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Scott Walker, Governor
Laura Gutiérrez, Secretary

TELECONFERENCE/VIRTUAL
PODIATRY AFFILIATED CREDENTIALING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
June 21, 2018

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

AGENDA

9:00 a.m.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes of February 1, 2018 (4-9)

C. Administrative Updates
1. Department and Staff Updates
2. Board Members – Term Expiration Dates
   a. Jeffery Giesking – 07/01/2020
   b. Thomas Komp – 07/01/2017
   c. William Weis – 07/01/2019

D. Legislative/Administrative Rule Matters (10-22)
1. Preliminary Draft Rules for Pod 3 Relating to Continuing Podiatric Medical Education
2. 2017 Wisconsin Act 227 and Related Scope Statement for Pod 1 and 9 Concerning Physician Assistants
3. 2017 Wisconsin Act 262 and Required Board Report Concerning Opioid Abuse
4. Update on Pending Legislation and Pending and Possible Rulemaking Projects

E. Continuing Education Random Audits – Board Discussion (23)

F. Speaking Engagement(s), Travel, or Public Relation Request(s)

G. Informational Items

H. Items Added After Preparation of Agenda:
1. Introductions, Announcements and Recognition
2. Election of Board Officers
3. Appointment of Board Liaison(s)
4. Administrative Updates
5. Nominations, Elections, and Appointments
6. Education and Examination Matters

7. Credentialing Matters
8. Practice Matters
9. Legislation/Administrative Rule Matters
10. Liaison Reports
11. Informational Items
12. Disciplinary Matters
13. Presentations of Petitions for Summary Suspension
14. Petitions for Designation of Hearing Examiner
15. Presentation of Proposed Stipulations, Final Decisions and Orders
16. Presentation of Proposed Final Decisions and Orders
17. Presentation of Interim Orders
18. Petitions for Re-Hearing
19. Petitions for Assessments
20. Petitions to Vacate Orders
21. Requests for Disciplinary Proceeding Presentations
22. Motions
23. Petitions
24. Appearances from Requests Received or Renewed
25. Speaking Engagement(s), Travel, or Public Relation Request(s)

I. Public Comments

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

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

1. Case Closing(s)
   a. 17 POD 009 – J.H. **(24-28)**

K. Deliberation of Items Added After Preparation of the Agenda

1. Education and Examination Matters
2. Credentialing Matters
3. Disciplinary 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 Orders
9. Administrative Warnings
10. Review of Administrative Warnings
11. Proposed Final Decisions and Orders
12. Matters Relating to Costs/Orders Fixing Costs
13. Case Closings
14. Proposed Interim Orders
15. Petitions for Assessments and Evaluations
16. Petitions to Vacate Orders
17. Remedial Education Cases
18. Motions
19. Petitions for Re-Hearing
20. Appearances from Requests Received or Renewed

L. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

O. Credentialing Liaison Training

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

ADJOURNMENT

NEXT MEETING DATE: OCTOBER 18, 2018

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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 1400 East Washington Avenue, 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.

PODIATRY AFFILIATED CREDENTIALING BOARD
VIRTUAL/TELECONFERENCE MEETING MINUTES
February 1, 2018

PRESENT: Jeffery Giesking, DPM; Thomas Komp, DPM; William Weis, DPM *(all attending via GoToMeeting)*

STAFF: Tom Ryan, Executive Director; Dale Kleven, Administrative Rules Coordinator; Emily Handel, Bureau Assistant; and other Department staff

CALL TO ORDER

William Weis, Chair called the meeting to order at 9:10 a.m. A quorum of 3 (three) members was confirmed.

ADOPTION OF AGENDA

MOTION: Jeffery Giesking moved, seconded by William Weis, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF DECEMBER 1, 2017

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to approve the minutes of December 1, 2017 as published. Motion carried unanimously.

ADMINISTRATIVE UPDATES

Election of Officers

BOARD CHAIR

NOMINATION: Jeffery Giesking nominated William Weis for the Office of Board Chair.

Tom Ryan called for nominations three (3) times.

William Weis was elected as Chair by unanimous consent.

VICE CHAIR

NOMINATION: William Weis nominated Jeffery Giesking for the Office of Vice Chair.

Tom Ryan called for nominations three (3) times.

Jeff Giesking was elected as Vice Chair by unanimous consent.

DRAFT

SECRETARY

NOMINATION: William Weis nominated Thomas Komp for the Office of Secretary.

Tom Ryan called for nominations three (3) times.

Thomas Komp was elected as Secretary by unanimous consent.

2018 ELECTION RESULTS	
Board Chair	William Weis
Vice Chair	Jeffery Giesking
Secretary	Thomas Komp

Appointment of Liaisons and Alternates

2018 LIAISON APPOINTMENTS	
Credentialing Liaison	Jeffery Giesking *Alternate* – Thomas Komp
Education and Exams Liaison	William Weis *Alternate:* Thomas Komp
Monitoring Liaison	Thomas Komp *Alternate* – Jeffery Giesking
Professional Assistance Procedure Liaison	Jeffery Giesking *Alternate:* William Weis
Legislative Liaison	Jeffery Giesking *Alternate:* Thomas Komp
Travel Liaison	Thomas Komp *Alternate:* William Weis
Rules Liaison	William Weis *Alternate:* Thomas Komp
Screening Panel	William Weis, Jeffery Giesking *Alternate:* Thomas Komp

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to affirm the Chair's appointment of liaisons for 2018. Motion carried unanimously.

DRAFT

Delegation of Authorities

Delegated Authority for Urgent Matters

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, that in order to facilitate the completion of assignments between meetings, the Board delegates it's authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters, make appointments to vacant liaison, panel and committee positions, and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to delegate authority to the Credentialing Liaison(s) to address all issues related to credentialing matters, except potential denial decisions, which should be referred to the full Board for final determination. Motion carried unanimously.

Delegation of Authority to DSPS When Rule and Statute Criteria is Met

MOTION: William Weis moved, seconded by Thomas Komp, to delegate credentialing authority to DSPS to act upon applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: William Weis moved, seconded by Jeffery Giesking, that the Board counsel or another department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin Code § SPS 1.08(1). Motion carried unanimously.

Voluntary Surrenders

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender of a license by a licensee who has a pending complaint or disciplinary matter per Wis. Stat. § 440.19. Motion carried unanimously.

DRAFT

Document Signature Delegation

MOTION: William Weis moved, seconded by Thomas Komp, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director or designee to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

Monitoring Delegations

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to adopt the 'Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor' document as presented. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Thomas Komp moved, seconded by William Weis, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Travel Delegation

MOTION: William Weis moved, seconded by Jeffery Giesking, to authorize the travel liaison to approve all Board travel. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: William Weis moved, seconded by Jeffery Giesking, to designate the chief presiding officer, or longest serving member of the Board, in order of 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.

Occupational Licensure Study Liaison

MOTION: William Weis moved, seconded by Jeffery Giesking, to designate William Weis as the Board's liaison to represent and speak on behalf of the Board regarding occupational license review and related matters. Motion carried unanimously.

DRAFT

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Statement of Scope for Pod 3, Relating to Continuing Podiatric Medical Education

MOTION: Jeffery Giesking moved, seconded by Thomas Komp, to approve the Scope Statement revising Pod 3, relating to continuing podiatric medical education, for submission to the Department of Administration and Governor's Office and for publication, and to authorize Tom Ryan to sign the scope statement on behalf of the Board. Additionally, the Board moves to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

CLOSED SESSION

MOTION: Thomas Komp moved, seconded by Jeffery Giesking, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 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.). William Weis, Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Jeffery Giesking-yes; Thomas Komp-yes; and William Weis-yes. Motion carried unanimously.

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

RECONVENE TO OPEN SESSION

MOTION: William Weis moved, seconded by Jeffery Giesking, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 9:48 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: William Weis moved, seconded by Thomas Komp, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

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

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

DRAFT

Case Closing

16 POD 016

MOTION: William Weis moved, seconded by Jeffery Giesking, to close DLSC case number 16 POD 016, against M.D.S., for No Violation and against E.M.L., for Prosecutorial Discretion (P5). Motion carried unanimously.

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

MOTION: William Weis moved, seconded by Jeffery Giesking, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: William Weis moved, seconded by Thomas Komp, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 9:50 a.m.

DRAFT

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Dale Kleven Administrative Rules Coordinator	6/11/18 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Podiatry Affiliated Credentialing Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
6/21/18	☒ Yes ☐ No	Legislation and Rule Matters – Discussion and Consideration 1. Preliminary Draft Rules for Pod 3 Relating to Continuing Podiatric Medical Education 2. 2017 Wisconsin Act 227 and Related Scope Statement for Pod 1 and 9 Concerning Physician Assistants 3. 2017 Wisconsin Act 262 and Required Board Report Concerning Opioid Abuse 4. Update Concerning Pending Legislation and Pending and Possible Rulemaking Projects

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session ☐ Both	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

11) Authorization

Dale Kleven — *June 11, 2018*

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.

Revised 8/13

STATE OF WISCONSIN
PODIATRY AFFILIATED CREDENTIALING BOARD

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

PROPOSED ORDER

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

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

None.

Statutory authority:

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

Explanation of agency authority:

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

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

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

Related statute or rule:

None.

Plain language analysis:

Section Pod 3.04 is revised to reflect s. 440.035, Stats., as created by 2017 Wisconsin Act 59, which specifies that except as otherwise permitted in chs. 440 to 480, Stats., an examining board or affiliated credentialing board attached to an examining board may require a credential holder to submit proof of completion of continuing education programs or courses only if a complaint is made against the credential holder.

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

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

None.

Comparison with rules in adjacent states:

Illinois:

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

Iowa:

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

Michigan:

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

Minnesota:

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

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of ch. Pod 3 to ensure clarity and consistency and to reflect applicable Wisconsin Statutes and current standards for drafting administrative rules.

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

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

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@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.

TEXT OF RULE

SECTION 1. Pod 3.02 (1) (intro.) and (a) to (d) and (4) (intro.) and (a) are amended to read:

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

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

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

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

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

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

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

SECTION 2. Pod 3.03 (1) to (3) are amended to read:

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

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

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

SECTION 3. Pod 3.04 is amended to read:

Pod 3.04 **Audit.** The board ~~may conduct a random~~ shall audit ~~of~~ any licensee ~~on a biennial basis to determine~~ who is under investigation by the board for alleged misconduct for compliance with the continuing education requirements under this chapter. ~~The board may require any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium for the purpose of conducting an audit. Licensees shall retain certificates of continuing education attendance for a minimum period of 4 years.~~

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____ Agency _____

Board Chairperson
Podiatry Affiliated Credentialing Board

Chapter Pod 3

CONTINUING PODIATRIC MEDICAL EDUCATION

Pod 3.01 Continuing podiatric medical education required; waiver.

(1) Each podiatrist required to complete the biennial training requirement under s. 448.665, Stats., shall, in each second year at the time of making application for a certificate of registration as required under s. 448.665, Stats., sign a statement on the application for registration certifying that the podiatrist has completed at least 50 hours of acceptable continuing educational programs relevant to the practice of podiatric medicine within each 2-year period immediately preceding the renewal date specified under s. 440.08 (2) (a) 60., Stats.

(2) A licensee may apply to the board for a postponement or waiver of the requirements of this chapter on the grounds of prolonged illness, disability, or other grounds constituting hardship. The board shall consider each request individually on its merits and may grant a postponement, partial waiver, or total waiver of the requirements.

Pod 3.02 Acceptable continuing medical educational programs.

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

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

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

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

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

(e) The Wisconsin Society of Podiatric Medicine.

(2) An educational program provided outside the United States may be used for continuing education credit if the program is approved by the board.

(3) One hour of attendance by a podiatrist at a continuing education program is the equivalent of one hour of continuing podiatric medical education for purposes of s. Pod 3.01 (1).

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

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

(b) The podiatrist graduated within 2 calendar years immediately preceding the calendar year for which the application for registration was made.

Pod 3.03 Evidence of compliance.

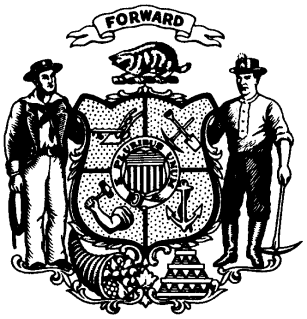
(1) Certification by the providing organization or by one of the approved accrediting bodies shall be accepted by the board as evidence of attendance at and completion of continuing medical education programs approved under s. Pod 3.01 ~~is satisfactory evidence for purposes of sub. (2) and s. Pod 3.03~~.

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

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

Pod 3.04 Audit. The board ~~may conduct a random~~ shall audit ~~of~~ any licensee ~~on a biennial basis to determine~~ who is under investigation by the board for alleged misconduct for compliance with the continuing education requirements under this chapter. ~~The board may require any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium for the purpose of conducting an audit. Licensees shall retain certificates of continuing education attendance for a minimum period of 4 years.~~

State of Wisconsin



Date of enactment: **April 3, 2018**
2017 Assembly Bill 582 Date of publication*: **April 4, 2018**

2017 WISCONSIN ACT 227

AN ACT ***to renumber*** 448.05 (5) (a) 1. and 2.; ***to renumber and amend*** 448.05 (5) (a) (intro.); ***to amend*** 441.16 (6), 448.01 (6), 448.20 (1), 448.21 (1) (d), 448.21 (2), 448.21 (3) and Med 8.01 (2); and ***to create*** 448.015 (1u), 448.015 (1w), 448.20 (3m), 448.21 (4), 448.62 (2m), 448.62 (7) and 448.695 (4) of the statutes; **relating to:** delegation of the practice of podiatry, practice of a physician assistant under the supervision of a podiatrist, modifying administrative rules of the Medical Examining Board relating to practice of physician assistants, and providing an exemption from emergency rule procedures.

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

SECTION 1. 441.16 (6) of the statutes is amended to read:

441.16 **(6)** Nothing in this section prohibits a nurse from issuing a prescription order as an act delegated by a physician, and nothing in this section prohibits an advanced practice nurse certified under this section from issuing a prescription order as an act delegated by a podiatrist.

SECTION 2. 448.01 (6) of the statutes is amended to read:

448.01 **(6)** "Physician assistant" means an individual licensed by the medical examining board to provide medical care with physician supervision and direction or to practice podiatry with podiatrist supervision and direction.

SECTION 3. 448.015 (1u) of the statutes is created to read:

448.015 **(1u)** "Podiatrist" has the meaning given in s. 448.60 (3).

SECTION 4. 448.015 (1w) of the statutes is created to read:

448.015 **(1w)** "Podiatry" has the meaning given in s. 448.60 (4).

SECTION 5. 448.05 (5) (a) (intro.) of the statutes is renumbered 448.05 (5) (a) and amended to read:

448.05 **(5)** (a) ~~The~~ Except as provided in s. 448.695 (4), the board shall promulgate rules establishing licensing standards and practice standards for physician assistants and shall license persons under those rules.

(b) The board may not grant a license as a physician assistant to an applicant unless the applicant submits evidence satisfactory to the board of all of the following:

SECTION 6. 448.05 (5) (a) 1. and 2. of the statutes are renumbered 448.05 (5) (b) 1. and 2.

SECTION 7. 448.20 (1) of the statutes is amended to read:

448.20 **(1)** RECOMMEND LICENSING AND PRACTICE STANDARDS. The council on physician assistants shall develop and recommend to the examining board licensing and practice standards for physician assistants practicing under physicians and shall develop and recommend to the podiatry affiliated credentialing board practice standards for physician assistants practicing under podiatrists. In developing the standards, the coun-

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

cil shall consider the following factors: an individual's training, wherever given; experience, however acquired, including experience obtained in a hospital, a physician's or podiatrist's office, the armed services or the federal health service of the United States, or their equivalent as found by the examining board; and education, including that offered by a medical school and the technical college system board.

SECTION 8. 448.20 (3m) of the statutes is created to read:

448.20 **(3m)** ADVISE PODIATRY AFFILIATED CREDENTIALING BOARD. The council shall advise the podiatry affiliated credentialing board on revising practice standards for physician assistants practicing podiatry.

SECTION 9. 448.21 (1) (d) of the statutes is amended to read:

448.21 **(1)** (d) The practice of podiatry ~~within the meaning of s. 448.60 (4)~~, except when the physician assistant is acting under the supervision and direction of a podiatrist, subject to sub. (4) and the rules promulgated under s. 448.695 (4).

SECTION 10. 448.21 (2) of the statutes is amended to read:

448.21 **(2)** EMPLOYEE STATUS. No physician assistant may be self–employed. The employer of a physician assistant shall assume legal responsibility for any medical care, including the practice of podiatry, provided by the physician assistant during the employment. The employer of a physician assistant, if other than a licensed physician or podiatrist, shall provide for and not interfere with supervision of the physician assistant by a licensed physician or podiatrist.

SECTION 11. 448.21 (3) of the statutes is amended to read:

448.21 **(3)** PRESCRIPTIVE AUTHORITY. A physician assistant may issue a prescription order for a drug or device in accordance with guidelines established by a supervising physician or podiatrist and the physician assistant and with rules promulgated by the board. If any conflict exists between the guidelines and the rules, the rules shall control.

SECTION 12. 448.21 (4) of the statutes is created to read:

448.21 **(4)** PRACTICE OF PODIATRY. A physician assistant who is acting under the supervision and direction of a podiatrist shall be limited to providing nonsurgical patient services.

SECTION 13. 448.62 (2m) of the statutes is created to read:

448.62 **(2m)** An advanced practice nurse who is certified to issue prescription orders under s. 441.16 and who is providing nonsurgical patient services as directed, supervised, and inspected by a podiatrist who has the power to direct, decide, and oversee the implementation of the patient services rendered.

SECTION 14. 448.62 (7) of the statutes is created to read:

448.62 **(7)** A physician assistant who is acting under the supervision and direction of a podiatrist, subject to s. 448.21 (4).

SECTION 15. 448.695 (4) of the statutes is created to read:

448.695 **(4)** The affiliated credentialing board shall promulgate rules establishing all of the following:

(a) Practice standards for a physician assistant practicing podiatry as provided in s. 448.21 (4).

(b) Requirements for a podiatrist who is supervising a physician assistant as provided in s. 448.21 (4).

SECTION 16. Med 8.01 (2) of the statutes is amended to read:

Med 8.01 (2) Physician assistants provide health care services as part of physician–led or podiatrist–led teams, the objectives of which include safe, efficient, and economical health care. The realities of the modern practice of medicine and surgery require supervising physicians and podiatrists and physician assistants to use discretion in delivering health care services, typically at the level of general supervision. The constant physical presence of a supervising physician or podiatrist is often unnecessary. The supervising physician or podiatrist and the physician assistant are jointly responsible for employing more intensive supervision when circumstances require direct observation or hands–on assistance from the supervising physician.

SECTION 17. Med 8.02 (5x) of the administrative code is created to read:

Med 8.02 **(5x)** "Podiatrist" has the meaning given in s. 448.60 (3), Stats.

SECTION 18. Med 8.05 (4) of the administrative code is amended to read:

Med 8.05 **(4)** LICENSURE; RENEWAL. At the time of licensure and each biennial registration of licensure thereafter, a physician assistant shall list with the board the name and address of the supervising physician or podiatrist and shall notify the board within 20 days of any change of a supervising physician or podiatrist.

SECTION 19. Med 8.07 (1), (2) (i) and (3) of the administrative code are amended to read:

Med 8.07 **(1)** SCOPE AND LIMITATIONS. In providing medical care, the entire practice of any physician assistant shall be under the supervision of one or more licensed physicians ~~or~~, physicians exempt from licensure requirements pursuant to s. 448.03 (2) (b), Stats., or licensed podiatrists. The scope of practice is limited to providing medical care as specified in sub. (2). A physician assistant's practice may not exceed his or her educational training or experience and may not exceed the scope of practice of the physician or podiatrist providing supervision. A medical care task assigned by the supervising

physician or podiatrist to a physician assistant may not be delegated by the physician assistant to another person.

(2) (i) Issuing written prescription orders for drugs provided the physician assistant has had an initial and at least annual thereafter, review of the physician assistant's prescriptive practices by a physician or podiatrist providing supervision. Such reviews shall be documented in writing, signed by the reviewing physician or podiatrist and by the physician assistant, and made available to the Board for inspection upon reasonable request.

(3) IDENTIFYING SUPERVISING PHYSICIAN OR PODIATRIST. The physician or podiatrist providing supervision must be readily identifiable by the physician assistant through procedures commonly employed in the physician assistant's practice.

SECTION 20. Med 8.09 of the administrative code is amended to read:

Med 8.09 Employee status. No physician assistant may be self–employed. If the employer of a physician assistant is other than a licensed physician or podiatrist, the employer shall provide for, and may not interfere with, the supervisory responsibilities of the physician or podiatrist, as defined in s. Med 8.02 (6) and required in ss. Med 8.07 (1) and 8.10.

SECTION 21. Med 8.10 of the administrative code is amended to read:

Med 8.10 Physician or podiatrist to physician assistant ratio. (1) No physician or podiatrist may supervise more than 4 on–duty physician assistants at any time unless a written plan to do so has been submitted to and approved by the board. Nothing herein shall limit the number of physician assistants for whom a physician or podiatrist may provide supervision over time. A physician assistant may be supervised by more than one physician or podiatrist while on duty.

(2) A supervising physician or podiatrist shall be available to the physician assistant at all times for consultation either in person or within 15 minutes of contact by telecommunication or other means.

SECTION 22. Nonstatutory provisions.

(1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the podiatry affiliated credentialing board may promulgate emergency rules under section 448.695 (4) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the board is not required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for rules promulgated under this subsection.

SECTION 23. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The modifications of administrative rules take effect as provided in section 227.265 of the statutes.

STATEMENT OF SCOPE

Podiatry Affiliated Credentialing Board

Rule No.: Chapters Pod 1 and 9

Relating to: Physician Assistants

Rule Type: Emergency and Permanent

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

The Legislature by SECTION 22 of 2017 Wisconsin Act 227 provides an exemption from a finding of emergency for the adoption of this rule.

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

The objective of the proposed rule is to, as required under the provisions of 2017 Wisconsin Act 227, establish practice standards for a physician assistant practicing podiatry as provided under s. 448.21 (4), