are amended to read:

Med 22.05 (2) ~~Practice~~ Except as provided under sub. (3) (b), practice during the period of a temporary license shall be under the general supervision of a licensed perfusionist. A person holding a temporary license shall consult at least weekly with the supervising perfusionist who shall at least once a month endorse the activities of the person holding the temporary license.

(3) (a) A temporary license expires one year from the date of its issuance. Upon application, and upon submission of evidence of having passed the perfusion basic scientific examination, the temporary license may be renewed for an additional period of one year. The board may extend the term of the temporary license for an additional 6 months if the applicant was unable to complete the perfusion basic scientific examination within the one-year period due to hardship, including ~~but not limited to~~ illness of the applicant, the illness or death of a family member of the applicant, or an accident or natural disaster. A written affidavit of the hardship ~~must~~ shall be provided.

SECTION 19. Med 22.06 (1), (2) (intro.), (a), (d), and (e), (3), and (5) are amended to read:

(1) An applicant who holds certification in clinical perfusion granted by the American Board of Cardiovascular Perfusion may apply to the board for a temporary locum tenens license.

(2) (intro.) An applicant for a locum tenens license shall submit ~~to the board~~ all of the following:

(a) A completed ~~and verified~~ application on a form supplied provided by the board.

(d) A verified statement by the applicant that the applicant is familiar with the ~~state~~ health laws of this state and ~~the~~ rules of the department of health services ~~as~~ related to communicable diseases.

(e) The fees required under s. 440.05, Stats., ~~made payable to the Wisconsin department of safety and professional services.~~

(3) All applicants shall ~~complete an open book~~ pass the examination ~~on statutes and rules governing the practice of perfusion in Wisconsin~~ under s. Med 22.04 (4).

(5) A locum tenens license expires 90 days from the date of its issuance. For cause shown to the satisfaction of the board, the board may renew the locum tenens license for additional periods of 90 days each, but ~~no~~ a license may not be renewed more than 3 consecutive times.

SECTION 20. Med 22.07 (1) to (5) are amended to read:

Med 22.07 (1) An applicant who fails the oral or statutes and rules examination may make a request to review that examination by filing a written request and required fee with the board within 30 days of the date on which examination results were ~~mailed~~ received by the applicant.

(2) Examination reviews ~~are~~ shall be by appointment only.

(3) An applicant may not review the statutes and rules examination for ~~not~~ more than one hour.

(4) An applicant may not review the oral examination for ~~not~~ more than 2 hours.

(5) An applicant shall review an examination in the presence of a board-assigned proctor. The applicant No other person may not be accompanied accompany an applicant during the a review by any person other than the proctor.

SECTION 21. Med 22.07 (5m) is created to read:

Med 22.07 (5m) (a) An applicant may not use any device capable of recording audio, photographic, or video content, or capable of viewing or playing back such content, during a review. A violation of this subsection shall void the applicant's application and require the applicant to reapply for licensure.

(b) A violation of this subsection constitutes knowingly engaging in fraud, misrepresentation, or dishonesty in applying for or procuring a license.

SECTION 22. Med 22.07 (6) is renumbered Med 22.07 (6) (intro.) and amended to read:

Med 22.07 (6) (intro.) At the beginning of ~~the a~~ review, the ~~applicant proctor~~ shall ~~be provided~~ provide the applicant with a copy of the questions, a copy of the applicant's answer sheet or oral examination audiotape and a copy of the master answer sheet. all of the following:

SECTION 23. Med 22.07 (6) (a) to (d) are created to read:

Med 22.07 (6) (a) A copy of the examination questions.

(b) A copy of or, if the applicant is reviewing an oral examination, audio recording of the applicant's answers to the examination questions.

(c) If an applicant is reviewing the statutes and rules examination, a copy of the master answer sheet.

(d) A form on which the applicant may write comments, questions, or claims of error regarding the examination.

SECTION 24. Med 22.07 (7) and (8) are amended to read:

Med 22.07 (7) ~~The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions, or claims of error regarding any item in the examination. The An applicant may consult bound reference books materials during the a review. Applicants shall not remove any notes from the area. Notes~~ The form under sub. (6) (d) and any other notes taken by an applicant during a review shall be retained by the proctor and, if requested by

~~the applicant,~~ made available to the applicant for use at a hearing, ~~if requested.~~ The A proctor ~~shall~~ may not defend the examination or attempt to refute claims of error during ~~the~~ a review.

(8) An applicant may not review ~~the~~ an examination more than once.

SECTION 25. Med 22.08 (2) is amended to read:

Med 22.08 (2) The board shall review the claim, make a determination of the validity of the objections, and notify the applicant in writing of the board's decision and any resulting ~~grade~~ changes to the applicant's exam score.

SECTION 26. Med 22.08 (Note) is repealed.

SECTION 27. Med 22.09 (4) is amended to read:

Med 22.09 (4) The performance and use of anticoagulation monitoring and analysis, physiologic monitoring and analysis, blood gas and chemistry monitoring and analysis, hematologic monitoring and analysis, induction and hypothermia and ~~hyperthermia~~ hyperthermia with reversal, hemoconcentration and hemodilution, and ~~hymodialysis~~ hemodialysis.

SECTION 28. Med 22.10 (1) (am) is created to read:

Med 22.10 (1) (am) "AC-PE" means the Accreditation Committee-Perfusion Education.

SECTION 29. Med 22.10 (2), (3), (4) (a) to (c), and (5) are amended to read:

Med 22.10 (2) Each licensee shall, at the time of applying for renewal of a license under s. 448.07, Stats., certify that ~~he or she has,~~ in the 2 years preceding the renewal due date, ~~completed~~ at least 30 continuing education units of acceptable continuing education were completed. At least 10 continuing education units ~~must~~ shall be completed in Category I activities.

(3) ~~No additional~~ Additional continuing education units ~~are~~ may not be given for subsequent presentations of the same content.

(4) (a) ~~Category I~~ Category I. ABCP-approved perfusion meetings and related activity, including all of the following:

1. Attendance at ABCP-approved international, national, regional, or state perfusion meetings, programs, and seminars ~~in~~ at which a minimum of 75% of the contact hours consist of perfusion related material, ~~including international, national, regional or state perfusion meetings.~~ One continuing education unit may be claimed for each contact hour.

2. Publication of a perfusion related book chapter or paper in a professional journal. Five continuing education units may be claimed for each published book chapter or paper, subject to a maximum limit of 10 continuing education units in any given renewal period.

3. ~~Presentation of~~ Presenting a talk workshop or lecture at an international, national, regional, or state perfusion meeting. Five continuing education units may be

claimed for each presentation, subject to a maximum limit of 10 continuing education units in any given renewal period.

4. Presentation of a poster or other exhibit at an international, national, regional, or state perfusion meeting: 2 Two continuing education units may be claimed for each presentation, subject to a maximum limit of 4 continuing education units in any given renewal period.

5. Participation in an AC-PE site visitor workshop or volunteering as an AC-PE site visitor: 5 Five continuing education units may be claimed for each workshop or site visit, subject to a maximum limit of 10 continuing education units in any given renewal period.

6. Participation in an ABCP knowledge base survey: 2 Two continuing education units may be claimed for each survey.

7. Self-directed continuing education meeting ABCP requirements: 4 One continuing education unit may be claimed for each contact hour.

(b) ~~Category II~~ Category II. Non-accredited perfusion meetings and other medical meetings, including all of the following:

1. ~~Perfusion Attendance at international, national, regional, or state perfusion or medical meetings, programs, and seminars in not approved by ABCP, at which a minimum of 75% of the contact hours consist of perfusion related material, including international, national, state or regional perfusion meetings~~: One-half of a continuing education unit may be claimed for each contact hour, subject to a maximum limit of 10 continuing education units in any given renewal period.

2. Manufacturer-specific and company-sponsored educational activities: 4 One continuing education unit may be claimed for each contact hour.

(c) ~~Category III~~ Category III. Individual education and other self-study activities, including all of the following:

1. Serving as a clinical instructor in an accredited perfusion training program: 2 Two continuing education units per may be claimed for this service in each year of a renewal period.

2. Serving as a didactic instructor in an accredited perfusion training program: 4 One continuing education unit per may be claimed for each contact hour, subject to a maximum limit of 4 continuing education units in any given renewal period.

3. Participation in an ABCP examination development workshop or survey: 2 Two continuing education units per may be claimed for each contact hour, subject to a maximum limit of 4 continuing education units in any given renewal period.

4. Self-learning activities and self-study modules, including use of audiovisual devices or electronic forums, reading scientific journals, and participation in degree-oriented, professionally related course work, and self-study modules: 4 One continuing education unit per may be claimed for each contact hour, subject to a maximum limit of 10 continuing education units in any given renewal period.

