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**MEDICAL EXAMINING BOARD**  
**Room N208, 4822 Madison Yards Way, 2<sup>nd</sup> Floor, Madison**  
**Contact: Valerie Payne (608) 266-2112**  
**January 15, 2020**

*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 December 18, 2019 (5-7)**

**C. Introductions, Announcements and Recognition**

- 1) Milton Bond, Jr. – Public Member (Replaces: Zondag) – 7/1/2023
- 2) Clarence Chou, M.D. – Physician Member (Replaces: Zoeller) – 7/1/2023
- 3) Sumeet Goel, D.O. – Physician Member (NOMINATED – Replaces: Capodice) – 7/1/2023

**D. Conflicts of Interest**

**E. Administrative Matters**

- 1) Board, Department and Staff Updates
- 2) Annual Policy Review **(8)**
- 3) Elections of Officers **(9-10)**
- 4) Appointment of Liaisons and Alternates **(10)**
- 5) Delegation of Authorities **(11-17)**
- 6) Board Members – Term Expiration Dates
  - a. Alaa Abd-Elsayed – 7/1/2020
  - b. David A. Bryce – 7/1/2021
  - c. Milton Bond, Jr. – 7/1/2023
  - d. Mary Jo Capodice – 7/1/2018
  - e. Michael Carton – 7/1/2020
  - f. Clarence Chou – 7/1/2023
  - g. Padmaja Doniparthi – 7/1/2021
  - h. Bradley Kudick – 7/1/2020
  - i. Lee Ann Lau – 7/1/2020
  - j. David Roelke – 7/1/2021
  - k. Kenneth Simons – 7/1/2018
  - l. Sheldon Wasserman – 7/1/2023

m. Timothy Westlake – 7/1/2020

- 7) Appointments, Reappointments, Confirmations, and Committee, Panel and Liaison Appointments
- 8) Screening Panel and Examination Panel Appointments
- 9) Wis. Stat. § 15.085 (3)(b) – Affiliated Credentialing Boards’ Biannual Meeting with the Medical Examining Board to Consider Matters of Joint Interest

**F. Report of Recommendations from the Medical Examining Board Licensure Forms Committee – Discussion and Consideration**

**G. Federation of State Medical Boards (FSMB) Matters – Discussion and Consideration**

- 1) Report from FSMB: U.S. Senate Formally Announces Passage of its Version of Federal Legislation Requiring VA Accountability and Data Sharing with State Boards **(18-21)**

**H. Legislative and Policy Matters – Discussion and Consideration**

- 1) 2019 Assembly Bill 686, Relating to the Regulation and Licensing for the Practice of Genetic Counseling **(22-36)**

**I. Administrative Rule Matters – Discussion and Consideration**

- 1) Review of Proposed Changes to OT 3, Relating to Biennial Registration **(37-46)**
- 2) Pending or Possible Rulemaking Projects

J. Controlled Substances Board Report – Timothy Westlake

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

L. Newsletter Matters – Discussion and Consideration

M. Screening Panel Report

**N. CE Broker – Discussion and Consideration**

O. Future Agenda Items

**P. Discussion and Consideration of Items Added After Preparation of Agenda:**

- 1) Introductions, Announcements and Recognition
- 2) Elections, Appointments, Reappointments, Confirmations, and Committee, Panel and Liaison Appointments
- 3) Administrative Matters
- 4) Election of Officers
- 5) Appointment of Liaisons and Alternates
- 6) Delegation of Authorities
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Practice Matters
- 10) Legislative and Policy Matters
- 11) Administrative Rule Matters
- 12) Liaison Reports
- 13) Board Liaison Training and Appointment of Mentors
- 14) Informational Items
- 15) Division of Legal Services and Compliance (DLSC) Matters
- 16) Presentations of Petitions for Summary Suspension

- 17) Petitions for Designation of Hearing Examiner
- 18) Presentation of Stipulations, Final Decisions and Orders
- 19) Presentation of Proposed Final Decisions and Orders
- 20) Presentation of Interim Orders
- 21) Petitions for Re-Hearing
- 22) Petitions for Assessments
- 23) Petitions to Vacate Orders
- 24) Requests for Disciplinary Proceeding Presentations
- 25) Motions
- 26) Petitions
- 27) Appearances from Requests Received or Renewed
- 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports

Q. Public Comments

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

**R. Credentialing Matters**

**1) Application Review**

- a. David Kuester, M.D. – Physician License Renewal Applicant **(47-52)**

**S. Deliberation on DLSC Matters**

**1) Stipulations and Final Decisions and Orders**

- a. 18 MED 011 – Jessica H. Varnam, M.D. **(53-60)**
- b. 19 MED 150 – Nicole E. Mubanga, M.D. **(61-66)**

**2) Case Closing(s)**

- a. 17 MED 473 – S.D. **(67-78)**
- b. 18 MED 086 – B.N.B. **(79-88)**
- c. 18 MED 237 – L.L. **(89-93)**
- d. 18 MED 320 – N.H. **(94-119)**
- e. 18 MED 405 – C.S.C. **(120-135)**
- f. 18 MED 409 – M.D.T. **(136-154)**
- g. 18 MED 498 – S.A.W. **(155-158)**
- h. 19 MED 012 – J.D. **(159-172)**
- i. 19 MED 408 – T.N.A. **(173-176)**

**3) Monitoring**

- a. Justin Woods, M.D. – Requesting Reinstatement of Full Licensure **(177-238)**

**T. 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

U. Open Cases

V. Consulting with Legal Counsel

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

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

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

Y. 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 one (1) (at time of agenda publication) Candidates for Licensure – **Dr. Simons** and **Dr. Bryce**

**NEXT DATE: FEBRUARY 19, 2020**

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**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  
DECEMBER 18, 2019**

**PRESENT:** David Bryce, M.D.; Mary Jo Capodice, D.O.; Michael Carton (*via Skype*), 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:** Alaa Abd-Elsayed, M.D.

**STAFF:** Valerie Payne, Executive Director; Jameson Whitney, Legal Counsel; Megan Glaeser, Bureau Assistant; and other Department staff

**CALL TO ORDER**

Kenneth Simons, Chairperson, called the meeting to order at 8:01 a.m. A quorum was confirmed with ten (10) members present.

**ADOPTION OF AGENDA**

**Amendment to the Agenda**

- Closed Session: “Under T. Deliberation on DLSC Matters; 3. Case Closings”:
  - **REMOVE** “18 MED 086 – B.N.B.”

**MOTION:** Timothy Westlake moved, seconded by Padmaja Doniparthi, to adopt the Agenda as amended. Motion carried unanimously.

**APPROVAL OF MINUTES OF NOVEMBER 20, 2019**

**MOTION:** Sheldon Wasserman moved, seconded by Bradley Kudick, to adopt the Minutes of November 20, 2019 as published. Motion carried unanimously.

**INTRODUCTIONS, ANNOUNCEMENTS, AND RECOGNITION**

**Robert Zoeller, M.D.**

**MOTION:** Lee Ann Lau moved, seconded by Bradley Kudick, to thank Robert Zoeller, M.D., for his service to the Medical Examining Board and the State of Wisconsin. Motion carried unanimously.

**CLOSED SESSION**

**MOTION:** David Roelke 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: David Bryce-yes; Mary Jo

Capodice-yes; Michael Carton-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 9:41 a.m.

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

### **Stipulations, Final Decisions and Orders**

#### ***19 MED 104 – Douglas E. Rapisarda, M.D.***

**MOTION:** Padmaja Doniparthi moved, seconded by Bradley Kudick, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Douglas E. Rapisarda, M.D., DLSC Case Number 19 MED 104. Motion carried unanimously.

### **Administrative Warnings**

#### ***19 MED 054 – T.J.C.***

**MOTION:** Lee Ann Lau moved, seconded by Bradley Kudick, to issue an Administrative Warning in the matter of T.J.C., DLSC Case Number 19 MED 054. Motion carried unanimously.

#### ***19 MED 072 – A.M.S.***

**MOTION:** Timothy Westlake moved, seconded by Bradley Kudick, to issue an Administrative Warning in the matter of A.M.S., DLSC Case Number 19 MED 072. Motion carried unanimously.

