



MEDICAL EXAMINING BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Yolanda Y. McGowan (608) 266-2112
September 18, 2019

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

AGENDA

8:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-4)

B. Approval of Minutes of August 21, 2019 (5-11)

C. Conflicts of Interest

D. Administrative Matters

- 1) Department, Staff and Board Updates
- 2) Board Members – Term Expiration Dates
- 3) Appointments, Reappointments, Confirmations, and Committee, Panel and Liaison Appointments
- 4) Screening Panel and Examination Panel Appointments
- 5) Wis. Stat. § 15.085 (3)(b) – Affiliated Credentialing Boards’ Biannual Meeting with the Medical Examining Board to Consider Matters of Joint Interest

E. Legislative and Administrative Rule Matters

- 1) Adoption Order: CR 18-101, Relating to Respiratory Care Practitioners **(12-24)**
- 2) Legislation and Pending or Possible Rulemaking Projects

F. Reporting Requirement Under 2017 Wisconsin Act 262 – Discussion and Consideration

- 1) October 2019 Report **(25-27)**

G. Federation of State Medical Boards (FSMB) Matters

H. Controlled Substances Board Report – Timothy Westlake

I. Interstate Medical Licensure Compact Commission (IMLCC) – Report from Wisconsin’s Commissioners

J. Newsletter Matters

K. Screening Panel Report

L. Informational Items

- 1) Article: Google Policy Bars Ads for Unproven Stem Cell Therapies **(28-32)**

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

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

N. Public Comments

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

O. Deliberation on Division of Legal Services and Compliance (DLSC) Matters

- 1) **Stipulations, Final Decisions and Orders**
 - a. 16 MED 390 – Yashdip S. Pannu, M.D. **(33-40)**
 - b. 18 MED 179 – Farid A. Ahmad, M.D. **(41-47)**
 - c. 18 MED 215 – Dongmei Chen, M.D. **(48-53)**
 - d. 18 MED 292 – Nadeem Siddiqui, M.D. **(54-59)**
 - e. 18 MED 375 – Jonathan M. Adelberg, M.D. **(60-65)**
 - f. 18 MED 402 – David R. Gwynn, M.D. **(66-71)**
 - g. 18 MED 442 – Kevin P. Kooiker, M.D. **(72-78)**

- h. 18 MED 456 – Kae Loverink, M.D. **(79-84)**
- i. 18 MED 523 – Victoria Mondloch, M.D. **(85-90)**
- j. 18 MED 684 – Cheryl A. Jeanpierre, D.O. **(91-96)**
- k. 18 MED 698 – Ramesh C. Patri, M.D. **(97-102)**
- l. 19 MED 091 – John E. Humiston, M.D. **(103-108)**
- m. 19 MED 100 – Claudia Rodriguez Galvis, M.D. **(109-114)**
- 2) Proposed Stipulations and Interim Order**
 - a. 19 MED 015 – Thomas J. Stick, M.D. **(115-119)**
- 3) Complaints**
 - a. 18 MED 315 – P.M.A. **(120-123)**
- 4) Administrative Warnings**
 - a. 18 MED 315 – P.M.A. **(124-125)**
 - b. 19 MED 141 – J.F.S. **(126-127)**
 - c. 19 MED 189 – J.W.S. **(128-129)**
- 5) Case Closing(s)**
 - a. 17 MED 323 – J.M. **(130-134)**
 - b. 17 MED 505 – J.K. **(135-139)**
 - c. 18 MED 206 – S.B. **(140-142)**
 - d. 18 MED 233 – N.I. **(143-166)**
 - e. 18 MED 322 – T.G.T. **(167-179)**
 - f. 18 MED 585 – Unknown **(180-193)**
 - g. 18 MED 593 – S.S. **(194-201)**
 - h. 18 MED 675 – M.G.M. **(202-206)**
 - i. 19 MED 003 – M.R., J.R., T.E., R.O. **(207-240)**
 - j. 19 MED 024 – C.S. **(241-250)**
 - k. 19 MED 082 – S.J.P. **(251-255)**

P. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Complaints
- 15) Case Closings
- 16) Board Liaison Training
- 17) Petitions for Extension of Time
- 18) Petitions for Assessments and Evaluations
- 19) Petitions to Vacate Orders

- 20) Remedial Education Cases
- 21) Motions
- 22) Petitions for Re-Hearing
- 23) Appearances from Requests Received or Renewed

Q. Open Cases

R. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

U. 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. Capodice** and **Dr. Simons**

NEXT DATE: OCTOBER 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 board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**MEDICAL EXAMINING BOARD
MEETING MINUTES
AUGUST 21, 2019**

PRESENT: Alaa Abd-Elsayed, M.D.; David Bryce, M.D. (*via Skype/Arrived at 8:03 a.m., excused at 10:45 a.m.*); Mary Jo Capodice, D.O.; Michael Carton (*via Skype/Arrived at 10:00 a.m.*); Padmaja Doniparthi, M.D.; Bradley Kudick; Lee Ann Lau, M.D.; David Roelke, M.D.; Kenneth Simons, M.D.; Sheldon Wasserman, M.D.; Timothy Westlake, M.D.

EXCUSED: Robert Zoeller, M.D.

STAFF: Yolanda McGowan, DPD Division Administrator; Jameson Whitney, Legal Counsel; Kimberly Wood, Program Assistant Supervisor-Advanced; Megan Glaeser, Bureau Assistant; and other Department staff

CALL TO ORDER

Kenneth Simons, Chairperson, called the meeting to order at 8:00 a.m. A quorum of nine (9) members was confirmed.

ADOPTION OF AGENDA

Amendment to the Agenda

- Closed Session:
 - Under item “Q. Deliberation on Division of Legal Services and Compliance (DLSC) Matters; 4. Stipulations, Final Decisions and Orders.”

CHANGE:

 - 18 MED 472~~3~~ – Carlos E. Neumann, M.D.
 - Under item “Q. Deliberation on Division of Legal Services and Compliance (DLSC) Matters; 5. Case Closings.”

ADD:

 - 18 MED 586 – E.M.
 - 18 MED 671 – E.G.
 - 19 MED 106 – J.K.

MOTION: Lee Ann Lau moved, seconded by Timothy Westlake, to adopt the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF JULY 17, 2019

MOTION: Bradley Kudick moved, seconded by Alaa Abd-Elsayed, to approve the Minutes of July 17, 2019 published. Motion carried unanimously.

(David Bryce joined the meeting at 8:03 a.m.)

CLOSED SESSION

MOTION: Timothy Westlake moved, seconded by Lee Ann Lau, 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.). Kenneth Simons, the Chairperson, 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; Bradley Kudick-yes; Lee Ann Lau-yes; David Roelke-yes; Kenneth Simons-yes; Sheldon Wasserman-yes; and Timothy Westlake-yes. Motion carried unanimously.

The Board convened into Closed Session at 8:35 a.m.

CREDENTIALING MATTERS

Steven L. Armus, M.D. – Petition for Reinstatement of Licensure

MOTION: Lee Ann Lau moved, seconded by Sheldon Wasserman, to approve the petition for reinstatement of Steven L. Armus, M.D., upon submission of an application after all requirements are met, and contingent upon successful completion of the SPEX exam with a passing score as determined by the Board or its designee. Motion carried unanimously.

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

Review of Administrative Warnings

C.M.N. – 18 MED 474

MOTION: Mary Jo Capodice moved, seconded by Lee Ann Lau, to affirm issuance of the administrative warning in the matter of DLSC Case Number 18 MED 474. Motion carried unanimously.

Recusal of Board from 18 MED 407

MOTION: David Roelke moved, seconded by Timothy Westlake, to delegate DSPS Chief Legal Counsel the authority to preside over and resolve DLSC Case Number 18 MED 407. Motion carried unanimously.

Administrative Warnings

MOTION: Padmaja Doniparthi moved, seconded by Bradley Kudick, to issue an Administrative Warning in the matter of disciplinary proceedings of the following cases:

1. 17 MED 544 – T.J.Z.
2. 18 MED 090 – J.M.
3. 18 MED 228 – M.D.H.
4. 18 MED 339 – S.J.B.
5. 18 MED 403 – A.A.H.
6. 18 MED 457 – D.A.F.
7. 18 MED 529 – R.J.S.
8. 18 MED 541 – P.P.S.
9. 18 MED 573 – G.W.

Motion carried unanimously.

15 MED 233 and 16 MED 118 – M.H.

MOTION: Lee Ann Lau moved, seconded by Alaa Abd-Elsayed, to issue an Administrative Warning in the matter of M.H., DLSC Case Numbers 15 MED 233 and 16 MED 118. Motion carried.

(Padmaja Doniparthi recused herself and left the room for deliberation and voting in the matter concerning DLSC Case Numbers 15 MED 233 and 16 MED 118.)

17 MED 446 – A.B.B.

MOTION: David Roelke moved, seconded by Bradley Kudick, to issue an Administrative Warning in the matter of A.B.B., DLSC Case Number 17 MED 446. Motion carried unanimously.

17 MED 451 – R.D.G.

MOTION: David Roelke moved, seconded by Bradley Kudick, to issue an Administrative Warning in the matter of R.D.G., DLSC Case Number 17 MED 451. Motion carried unanimously.

18 MED 315 – P.M.A.

MOTION: Sheldon Wasserman moved, seconded by Padmaja Doniparthi, to table DLSC Case Number 18 MED 315. Motion carried unanimously.

18 MED 725 – M.J.T.

MOTION: Timothy Westlake moved, seconded by Bradley Kudick, to issue an Administrative Warning in the matter of M.J.T., DLSC Case Number 18 MED 725. Motion carried unanimously.

Stipulations, Final Decisions and Orders

MOTION: David Roelke moved, seconded by Alaa Abd-Elsayed, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings of the following cases:

1. 18 MED 194 – Karen K. Milner, M.D.
2. 18 MED 229 – Thomas L. Holbrook, M.D.
3. 18 MED 347 – Scott Borkenhagen, M.D.
4. 18 MED 355 – Richard Clasen, M.D.
5. 18 MED 356 – Rachel A. Cambray, M.D.
6. 18 MED 361 – Dennis E. Colby, D.O.
7. 18 MED 401 – A. Eric Gunderson, M.D.
8. 18 MED 402 – David R. Gwynn, M.D.
9. 18 MED 473 – Carlos E. Neumann, M.D.
10. 18 MED 476 – Jerry Noren, M.D.
11. 18 MED 516 – Armando Sanchez, M.D.
12. 18 MED 521 – Jay. F. Schamberg, M.D.

13. 18 MED 543 – Scott D. Skibo, M.D.
 14. 18 MED 569 – Shane. E. Wersing, M.D.
 15. 18 MED 570 – James. E. White, M.D.
 16. 18 MED 571 – Kevin P. Wienkers, M.D.
- Motion carried unanimously.