5. Presentation at a non-approved international, national, regional, or state perfusion or medical meeting; that is not approved by ABCP. † One continuing education unit may be claimed for each hour of presentation.

6. ~~Grand Participation in a grand round; † One continuing education unit per~~ may be claimed for each contact hour, subject to a maximum limit of 2 continuing education units in any given renewal period.

7. ~~Completion of Advanced cardiac life support Cardiac Life Support training; † 2~~ Two continuing education units may be claimed for completion of this training.

(5) An applicant for renewal shall certify ~~his or her attendance at completion of~~ completion of required continuing education. The board ~~may conduct a random audit of all licensees on a biennial basis for compliance with continuing education requirements, and~~ shall audit for compliance with the continuing education requirements any licensee who is under investigation by the board for alleged misconduct.

SECTION 30. 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 October 17, 2018
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Med 22	
4. Subject Perfusionists	
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	6. Chapter 20, Stats. Appropriations Affected 20.165(1)(hg)
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	
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 A comprehensive review of ch. Med 22 was conducted to ensure the rules are consistent with current standards for drafting style and format and applicable Wisconsin statutes. As a result, the following updates have been made: <ul style="list-style-type: none"> • Sections Med 20.03 and 22.04 are revised to remove requirements for applications submitted prior to January 1, 2004. • Revisions to s. Med 22.04 (3), (4), and (6) are made to, as required under s. 448.05 (6) (a), Stats., specify the passing score for the Perfusion Basic Science Examination, the Clinical Applications in Perfusion Examination, the statutes and rules examination, and the oral examination. • Section Med 22.04 (9) is revised to clarify the requirement to complete further professional training or education before retaking an exam after a third failure does not apply to the Perfusion Basic Science Examination or the Clinical Applications in Perfusion Examination. • Section Med 22.07 (5m) is created to void the application of an applicant who uses a recording device when reviewing an examination, and requires the applicant to reapply for licensure. A provision is created under s. Med 22.04 (5) that will allow the Board to require an applicant who has violated s. Med 22.07 (5m) to complete an oral examination. • Section Med 22.10 (5) is revised to comply with s. 440.03 (4m), Stats., as created by 2017 Wisconsin Act 59. Under this provision, the Board may require a credential holder to submit proof of completing continuing education programs or courses only if a complaint is made against the credential holder. • Other provisions throughout ch. Med 22 have been updated to provide clarity and conform to current standards for drafting style and format. 	
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.	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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. The Department estimates one-time administrative costs of \$1,518.17, which may be absorbed in the agency budget.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit to implementing the rule is reflecting current standards for drafting style and format and applicable Wisconsin statutes. If the rule is not implemented, it will continue to contain outdated references.

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is updated references and conformity with the Wisconsin Statutes.

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 address the practice of perfusion in Illinois (68 Ill. Adm. Code 1335.10 to 1335.100). Although underlying statutes authorize the Department to establish rules requiring 30 hours of continuing education per 2-year license renewal cycle (225 ILCS 125/75 – Perfusionist Practice Act), the rules currently do not have such a requirement.

Iowa:

Iowa rules and statutes do not specifically address the practice of perfusion.

Michigan:

Michigan rules and statutes do not specifically address the practice of perfusion.

Minnesota:

Minnesota rules and statutes do not specifically address the practice of perfusion.

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

Jessica Karls-Ruplinger
Legislative Council Acting Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 18-074

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

a. In s. Med 22.04 (5) (intro.), consider revising the phrase “if the applicant” to the phrase “if any of the following circumstances apply”. Each following subunit could then begin with the phrase “The applicant has”. [s. 1.03 (3), Manual.]

b. For better visibility, consider revising the formatting for the instances where a hyphen is inserted between compound words that are combined as an adjective. For example, consider showing “4-month intervals” first with a strikethrough of the phrase “4 month” and then with underscoring for the phrase “4-month”. This occurs in ss. Med 22.04 (9) and 22.05 (3) (a). [s. 1.06 (2), Manual.]

c. In s. Med 22.10, in order to use titles as shown for each paragraph under sub. (4), titles must also be created for each subsection in that section. [s. 1.05 (1), Manual.]