#### ***19 MED 197 – N.D.***

**MOTION:** Lee Ann Lau moved, seconded by David Bryce, to issue an Administrative Warning in the matter of N.D., DLSC Case Number 19 MED 197. Motion carried unanimously.

### **Case Closings**

**MOTION:** Sheldon Wasserman moved, seconded by Bradley Kudick, to close the following DLSC Cases for the reasons outlined below:

1. 17 MED 443 – K.G.A. – No Violation
2. 17 MED 456 – J.F. – No Violation
3. 18 MED 052 – S.T.S. – Prosecutorial Discretion (P5)
4. 18 MED 404 – G.C. – No Violation
5. 19 MED 052 – D.C.R. – Prosecutorial Discretion (P2)

Motion carried unanimously.

## **RECONVENE TO OPEN SESSION**

**MOTION:** Lee Ann Lau moved, seconded by Padmaja Doniparthi, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 10:11 a.m.

## **VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION**

**MOTION:** Mary Jo Capodice moved, seconded by Timothy Westlake, 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:** Sheldon Wasserman moved, seconded by Bradley Kudick, 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 Sheldon Wasserman, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:11 a.m.

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

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request: Kimberly Wood, Program Assistant Supervisor-Adv.		2) Date When Request Submitted: 1/7/2020 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: All Boards			
4) Meeting Date:	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Annual Policy Review	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Please be advised of the following Annual Policy Review items: <ol style="list-style-type: none"> <li>1. Attendance/Quorum – Thank you for your service and for your commitment to meeting attendance. If you cannot attend a meeting, we ask that you let us know ASAP as quorum is required for our Boards, Sections and Councils to meet pursuant to Open Meetings Law. <a href="#">DSPS Boards-Open Meetings Resources</a></li> <li>2. Walking Quorum – Please refrain from discussing Board/Section/Council business with other members outside of legally noticed meetings so to avoid walking quorum issues pursuant to Open Meetings Law. <a href="#">DSPS Boards-Open Meetings Resources</a></li> <li>3. Agenda Deadlines – Please let your executive Director know if you have items to be considered on an upcoming agenda no less than 8 business days prior to a meeting when possible. <a href="#">DSPS Boards-Reference Materials-Meeting Timeline</a></li> <li>4. Travel Voucher and Per Diem Submissions – Please submit all Per Diem and Reimbursement Claims to DSPS within 30 days of date an expense is incurred. <a href="#">DSPS Boards-Travel and Reimbursement-Travel and Reimbursement Overview</a></li> <li>5. Lodging Accommodations/Hotel Cancellation Policy – Lodging accommodations are provided to members who must leave home before 6:00 a.m. to attend a meeting. If you cannot attend a meeting it is the board member’s responsibility to cancel their reservation within the stated cancellation timeframe. If a meeting is changed to a teleconference or cancelled or rescheduled, DSPS staff will make lodging cancellations or modifications as needed. <a href="#">DSPS Boards-Travel and Reimbursement-Travel and Reimbursement Overview</a></li> <li>6. Inclement Weather Policy – In the event of inclement weather the agency may change a meeting from an in-person meeting to a teleconference.</li> </ol>			
11) <span style="float: right;">Authorization</span> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 60%; border-bottom: 1px solid black; padding-bottom: 5px;"> <i>Kimberly Wood</i> </div> <div style="width: 35%; border-bottom: 1px solid black; padding-bottom: 5px;">           1/7/2020         </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <span>Signature of person making this request</span> <span>Date</span> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <span>Supervisor (if required)</span> <span>Date</span> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <span>Executive Director signature (indicates approval to add post agenda deadline item to agenda)</span> <span>Date</span> </div>			
Directions for including supporting documents: <ol style="list-style-type: none"> <li>1. This form should be attached to any documents submitted to the agenda.</li> <li>2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.</li> <li>3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.</li> </ol>			

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b> Megan Glaeser, Bureau Assistant		<b>2) Date When Request Submitted:</b> 1/6/2020 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
<b>3) Name of Board, Committee, Council, Sections:</b> Medical Examining Board			
<b>4) Meeting Date:</b> January 15	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> Administrative Matters: 1) Election of Officers 2) Appointment of Liaisons and Alternates 3) Delegation of Authorities	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b> N/A	
<b>10) Describe the issue and action that should be addressed:</b> 1) The Board should conduct Election of its Officers for 2020. 2) The new Chairperson should review and appoint/reappoint Liaisons and Alternates as appropriate. 3) The Board should review and then consider continuation or modification of previously delegated authorities.			
<b>11) Authorization</b>			
Megan Glaeser <hr/> <b>Signature of person making this request</b>		1/6/2020 <hr/> <b>Date</b>	
<hr/> <b>Supervisor (if required)</b>		<hr/> <b>Date</b>	
<hr/> <b>Executive Director signature (indicates approval to add post agenda deadline item to agenda)    Date</b>			
<b>Directions for including supporting documents:</b> 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.			

**MEDICAL EXAMINING BOARD  
2019 ELECTION AND APPOINTMENT RESULTS**

<b>2019 ELECTION RESULTS</b>	
<b>Board Chair</b>	Kenneth Simons
<b>Vice Chair</b>	Timothy Westlake
<b>Secretary</b>	Mary Jo Capodice

**Appointment of Liaisons and Alternates**

<b>2019 LIAISON APPOINTMENTS</b>	
<b>Credentialing Liaison(s)</b>	Padmaja Doniparthi, Robert Zoeller Alternate: Lee Ann Lau, Sheldon Wasserman
<b>Office of Education and Examinations Liaison(s)</b>	David Roelke Alternate: David A. Bryce
<b>Continuing Education Liaison(s)</b>	Lee Ann Lau Alternate: Alaa Abd-Elsayed
<b>Monitoring Liaison(s)</b>	Mary Jo Capodice Alternate: Padmaja Doniparthi
<b>Professional Assistance Procedure (PAP) Liaison(s)</b>	Padmaja Doniparthi Alternate: Mary Jo Capodice
<b>Legislative Liaison</b>	Timothy Westlake, Sheldon Wasserman
<b>Travel Liaison(s)</b>	Kenneth Simons Alternate: David A. Bryce
<b>Newsletter Liaison(s)</b>	Bradley Kudick Alternate: Michael Carton
<b>Prescription Drug Monitoring Program Liaison(s)</b>	Timothy Westlake Alternate: David Bryce
<b>Website Liaison(s)</b>	Michael Carton Alternate: Lee Ann Lau
<b>Administrative Rules Liaison(s)</b>	David Roelke Alternate: Robert Zoeller
<b>Appointed to Controlled Substances Board as per</b>	Timothy Westlake

**MEDICAL EXAMINING BOARD  
2019 ELECTION AND APPOINTMENT RESULTS**

<b>Wis. Stats. §15.405(5g) (MED)</b>	
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**Delegation of Authorities**

*Document Signature Delegations*

**MOTION:** Lee Ann Lau moved, seconded by Mary Jo Capodice, to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

**MOTION:** Bradley Kudick moved, seconded by Robert Zoeller, in order to carry out duties of the Board, the Chairperson, chief presiding officer, or longest serving board member, has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director or DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

*Delegated Authority for Urgent Matters*

**MOTION:** Padmaja Doniparthi moved, seconded by David Bryce, that in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

*Monitoring Delegations*

**MOTION:** Robert Zoeller moved, seconded by Rodney Erickson, to adopt the “Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor” as presented. Motion carried unanimously.

*Credentialing Authority Delegations*

**Delegation of Authority to Credentialing Liaison – Exempting Denial Decisions to Full Board**

**MOTION:** Mary Jo Capodice moved, seconded by Lee Ann Lau, to delegate authority to the Credentialing Liaison(s) to serve as a liaison between DSPS and the Board and to act on behalf of the Board in regard to

## **MEDICAL EXAMINING BOARD 2019 ELECTION AND APPOINTMENT RESULTS**

credentialing applications or questions presented to them except that potential denial decisions shall be referred to the full Board for final determination. Motion carried unanimously.

