



**VIRTUAL/TELECONFERENCE
MEDICAL EXAMINING BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
October 16, 2024**

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

AGENDA

8:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-5)

B. Approval of Minutes of September 18, 2024 (6-9)

C. Introductions, Announcements and Recognition

D. Reminders: Conflicts of Interest, Scheduling Concerns

E. Administrative Matters – Discussion and Consideration

1) Department, Staff and Board Updates

2) Board Members – Term Expiration Dates

a. Bond, Jr., Milton – 7/1/2027

b. Chou, Clarence P. – 7/1/2027

c. Clarke, Callisia N. – 7/1/2028

d. Ferguson, Kris – 7/1/2025

e. Gerlach, Diane M. – 7/1/2028

f. Goel, Sumeet K. – 7/1/2027

g. Hilton, Stephanie – 7/1/2028

h. Lerma, Carmen – 7/1/2024

i. Leuthner, Steven R. – 7/1/2027

j. Majeed-Haqqi, Lubna – 7/1/2027

k. Schmeling, Gregory J. – 7/1/2025

l. Siebert, Derrick R. – 7/1/2025

m. Yu, Emily S. – 7/1/2028

3) Wis. Stat. § 15.085 (3)(b) – Affiliated Credentialing Boards’ Biannual Meeting with the Medical Examining Board to Consider Matters of Joint Interest

a. Physician Assistant Affiliated Credentialing Board – Jennifer Jarrett, Chairperson

F. Legislative and Policy Matters – Discussion and Consideration

- G. 8:00 A.M. Preliminary Hearing on Statement of Scope – SS 099-24 on Med 1, relating to Licensure Requirements (10)**
 - 1) Review Preliminary Hearing Comments (**11-13**)
- H. Administrative Rule Matters – Discussion and Consideration (14)**
 - 1) Wis Stat. s. 15.085 (5) (b) Review and Comment on Affiliated Credentialing Board Preliminary Rules:
 - a. MTBT 6, Relating to Temporary Licenses (**15-18**)
 - b. AT 4, Relating to Protocol Requirements (**19-22**)
 - c. DI 1, Relating to Definitions (**23-25**)
 - d. PA 4, Relating to Physical Examinations (**26-29**)
 - 2) Pending or Possible Rulemaking Projects (**30**)
- I. Optometrists and Ophthalmologists Practice of Laser Eye Surgery – Discussion and Consideration (31)**
 - 1) Appearance By Dr. Jennifer Larson and Attorney Guy DeBeau from the Wisconsin Academy of Ophthalmology (**32-34**)
- J. Interdisciplinary Advisory Council Liaison Report – Discussion and Consideration
- K. Professional Assistance Procedure (PAP) Discussion of Expansion to Include Mental Health Disorders
- L. Federation of State Medical Boards (FSMB) Matters – Discussion and Consideration
- M. Newsletter Matters – Discussion and Consideration
- N. Controlled Substances Board Report – Discussion and Consideration
- O. Interstate Medical Licensure Compact Commission (IMLCC) – Report from Wisconsin’s Commissioners – Discussion and Consideration
- P. Screening Panel Report
- Q. Future Agenda Items
- R. Discussion and Consideration of Items Added After Preparation of Agenda:
 - 1) Introductions, Announcements and Recognition
 - 2) Elections, Appointments, Reappointments, Confirmations, and Committee, Panel and Liaison Appointments
 - 3) Administrative Matters
 - 4) Election of Officers
 - 5) Appointment of Liaisons and Alternates
 - 6) Delegation of Authorities
 - 7) Education and Examination Matters
 - 8) Credentialing Matters
 - 9) Practice Matters
 - 10) Public Health Emergencies
 - 11) Legislative and Policy Matters
 - 12) Administrative Rule Matters
 - 13) Liaison Reports
 - 14) Board Liaison Training and Appointment of Mentors
 - 15) Informational Items

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

S. Public Comments

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

T. Deliberation on DLSC Matters

- 1) Proposed Stipulations, Final Decisions and Orders**
 - a. 22 MED 313 – Nathaniel L. Stepp **(35-40)**
 - b. 23 MED 349 – Ryan D. McFarland **(41-47)**
 - c. 23 MED 518 – Rodney W. Sosa **(48-54)**
 - d. 24 MED 0122 – Anne M. Frea **(55-60)**
- 2) Complaints**
 - a. 23 MED 103 – H.M.M. **(61-64)**
- 3) Administrative Warnings**
 - a. 23 MED 433 – J.C.B. **(65-66)**
- 4) Case Closings**
 - a. 22 MED 266 – M.A.M. **(67-72)**
 - b. 22 MED 462 – A.A. **(73-83)**
 - c. 23 MED 003 – D.J.C. **(84-107)**
 - d. 23 MED 166 – G.S.S. **(108-116)**
 - e. 23 MED 190 – A.S. **(117-122)**
 - f. 23 MED 211 – A.C.R. **(123-129)**
 - g. 23 MED 241 – A.A. **(130-138)**
 - h. 22 MED 261– T.K.H. **(139-145)**
 - i. 23 MED 265 – L.N.M. **(146-153)**
 - j. 23 MED 323 – N.A.J. **(154-158)**
 - k. 23 MED 482 – S.S.A. **(159-168)**
 - l. 23 MED 617 – R.C.L. **(169-173)**
 - m. 24 MED 032 – L.W.K. **(174-182)**
 - n. 24 MED 0178 – K.K. **(183-191)**
 - o. 24 MED 0199 – A.P.R. **(192-195)**
 - p. 24 MED 0258 – D.L.B. **(196-202)**
 - q. 24 MED 0280 – W.D.H. **(203-218)**

U. Deliberation on Proposed Final Decision and Orders

- 1) Scott H. Meyer – (DHA Case Number SPS-23-0056/DLSC Case Number 22 MED 157) **(219-254)**

V. Credentialing Matters

1) Application Review

- a. J.M. – Medicine and Surgery Applicant (IA 373141) **(255-322)**
- b. L.P. – Medicine and Surgery Applicant (IA 175903) **(323-398)**
- c. S.K. – Medicine and Surgery Applicant (IA 375056) **(399-432)**
- d. J.S.K. – Visiting Physician Applicant (IA 447230) **(564-591)**

2) Full Board Oral Interview

- a. **APPEARANCE:** R.S. – Medicine and Surgery Applicant (IA 191955) **(433-563)**

W. 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

X. Open Cases

Y. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

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

ADJOURNMENT

ORAL INTERVIEWS OF CANDIDATES FOR LICENSURE

VIRTUAL/TELECONFERENCE

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

CLOSED SESSION – Reviewing Applications and Conducting Oral Interview(s) of **three (3)** (at time of agenda publication) Candidate(s) for Licensure – **Dr. Goel** and **Dr. Majeed-Haqqi**

NEXT MEETING: NOVEMBER 20, 2024

Board Member Training: November 15, 2024

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board’s agenda, please visit the Department website at <https://dsps.wi.gov>. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of any agenda item may be changed by the board for the convenience of the parties. The person credentialed by the board has the right to demand that the meeting at which final action may be taken against the credential be held in open session. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer or reach the Meeting Staff by calling 608-267-7213.

**VIRTUAL/TELECONFERENCE
MEDICAL EXAMINING BOARD
MEETING MINUTES
SEPTEMBER 18, 2024**

PRESENT: Milton Bond, Jr. (*excused at 9:28 a.m.*); Clarence Chou, M.D.; Callisia Clarke, M.D.; Kris Ferguson, M.D.; Diane Gerlach, D.O.; Sumeet Goel, D.O., Stephanie Hilton; Steven Leuthner, M.D.; Lubna Majeed-Haqqi, M.D. (*excused at 11:14 a.m.*); Gregory Schmeling, M.D.; Derrick Siebert, M.D.; Emily Yu, M.D.

ABSENT: Carmen Lerma

STAFF: Tom Ryan, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Dialah Azam, Board Administration Specialist; and other Department staff

CALL TO ORDER

Clarence Chou, Chairperson, called the meeting to order at 8:00 a.m. A quorum was confirmed with twelve (12) members present.

ADOPTION OF AGENDA

MOTION: Milton Bond Jr. moved, seconded by Gregory Schmeling, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF AUGUST 21, 2024

MOTION: Steven Leuthner moved, seconded by Derrick Siebert, to approve the Minutes of August 21, 2024 as published. Motion carried unanimously.

**CONSIDER APPLICATION TO RESPIRATORY CARE PRACTITIONERS
EXAMINING COUNCIL**

Tammy Kundinger, MBA, RRT, RCP – Respiratory Care Practitioner Member

MOTION: Gregory Schmeling moved, seconded by Emily Yu, to approve Tammy Kundinger as a Medical Examining Board appointed member of the Respiratory Care Practitioners Examining Council. Motion carried unanimously.

(Milton Bond Jr. excused at 9:28 a.m.)

CLOSED SESSION

MOTION: Callisia Clarke moved, seconded by Gregory Schmeling, 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.). Clarence Chou, Chairperson, read

the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Clarence Chou-yes; Callisia Clarke-yes; Kris Ferguson-yes; Diane Gerlach-yes; Sumeet Goel-yes; Stephanie Hilton-yes; Steven Leuthner-yes; Lubna Majeed-Haqqi-yes; Gregory Schmeling-yes; Derrick Siebert-yes; and Emily Yu-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:40 a.m.

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

Proposed Stipulations, Final Decisions and Orders

23 MED 179 – Trung N. Nguyen

MOTION: Gregory Schmeling moved, seconded by Callisia Clarke, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Trung N. Nguyen, DLSC Case Number 23 MED 179. Motion carried unanimously.

23 MED 445 – Naishal B. Gandhi

MOTION: Callisia Clarke moved, seconded by Sumeet Goel, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Naishal B. Gandhi, DLSC Case Number 23 MED 445. Motion carried.

23 MED 232 – Kevin J. Bjork

MOTION: Steven Leuthner moved, seconded by Callisia Clarke, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Kevin J. Bjork, DLSC Case Number 23 MED 232. Motion carried.

23 MED 554 – Richard R. Imoehl

MOTION: Lubna Majeed-Haqqi moved, seconded by Sumeet Goel, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Richard R. Imoehl, DLSC Case Number 23 MED 554. Motion carried unanimously.

24 MED 0184 – Gautam Jayaswal

MOTION: Sumeet Goel moved, seconded by Gregory Schmeling, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Gautam Jayaswal, DLSC Case Number 24 MED 0184. Motion carried unanimously.