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

a. In s. Med 22.04 (5) (intro.), consider specifying who determines whether an oral examination is required, and clarifying whether an oral examination is mandatory or discretionary when any of the identified circumstances apply to an applicant. The current phrase, “may be required”, suggests that an oral examination is discretionary and may not necessarily be required even if the identified circumstances apply to an applicant. However, in proposed s. Med 22.05 (1m) (b), it appears that an oral examination is intended to be required. Consider, for example, revising the introduction to specify that the board (or the council, if appropriate) shall require an

applicant to complete an oral examination. Alternatively, the introduction could be simplified to state that “An applicant shall complete an oral examination if any of the following circumstances apply:”.

b. In s. Med 22.04 (5) (f), consider explaining how the practice may have been “limited”. For example, does it mean practice over 1,200 hours but under some other amount? Or does it mean practice was intermittent in the last three years, or was limited by some other measure?

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	PODIATRY AFFILIATED
PODIATRY AFFILIATED	:	CREDENTIALING BOARD
CREDENTIALING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Podiatry Affiliated Credentialing Board to amend Pod 3.02 (1) (intro.) and (a) to (e) and (4) (intro.) and (a), 3.03 (1) to (3), and 3.04 and create Pod 3.01 (1m), relating to continuing podiatric medical education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 440.03 (4m), Stats.

Statutory authority:

Sections 15.085 (5) (b), 448.665, and 448.695 (2), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats., provides an affiliated credentialing board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 448.665, Stats., provides “[t]he affiliated credentialing board shall promulgate rules establishing requirements and procedures for licensees to complete continuing education programs or courses of study in order to qualify for renewal of a license granted under this subchapter.”

Section 448.695 (2), Stats., provides “[t]he affiliated credentialing board may promulgate rules to carry out the purposes of this subchapter.”

Related statute or rule:

Chapter Pod 4 provides the requirements for biennial registration of a license to practice podiatry, including the requirements for completion of continuing education under ch. Pod 3.

Plain language analysis:

Section Pod 3.01 (1m) is created to define requirements for the completion of continuing education hours related to prescribing controlled substances for the renewal date occurring on October 31, 2020.

Section Pod 3.02 (1) (e) is revised to reflect that the Wisconsin Society of Podiatric Medicine has changed its name to the Wisconsin Podiatric Medical Association.

Section Pod 3.04 is revised to reflect s. 440.03 (4m), Stats., as created by 2017 Wisconsin Act 59. Under this provision, the Board may require a credential holder to submit proof of completion of continuing education programs or courses only if a complaint is made against the credential holder.

The proposed rules also revise the provisions in ss. Pod 3.03 (2) and 3.04 to provide a consistent standard for the retention of evidence of completion of continuing education requirements, and make changes throughout the remainder of ch. Pod 3 to provide clarity and conform to current standards for drafting administrative rules.

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

None.

Comparison with rules in adjacent states:

Illinois:

68 Ill. Admin. Code 1360.70 d) 2) provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Division of Professional Regulation of the Illinois Department of Financial and Professional Regulation may require additional evidence demonstrating compliance with the continuing education requirements. It is the responsibility of each applicant for renewal to retain or otherwise produce evidence of such compliance. Such additional evidence is required in the context of the Division's random audit.

The rules do not require continuing education related to prescribing opioids.

Iowa:

645 IAC 4.11 provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Iowa Board of Podiatry may select licensees for audit following license renewal. Upon audit, a licensee is required to provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. All licensees must retain documentation of compliance with the continuing education requirements for two years following license renewal.

The rules do not require continuing education related to prescribing opioids.

Michigan:

Mich Admin Code, R 338.8126 (2) provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Michigan Board of Podiatry may require a licensee to submit evidence of compliance, and all licensees are required to retain documentation of meeting the requirements for a period of 4 years from the date of applying for license renewal.

The rules require a minimum of 5 of the 150 hours of continuing education required for renewal to be earned in the area of pain and symptom management (Mich Admin Code, R 338.8127).

Minnesota:

Minnesota Rules, Part 6900.0200 Subpart 4 provides the requirements for retention and production of evidence of compliance with the continuing education requirements. All licensees must, during each renewal period, submit proof of attendance at qualifying continuing education programs to the Minnesota Board of Podiatric Medicine. Verification must be in the form of a certificate, descriptive receipt, or affidavit.

The rules do not require continuing education related to prescribing opioids.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of ch. Pod 3 to ensure clarity and consistency and to reflect applicable Wisconsin Statutes and current standards for drafting administrative rules. Input and feedback were solicited and obtained from the Podiatry Affiliated Credentialing Board.

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

The proposed rules will be posted for a period of 14 days for public comment on the economic impact of the proposed rules, including how the proposed rules may affect businesses, local government units, and individuals.

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 NathanielL.Ristow@wisconsin.gov, or by calling (608) 266-3445.

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.

TEXT OF RULE

SECTION 1. Pod 3.01 (1m) is created to read:

Pod 3.01 (1m) (a) Except as provided under par. (b), for the renewal date occurring on October 31, 2020, a minimum of 2 of the 50 hours of continuing podiatric medical education required under sub. (1) shall be an educational course or program related to opioid prescribing.

(b) This subsection does not apply to a podiatrist 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. Pod 3.02 (1) (intro.) and (a) to (e) and (4) (intro.) and (a) are amended to read:

Pod 3.02 (1) (intro.) In satisfaction of the biennial training requirement under s. Pod 3.01 (1) and s. 448.665, Stats., the board shall accept an educational program approved at the time of the podiatrist's attendance by any of the following:

(a) The ~~council~~ Council on ~~podiatric medical education~~ Podiatric Medical Education of the American ~~podiatric medical association~~ Podiatric Medical Association.

(b) The ~~council~~ Council on ~~medical education~~ Medical Education of the American ~~medical association~~ Medical Association.

(c) The ~~council~~ Council on ~~medical education~~ Medical Education of the American ~~osteopathic association~~ Osteopathic Association.

(d) The ~~accreditation council~~ Accreditation Council for ~~continuing medical education~~ Continuing Medical Education.

(e) The Wisconsin ~~Society of Podiatric Medicine~~ Medical Association.

(4) (intro.) The board shall accept as satisfaction of the biennial training requirement under s. Pod 3.01 (1) and s. 448.665, Stats., evidence that the podiatrist graduated from a school of podiatric medicine and surgery approved by the board pursuant to s. Pod 1.03 (2), ~~as long as both of~~ if all of the following ~~are in effect~~ apply:

(a) The podiatrist is, for the first time, renewing a license to practice podiatric medicine and surgery in ~~Wisconsin~~ this state.

SECTION 3. Pod 3.03 (1) to (3) are amended to read:

Pod 3.03 (1) Certification by the providing organization or by one of the approved accrediting bodies ~~shall be accepted by the board as evidence of attendance at and completion of a continuing medical education programs approved under s. Pod 3.01 is satisfactory evidence for purposes of sub. (2) and s. Pod 3.03 program.~~

(2) ~~Evidence~~ A podiatrist shall retain evidence of compliance ~~shall be retained by each podiatrist through the biennium for which 50 hours of credit are required for registration~~ for a minimum of 4 years from the date of completion of an educational program.

(3) A certified copy of an official transcript or a diploma shall be accepted by the board as the evidence of graduation from an approved school of podiatric medicine and surgery ~~from which the podiatrist graduated is satisfactory evidence of compliance with required under s. Pod 3.02 (4), provided that the requirements of s. Pod 3.02 (4) (a) and (b) have been met.~~

SECTION 4. Pod 3.04 is amended to read:

Pod 3.04 Audit. The board ~~may conduct a random~~ shall audit of any licensee ~~on a biennial basis to determine for~~ compliance with the continuing education requirements under this chapter any licensee who is under investigation by the board for

~~alleged misconduct. The board may require any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium for the purpose of conducting an audit. Licensees shall retain certificates of continuing education attendance for a minimum period of 4 years.~~

SECTION 5. 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 November 15, 2018
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Pod 3	
4. Subject Continuing podiatric medical education	
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	6. Chapter 20, Stats. Appropriations Affected 20.165(1)(hg)
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	
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 Section Pod 3.01 (1m) is created to define requirements for the completion of continuing education hours related to prescribing controlled substances for the renewal date occurring on October 31, 2020. Section Pod 3.02 (1) (e) is revised to reflect that the Wisconsin Society of Podiatric Medicine has changed its name to the Wisconsin Podiatric Medical Association. Section Pod 3.04 is revised to reflect s. 440.03 (4m), Stats., as created by 2017 Wisconsin Act 59. Under this provision, the Board may require a credential holder to submit proof of completion of continuing education programs or courses only if a complaint is made against the credential holder. The proposed rules also revise the provisions in ss. Pod 3.03 (2) and 3.04 to provide a consistent standard for the retention of evidence of completion of continuing education requirements, and make changes throughout the remainder of ch. Pod 3 to provide clarity and conform to current standards for drafting administrative rules.	
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)	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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.

The Department estimates one-time administrative costs of \$274.59. These costs may be absorbed in the agency budget.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit to implementing the rule is putting in place 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 podiatrist awareness of prescription drug abuse.

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:

68 Ill. Admin. Code 1360.70 d) 2) provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Division of Professional Regulation of the Illinois Department of Financial and Professional Regulation may require additional evidence demonstrating compliance with the continuing education requirements. It is the responsibility of each applicant for renewal to retain or otherwise produce evidence of such compliance. Such additional evidence is required in the context of the Division's random audit.

The rules do not require continuing education related to prescribing opioids.

Iowa:

645 IAC 4.11 provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Iowa Board of Podiatry may select licensees for audit following license renewal. Upon audit, a licensee is required to provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. All licensees must retain documentation of compliance with the continuing education requirements for two years following license renewal.

The rules do not require continuing education related to prescribing opioids.

Michigan:

Mich Admin Code, R 338.8126 (2) provides the requirements for retention and production of evidence of compliance with the continuing education requirements. The Michigan Board of Podiatry may require a licensee to submit evidence of compliance, and all licensees are required to retain documentation of meeting the requirements for a period of 4 years from the date of applying for license renewal.

The rules require a minimum of 5 of the 150 hours of continuing education required for renewal to be earned in the area of pain and symptom management (Mich Admin Code, R 338.8127).

Minnesota:

Minnesota Rules, Part 6900.0200 Subpart 4 provides the requirements for retention and production of evidence of compliance with the continuing education requirements. All licensees must, during each renewal period, submit proof of attendance at qualifying continuing education programs to the Minnesota Board of Podiatric Medicine. Verification must be in the form of a certificate, descriptive receipt, or affidavit.

The rules do not require continuing education related to prescribing opioids.

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
-

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted: 11/30/2018	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Medical Examining Board			
4) Meeting Date: 12/19/2018	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? ProPublica Article, "A Surgeon So Bad It Was Criminal"	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Board Discussion of this article about Dr. Christopher Duntsch: https://www.propublica.org/article/dr-death-christopher-duntsch-a-surgeon-so-bad-it-was-criminal			

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted:	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections:			
Medical Examining Board			
4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?	
12/19/2018	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (see link below)	FSMB Matters: 2018 U.S. Medical Regulatory Trends and Actions Report	
7) Place Item in:	8) Is an appearance before the Board being scheduled? If yes, who is appearing?	9) Name of Case Advisor(s), if required:	
<input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	No		
10) Describe the issue and action that should be addressed:			
Board Review of the 2018 U.S. Medical Regulatory Trends and Actions Report http://www.fsmb.org/siteassets/advocacy/publications/us-medical-regulatory-trends-actions.pdf			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Tim Westlake, Vice Chair		2) Date When Request Submitted: 11/2/2018 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Wisconsin Medical Examining Board			
4) Meeting Date: 11/14/2018	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Wisconsin Medical Examining Board Opioid Prescribing Guideline – Review for Possible Amendments	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Dr. Westlake would like to discuss 2 items related to the Wisconsin Medical Examining Board Opioid Prescribing Guideline: <ol style="list-style-type: none"> 1) The PEW Charitable Trusts Final Report, “Substance Use Disorder Treatment Policy Recommendations for the State of Wisconsin – July 2018.” The PEW recommendation is to “Improve treatment outcomes for babies with Neonatal Abstinence Syndrome (NAS) by integrating best practices into state treatment guidelines and clinical curricula.” See recommendation No. 18, on page 42 of the report, which is included by attachment and can also be located online: http://legis.wisconsin.gov/assembly/hope/media/1161/wisconsin-final-report-final.pdf 2) Clarify Wisconsin Responsible Opioid Prescribing Guideline, No. 22 (discontinuing opioid therapy). A suggested draft change is included by separate attachment. See also, Recommendation Nos. 6, 7, 8, 11, 12, 13, 16, 17 The Wisconsin MEB Opioid Prescribing Guideline can be located here: https://dsps.wi.gov/Documents/BoardCouncils/MED/20180321MEBGuidelinesv8.pdf			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	