16 MED 169 – James E. Stoll, Jr., M.D.

MOTION: Lee Ann Lau moved, seconded by Mary Jo Capodice, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against James E. Stoll, Jr., M.D., DLSC Case Number 16 MED 169. Motion carried unanimously.

(Yolanda McGowan left the room during deliberation of the matter concerning James E. Stoll, Jr., M.D., DLSC Case Number 16 MED 169.)

16 MED 361 & 17 MED 386 – Jesse J. Van Bommel, 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 Jesse J. Van Bommel, M.D., DLSC Case Numbers 16 MED 361 & 17 MED 386. Motion carried.

(Kenneth Simons recused himself and left the room for the duration of deliberation and voting in the matter concerning Jesse J. Van Bommel, M.D., DLSC Case Numbers 16 MED 361 & 17 MED 386. Timothy Westlake chaired the meeting for the duration of this item.)

(Yolanda McGowan left the room during deliberation of the matter concerning Jesse J. Van Bommel, M.D., DLSC Case Numbers 16 MED 361 & 17 MED 386.)

16 MED 427 – Ernesto V. Estor, M.D.

MOTION: Lee Ann Lau moved, seconded by Bradley Kudick, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Ernesto V. Estor, M.D., DLSC Case Number 16 MED 427. Motion carried unanimously.

16 MED 487 & 18 MED 057 – Stephen B. Mason, M.D.

MOTION: Mary Jo Capodice moved, seconded by Padmaja Doniparthi, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Stephen B. Mason, M.D., DLSC Case Numbers 16 MED 487 & 18 MED 057. Motion carried unanimously.

17 MED 223 – Daniel R. Robbillard, P.A.

MOTION: David Roelke moved, seconded by Alaa Abd-Elsayed, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings

against Daniel R. Robbillard, P.A., DLSC Case Number 17 MED 223. Motion carried unanimously.

17 MED 423 – Christopher Rupp, M.D.

MOTION: David Roelke moved, seconded by Mary Jo Capodice, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Christopher Rupp, M.D., DLSC Case Number 17 MED 423. Motion carried unanimously.

18 MED 234 – Howard C. Martin, M.D.

MOTION: David Roelke moved, seconded by Padmaja Doniparthi, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Howard C. Martin, M.D., DLSC Case Number 18 MED 234. Motion carried unanimously.

18 MED 523 – Victoria Mondloch, M.D.

MOTION: Sheldon Wasserman moved, seconded by David Roelke, to table the matter of disciplinary proceedings against Victoria Mondloch, M.D., DLSC Case Number 18 MED 523, until September 18, 2019. Motion carried unanimously.

18 MED 574 – Albert Wiley, Jr., M.D.

MOTION: Lee Ann Lau moved, seconded by Timothy Westlake, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Albert Wiley, Jr., M.D., DLSC Case Number 18 MED 574. Motion carried unanimously.

18 MED 692 – Stephen E. Barron, M.D.

MOTION: David Roelke moved, seconded by Mary Jo Capodice, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Stephen E. Barron, M.D., DLSC Case Number 18 MED 692. Motion carried unanimously.

18 MED 709 – Ellen M. O'Brien, M.D.

MOTION: David Roelke moved, seconded by Timothy Westlake, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Ellen M. O'Brien, M.D., DLSC Case Number 18 MED 709. Motion carried unanimously.

Case Closings

MOTION: Sheldon Wasserman moved, seconded by Lee Ann Lau, to close the following DLSC Cases for the reasons outlined below:

1. 17 MED 009 – J.W.P.H. – No Violation

2. 17 MED 077 – F.A. – Insufficient Evidence
 3. 17 MED 079 – M.H. – Insufficient Evidence
 4. 17 MED 446 – A.C. – No Violation
 5. 17 MED 530 – P.S. – No Violation
 6. 18 MED 185 – D.A., P.J., M.J.R., J.E.V. – No Violation
 7. 18 MED 211 – V.P. – Insufficient Evidence
 8. 18 MED 240 – T.E.N. – No Violation
 9. 18 MED 263 – M.A.L. – No Violation
 10. 18 MED 308 – J.L.E. – No Violation
 11. 18 MED 408 – S.V. – No Violation
 12. 18 MED 431 – C.G. – Insufficient Evidence
 13. 18 MED 467 – M.M.B.M. – No Violation
 14. 18 MED 477 – S.L.N. – No Violation
 15. 18 MED 580 – D.H. – Prosecutorial Discretion (P2)
 16. 18 MED 671 – E.G. – No Violation
 17. 19 MED 017 – J.G.T. – No Violation
 18. 19 MED 022 – J.D.G. – Prosecutorial Discretion (P5)
 19. 19 MED 077 – G.B. – No Violation
 20. 19 MED 089 – M.J. – No Violation
 21. 19 MED 098 – M.K. – No Violation
 22. 19 MED 106 – J.K. – Prosecutorial Discretion (P7)
- Motion carried unanimously.

17 MED 541 – J.S.

MOTION: Lee Ann Lau moved, seconded by Mary Jo Capodice, to close DLSC Case Number 17 MED 541, against J.S., for No Violation. Motion carried unanimously.

18 MED 108 – L.S.

MOTION: David Roelke moved, seconded by Lee Ann Lau, to close DLSC Case Number 18 MED 108, against L.S., for No Violation. Motion carried unanimously.

18 MED 247 – N.H.

MOTION: Alaa Abd-Elsayed moved, seconded by Padmaja Doniparthi, to close DLSC Case Number 18 MED 247, against N.H., for No Violation. Motion carried unanimously.

18 MED 355 – R.C.

MOTION: Lee Ann Lau moved, seconded by David Roelke, to close DLSC Case Number 18 MED 355, against R.C., for Insufficient Evidence. Motion carried unanimously.

18 MED 586 – E.M.

MOTION: David Roelke moved, seconded by Padmaja Doniparthi, to close DLSC Case Number 18 MED 586, against E.M., for Prosecutorial Discretion (P7). Motion carried unanimously.

(David Bryce was excused at 10:45 a.m.)

19 MED 111 – D.L.T.

MOTION: Lee Ann Lau moved, seconded by Bradley Kudick, to close DLSC Case Number 19 MED 111, against D.L.T., for No Violation. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Lee Ann Lau moved, seconded by Alaa Abd-Elsayed, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 10:53 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: David Roelke moved, seconded by Mary Jo Capodice, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

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

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

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

The meeting adjourned at 10:54 a.m.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 9/6/19 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: 9/18/19	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative/Administrative Rule Matters: 1. Adoption Order: CR 18-101, Relating to Respiratory Care Practitioners 2. Legislation and Pending or Possible Rulemaking Projects Reporting Requirement Under 2017 Wisconsin Act 262: 1. Review and Consideration of October 2019 Report	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Reporting Requirement Under 2017 Wisconsin Act 262: 1. The Board is asked to review and consider approval of the report required under 2017 Wisconsin Act 262.			
11) Authorization			
<i>Dale Kleven</i>		<i>September 6, 2019</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 : ORDER OF THE
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD
MEDICAL EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 18-101)

ORDER

An order of the Medical Examining Board to **repeal** Med 20.03 (1) (c), (e), and (f) (intro.), 2., and 3. and (2), 20.05, and 20.07 (Note); to **renumber and amend** Med 20.03 (1) (f) 1., 20.04 (3), and 20.06 (6); to **amend** Med 20.01, 20.02 (intro.), (3), (4), and (Note), 20.03 (1) (intro.), (a), and (d), (3), and (Note), 20.04 (1), (2), (4) (e) and (f), (6), (7), and (8), 20.055 (1) (a), (c), and (Note), 20.06 (1) to (5), (7), and (8), and 20.07 (2); and to **create** Med 20.02 (5), 20.04 (4) (L), and 20.06 (5m) and (6) (a) to (d), relating to respiratory care practitioners.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 448.04 (1) (i), Stats.

Statutory authority:

Sections 15.08 (5) (b), 448.05 (5r) and (6), and 448.06 (2), 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 448.05 (5r), Stats., provides “[a]n applicant for a certificate or a temporary certificate to practice respiratory care shall submit evidence satisfactory to the board that the applicant is a graduate of a school with a course of instruction in respiratory care approved by the commission on accreditation of allied health education programs of the American Medical Association.”

Section 448.05 (6), Stats., provides “. . . the board shall examine each applicant it finds eligible under this section in such subject matters as the board deems applicable to the class of license or certificate which the applicant seeks to have granted. Examinations may be both written and oral.”

Section 448.06 (2), Stats., provides “[t]he board may deny an application for any class of license or certificate and refuse to grant such license or certificate on the basis of unprofessional conduct on the part of the applicant, failure to possess the education and training required for that class of license or certificate for which application is made, or failure to achieve a passing grade in the required examinations.”

Related statute or rule:

None.

Plain language analysis:

A comprehensive review of ch. Med 20 was conducted to ensure the rules are consistent with current examination and licensing practices and applicable Wisconsin statutes. As a result, the following updates have been made:

- The reference to “CRTT” (Certified Respiratory Therapy Technician) in s. Med 20.02 (3) is replaced with “CRT” (Certified Respiratory Therapist) to reflect current terminology.
- A definition is created under s. Med 20.02 (5) and terminology throughout the rules is revised to reflect that, effective January 2015, the National Board for Respiratory Care (NBRC) changed the Certified Respiratory Technician examination from the Entry Level CRT Examination to the Therapist Multiple-Choice Examination (TMC).
- Section Med 20.03 (1) is revised to remove requirements for applications submitted prior to January 1, 1992 and an obsolete requirement that an applicant provide a recent passport type photograph. The section is also revised to reflect that the current accreditation organization for schools with a course of instruction in respiratory care is the Commission on Accreditation for Respiratory Care.
- Section Med 20.04 is revised to, as required under s. 448.05 (6) (a), Stats., specify the passing score for the TMC, the statutes and rules examination, and the oral examination.
- Section Med 20.04 (7) is revised to clarify the requirement to complete further professional training or education prescribed by the Board before retaking an exam after a third failure does not apply to the NBRC examination.
- Section Med 20.05 is repealed. This provision was created at a time when results of an examination could take several months. As results of the current NBRC examination are available immediately, the temporary certificate under s. Med 20.05 is no longer necessary.
- Section Med 20.06 (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 20.04 (4) that will allow the Board to require an applicant who has violated s. Med 20.06 (5m) to complete an oral examination.
- Other provisions throughout ch. Med 20 have been updated to revise or remove outdated notes, provide clarity, and conform to current drafting standards.

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 respiratory care and the licensure of respiratory care practitioners (68 Ill. Adm. Code 1456.05 to 1456.120). The rules do not provide for a temporary license to practice respiratory care.

Iowa: Rules of the Iowa Board of Respiratory Care and Polysomnography address the practice of respiratory care and the licensure of respiratory care practitioners (654 IAC Chapters 261 to 265). The rules do not provide for a temporary license to practice respiratory care.

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs address the practice of respiratory care and the licensure of respiratory care practitioners (Mich Admin Code, R 338.2201 to R 338.2207). Under these rules, as of December 1, 2006, Michigan stopped accepting applications for a temporary respiratory therapist license (Mich Admin Code, R 338.2203). However, Michigan statutes provide a board, including the Michigan Board of Respiratory Care, may issue a temporary license to an applicant who has completed all requirements for licensure except for examination or other required evaluation procedure or is married to a member of the armed forces (Section 16181, Public Health Code).

Minnesota:

Minnesota statutes address the practice of respiratory care and the licensure of respiratory care practitioners (2017 Minn. Stat. Chapter 147C). The statutes allow the Minnesota Board of Medical Practice to issue a temporary permit to practice as a respiratory therapist to an applicant eligible for licensure if the application for licensure is complete, all applicable requirements have been met, and a nonrefundable fee set by the Board has been paid. The permit remains valid only until the meeting of the Board at which a decision is made on the respiratory therapist's application for licensure (2017 Minn. Stat. Section 147C.15, Subdivision 3).

Summary of factual data and analytical methodologies:

The rules were developed by reviewing the provisions of ch. Med 20 for consistency with current examination and licensing practices and applicable Wisconsin statutes and obtaining input and feedback from the Respiratory Care Practitioners Examining Council and the Medical Examining Board.

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

The rules were posted for a period of 14 days to solicit public comment on economic impact, including how the 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 rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

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

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 8:00 a.m. on February 20, 2019, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Med 20.01 is amended to read:

Med 20.01 Authority and purpose. The rules in this chapter are adopted by the medical examining board under the authority of ss. 15.08 (5) (b), 227.11 (2), and 448.40 (1), Stats., to govern the certification and regulation of respiratory care practitioners.

SECTION 2. Med 20.02 (intro.), (3), (4), and (Note) are amended to read:

Med 20.02 (intro.) Definitions. ~~As used in~~ In this chapter:

(3) ~~“CRTT”~~ “CRT” means a certified respiratory ~~therapy technician~~ therapist.

(4) “RRT” means a registered respiratory therapist.

(Note) ~~“CRTT”~~ “CRT” and “RRT” are registered trademarks of the ~~national board for respiratory care~~ National Board for Respiratory Care.

SECTION 3. Med 20.02 (5) is created to read:

Med 20.02 (5) “TMC” means the Therapist Multiple Choice Examination administered by the National Board for Respiratory Care.

SECTION 4. Med 20.03 (1) (intro.) and (a) are amended to read:

Med 20.03 (1) (intro.) Every applicant for initial certification as a respiratory care practitioner shall submit all of the following:

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

SECTION 5. Med 20.03 (1) (c) is repealed.

SECTION 6. Med 20.03 (1) (d) is amended to read:

Med 20.03 (1) (d) ~~Written verification that~~ Evidence the applicant has passed the ~~national board for respiratory care certification examination~~ examinations required ~~in~~ under s. Med 20.04 (4).

SECTION 7. Med 20.03 (1) (e) and (f) (intro.) are repealed.

SECTION 8. Med 20.03 (1) (f) 1. is renumbered Med 20.03 (1) (f) and amended to read:

Med 20.03 (1) (f) ~~Satisfactory evidence that~~ Evidence the applicant is a graduate of a school with a course of instruction in respiratory care approved by the ~~commission~~ Commission on accreditation ~~Accreditation of allied health education programs for~~ Respiratory Care of the American medical association or the Joint Review Committee for Respiratory Care.

SECTION 9. Med 20.03 (1) (f) 2. and 3. and (2) are repealed.

SECTION 10. Med 20.03 (3) and (Note) are amended to read:

Med 20.03 (3) An application for certification is not complete until the board has received both the completed application form and written verification of a passing grade directly from the ~~national board for respiratory care~~ National Board for Respiratory Care.

(Note) Application forms are available ~~on request to the board office, 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 <http://dsps.wi.gov>.

SECTION 11. Med 20.04 (1) and (2) are amended to read:

Med 20.04 (1) An applicant for certification as a respiratory care practitioner shall pass the ~~national board for respiratory care CRTT examination~~ TMC. The passing score for the TMC is 88 on the 2-digit scale.

(2) An applicant for certification as a respiratory care practitioner 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.

SECTION 12. Med 20.04 (3) is renumbered Med 20.04 (4m) and amended to read:

Med 20.04 (4m) The board designates the council as its agent for conducting oral examinations. 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 sub. (4) (a) and (b). The passing score for an oral examination is 75 percent.

SECTION 13. Med 20.04 (4) (e) and (f) are amended to read:

Med 20.04 (4) (e) Has ~~not~~ practiced respiratory care for ~~more than~~ 1,200 hours or less during the last 3 years.

(f) Has practiced respiratory care over 1,200 hours in the last 3 years, but practice was limited.

SECTION 14. Med 20.04 (4) (L) is created to read:

Med 20.04 (4) (L) Has violated s. Med 20.06 (5m).

SECTION 15. Med 20.04 (6), (7), and (8) are amended to read:

Med 20.04 (6) Where both written and oral examinations are required, they shall be scored separately and the applicant shall achieve a passing grade score on all examinations to qualify for a certificate.

(7) An applicant who fails to receive a passing score on an examination under sub. (2) or (4) may reapply by payment of the fee specified in s. 440.05, Stats. If an applicant fails ~~an~~ the examination under sub. (2) 3 times, the applicant may not retake ~~that state board~~ 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.

~~(8) 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 examination shall be administered, the~~ An oral examination concerning the circumstances described in sub. (4) (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 respiratory care.

SECTION 16. Med 20.05 is repealed.

SECTION 17. Med 20.055 (1) (a), (c), and (Note) are amended to read:

Med 20.055 (1) (a) A completed application on a form provided by the board.

(c) ~~Written verification that~~ Evidence the applicant has passed the ~~national board for respiratory care certified therapy technician examination~~ TMC.

(Note) Application forms are available from the ~~Department~~ department of ~~Safety~~ safety and ~~Professional Services, Division of Professional Credential Processing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin, 53708,~~ professional services at (608) 266-2112 or from the department's website at <http://dsps.wi.gov>.

SECTION 18. Med 20.06 (1) to (5) are amended to read:

Med 20.06 (1) An applicant who fails the oral or statutes and rules examination may request a review of 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 19. Med 20.06 (5m) is created to read:

Med 20.06 (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 20. Med 20.06 (6) is renumbered Med 20.06 (6) (intro.) and amended to read:

Med 20.06 (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 tape and a copy of the master answer sheet. all of the following:

SECTION 21. Med 20.06 (6) (a) to (d) are created to read:

Med 20.06 (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 22. Med 20.06 (7) and (8) are amended to read:

Med 20.06 (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. Bound~~ An applicant may consult bound reference books shall be permitted materials during 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 an applicant, made available to the applicant for use at a hearing, if desired. The A proctor shall may not defend the examination ~~not~~ or attempt to refute claims of error during the a review.

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

SECTION 23. Med 20.07 (2) is amended to read:

Med 20.07 (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 24. Med 20.07 (Note) is repealed.

SECTION 25. 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)

Dated _____

Agency _____

Chairperson
Medical Examining Board

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 20	
4. Subject Respiratory care practitioners	
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 20 was conducted to ensure the rules are consistent with current examination and licensing practices and applicable Wisconsin statutes. As a result, the following updates have been made: <ul style="list-style-type: none"> • The reference to "CRTT" (Certified Respiratory Therapy Technician) in s. Med 20.02 (3) is replaced with "CRT" (Certified Respiratory Therapist) to reflect current terminology. • A definition is created under s. Med 20.02 (5) and terminology throughout the rules is revised to reflect that, effective January 2015, the National Board for Respiratory Care (NBRC) changed the Certified Respiratory Technician examination from the Entry Level CRT Examination to the Therapist Multiple-Choice Examination (TMC). • Section Med 20.03 (1) is revised to remove requirements for applications submitted prior to January 1, 1992 and an obsolete requirement that an applicant provide a recent passport type photograph. The section is also revised to reflect that the current accreditation organization for schools with a course of instruction in respiratory care is the Commission on Accreditation for Respiratory Care. • Section Med 20.04 is revised to, as required under s. 448.05 (6) (a), Stats., specify the passing score for the TMC, the statutes and rules examination, and the oral examination. • Section Med 20.04 (7) is revised to clarify the requirement to complete further professional training or education prescribed by the Board before retaking an exam after a third failure does not apply to the NBRC examination. • Section Med 20.05 is repealed. This provision was created at a time when results of an examination could take several months. As results of the current NBRC examination are available immediately, the temporary certificate under s. Med 20.05 is no longer necessary. • Section Med 20.06 (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 20.04 (4) that will allow the Board to require an applicant who has violated s. Med 20.06 (5m) to complete an oral examination. • Other provisions throughout ch. Med 20 have been updated to revise or remove outdated notes, provide clarity, and conform to current drafting standards. 	

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

No local governmental units participated in the development of this EIA.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole. 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 examination and licensing practices 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 respiratory care and the licensure of respiratory care practitioners (68 Ill. Adm. Code 1456.05 to 1456.120). The rules do not provide for a temporary license to practice respiratory care.

Iowa:

Rules of the Iowa Board of Respiratory Care and Polysomnography address the practice of respiratory care and the licensure of respiratory care practitioners (654 IAC Chapters 261 to 265). The rules do not provide for a temporary license to practice respiratory care.

Michigan:

Rules of the Michigan Department of Licensing and Regulatory Affairs address the practice of respiratory care and the licensure of respiratory care practitioners (Mich Admin Code, R 338.2201 to R 338.2207). Under these rules, as of December 1, 2006, Michigan stopped accepting applications for a temporary respiratory therapist license (Mich Admin Code, R 338.2203). However, Michigan statutes provide a board, including the Michigan Board of Respiratory Care, may issue a temporary license to an applicant who has completed all requirements for licensure except for examination or other required evaluation procedure or is married to a member of the armed forces (Section 16181, Public Health Code).

Minnesota:

Minnesota statutes address the practice of respiratory care and the licensure of respiratory care practitioners (2017 Minn. Stat. Chapter 147C). The statutes allow the Minnesota Board of Medical Practice to issue a temporary permit to practice as a respiratory therapist to an applicant eligible for licensure if the application for licensure is complete, all applicable requirements have been met, and a nonrefundable fee set by the Board has been paid. The permit remains valid only until the meeting of the Board at which a decision is made on the respiratory therapist's application for licensure (2017 Minn. Stat. Section 147C.15, Subdivision 3).

19. Contact Name Dale Kleven	20. Contact Phone Number (608) 261-4472
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This document can be made available in alternate formats to individuals with disabilities upon request.

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 Medical Examining Board Report on Opioid Abuse – October 2019

Scope and purpose of the report: 2017 Wisconsin Act 262 requires the Medical Examining Board to annually submit a report related to opioid abuse to the Legislature and Governor's Office. The report must include proactive efforts taken by the Board to address the issue of opioid abuse and goals for addressing the issue of opioid abuse as it relates to the practice of medicine and surgery in Wisconsin. The report must also include actions taken by the Board to achieve the goals identified in previous reports, and whether those goals have been achieved.

Proactive efforts taken by the Board to address the issue of opioid abuse:

- **Statewide Outreach**

As vice chair of the Medical Examining Board and a member of the Controlled Substances Board, Dr. Timothy Westlake has worked with the Governor's Office, the Legislature, the Wisconsin Medical Society, the state's two medical schools, and hospital and clinic systems to ensure the Board is an effective partner in statewide efforts to enhance the physician workforce's knowledge concerning the appropriate use and best prescriptive practices with opioids. These efforts have included determining how to combat the inappropriate prescribing of opioids through use of the Prescription Drug Monitoring Program, as well as through enhancements to electronic health records.

- **National Outreach and Leadership**

Doctor Kenneth Simons, Chair of the Medical Examining Board, serves on the Board of Directors for the Federation of State Medical Boards (FSMB). During his term, the FSMB has undertaken several initiatives related to opioid abuse, including participation in the Action Collaborative on Countering the U.S. Opioid Epidemic.

- **Opioid Prescribing Guideline**

In July 2016, the Board issued its Opioid Prescribing Guideline. The Guideline, which encourages providers to implement best practices for responsible prescribing, was developed using the Centers for Disease Control and Prevention's Guideline for Prescribing Opioids for Chronic Pain and the Wisconsin Department of Workforce Development's Chronic Opioid Clinical Management Guidelines for Wisconsin Worker's Compensation Patient Care as primary resources. The Board has continually monitored and periodically updated the Guideline, most recently in January of 2019.

- **Continuing Education Related to Prescribing Controlled Substances**

The Board revised its administrative rules to extend the requirement for both MD and DO physicians to take two of the required 30 hours of continuing medical education via an approved course on prescribing controlled substances. Physicians who do not hold a U.S. Drug Enforcement Administration number to prescribe controlled substances are exempted from the requirement. The requirement will sunset with the renewal on November 1, 2021.

Goals for addressing the issue of opioid abuse as it relates to the practice of medicine and surgery in Wisconsin:

- **Continuing Education Related to Prescribing Controlled Substances**

As the current requirement for continuing medical education related to prescribing controlled substances will expire after the 2019-2021 biennium, the Board will assess the need to extend the requirement for an additional biennium.

- **Enforcement Action**

The Board's goal is to, in partnership with the Controlled Substances Board, continue to proactively investigate physicians whose prescriptive practices with controlled substances may be inconsistent with the standard of minimally competent medical practice.

- **Opioid Prescribing Guideline**

The Board will continue to monitor the Guideline and make updates as needed to keep it current and relevant to physicians and their patients.

- **Continued Outreach and Leadership**

It is the Board's goal to continue its active participation in the statewide and national efforts to combat opioid abuse.

Actions taken by the Board to achieve the goals identified in previous reports:

- **Continuing Education Related to Prescribing Controlled Substances**

The Board's goal was to have rules in place at the beginning of the 2019-2021 biennium that would extend the requirement for the completion of continuing medical education related to prescribing controlled substances. These rules were finalized with an effective date of August 1, 2019.

- **Enforcement Action**

The Board's goal was to, in partnership with the Controlled Substances Board (CSB), proactively investigate physicians whose prescriptive practices with controlled substances may be inconsistent with the standard of minimally competent medical practice.

The Board received a summary of CSB data specific to physicians, from which it opened investigations for the prescribers who fell in the top .04 percentile of opioid dispensing volume for all physician prescribers.

- **Opioid Prescribing Guideline**

The Board's goal was to monitor its Opioid Prescribing Guideline and make updates as needed to keep it current and relevant to physicians and their patients.

In January 2019, the Board reviewed and adopted updates to the Guideline. The updates added a provision indicating it is best practice for a practitioner to consider guidelines within their specialty when prescribing opioids. The updates also revised the guidelines concerning discontinuing opioid therapy to better reflect current prescribing practices.

- **Continued Outreach and Leadership**

It was the Board's goal to continue its active participation in the statewide and national efforts to combat opioid abuse.

As vice chair of the Medical Examining Board and a member of the Controlled Substances Board, Dr. Timothy Westlake has continued to work with the Governor's Office, the Legislature, the Wisconsin Medical Society, the state's two medical schools, and hospital and clinic systems to ensure the Board is an effective partner in statewide efforts to enhance the physician workforce's knowledge concerning the appropriate use and best prescriptive practices with opioids. These efforts have included determining how to combat the inappropriate prescribing of opioids through use of the Prescription Drug Monitoring Program, as well as through enhancements to electronic health records.

Doctor Kenneth Simons, Chair of the Medical Examining Board, continues to serve on the Board of Directors for the Federation of State Medical Boards (FSMB). The FSMB remains dedicated to initiatives related to opioid abuse, including participation in the Action Collaborative on Countering the U.S. Opioid Epidemic.

Health

New Google policy bars ads for unproven stem cell therapies

“Untested, deceptive treatments” can endanger consumers, Internet giant says.

By [William Wan](#) and

[Laurie McGinley](#)

September 6

Responding to ubiquitous online marketing by stem cell clinics selling unapproved treatments for everything from achy joints to Alzheimer’s, Google [announced Friday](#) it will no longer accept ads for “unproven or experimental medical techniques,” including most stem cell therapy, cellular therapy and gene therapy.

The Internet giant said it was taking the step after seeing “a rise in bad actors” trying to take advantage of patients by offering “untested, deceptive treatments.” Often, Google said in [a post explaining](#) the new policy, “these treatments can lead to dangerous health outcomes and we feel they have no place on our platforms.” Its [new policy](#) will prohibit ads for treatments that have “no established biomedical or scientific basis.”

The new position comes as stem cell clinics have grown into a sprawling direct-to-consumer industry. Some clinics have told patients their treatments can help them with ailments such as macular degeneration, ALS, multiple sclerosis and degenerative lung diseases. Scientists and medical associations have likened the procedures to [modern snake oil](#) and accused the purveyors of [preying on the hopes](#) of seriously ill patients. The untested treatments, many researchers say, is [imperiling patients](#) and the reputation of a promising field.

After years of little enforcement, the federal regulators have [begun to crack down](#) on the clinics. And the new Google policy will add to the growing scrutiny and pressure, industry experts said.

When asked by The Washington Post last December about its policies about advertising by stem cell clinics, Google declined to answer questions about actions against specific companies. In a statement, the company said: “If we find ads that violate our policies, we take immediate action, which can include taking down violating ads or suspending an account altogether.”

At the time, the company said its existing policies already prohibited marketing potentially dangerous and fraudulent health products — a stance some stem cell experts criticized as insufficient.

“Google’s new policy banning advertising for speculative medicines is a much-needed and welcome step to curb the marketing of unscrupulous medical products,” said Deepak Srivastava, president of the International Society for Stem Cell Research, a leading group of scientists that gave Google advice on the policy. “The premature marketing and commercialization of unproven stem cell products threatens public health, the confidence in biomedical research, and undermines the development of legitimate new therapies,” he said.

Some treatments have resulted in [severe injuries](#), including at least five women [who were blinded](#) after stem cell clinics injected its product into their eyes.

Stem cell clinics say they are offering treatment to patients who have few other options and that their treatment may have ways of helping patients that science can’t yet explain.

Some industry representatives criticized Google’s new ad policy on Friday. The ban on ads will unfairly devastate “good” companies along with “bad actors” without discriminating which ones are trying to treat patients safely and follow evolving FDA regulations, said Andrew Ittleman, a Miami lawyer who represents several stem cell clinics.

In the past two years, Google had already begun refusing ads from several stem cell companies on a case-by-case basis, said Ittleman, who has been hired by a few such companies to try, unsuccessfully, to appeal such decisions with Google.

“It puts Google in the position of being a quasi regulator, taking on quite a significant amount of jurisdiction,” Ittleman said. “They’re painting the industry with a broad brush and companies with legitimate arguments are going to be collateral damage.”

Google’s new ad policy, however, is unlikely to put the industry out of business. Many clinics have shown an ability to adapt nimbly to new regulatory rules and changes such as Google’s ad policy.

“This kind of ad ban hits hard because most companies rely on Google for a large share of their quality sales leads,” said a former marketing head for a Florida stem cell company. “But there are plenty of other channels you can switch to — Facebook, Bing, Yahoo.”

The marketing executive, who spoke on the condition of anonymity to avoid professional retaliation, said “These kinds of businesses are pretty savvy and have had to adapt a lot already. Many have previously been kicked off Google already. You learn to pivot and be resourceful.”

Another recent example of the industry’s ability to adapt, experts note, came when the Food and Drug Administration won [a landmark lawsuit](#) in June against a stem cell company selling stem cell procedures that extract clients’ fat tissue, spin it to isolate certain cells, and inject them back into the body.

Health officials hailed the case as a turning point in the government’s struggle to regulate the booming industry. But ahead of the legal victory, the industry had already begun to shift. Because the FDA was focusing on fat-based treatments, many clinics switched to treatments derived instead from s blood, bone marrow and [birth-related tissues](#), such as amniotic fluid and umbilical cord blood.

Google officials said Friday they would continue to accept ads for clinical trials cleared by the government. It said that while important medical discoveries often start as unproven ideas, “we believe that monitored, regulated clinical trials are the most reliable way to test and prove important medical advances.”

The ban will take effect across Google’s ad services, including YouTube and ads Google helps place on third-party websites. And the ban includes treatments that are rooted in scientific findings and preliminary clinical experience “but currently have insufficient formal clinical testing” to justify widespread use. The new policy, which will take effect in October, was detailed in a blog post by Adrienne Biddings, the company’s policy adviser.

The post said that the “digital ads ecosystem can only flourish if it’s a place that is safe and trustworthy for users.” The company said it will use a combination of machine learning and human review to enforce it.

To formulate the new approach, a spokeswoman said, the company’s policy team has reviewed the literature on the field and worked with various stem-cell experts.

Paul Knoepfler, a stem cell biologist at the University of California at Davis and longtime critic of the for-profit stem cell industry, called the new Google policy a big deal. Many patients who have been seriously harmed, he noted, were initially recruited as customers via Google ads.

“A number of us have pushed for this kind of policy over the years so this news is a welcome surprise,” Knoepfler said.

Read more:

[Miracle cures or modern quackery? Stem cell clinics multiply, with heartbreaking results for some patients.](#)

[What you should know about stem cells, from promising research to dubious uses](#)

[‘Miraculous’ stem cell therapy has sickened people in five states](#)

William Wan

William Wan is a national correspondent covering health, science and news for The Washington Post. He previously served as the Post’s China correspondent in Beijing, roving U.S. national correspondent, foreign policy reporter and religion reporter. [Follow](#) 

Laurie McGinley

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