Case Closings

MOTION: Sumeet Goel moved, seconded by Lubna Majeed-Haqqi, to close the following DLSC Cases for the reasons outlined below:

- a) 22 MED 170 – R.P.B. – Prosecutorial Discretion (P2)
- b) 22 MED 285 – R.P.B. – No Violation
- c) 23 MED 188 – A.C.N. – No Violation
- d) 23 MED 250 – M.A.P. – No Violation
- e) 23 MED 330 – B.D.B. – No Violation
- f) 23 MED 394 – A.J. – No Violation
- g) 23 MED 604 – C.M.G. – No Violation
- h) 24 MED 0265 – N.V.B. – Prosecutorial Discretion (P1)

Motion carried unanimously.

Monitoring

Steven Armus, M.D. – Requesting Full Licensure

MOTION: Gregory Schmeling moved, seconded by Sumeet Goel, to table the request of Steven Armus, M.D. for full licensure. Motion carried unanimously.

CREDENTIALING MATTERS

Full Board Oral Interview

Aasma Aziz – Medicine and Surgery Renewal Applicant (IA 187474)

(Clarence Chou recused himself and left the meeting connection for deliberation in the matter concerning Aasma Aziz.)

(Lubna Majeed-Haqqi excused at 11:14 a.m.)

Eric Wong – Initial D.O. Applicant (IA 324834)

MOTION: Sumeet Goel moved, seconded by Steven Leuthner, to request that Eric Wong submit a fitness to practice evaluation assessing his mental health and ability to practice medicine safely. The evaluation shall be completed within 60 days, shall include a neuropsychological assessment, and shall be performed by a treatment provider pre-approved by the board or board's designee. The Board further requests a statement of Dr. Wong's current mental health status and treatment plan from his current provider. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Sumeet Goel moved, seconded by Callisia Clarke, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 12:05 p.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Callisia Clarke moved, seconded by Gregory Schmeling, 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: Sumeet Goel moved, seconded by Steven Leuthner, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

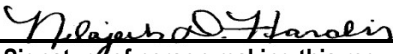
ADJOURNMENT

MOTION: Callisia Clarke moved, seconded by Gregory Schmeling, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:06 p.m.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 10/04/24 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Pharmacy Examining Board			
4) Meeting Date: 10/16/24	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 8:00 A.M. Preliminary Hearing on Statement of Scope – SS 099-24 on Med `1, Relating to Licensure Requirements 1. Review Preliminary Hearing Comments	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: The Board will hold a Preliminary Hearing on this scope statement as directed by the Joint Committee for Review of Administrative Rules.			
11) Authorization			
Signature of person making this request 		Date 10/04/24	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

From: [Sen.Nass](#)
To: [Hereth, Daniel - DSPS](#); [DSPS Admin Rules](#); [DSPS](#)
Cc: [Tierney, Michael - DSPS](#); [Sen.Nass - LEGIS](#); [Rep.Neylon - LEGIS](#); [Grosz, Scott A - LEGIS](#); [Kauffman, Jill - LEGIS](#); [Duchek, Mike - LEGIS](#)
Subject: JCRAR Directive to Hold Preliminary Hearing on Scope Statement SS 099-24
Date: Wednesday, October 2, 2024 2:38:16 PM

**CAUTION: This email originated from outside the organization.
Do not click links or open attachments unless you recognize the sender and know the content is safe.**

October 2, 2024

Clarence Chou, Chairperson
Medical Examining Board
Department of Safety & Professional Services
P.O. Box 8366
Madison, WI 53708-8366

RE: SS 099-24 – Licensure Requirements for Physicians

Dear Chairperson Chou:

As co-chairperson of the Joint Committee for Review of Administrative Rules (JCRAR) and pursuant to s. 227.136 (1), Stats., I write to direct the Medical Examining Board (MEB) to hold a preliminary public hearing and comment period on Scope Statement SS 099-24, which were published in the Wisconsin Administrative Register on September 23, 2024.

Additionally, pursuant to s. 227.135 (2), Stats., please note that a scope statement may not be approved by the Secretary, the Department of Safety & Professional Services (DSPS), or any of the agencies under DSPS until after the preliminary public hearing and comment period is held by the agency, and accordingly, no activity may be conducted in connection with the drafting of a proposed rule until after such hearing and approval have occurred.

Please confirm receipt of this letter directing a preliminary hearing and comment period on the above scope statement.

Sincerely,

Steve Nass

Senator Steve Nass
Co-Chair, JCRAR

Cc: Dan Hereth, Secretary-designee, DSPS

STATEMENT OF SCOPE

MEDICAL EXAMINING BOARD

Rule No.: Med 1

Relating to: Licensure Requirements

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only): N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to clarify requirements for licensure of physicians.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Board intends to review and update Wisconsin Administrative Code Chapter Med 1 to clarify what an applicant is required to submit as part of their licensure application. An alternative would be to not revise the administrative code and existing licensure requirements would continue to apply.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), Stats. states that “The Board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 448.40 (1), Stats., provides that “[t]he board may promulgate rules to carry out the purposes of this subchapter, including rules requiring the completion of continuing education, professional development, and maintenance of certification or performance improvement or continuing medical education programs for renewal of a license to practice medicine and surgery.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Approximately 80 hours

6. List with description of all entities that may be affected by the proposed rule:

Wisconsin licensed physicians and those applying for physician licensure.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule: None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Nilajah Hardin, Administrative Rules Coordinator,
DSPAAdminRules@wisconsin.gov, (608) 267-7139.

Clarence Chau (M.D.)

Authorized Signature

4/25/2024

Date Submitted


Approved for implementation:

Authorized Signature

Date Submitted

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin, Administrative Rules Coordinator		2) Date when request submitted: 10/04/24 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Medical Examining Board			
4) Meeting Date: 10/16/24	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Wis. Stat. s. 15.085 (5) (b) Review and Comment on Affiliated Credentialing Board Preliminary Rules: a. MTBT 6, Relating to Temporary Licenses b. AT 4, Relating to Protocol Requirements c. DI 1, Relating to Definitions d. PA 4, Relating to Physical Examinations 2. Pending or Possible Rulemaking Projects a. Rule Projects Chart	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Attachments: MTBT 6, AT 4, DI 1, and PA 4 Preliminary Rule Drafts Rule Project Chart (Board Rule projects can be Viewed Here if Needed: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx)			
11) Authorization			
		10/04/24	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING
BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : MESSAGE THERAPY AND BODYWORK
MESSAGE THERAPY AND BODYWORK : THERAPY AFFILIATED CREDENTIALING
THERAPY AFFILIATED : BOARD ADOPTING RULES
CREDENTIALING BOARD : (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board to amend MTBT 6.02 (1) (intro.) and (d), and (3) (a) and (b), and to create MTBT 6.02 (6), relating to temporary licenses.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 460.08, Stats.

Statutory authority: Sections 15.085 (5) (b), 460.04 (2) (f), 460.08, Stats.

Explanation of agency authority:

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

s. 460.04 (2) (f), stats. states that “[the affiliated credentialing board shall promulgate rules that establish] requirements to be satisfied by a person seeking a temporary license under s. 460.08. The rules promulgated under this subsection shall require the person to be a graduate of a massage therapy or bodywork therapy school or program and may require the holder of a temporary license to make disclosures to clients and to practice under the supervision of a massage therapist or bodywork therapist licensed under this chapter.”

s. 460.08, stats. states that “The affiliated credentialing board may grant a temporary license for a period not to exceed 6 months to an applicant who satisfies the requirements established in the rules under s. 460.04 (2) (f). A temporary license may not be renewed.”

Related statute or rule: None.

Plain language analysis:

The proposed rule revises chapter MTBT 6 to align with current practice in the profession in the area of temporary licensure. This was achieved through amending temporary licensure requirements relating to the examination under s. 460.06, Stats., to cover the typical pathway of an applicant more accurately as they move from temporary to permanent licensure. These changes include amendments to MTBT 6.02 (1) and (3) regarding the exam and the ability of a licensee to receive more than one temporary license. Other amendments include creating a provision under MTBT 6.02 (6) that allows the board to review and take action on any temporary licensee who fails the required examination under s. 460.06, Stats if necessary.

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

Comparison with rules in adjacent states:**Illinois:**

The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of the practice of massage therapy in Illinois, with input from the Illinois Massage Licensing Board. The Illinois Department is also responsible for the promulgation of rules to implement certain sections of the Illinois Massage Therapy Practice Act. This Act contains requirements for applications, licensure, and discipline for massage therapists [225 Illinois Compiled Statutes ch. 57]. Illinois does not issue temporary licenses to practice massage therapy.

Iowa:

The Iowa Board of Massage Therapy is responsible for the licensure and regulation of the practice of massage therapy in Iowa. Chapter 152C of the Iowa Code includes statutory requirements for licensure, composition and powers of the Iowa Board, and discipline for massage therapists [Iowa Code ch. 152C]. The Iowa Administrative Code details rules relating to the practice of massage therapy, including requirements for temporary licensure. In Iowa, an individual who is licensed to practice massage therapy in another jurisdiction, but is unable to meet the requirements of licensure by endorsement is eligible for a temporary license. Such a temporary license is valid for up to one year and is not renewable. Any application for a temporary license must include a plan for meeting the requirements for regular licensure within one year. [645 Iowa Administrative Code ch. 131 s. 131.6].

Michigan:

The Michigan Board of Massage Therapy is responsible for the licensure and regulation of massage therapy practice in Michigan. Act 368 Article 15 Part 179A of the Michigan Compiled Laws includes the regulations for massage therapy in Michigan, among several other occupations. Some of the requirements in this part include those for licensure, renewal, and duties of the Michigan Board. [Michigan Compiled Laws ss. 333.17951-333.1769]. Michigan does not issue temporary licenses to practice massage therapy.

Minnesota:

The Minnesota Department of Health's Office of Unlicensed Complementary and Alternative Health Care Practice (OCAP) investigates complaints and takes enforcement actions against massage therapists for violations of prohibited conduct. However, neither OCAP nor any other statewide agency or board oversees the licensing of massage therapists [Minnesota Statutes Chapter 146A].

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of MTBT 6 and obtaining input and feedback from the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board.

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

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

Effect on small business:

These rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator, Jennifer Garrett, may be contacted by calling (608) 266-2112.

Agency contact person:

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

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on August 19, 2024, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MTBT 6.02 (1) (intro.) and (d), and (3) (a) and (b) are amended to read:

MTBT 6.02 (1) (intro.) The board may issue a temporary license to an applicant to practice massage therapy and bodywork therapy who meets the criteria under s. 460.05, Stats., other than passing the examination under s. 460.05 (f), Stats., and who has completed all of the following:

(1) (d) Has ~~not previously failed~~ taken an examination required under s. 460.06, Stats.

(3) (a) A temporary license expires 6 months after the date of issuance or when the department provides notice that the temporary licensee has ~~failed or~~ passed the examination required by s. 460.06, Stats., whichever is first.

(3) (b) No person shall be issued more than one temporary license ~~in any 365-day period~~ without presenting evidence satisfactory to the board of a substantial change in circumstances since the expiration of the initial temporary license. The determination of whether circumstances have substantially changed shall be entirely within the discretion of the board.

SECTION 2. MTBT 6.02 (6) is created to read:

MTBT 6.02 (6) Temporary licensees who fail to pass the examination under s. 460.06, Stats., may be subject to review and revocation of the credential as determined by the board.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

STATE OF WISCONSIN
ATHLETIC TRAINERS AFFILIATED CREDENTIALING BOARD

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

PROPOSED ORDER

An order of the Athletic Trainers Affiliated Credentialing Board to amend AT 4.01 (1) (intro.), (2) (intro.), (3) (intro.), (4) (intro.), and (4) (c), relating to protocol requirements.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 448.955 (3) (c), 448.956 (1) (a), and 448.956 (4), Stats.

Statutory authority: Sections 15.085 (5) (b) and 448.9525 (2), Stats.

Explanation of agency authority:

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

Section 448.9525 (2), Stats., states that “subject to s. 448.956 (1), (4) and (5), the affiliated credentialing board and the medical examining board shall jointly promulgate rules relating to the minimum requirements of a protocol required under s. 448.956 (1).”

Related statute or rule: None.

Plain language analysis:

The proposed rule updates the Protocol Requirements in chapter AT 4 by removing the phrase “sustained while participating in physical activity” from AT 4.01 (1), (2), (3) and (4) as well as updates AT 4.01 (4) (c) to “manual therapy.” These changes align the Wisconsin Administrative Code more closely with current practice in the Athletic Training Profession.

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

Comparison with rules in adjacent states:

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Athletic Trainers in Illinois, with input from the Illinois Board of Athletic Trainers. The Illinois Board is also responsible for the promulgation of rules to implement certain sections of the Illinois Athletic Trainers Practice Act. This Act includes a list of duties that an Athletic Trainer can provide, including coordination with a physician to provide a physical exam, follow-up injury care, and reconditioning programs among other services. They can also perform several services independently including on-site injury care and evaluation. An evaluation and treatment protocol does not appear to be required in Illinois, however many elements of a protocol are listed as duties that an Athletic Trainer can provide [225 Illinois Compiled Statutes Chapter 5 Section 3 Subsection 4].

Iowa: The Iowa Public Health Department is responsible for the licensure and regulation of Athletic Trainers in Iowa, with input from the Iowa Board of Athletic Trainers. Chapter 152D of the Iowa Code outlines the statutes for the regulation of the practice of athletic training in Iowa. These statutes include general requirements for licensure and duties of the Iowa Board [Iowa Code Title IV Chapter 152D]. The Iowa Administrative Code includes rules that establish that each licensee must ensure that documentation of physician direction is obtained and maintained, including an athletic training service plan, referrals, initial evaluations and assessments, and dates of subsequent follow-up care. Athletic Trainers in Iowa are also required to have their athletic training service plans comply with the Practice Standards and Code of Professional Responsibility parts of January 2018 Standards and Professional Practice from the Board of Certification [645 Iowa Administrative Code Chapter 351].

Michigan: The Michigan Athletic Trainer Board is responsible for the licensure and regulation of Athletic Trainers in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for Athletic Trainers in Michigan, among several other occupations [Michigan Compiled Laws Act 368 Article 15 Chapter 333 Part 179]. The Michigan Department of Licensing and Regulatory Affairs, in conjunction with the Michigan Board, promulgates administrative rules that include requirements for licensure, education, and examination, among other topics. Michigan has also adopted by reference the January 2021 Standards of Professional Practice from the Board of Certification. Outside of those standards, there does not appear to be any additional requirements for service or treatment plans or protocols [Michigan Administrative Code R 338.1301-R 338.1378].

Minnesota: The Minnesota Board of Medical Practice is responsible for the licensure and regulation of Athletic Trainers in Minnesota. The Minnesota Athletic Trainers Act includes statutory requirements for limitations on practice, licensure, and continuing education, among other topics [Minnesota Statutes Section 148.7801 to 148.7815]. Part 5600 of the Minnesota Administrative Code includes rules established by the Minnesota Board, but does not mention requirements for service or treatment plans or protocols for athletic trainers [Minnesota Administrative Rules Chapters 5600 to 5620].

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing Wisconsin Administrative Code Chapter AT 4 and obtaining input and feedback from the Athletic Trainers Affiliated Credentialing Board.

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

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 at Jennifer.Garrett@wisconsin.gov or (608) 266-2112.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov.

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

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

TEXT OF RULE

SECTION 1. AT 4.01 (1) (intro.), (2) (intro.), (3) (intro.), (4) (intro.), and (4) (c) are amended to read:

AT 4.01 (1) (intro.) Taking a basic medical history when necessary for evaluation and treatment of an injury or illness ~~sustained while participating in physical activity~~. A basic medical history may include any of the following:

(2) (intro.) Evaluating an injury or illness ~~sustained while participating in physical activity~~. An evaluation may include any of the following procedures:

(3) (intro.) Treating an injury or illness ~~sustained while participating in physical activity~~. Treatment may include any of the following procedures:

(4) (intro.) Rehabilitating an injury or illness ~~sustained while participating in physical activity~~. Rehabilitation may include any of the following procedures:

(4)(c) ~~Trigger point~~ Manual therapy.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

DRAFT

STATE OF WISCONSIN
DIETITIANS AFFILIATED CREDENTIALING BOARD

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

PROPOSED ORDER

An order of the Dietitians Affiliated Credentialing Board to amend DI 1.02 (6) relating to definitions.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 448.74 (1), Stats.

Statutory authority: Sections 15.085 (5) (b) and 448.74 (1), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats., states that 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, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 448.74 (1), Stats., states that an affiliated credentialing board shall promulgate rules that “[e]stablish criteria for the approval of educational programs and training under s. 448.78 (3) and (4).”

Related statute or rule: None.

Plain language analysis:

The proposed rule updates the definition of “regionally accredited college or university” to reflect that a regionally accredited college or university must be recognized as accredited by the United States Department of Education. The Board reviewed the other definitions in this chapter and determined that no further changes were necessary.

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

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

No public comments were received on the statement of scope.

Comparison with rules in adjacent states:

Illinois: The Illinois Compiled Statutes chapter on Dietitians, also called the Dietitian Nutritionists Practice Act, includes requirements for the licensure and practice of dietitian nutritionists. In order to qualify for a dietitian nutritionist license, an applicant must possess a degree in the appropriate subject from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation and the United States Department of Education [225 Illinois Compiled Statutes Chapter 30 Section 45]. Rules of the Illinois Department of Financial and Professional Regulation further detail requirements for licensure as a dietitian nutritionist in Illinois [68 Illinois Administrative Code Chapter 1245 Subpart B].

Iowa: In Iowa, among other requirements, in order to be issued a license to practice dietetics, an applicant must possess a degree in the appropriate subject from a program that meets the requirements established by the accreditation council for education in nutrition and dietetics of the academy of nutrition and dietetics, as well as approved by the Iowa Board of Dietetics [Iowa Code Chapter 152A Section 152.2]. Rules of the Professional Licensure Division of the Iowa Department of Public Health further detail licensure, continuing education, and discipline requirements for dietitians [645 Iowa Administrative Code Chapters 81 to 84].

Michigan: The Michigan Statutes include requirements for licensure and practice of dietetics. Among other requirements, an applicant for dietitian licensure must have successfully completed a program in dietetics that is accredited by the Accreditation Council for Education in Nutrition and Dietetics or a successor organization [Michigan Compiled Laws Chapter 333 Act 368 Section 18357].

Minnesota: The Minnesota Statutes include requirements for licensure in dietetics and in nutrition. Among other requirements, an applicant for a license in dietetics must possess a degree from a United States regionally accredited university in the appropriate subject. An accredited college or university means one that is accredited by the regional accrediting agencies recognized by the Council on Postsecondary Accreditation and the United States Department of Education [2023 Minnesota Statutes Chapter 148 Sections 148.621 and 148.624]. Rules of the Minnesota Board of Dietetics and Nutrition Practice further details requirements for licensure as a dietitian in Minnesota [Minnesota Administrative Rules, 3250.0010].

Summary of factual data and analytical methodologies:

The rules were developed by reviewing the definitions in Wisconsin Administrative Code chapter DI 1 and updating them accordingly.

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov.

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

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

TEXT OF RULE

SECTION 1. DI 1.02 (6) is amended to read:

DI 1.02 (6) “Regionally accredited college or university” means ~~a~~ an accredited college or university recognized by the U.S. department of education ~~which is accredited by any of the following bodies: the New England association of schools and colleges, the middle states association of colleges and schools, the north central association of colleges and schools, the northwest association of schools and colleges, the southern association of colleges and schools and the western association of schools and colleges.~~

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

STATE OF WISCONSIN
PHYSICIAN ASSISTANT AFFILIATED CREDENTIALING BOARD

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

PROPOSED ORDER

An order of the Physician Assistant Affiliated Credentialing Board to create PA 4.005 and 4.01 (2) (fm), relating to Physical Examinations.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

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

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

Explanation of agency authority:

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

Section 448.973 (1) states that: “

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

Related statute or rule: None.

Plain language analysis:

The proposed rule expands unprofessional conduct to require that physician assistants either follow the policies established by their employers for the use of chaperones during physical examinations, or that physician assistants establish policies and follow them. Physician assistants will also be required to make their policy regarding the use of

chaperones accessible to all patients. “Chaperone” is defined to mean an individual whom a physician assistant requests to be present during a clinical examination who can serve as a witness to the examination taking place. “Observer” is defined to mean an individual chosen by the patient to be present during an examination, and is presumed to include an adult family member, legal guardian, or legal custodian if the patient is twelve years of age or under. The distinction between the two is that a chaperone is arranged for or requested by the physician assistant on the patient’s behalf and must be able to serve as a witness, whereas an observer is directly chosen by the patient.

Nothing under this rule is intended to impose a requirement upon any person or entity that the board does not have jurisdiction over.

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

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

Comparison with rules in adjacent states:

Illinois: Physician Assistants in Illinois are licensed through the Illinois Department of Financial and Professional Regulation. The Physician Assistant Practice Act of 1987 governs the practice of physician assistants in Illinois and includes statutes on licensure, collaboration, prescribing, continuing education, and grounds for disciplinary action. [225 Illinois Compiled Statutes 95]. Part 1350 of the Illinois Administrative Code further details rules for physician assistants in the areas of licensure, collaboration, and prescribing. These sections also detail scope and function, employment, approved programs, and unprofessional conduct. The rules for unprofessional conduct do not include the requirement of observers or chaperones for certain physical examinations. [Illinois Administrative Code s. 1350].

Iowa: Physician Assistants in Iowa are licensed through the Iowa Department of Public Health and the Board of Physician Assistants. Chapter 148C of the Iowa Code governs the practice of physician assistants in Iowa and includes statutes on licensure and grants administrative rulemaking authority to their Board [Iowa Code ch. 148C]. Chapters 326 through 329 of the Professional Licensure Division Section 645 of the Iowa Administrative Code further details rules for physician assistants in the areas of licensure, practice, continuing education, and discipline. The rules on grounds for discipline do not include the requirement of observers or chaperones for certain physical examinations. [645 Iowa Administrative Code chs. 326 to 329].

Michigan: Physician Assistants in Michigan are licensed through the Michigan Department of Licensing and Regulatory Affairs. Part 170 of The Public Health Code Act 368 governs the practice of physician assistants in Michigan. This section of the Michigan Compiled Laws includes requirements for physician assistants on licensure, practice, informed consent, continuing education, and delegation of care. The Michigan Board of Medicine is also responsible for the regulation of Physician Assistants in

Michigan. The rules for physician assistants do not include the requirement of observers or chaperones for certain physical examinations [Michigan Compiled Laws ss. 333.17001 to 333.17084].

Minnesota: Physician Assistants in Minnesota are licensed through the Minnesota Board of Medical Practice. Chapter 147A of the Minnesota Statutes includes requirements for licensure, scope of practice, grounds for disciplinary action, accountability, prescribing drugs, continuing education and responding to disaster situations [Minnesota Statutes ch. 147A]. The Minnesota Board of Medical Practice has administrative rules which also include requirements for physician assistants including licensure and registration, continuing education, emeritus registrations, professional corporation rules, hearings before the board, and fee splitting [Minnesota Administrative Rules chs. 5600, 5605, 5606, 5610, 5615, and 5620]. The statutory requirements for grounds for disciplinary action do not include the requirement of observers or chaperones for certain physical examinations [Minnesota Statutes ch. 147A s. 147A.13].

Summary of factual data and analytical methodologies:

While promulgating these rules, the Board referenced Wisconsin Administrative Code ch. Med 10, as well as the ‘Guidelines for Ethical Conduct for the PA Profession’ from the American Academy of Physician Associates, among other sources.

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

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

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

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

TEXT OF RULE

SECTION 1. PA 4.005 is created to read:

PA 4.005 Definitions: In this chapter:

- (1) “Chaperone” means an individual whom a physician assistant requests to be present during a clinical examination that exposes the breasts, genitals, or rectal area, and who can serve as a witness to the examination taking place should there be any misunderstanding or concern for sexual misconduct.
- (2) “Observer” means an individual chosen by the patient to be present during an examination or inspection that exposes the breasts, genitals, or rectal area. A patient’s adult family member, legal guardian, or legal custodian is presumed to be able to act as an observer if the patient is twelve years of age or under.

SECTION 2. PA 4.01 (2) (fm) is created to read:

PA 4.01 (2) (fm) 1. If a physician assistant who practices pursuant to a collaboration agreement or in an employment arrangement fails to comply with the terms of their collaboration agreement or contract of employment regarding chaperones or other observers in patient examinations, then the failure to follow such rules during an exam in which a violation of par. (f) is alleged may be considered by the board in determining whether the alleged misconduct occurred.

2. Physician assistants who are self-employed or in other practice settings that do not involve hospitals or employers shall establish written procedures for the use of chaperones or other observers in patient examinations and shall comply with these procedures once established.
3. A copy of any rules and procedures, or summary thereof, regarding the physician assistant’s use of chaperones or other observers shall be made available and accessible to all patients who are likely to receive a non-emergency examination of the breasts, genitals, or rectal area.
4. A physician assistant shall not be found in violation of this section because of the failure of a third-party to create a policy regarding chaperones, or to allow posting or notification of any policy regarding chaperones.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

**Medical Examining Board
Rule Projects (updated 10/04/24)**

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause (description)	Current Stage	Next Step
Not Assigned Yet	099-24	03/23/2027	Med 1	Licensure Requirements	Preliminary Hearing on Statement of Scope Held at 10/16/24 Meeting	Scope Implementation
24-039	117-23	06/26/2026	Med 24	Telemedicine and Telehealth	Final Rule and Legislative Report Approved by Governor on 10/03/24	Legislative Review
Not Assigned Yet	055-24	11/28/2026	Med 27	Provisional Licensure for International Physicians	Drafting	Board Approval of Preliminary Rule Draft for EIA Comment and Clearinghouse Review



PUBLIC AGENDA REQUEST FORM

Instructions:

1. Fill out this form, and then save to your device.
2. Return to the "[Suggest an Agenda Item](#)" page and select the appropriate Board or Council from the Board/Council list.
3. Attach your completed "Public Agenda Request" form and send.

First Name: AJ

Last Name: Wilson

Association/Organization: WI Academy of Ophthalmology

Subject: Optometrists unauthorized practice of laser surgery

Issue to Address:

Dr. Jennifer Larson, past president of the WI Academy of Ophthalmology, and attorney Guy DuBeau, request to present to the MEB information at its next meeting on October 16, 2024 related to optometrists performing laser surgery in Wisconsin contrary to state law.

MEMORANDUM

TO: WAO

FROM: Guy DuBeau

DATE: October 8, 2024

RE: Our File: 29457.100543

You have requested my opinion on the issue of optometrists performing various laser surgical procedures. We have become aware of private companies hosting continuing education seminars for optometrists on these procedures. We are also aware of some optometrists performing these procedures with some concerning results.

The answer is a reasonably straightforward “no.” Optometrists cannot perform the procedures identified without practicing outside their statutorily authorized scope of practice. Wisconsin State Statute, Ch. 449, prohibits optometrists from performing surgery. We are aware there is language in the relevant provisions of Ch. 449 that have purportedly given rise to a “gray area” argument by some optometrists; we feel that is a dangerous misreading of the statute. To authorize a type of professional to perform surgery who is not otherwise trained to perform such surgery and without any requirements on the training needed to practice such surgery is a dangerous reach at best that is not supported by state law or administrative code.

Purported Reasoning behind Optometrist claims and actions.

I looked at the purported justification for this which I believe begins with some background on the courses directed at optometrists. The advertisements describe the course content as including “surgical procedures for the optometric physician” and “laser procedures for the optometric physician.” Setting aside the questionable use of the title “physician,” I also find it interesting that the program is referred to as the “ophthalmic procedure course,” which at least in my mind evinces an understanding that this is something beyond standard optometric practice. The speaker also appears careful not to say the training will authorize the practice but that it will leave the attendees trained to the same level as optometrists in states that have surgical and laser privileges for optometrists; he is not making a representation that completing the course will confer the privileges in Wisconsin but what is unclear is why anyone would sign up to take the course if they did not think they could put the training to use. With this I turn to specific issues.

What is the statutory scope of practice for optometrists and why are these courses relevant?

By statute, the practice of optometry “does not include surgery or medical treatment.” Wis. Stat. sec. 449.01(1)(b). It does, however, include “applying principles or techniques of optometric sciences in the diagnosis, prevention or treatment of a condition or cause of ocular health.” Wis. Stat. sec. 449.01(1)(a)4. While this first provision seems quite clear, my concern is that the optometrist may try to use the second provision to argue that the techniques being taught are “techniques of optometric science.” The argument would go something like this: They could note that the course appears to be being taught by optometrists and that optometrists are specifically licensed in some jurisdictions to perform these procedures. They point out in the video that the course is COPE approved, which our Optometry Board will accept for continuing education of optometrists. Wis. Admin. Code Opt. sec. 8.03. The board is silent as to scope of practice but why would it authorize the training in an area without also expecting its licensees to practice the training they receive. I suspect this is the key argument optometrists would use to justify their practice.

That said, the better and more appropriate analysis is that the statute would be read to prohibit surgeries. It is hornbook basic statutory construction that more specific mandates in statutes (i.e., “does not include surgery”) take precedent over the more general “techniques of optometric science”. It is difficult to envision a cogent argument that would justify optometrists performing these procedures in the face of a clear statutory prohibition when the only justification rests on an implied, but not specified, authorization in the rules.

Are laser procedures surgery?

There is no specific statutory definition of “surgery.” Most accepted dictionary definitions have provisions along the line of “treating conditions by the physical removal, repair or readjustment of organs or tissues.” This physical changing of tissue structure is the key to the procedures being described in the video, which the speaker freely refers to as surgical in nature. In short, irrespective of whatever particular definition of “surgery” might apply, I think it clear that what is being discussed in the video is surgery.

Has the Optometry Board authorized these procedures?

No, though there is a history on this. In 2000, the OEB issued a statement suggesting that laser procedures would be within the scope of optometric practice and began rulemaking procedures to codify what would be required of optometrists wishing to do so. This was challenged in court on the same statutory argument set forth above. The Board ultimately

withdrew its policy statement and ceased its rulemaking efforts. It has not in the past two decades done any formal action on this issue. At this point, I do not think any optometrist in Wisconsin would be explicitly authorized to perform the procedures at issue. The OEB recognized in 2000 as a bare minimum that the practice needed to be specifically authorized, and rules needed to be established for their licensees to practice in an area reserved for physicians. (See for example, the rules of the Dentistry Examining Board regarding conscious sedation.) This does not, however, address much less overcome the clear statutory prohibition on optometrists performing surgery. One can speculate that the OEB abandoned the rulemaking process because it recognized it could not create such rules within the context of its statutory mandate.

GJD:sal