### **Delegation of Authority to DSPS When Credentialing Criteria is Met**

**MOTION:** Robert Zoeller moved, seconded by Bradley Kudick, to delegate credentialing authority to DSPS to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review. Motion carried unanimously.

**MOTION:** Lee Ann Lau moved, seconded by David Bryce, to delegate authority to the DSPS attorneys to review and approve ordinance violations which are not substantially related to the practice of medicine, limited to:

1. Littering
2. Loitering
3. Up to two (2) Underage Drinking
4. One (1) OWI two or more years prior to application
5. Trespassing
6. Disturbing the Peace

Motion carried unanimously.

**MOTION:** Timothy Westlake moved, seconded by Rodney Erickson, to delegate authority to DSPS attorneys to review and approve conviction reviews for Medicine & Surgery (Physicians) applications which have previously been approved for a full Resident Educational License (REL) license after a criminal background check and there have been no new violations or convictions since the previous license approval. Motion carried unanimously.

### ***Council Delegation Motion***

**MOTION:** Timothy Westlake moved, seconded by Rodney Erickson, to delegate to the Board's Councils and/or its liaison(s), the authority to review applications and conduct examinations of candidates for licensure and to make recommendations regarding the licensure of applicants based upon the application reviews and examinations. Recommended credential denials should be considered by the Medical Examining Board. This delegation motion is not intended to be exhaustive of the Councils' advisory authority. Motion carried unanimously.

### ***Delegated Authority for Application Denial Reviews***

**MEDICAL EXAMINING BOARD  
2019 ELECTION AND APPOINTMENT RESULTS**

**MOTION:** Padmaja Doniparthi moved, seconded by Lee Ann Lau, that the Department's Attorney Supervisors, DLSC Administrator, or their designee are authorized to serve as the Board's designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential. Motion carried unanimously.

***Education, Continuing Education and/or Examination Delegation(s)***

**MOTION:** Timothy Westlake moved, seconded by David Bryce, to delegate authority to the Education, Continuing Education and/or Examination Liaison(s) to address all issues related to education, continuing education, and examinations. Motion carried unanimously.

***Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Related Bodies***

**MOTION:** Robert Zoeller moved, seconded by Bradley Kudick, to authorize DSPS staff to provide national regulatory related bodies with all Board member contact information that DSPS retains on file. Motion carried unanimously.

***Optional Renewal Notice Insert Delegation***

**MOTION:** Bradley Kudick moved, seconded by Timothy Westlake to designate the Chair (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

***Legislative Liaison Delegation***

**MOTION:** Robert Zoeller moved, seconded by Lee Ann Lau, to delegate authority to the Legislative Liaison to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

***Travel Delegation***

**MOTION:** Mary Jo Capodice moved, seconded by Lee Ann Lau, to delegate authority to the Travel Liaison(s) to approve any board member travel. Motion carried unanimously.

***Delegation of Authority to Assign and Schedule Members to Screening Panels and Oral Examinations***

**MEDICAL EXAMINING BOARD**  
**2019 ELECTION AND APPOINTMENT RESULTS**

**MOTION:** Lee Ann Lau moved, seconded by Mary Jo Capodice, to delegate to Department staff the assignment and scheduling of screening panel and oral examination panel members. Motion carried unanimously.

*Prescreening Delegation*

**MOTION:** Lee Ann Lau moved, seconded by Padmaja Donaparthi, to delegate to DLSC staff, the authority to prescreen complaints for the purpose of reviewing submitted continuing medical education (CME) materials and to determine if CME requirements are met. If CME requirements are met, then DLSC staff should remove such CME documentation from the screening materials prior to the screening panel meeting. If the submitted documentation does not clearly establish that CME requirements are met, such documentation shall be forwarded to the screening panel for review. Motion carried unanimously.

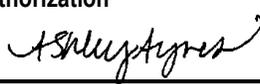
*Appointments to the Respiratory Care Practitioners Examining Council*

**MOTION:** Bradley Kudick moved, seconded by Lee Ann Lau, to appoint Chris R. Becker to the Respiratory Care Practitioners Examining Council as a Respiratory Care Practitioner Member as of 7/1/2019 for a term to expire on July 1, 2022. Motion carried unanimously.

**MOTION:** David Roelke moved, seconded by Bradley Kudick, to reappoint Lynn Waldera to the Respiratory Care Practitioners Examining Council as a Respiratory Care Practitioner Member for a term to expire on July 1, 2020. Motion carried unanimously.

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Ashley Ayres Monitoring and Intake Supervisor Division of Legal Services and Compliance		<b>2) Date When Request Submitted:</b>  December 31, 2019  Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
<b>3) Name of Board, Committee, Council, Sections:</b>  Medical Examining Board			
<b>4) Meeting Date:</b>  January 15, 2020	<b>5) Attachments:</b>  <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b>  Appointment of Monitoring Liaison and Delegated Authorities	
<b>7) Place Item in:</b>  <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled?</b>  <input type="checkbox"/> Yes ( <a href="#">Fill out Board Appearance Request</a> ) <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  1. Appoint primary and alternate liaisons for Monitoring, and for the Professional Assistance Procedure (PAP).  2. Adopt or reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet.  3. Delegate authority to Board Counsel to sign Monitoring orders on behalf of the Board/Section, after the Board/Section has taken action on Monitoring agenda items.  <i>Current practice is for Department Monitors to draft Monitoring orders after Board meetings, send them to Board Counsel for review, and then send them to the Executive Director for subsequent review and signature. With the new proposed process, Department Monitors would only send their orders to Board Counsel for review and signature, eliminating the need for a second review by the Executive Director.</i>			
<b>11) Authorization</b>  <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">   <hr/>                     Signature of person making this request                 </div> <div style="text-align: center;">                     December 31, 2019  <hr/>                     Date                 </div> </div> <div style="margin-top: 10px;"> <hr/>                     Supervisor (if required) <span style="float: right;">Date</span> </div> <div style="margin-top: 10px;"> <hr/>                     Executive Director signature (indicates approval to add post agenda deadline item to agenda) <span style="float: right;">Date</span> </div>			
<b>Directions for including supporting documents:</b> 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.			

## **Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor**

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

### **Current Authorities Delegated to the Monitoring Liaison**

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.
8. Grant or deny a request to appear before the Board/Section in closed session.
9. Board Monitoring Liaison may determine whether Respondent’s petition is eligible for consideration by the full Board/Section.
10. (*Except Pharmacy*) Accept Respondent’s written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review.
11. (*Except Pharmacy*) Grant Respondent’s petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison.
  - a. Year 1: 49 screens (including 1 hair test, if required by original order)
  - b. Year 2: 36 screens (plus 1 hair test, if required by original order)
  - c. Year 3: 28 screens plus 1 hair test
  - d. Year 4: 28 screens plus 1 hair test
  - e. Year 5: 14 screens plus 1 hair test

12. (*Dentistry only*) – Ability to approve or deny all requests from a respondent.

13. (*Except Nursing*) – Board Monitoring Liaison may approve or deny Respondent's request to be excused from drug and alcohol testing for work, travel, etc.

**Current Authorities Delegated to the Department Monitor**

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
  2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.
  3. Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.
-

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> Valerie Payne, Executive Director, on behalf of Dr. Kenneth Simons		<b>2) Date when request submitted:</b> 1/8/20 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b> Medical Examining Board			
<b>4) Meeting Date:</b> 1/15/2020	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> Under Federation of State Medical Boards (FSMB) Matters – Discussion and Consideration  Report from FSMB: U.S. Senate Formally Announces Passage of its Version of Federal Legislation Requiring VA Accountability and Data Sharing with State Boards	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i>  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b> Discuss the Senate’s unanimous passage of S. 221, the VA Provider Accountability Act, which was introduced by U.S. Senators to bring accountability to the Department of Veterans Affairs (VA). The legislation will now be referred to the House of Representatives for consideration.  This effort will address an unacceptable trend of VA facilities failing to report providers who made major medical errors to the National Practitioner Data Bank and the relevant state licensing boards responsible for tracking dangerous practitioners. This also brings to light the occurrence that these practitioners go into private practice or move across state lines without disclosing prior mistakes to patients or state regulators.			
<b>11) Authorization</b>			
Valerie Payne		1/8/2020	
<b>Signature of person making this request</b>		<b>Date</b>	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
<b>Directions for including supporting documents:</b> 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.			

## Glaeser, Megan - DSPS

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**From:** Sandy McAllister (FSMB) <SMcAllister@fsmb.org> on behalf of Humayun Chaudhry <hchaudhry@fsmb.org>  
**Sent:** Friday, December 20, 2019 3:20 PM  
**To:** Humayun Chaudhry  
**Cc:** Sandy McAllister (FSMB); Joe Knickrehm; Patricia McCarty (FSMB)  
**Subject:** Senate Passes Gardner VA Accountability Legislation

Hello Everyone,

I am very pleased to report from our FSMB's DC Advocacy Office that the U.S. Senate has formally announced (see below) passage of its version of federal legislation requiring VA accountability and data sharing with state boards. The Senate and House versions will now need to be reconciled in committee before being advanced to the President for his signature. The FSMB, you will note, was allowed to be prominently quoted on the Senate Press Release. Let me take this opportunity to congratulate and applaud the efforts of our DC advocacy office staff, our FSMB board of directors, our colleagues at NCSBN, and other supporters and stakeholders around the country over the last couple of years in getting us to this important achievement!

Happy holidays and Happy New Year to one and all!



**For Immediate Release**

**Friday, December 20, 2019**

**Contact:** Annalyse Keller, 202-224-0355

### Senate Passes Gardner VA Accountability Legislation

**Washington, D.C.** – On December 19, 2019, the Senate unanimously passed S. 221, the VA Provider Accountability Act, which was introduced by U.S. Senators Cory Gardner (R-CO), Joe Manchin (D-WV), Jerry Moran (R-KS), Bill Cassidy (R-LA), and Susan Collins (R-ME). The Senators introduced S. 221 earlier this year to bring much needed accountability to the Department of Veterans Affairs (VA). The legislation will now be referred to the House of Representatives for consideration.

A troubling [GAO report from 2017](#) revealed an unacceptable trend of VA facilities failing to report providers who made major medical errors to the National Practitioner Data Bank and the relevant state licensing boards responsible for tracking dangerous practitioners. As a result, these practitioners can go into private practice or

move across state lines without disclosing prior mistakes to patients or state regulators. A 2017 [USA Today](#) story uncovered specific, horrific medical care failures and mistakes that the VA allowed to continue and concealed.

On May 22, 2019, the Comptroller General of the United States (GAO) testified before the House Veterans Affairs Committee Subcommittee on Oversight and Investigations that since the 2017 GAO report the VA has failed to implement recommendations regarding appropriate reporting to state licensing boards. These concerns were reiterated in an [October 16, 2019 GAO report](#).

The VA Provider Accountability Act would solve this problem by requiring the VA to inform the National Practitioner Data Bank and state licensing boards of major adverse actions committed by medical providers at the VA. Additionally, it would prevent the VA from signing settlements with fired employees to hide major medical mistakes in their personnel files.

“The vast majority of VA employees and medical providers provide exceptional care to our veterans and we are grateful for their service,” **said Senator Gardner**. “However, there is no excuse for allowing certain medical providers with a history of committing major medical errors to continue putting other patients at risk. We owe every single veteran the best possible care, and we can only provide that care with increased accountability. Senate passage of this bipartisan bill means we are one step closer towards protecting veterans, and potential patients outside the VA system, from mistakes made by medical providers who have proven themselves to be dangerous.”

“While a great majority of VA doctors provide the very best of care, the system can be ruined by a few bad apples and it’s our duty to protect Veterans from these dangerous doctors. I originally cosponsored this bill in response to a 2017 GAO report that showed an alarming pattern of concealing poor care and major mistakes within the VA. I am proud to have joined my colleagues on both sides of the aisle to pass this important bill because we need to hold all our medical professionals accountable,” **said Senator Manchin**. “While I appreciate the efforts that the VA has made to correct this on their own, they are not enough. Now that our bill has passed, strict guidelines will be implemented to assure our Veterans they are receiving the highest quality of care.”

“It is critical that those on the front lines of caring for our veterans are held to the highest level of accountability,” **said Senator Moran**. “For too long, mistakes made by VA providers have been concealed by the VA and not reported to the appropriate state and federal databases. I’ve introduced this legislation to make certain no adverse medical outcome impacting a former servicemember is swept under the rug. Our veterans deserve a VA that is worthy of their service and sacrifice, and holding providers accountable is an important step to restoring trust in the VA.”

“As a doctor, I believe the patient comes first. When VA providers make mistakes, transparency and accountability protects veterans best,” **said Dr. Cassidy**. “Covering up mistakes does not protect patients. Passage of this bill makes it more likely veterans get good care.”

“Our nation’s veterans deserve access to the high-quality health care that they have earned through their service to our country. As the daughter of a World War II veteran, I was shocked and outraged by recent investigations that found far too many instances of patients’ care being mismanaged by medical providers,” **said Senator Collins**. “By requiring the VA to report these issues in a timely manner and prohibiting the concealment of serious medical errors in settlements with fired VA employees, this legislation would help restore accountability, protect veterans, and enhance the care that veterans receive at the VA.”

Paralyzed Veterans of America (PVA), the National Council of State Boards of Nursing (NCSBN), and the Federation of State Medical Boards (FSMB) support this legislation.

“The FSMB applauds the passage of S. 221 and commends Senators Gardner, Manchin, Moran, Cassidy, and Collins for championing a bipartisan bill that will improve the quality and safety of health care both within and outside of the VA system,” **said Humayun Chaudhry, DO, President and CEO of the Federation of State Medical Boards (FSMB)**. “Improved information-sharing with the NPDB and state medical boards will significantly help protect patients and identify and prevent unsafe or dangerous providers from treating veterans and their families.”

“PVA believes the key to providing exceptional health care to veterans starts with quality providers. We thank Senators Gardner, Manchin, Moran, Cassidy, and Collins for introducing and the entire Senate for approving the Department of Veterans Affairs Provider Accountability Act which protects veterans from providers who have made major medical errors and enhances the care that veterans receive at the VA,” **said Heather Ansley Paralyzed Veterans of America (PVA) Associate Executive Director for Government Relations**.

“Ongoing license verification and adverse event reporting to state licensing boards are key patient safety measures in the health care industry,” **said David Benton RGN, PhD, FFNF, FRCN, FAAN, CEO of the National Council of State Boards of Nursing (NCSBN)**. “NCSBN commends the Senate on advancing these meaningful public protection initiatives in the VA and would like thank Senators Gardner, Manchin, Moran, Cassidy, and Collins and the Senate Veterans Affairs Committee for their steadfast leadership. We look forward to these provisions becoming law and partnering with the VA to implement them expeditiously.”

###

*Cory Gardner is a member of the U.S. Senate serving Colorado. He sits on the Energy & Natural Resources Committee, the Foreign Relations Committee, the Commerce, Science, & Transportation Committee, and is the Chairman of the Subcommittee on East Asia, the Pacific, and International Cybersecurity Policy.*

**Humayun J. Chaudhry, D.O., M.S., MACP, MACOI, FRCP (Edin.)**

President and CEO

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> Valerie Payne, Executive Director, on behalf of Dr. Kenneth Simons		<b>2) Date when request submitted:</b> 1/8/20 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b> Medical Examining Board			
<b>4) Meeting Date:</b> 1/15/2020	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> Under Legislative and Policy Matters – Discussion and Consideration  2019 Assembly Bill 686, Relating to the Regulation and Licensing for the Practice of Genetic Counseling	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session		<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i>  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>
<b>10) Describe the issue and action that should be addressed:</b>  Discuss proposed bill, 2019 AB 686/LRB-3469/1, relating to: the regulation and licensing for the practice of genetic counseling. This bill creates a genetic counselors affiliated credentialing board with limited attachment to the Medical Examining Board, provides an exemption from emergency rule procedures, grant rule-making authority, and provides a penalty.			
<b>11) Authorization</b>			
Valerie Payne		1/8/2020	
<b>Signature of person making this request</b>		<b>Date</b>	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)    Date			
<b>Directions for including supporting documents:</b> 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.			



## 2019 ASSEMBLY BILL 686

December 20, 2019 - Introduced by Representatives STEFFEN, BROSTOFF, ANDERSON, BORN, DUCHOW, KITCHENS, KRUG, KUGLITSCH, SPIROS, DITTRICH, DOYLE, NOVAK and JAMES, cosponsored by Senators DARLING, CARPENTER, JOHNSON, OLSEN, WIRCH, BERNIER and LARSON. Referred to Committee on Regulatory Licensing Reform.

1     **AN ACT** *to renumber* 252.14 (1) (ar) 4q., 448.970 and subchapter VIII (title) of  
2           chapter 448 [precedes 448.980]; *to amend* 15.085 (1m) (b), 146.997 (1) (d) 4.,  
3           155.01 (7) and 450.10 (3) (a) 5.; and *to create* 15.406 (7), 48.981 (2) (a) 20m.,  
4           146.81 (1) (eu), 252.14 (1) (ar) 4s., 440.03 (13) (b) 30m., 440.08 (2) (a) 37m. and  
5           subchapter VIII of chapter 448 [precedes 448.970] of the statutes; **relating to:**  
6           the regulation and licensure of genetic counselors, creating a genetic counselors  
7           affiliated credentialing board, providing an exemption from emergency rule  
8           procedures, granting rule-making authority, and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

This bill provides for regulation and licensing for the practice of genetic counseling.

Under the bill, subject to certain exceptions, no one may practice genetic counseling, as defined in the bill, or use the title “genetic counselor” or make similar representations without a license to practice genetic counseling. A license is granted by the seven-member Genetic Counselors Affiliated Credentialing Board, created in the bill. Under the bill, the board is attached for limited purposes to the Medical Examining Board, which regulates physicians and certain other professions.

Under the bill, the board may grant an initial license to a person who has successfully completed academic requirements for genetic counseling specified in

**ASSEMBLY BILL 686**

the bill, has passed an examination specified in the bill, is certified by the American Board of Genetic Counseling, does not have an arrest or conviction record, and pays a fee. The bill also allows the board, for three months after the requirement in the bill to obtain a license goes into effect, to grant an initial license to practice genetic counseling to certain individuals who cannot satisfy all of the requirements described above but who satisfy certain experience and other requirements. Biennial renewal of a license requires completion of at least 30 hours of continuing education and maintenance of certification or recertification through the American Board of Genetic Counseling. The bill also includes provisions for the unlicensed temporary practice of genetic counseling and temporary licenses to practice genetic counseling.

The bill requires the board to promulgate rules to adopt the National Society of Genetic Counselors code of ethics to govern the professional conduct of genetic counselors, establish licensure renewal requirements, and establish criteria for the approval of continuing education programs and courses.

The bill includes provisions for the professional discipline of licensees, which allow the board to take certain actions against a licensee who violates certain prohibitions in the bill.

Finally, the bill also applies certain other laws, such as the law providing for confidentiality of health care records and the health care workers whistleblowers protection law, to licensed genetic counselors.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 15.085 (1m) (b) of the statutes is amended to read:

2           15.085 (1m) (b) The public members of the podiatry affiliated credentialing  
3 board, ~~or~~ occupational therapists affiliated credentialing board, or genetic  
4 counselors affiliated credentialing board shall not be engaged in any profession or  
5 occupation concerned with the delivery of physical or mental health care.

6           **SECTION 2.** 15.406 (7) of the statutes is created to read:

7           15.406 (7) GENETIC COUNSELORS AFFILIATED CREDENTIALING BOARD. There is  
8 created in the department of safety and professional services, attached to the medical

**ASSEMBLY BILL 686**

1 examining board, a genetic counselors affiliated credentialing board consisting of the  
2 following members appointed for 4-year terms:

3 (a) Four genetic counselors who are licensed under subch. VIII of ch. 448.

4 (b) Two members who are licensed to practice medicine and surgery under  
5 subch. II of ch. 448, at least one of whom is a clinical geneticist.

6 (c) One public member.

7 **SECTION 3.** 48.981 (2) (a) 20m. of the statutes is created to read:

8 48.981 (2) (a) 20m. A genetic counselor.

9 **SECTION 4.** 146.81 (1) (eu) of the statutes is created to read:

10 146.81 (1) (eu) A genetic counselor licensed under subch. VIII of ch. 448.

11 **SECTION 5.** 146.997 (1) (d) 4. of the statutes is amended to read:

12 146.997 (1) (d) 4. A physician, podiatrist, perfusionist, physical therapist, or  
13 physical therapist assistant, or genetic counselor licensed under ch. 448.

14 **SECTION 6.** 155.01 (7) of the statutes is amended to read:

15 155.01 (7) "Health care provider" means a nurse licensed or permitted under  
16 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a  
17 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical  
18 therapist assistant, occupational therapist, or occupational therapy assistant, or  
19 genetic counselor licensed under ch. 448, a person practicing Christian Science  
20 treatment, an optometrist licensed under ch. 449, a psychologist licensed under ch.  
21 455, a partnership thereof, a corporation or limited liability company thereof that  
22 provides health care services, a cooperative health care association organized under  
23 s. 185.981 that directly provides services through salaried employees in its own  
24 facility, or a home health agency, as defined in s. 50.49 (1) (a).

25 **SECTION 7.** 252.14 (1) (ar) 4q. of the statutes is renumbered 252.14 (1) (ar) 4n.



**ASSEMBLY BILL 686**

1 (b) Discuss the features, natural history, means of diagnosis, genetic and  
2 environmental factors, and management of risk for genetic or medical conditions and  
3 diseases.

4 (c) Identify, coordinate, and order genetic laboratory tests and other diagnostic  
5 studies as appropriate for a genetic assessment.

6 (d) Integrate genetic laboratory test results and other diagnostic studies with  
7 personal and family medical history to assess and communicate risk factors for  
8 genetic or medical conditions and diseases.

9 (e) Explain the clinical implications of genetic laboratory tests and other  
10 diagnostic studies and their results.

11 (f) Evaluate a patient's or family's responses to the condition or risk of  
12 recurrence and provide patient-centered counseling and anticipatory guidance.

13 (g) Provide written documentation of medical, genetic, and counseling  
14 information for families and health care professionals.

15 (4) "Genetic counselor" means an individual who is licensed by the board to  
16 practice genetic counseling.

17 **448.971 License required; exceptions.** (1) (a) Except as provided in sub.  
18 (2), no person may practice genetic counseling unless the person is licensed under  
19 this subchapter.

20 (b) No person may designate himself or herself as a genetic counselor or use or  
21 assume the title "genetic associate," "genetic counselor," "licensed genetic counselor,"  
22 or "registered genetic counselor," or append to the person's name the letters "G.A.,"  
23 "G.C.," "L.G.C.," or "R.G.C.," or use any insignia or designation that would imply that  
24 the individual is licensed or certified or registered as a genetic counselor, or claim to

**ASSEMBLY BILL 686**

1 render genetic counseling services unless the person is licensed under this  
2 subchapter.

3 (2) A license is not required under this subchapter for any of the following if  
4 the person does not claim to be a genetic counselor:

5 (a) Any person, such as a physician, who is lawfully practicing within the scope  
6 of a license, permit, registration, or certification granted by this state or the federal  
7 government.

8 (b) Any person assisting a genetic counselor in practice under the direct,  
9 on-premises supervision of the genetic counselor.

10 (c) A student of genetic counseling assisting a genetic counselor in the practice  
11 of genetic counseling if the assistance is within the scope of the student's education  
12 or training.

13 (d) A person who is licensed to practice genetic counseling in another state or  
14 country and who is providing consulting services in this state on a temporary basis,  
15 as determined by the board by rule, if the person notifies the board that he or she will  
16 be providing consulting services and of the nature and date of those services and  
17 receives authorization from the board to provide consulting services on a temporary  
18 basis under this paragraph.

19 (e) A person who is not licensed to practice genetic counseling in another state  
20 or country and who is providing consulting services in this state on a temporary  
21 basis, as determined by the board by rule, if the person satisfies all of the following:

22 1. The person is certified by the American Board of Genetic Counseling or the  
23 American Board of Medical Genetics and Genomics.

24 2. The person notifies the board that he or she will be providing consulting  
25 services and of the nature and date of those services.

**ASSEMBLY BILL 686**

1           3. The person receives authorization from the board to provide consulting  
2 services on a temporary basis under this paragraph.

3           **448.973 Duties and powers of board.** The board shall promulgate rules to  
4 do all of the following:

5           (1) Adopt the National Society of Genetic Counselors code of ethics as a code  
6 of ethics governing the professional conduct of genetic counselors.

7           (2) Establish criteria for the approval of continuing education programs and  
8 courses required for renewal of a genetic counselor license.

9           (3) Establish requirements for an applicant seeking renewal of a genetic  
10 counselor license, including that an applicant has satisfied all of the following:

11           (a) Successfully completed at least 30 hours of continuing education in the prior  
12 2-year period.

13           (b) Maintained certification from and, if applicable, achieved recertification  
14 through the American Board of Genetic Counseling.

15           (4) Adopt a definition of “temporary basis” for purposes of s. 448.971 (2) (d) and  
16 (e).

17           **448.974 Licensure of genetic counselors.** (1) Except as provided in sub.  
18 (2), the board shall grant a license as a genetic counselor to an applicant who does  
19 all of the following:

20           (a) Submits an application for the license to the department on a form provided  
21 by the department.

22           (b) Pays the fee specified in s. 440.05 (1).

23           (c) Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory  
24 to the board that the applicant does not have an arrest or a conviction record.

**ASSEMBLY BILL 686****SECTION 11**

1 (d) Submits evidence satisfactory to the board that he or she has done all of the  
2 following:

3 1. Satisfied one of the following:

4 a. Successfully completed the academic and clinical requirements of and  
5 developed the practice-based competencies required by a degree-granting program  
6 in genetic counseling that is accredited by the Accreditation Council for Genetic  
7 Counseling or the American Board of Medical Genetics and Genomics.

8 b. Successfully completed a degree-granting program outside of the United  
9 States that the board determines is substantially equivalent to a program described  
10 in subd. 1. a.

11 2. Passed an examination administered by the American Board of Genetic  
12 Counseling or the genetic counseling examination administered by the American  
13 Board of Medical Genetics and Genomics.

14 3. Obtained certification, maintained valid certification, and, if applicable,  
15 achieved recertification with the American Board of Genetic Counseling.

16 **(2)** (a) The board may waive the requirements of sub. (1) (d) if the applicant  
17 holds an unexpired genetic counselor license issued by another state or territory or  
18 foreign country or province and the requirements for licensure and for renewal of a  
19 genetic counselor license of such other state or territory or foreign country or  
20 province are deemed by the board to be substantially equivalent to the requirements  
21 for licensure and for renewal of a genetic counselor license of this state.

22 (b) The board may waive the requirements of sub. (1) (d) if the applicant does  
23 all of the following:

24 1. Applies for licensure under sub. (1) by the first day of the 4th month  
25 beginning after the effective date of this subdivision .... [LRB inserts date].

**ASSEMBLY BILL 686**

- 1           2. Submits evidence satisfactory to the board of all of the following:
- 2           a. Having at least 10 years of documented work experience practicing genetic
- 3 counseling.
- 4           b. Having completed, within the previous 5 years, 25 hours of continuing
- 5 education approved by the National Society of Genetic Counselors.
- 6           3. Submits to the board 2 letters of recommendation, one from a genetic
- 7 counselor and another from a physician.

8           **448.975 Temporary license.** (1) The board may, by rule, provide for a

9 temporary license to practice genetic counseling for an applicant who satisfies the

10 requirements of s. 448.974 (1) other than the examination requirement under s.

11 448.974 (1) (d) 2.

12           (2) Except as provided in sub. (3), a temporary license issued under this section

13 expires upon granting of a license under s 448.974 (1) or on whichever of the following

14 dates occurs first:

15           (a) The date that is one year after the date on which the temporary license was

16 granted.

17           (b) If, after the applicant obtains a temporary license under this section, the

18 American Board of Genetic Counseling administers the examination required under

19 s. 448.974 (1) (d) 2. and the applicant takes the examination, 30 days after the results

20 of the examination are issued by the American Board of Genetic Counseling.

21           (3) The board may, in its discretion and only once, renew a temporary license

22 issued to a person under this section, for a period specified by the board, if the person

23 maintains active candidate status with the American Board of Genetic Counseling.

24 The board may require an applicant for the renewal of a temporary license to appear

25 before a member of the board for an interview.

**ASSEMBLY BILL 686****SECTION 11**

1           (4) A person who holds a temporary license issued under this section may not  
2 practice genetic counseling unless the person is under the supervision and direction  
3 of a genetic counselor or physician at all times while the person is practicing genetic  
4 counseling. The board may promulgate rules governing general supervision of a  
5 person holding a temporary license under this section by a genetic counselor or  
6 physician.

7           **448.976 Issuance of license; expiration and renewal.** (1) The department  
8 shall issue a certificate of licensure to each person who is licensed under this  
9 subchapter.

10           (2) Except as provided in s. 448.975, the renewal dates for licenses granted  
11 under this subchapter are specified under s. 440.08 (2) (a). Renewal applications  
12 shall be submitted to the department on a form provided by the department, and  
13 shall include the renewal fee specified in s. 440.08 (2) (a) and proof of compliance with  
14 the requirements established by rules promulgated by the board under s. 448.973 (3).

15           **448.977 Disciplinary proceedings and actions.** (1) Subject to the rules  
16 promulgated under s. 440.03 (1), the board may make investigations and conduct  
17 hearings to determine whether a violation of this subchapter or any rule  
18 promulgated under this subchapter has occurred.

19           (2) Subject to the rules promulgated under s. 440.03 (1), the board may  
20 reprimand a genetic counselor or may deny, limit, suspend, or revoke a license  
21 granted under this subchapter if it finds that the applicant or genetic counselor has  
22 done any of the following:

23           (a) Made a material misstatement in an application for a license or for renewal  
24 of a license.

**ASSEMBLY BILL 686**

1 (b) Interfered with an investigation or disciplinary proceeding by using threats,  
2 harassment, or intentional misrepresentation of facts.

3 (c) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an offense the  
4 circumstances of which substantially relate to the practice of genetic counseling.

5 (d) Been adjudicated mentally incompetent by a court.

6 (e) Advertised in a manner that is false, deceptive, or misleading.

7 (f) Advertised, practiced, or attempted to practice under another's name.

8 (g) Subject to ss. 111.321, 111.322, and 111.34, practiced or assisted in the  
9 practice of genetic counseling while the applicant's or licensee's ability to practice or  
10 assist was impaired by alcohol or other drugs.

11 (h) Engaged in unprofessional or unethical conduct in violation of the code of  
12 ethics adopted in the rules promulgated under s. 448.973 (1).

13 (i) Engaged in conduct while practicing genetic counseling that evidences a lack  
14 of knowledge or ability to apply professional principles or skills.

15 (j) Violated this subchapter or any rule promulgated under this subchapter.

16 **(3)** The board shall revoke the license of a genetic counselor who has failed to  
17 maintain certification with the American Board of Genetic Counseling or whose  
18 certification with the American Board of Genetic Counseling has been revoked.

19 **(4)** (a) A genetic counselor may voluntarily surrender his or her license to the  
20 board, which may refuse to accept the surrender if the board has received allegations  
21 of unprofessional conduct against the genetic counselor. The board may negotiate  
22 stipulations in consideration for accepting the surrender of licenses.

23 (b) The board may restore a license that has been voluntarily surrendered  
24 under par. (a) on such terms and conditions as it considers appropriate.

**ASSEMBLY BILL 686****SECTION 11**

1           (5) The board shall prepare and disseminate to the public an annual report that  
2 describes final disciplinary action taken against genetic counselors during the  
3 preceding year.

4           (6) The board may report final disciplinary action taken against a genetic  
5 counselor to any national database that includes information about disciplinary  
6 action taken against health care professionals.

7           **448.978 Injunctive relief.** If the board has reason to believe that any person  
8 is violating this subchapter or any rule promulgated under this subchapter, the  
9 board, the department, the attorney general, or the district attorney of the proper  
10 county may investigate and may, in addition to any other remedies, bring an action  
11 in the name and on behalf of this state to enjoin the person from the violation.

12           **448.979 Penalties.** Any person who violates this subchapter or any rule  
13 promulgated under this subchapter may be fined not more than \$10,000 or  
14 imprisoned for not more than 9 months or both.

15           **SECTION 12.** 448.970 of the statutes is renumbered 448.9695.

16           **SECTION 13.** Subchapter VIII (title) of chapter 448 [precedes 448.980] of the  
17 statutes is renumbered subchapter IX (title) of chapter 448 [precedes 448.980].

18           **SECTION 14.** 450.10 (3) (a) 5. of the statutes is amended to read:

19           450.10 (3) (a) 5. A physician, physician assistant, podiatrist, physical  
20 therapist, physical therapist assistant, occupational therapist, ~~or~~ occupational  
21 therapy assistant, or genetic counselor licensed under ch. 448.

22           **SECTION 15. Nonstatutory provisions.**

23           (1) INITIAL APPOINTMENTS. Notwithstanding the lengths of the terms specified  
24 in s. 15.406 (7) (intro.), the initial members of the genetic counselors affiliated  
25 credentialing board shall be initially appointed for the following terms:

**ASSEMBLY BILL 686**

1 (a) One genetic counselor and one person licensed to practice medicine and  
2 surgery under subch. II of ch. 448 who is a clinical geneticist, for terms expiring on  
3 July 1, 2022.

4 (b) One genetic counselor and one person licensed to practice medicine and  
5 surgery under subch. II of ch. 448, for terms expiring on July 1, 2023.

6 (c) Two genetic counselors and one public member, for terms expiring on July  
7 1, 2024.

8 (2) **QUALIFICATIONS OF INITIAL MEMBERS OF THE GENETIC COUNSELORS AFFILIATED**  
9 **CREDENTIALING BOARD.** Notwithstanding s. 15.406 (7), an initial member of the genetic  
10 counselors affiliated credentialing board appointed under s. 15.406 (7) is not  
11 required to be a licensed genetic counselor under s. 448.974, if the appointment  
12 occurs before the date specified in SECTION 16 (intro.) of this act and at the time of  
13 the appointment the individual holds a valid certification issued by the American  
14 Board of Genetic Counseling, as defined in s. 448.970 (1).

15 (3) **RULE MAKING.** Using the procedure under s. 227.24, the genetic counselors  
16 affiliated credentialing board may promulgate rules required under s. 448.973, for  
17 the period before permanent rules take effect, but not to exceed the period authorized  
18 under s. 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the  
19 genetic counselors affiliated credentialing board is not required to provide evidence  
20 that promulgating a rule under this subsection as an emergency rule is necessary for  
21 the preservation of the public peace, health, safety, or welfare and is not required to  
22 provide a finding of emergency for a rule promulgated under this subsection.

23 **SECTION 16. Effective dates.** This act takes effect on the first day of the 13th  
24 month beginning after publication except as follows:



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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  <b>Dale Kleven</b> <b>Administrative Rules Coordinator</b>		<b>2) Date When Request Submitted:</b>  <b>1/3/20</b>  Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b>  <b>Medical Examining Board</b>			
<b>4) Meeting Date:</b>  1/15/20	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> <b>Administrative Rule Matters – Discussion and Consideration:</b> 1. Review of Proposed Changes to OT 3, Relating to Biennial Registration 2. Pending or Possible Rulemaking Projects	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled?</b> <input type="checkbox"/> Yes ( <a href="#">Fill out Board Appearance Request</a> ) <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  <b>Administrative Rule Matters – Discussion and Consideration:</b> 1. Under s. 15.085 (5), Stats., the Occupational Therapists 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.			
<b>11) Signature of person making this request</b>  <i>Dale Kleven</i>		<b>Authorization</b>  Date <i>January 3, 2020</i>	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)    Date			
<b>Directions for including supporting documents:</b> 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  
OCCUPATIONAL THERAPISTS  
AFFILIATED CREDENTIALING BOARD

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IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	OCCUPATIONAL THERAPISTS
OCCUPATIONAL THERAPISTS	:	AFFILIATED CREDENTIALING
AFFILIATED CREDENTIALING	:	BOARD
BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE )

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PROPOSED ORDER

An order of the Occupational Therapists Affiliated Credentialing Board to **repeal** OT 3.06 (3) (Note); to **amend** ch. OT 3 (title), OT 3.01 to 3.04, 3.05 (intro.), (1), (2), and (3) (intro.) and (a), 3.06 (1) to (3), Table OT 3.06 lines (c), (d), (f), (n), (p), and (q), and 3.06 (4) and (5); and to **create** Table OT 3.06 (title), relating to biennial registration.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

Section 440.03 (4m), Stats.

**Statutory authority:**

Sections 15.085 (5) (b) and 448.965 (1) (b), 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. . .” The proposed rule will provide guidance concerning the supervision and practice of occupational therapy assistants.

Section 448.965 (1) (b), Stats., provides the Occupational Therapists Affiliated Credentialing Board may promulgate rules that establish “[c]ontinuing education requirements for license renewal for an occupational therapist or occupational therapy assistant under s. 448.967 (2).”

**Related statute or rule:**

None.

**Plain language analysis:**

- Section OT 3.05 (2) and (3) (intro.) are revised to clarify the requirements for reinstatement apply to a licensee whose license has been denied at renewal.

- Section OT 3.06 (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. OT 3 have been revised to ensure consistency in terminology and compliance with current renewal methodology, standards for drafting style and format, and applicable Wisconsin statutes.

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

None.

**Comparison with rules in adjacent states:**

**Illinois:** 68 Ill. Admin. Code 1315.145 f) 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.

**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 Physical and Occupational Therapy 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.

**Michigan:** Mich Admin Code, R 338.1251 provides the requirements for certification of compliance and requirements for retention and production of evidence of compliance with the continuing education requirements. Submission of an application for renewal constitutes an applicant's certification of compliance with the continuing education requirements, 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 Michigan Board of Occupational Therapists may require an applicant or licensee to submit evidence to demonstrate compliance with the continuing education requirements.

**Minnesota:** The Minnesota Statutes provide the requirements for retention and production of evidence of compliance with the continuing education requirements (Minnesota Statutes 2017, section 148.6443, Subds. 5. and 6.). Within one month following licensure expiration, each licensee must submit a continuing education report form provided by the Minnesota Board of Occupational Therapy Practice verifying the continuing education requirements have been met. The Board may audit a percentage of the continuing education reports based on random selection. In addition, renewal applications that are received after the expiration date and any licensee against whom a complaint is filed may be subject to a continuing education report audit. Licensees are required to maintain all required documentation for two years after the last day of the biennial licensure period in which the continuing education was obtained.

**Summary of factual data and analytical methodologies:**

The proposed rules were developed by reviewing the provisions of ch. OT 3 to ensure consistency with current standards for drafting style and format and applicable Wisconsin statutes.

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

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

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis document is attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

**Agency contact person:**

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

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, 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 on the proposed rules. Information concerning the date, time, and location of the public hearing will be published in the Wisconsin Administrative Register and posted on the Legislature’s website at <https://docs.legis.wisconsin.gov/code/chr/hearings>.

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TEXT OF RULE

SECTION 1. Chapter OT 3 (title) is amended to read:

CHAPTER OT 3

BIENNIAL REGISTRATION LICENSE RENEWAL

SECTION 2. OT 3.01 to 3.04 are amended to read:

**OT 3.01 Authority and purpose.** The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2), and 448.965, Stats., to govern biennial registration renewal requirements for occupational therapists and occupational therapy assistants.

**OT 3.02 Registration Renewal required; method of registration renewal.** Each licensee shall ~~register renew~~ biennially with the board. ~~Prior to June 1 of each odd numbered year, the department shall mail to each licensee at his or her last known address as it appears in the records of the board an application form for registration.~~ Each licensee shall ~~complete the~~ submit a completed renewal application form and return it with the required renewal fee to the department by the date specified in s. 440.08 (2) (a) 52. or 53., Stats., as applicable. The board shall notify a licensee within 30 business days of receipt of a completed renewal application whether renewal is approved or denied.

**OT 3.03 Initial registration renewal.** ~~Any~~ A licensee who is initially granted and issued a license ~~during a given calendar year shall register for that biennium renew the license as provided under s. OT 3.02 by the date specified in s. 440.08 (2) (a) 52. or 53., Stats., as applicable.~~ The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied.

**OT 3.04 Registration Renewal prohibited.** ~~Any~~ The license of an occupational therapist or occupational therapy assistant ~~required to comply who has not complied with the provisions of s. OT 3.06; and s. 448.967; (2), Stats., and who has not so complied, will~~ may not be permitted to register renewed.

SECTION 3. OT 3.05 (intro.), (1), (2), and (3) (intro.) and (a) are amended to read:

**OT 3.05 (intro.) Late renewal and reinstatement.** Failure to renew a license ~~by June 1 of an odd numbered year to~~ as required under s. OT 3.02 shall cause ~~the~~ a license to expire. A licensee who allows ~~the~~ a license to expire may apply to the board for late renewal or reinstatement of the license by completing one of the following:

(1) LATE RENEWAL BEFORE WITHIN 5 YEARS. If ~~the~~ a licensee applies for renewal ~~of the license less than within 5 years after its expiration the renewal date,~~ the license shall be renewed upon payment submission of the renewal completed application and fee required under s. OT 3.02, payment of the late fee under s. 440.08 (3) (a), Stats., and fulfillment of the continuing education requirements under s. OT 3.06.

(2) LATE RENEWAL AFTER 5 YEARS. If ~~the~~ a licensee applies for renewal ~~of the license~~ more than 5 years after ~~its expiration the renewal date,~~ the board shall make such inquiry as it finds necessary to determine whether the applicant is competent to practice under the license in this state; ~~and~~ Subject to s. 440.08 (3) (b), Stats., the board shall impose any reasonable conditions on the renewal of the license, including oral examination, as the board deems appropriate. All applicants under this section subsection shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants. This Except as provided under sub. (3) (a), this subsection does not apply to licensees who have unmet disciplinary requirements or whose licenses have been denied at renewal, surrendered, or revoked.

(3) (intro.) REINSTATEMENT. A licensee who has unmet disciplinary requirements and failed to renew within 5 years of the renewal date or whose license has been denied at renewal, surrendered, or revoked, may apply to have the license reinstated. ~~in accordance with~~ An application for reinstatement shall include all of the following:

(a) Evidence of ~~the~~ completion of the requirements under sub. (2).

SECTION 4. OT 3.06 (1) to (3) are amended to read:

**OT 3.06 (1)** Each holder of a license as an occupational therapist shall, at the time of applying for renewal of ~~a the license of registration under s. 448.967, Stats.,~~ certify that ~~he or she the licensee~~ has, ~~in the 2 years preceding the renewal application,~~ completed at least 24 points of acceptable continuing education during the 2-year period immediately preceding the renewal date under s. 440.08 (2) (a) 52., Stats.

**(2)** Each holder of a license as an occupational therapy assistant shall, at the time of applying for renewal of ~~a the license of registration under s. 448.967, Stats.,~~ certify that ~~he or she the licensee~~ has, ~~in the 2 years preceding the renewal application,~~ completed at least 24 points of acceptable continuing education during the 2-year period immediately preceding the renewal date under s. 440.08 (2) (a) 53., Stats.

**(3)** At least 12 ~~of the~~ points of the continuing education required under subs. (1) and (2) shall be accumulated through one or more professional development activities listed under Table OT 3.06 that are related to occupational therapy in the following categories set forth in the following table. In Table OT 3.06, “contact hour” means not less than 50 minutes of actual professional activity.

SECTION 5. Table OT 3.06 (title) is created to read:

**TABLE OT 3.06**

SECTION 6. Table OT 3.06 lines (c), (d), (f), (n), (p), and (q) are amended to read:

PROFESSIONAL DEVELOPMENT ACTIVITIES	PROFESSIONAL DEVELOPMENT POINTS
(c) Satisfactory completion of a self-study course approved by the American <del>occupational therapy association (AOTA)</del> <u>Occupational Therapy Association</u> or other related recognized professional associations.	4 points per continuing education unit.
(d) <del>Satisfactory completion</del> <u>Review</u> of an <del>AOTA American Occupational Therapy Association</del> continuing education article <del>(review and successful completion of the associated examination).</del>	1 point per article.
(f) Initial completion of specialty board certification in occupational therapy, including <del>but not limited to</del> certification in neurorehabilitation, pediatrics, hand therapy, gerontology, driver rehabilitation, advanced practice, neuro-developmental treatment, case management, and rehabilitation counseling.	12 points.
(n) Professional presentations. <b>Note:</b> <del>No additional points are given for subsequent presentations of the same content.</del>	2 points per contact hour. <u>No additional points are given for subsequent presentations of the same content.</u>

(p) Student fieldwork supervision – Level I fieldwork.	2 points.
(q) Student fieldwork supervision – Level II fieldwork.	8 points.

SECTION 7. OT 3.06 (3) (Note) is repealed.

SECTION 8. OT 3.06 (4) and (5) are amended to read:

**OT 3.06 (4)** ~~Evidence~~ Certificates of completion or other evidence of compliance with this section such as certificates of completion shall be retained by each license holder through the biennium for at least 2 years following the biennium for in which credit is required for renewal of license the continuing education was completed.

**(5)** ~~The board may require shall audit any license holder to submit evidence of licensee who is under investigation by the board for alleged misconduct for compliance with this section to the board for an audit at any time during the biennium following the biennium for which credit is required for license renewal.~~

SECTION 9. 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.

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 (END OF TEXT OF RULE)  
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## 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 12/05/2019
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) OT 3	
4. Subject Biennial registration	
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)(g)
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 <b>(if checked, complete Attachment A)</b>	
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 The following updates have been made to ch. OT 3: Section OT 3.05 (2) and (3) (intro.) are revised to clarify the requirements for reinstatement apply to a licensee whose license has been denied at renewal. Section OT 3.06 (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. OT 3 have been revised to ensure consistency in terminology and compliance with current standards for drafting style and format and applicable Wisconsin statutes.	
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 \$59.98. 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 providing updated requirements for reinstatement of a license and submission of proof of completing continuing education programs or courses. If the rule is not implemented, the requirements will remain outdated.	

## ADMINISTRATIVE RULES

### Fiscal Estimate & Economic Impact Analysis

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16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is updated requirements for reinstatement of a license and submission of proof of completing continuing education programs or courses.

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17. Compare With Approaches Being Used by Federal Government

None

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

Illinois: 68 Ill. Admin. Code 1315.145 f) 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.

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 Physical and Occupational Therapy 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.

Michigan: Mich Admin Code, R 338.1251 provides the requirements for certification of compliance and requirements for retention and production of evidence of compliance with the continuing education requirements. Submission of an application for renewal constitutes an applicant's certification of compliance with the continuing education requirements, 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 Michigan Board of Occupational Therapists may require an applicant or licensee to submit evidence to demonstrate compliance with the continuing education requirements.

Minnesota: The Minnesota Statutes provide the requirements for retention and production of evidence of compliance with the continuing education requirements (Minnesota Statutes 2017, section 148.6443, Subds. 5. and 6.). Within one month following licensure expiration, each licensee must submit a continuing education report form provided by the Minnesota Board of Occupational Therapy Practice verifying the continuing education requirements have been met. The Board may audit a percentage of the continuing education reports based on random selection. In addition, renewal applications that are received after the expiration date and any licensee against whom a complaint is filed may be subject to a continuing education report audit. Licensees are required to maintain all required documentation for two years after the last day of the biennial licensure period in which the continuing education was obtained.

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19. Contact Name

Dale Kleven

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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.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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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)

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

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

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5. Describe the Rule's Enforcement Provisions

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

- Yes     No
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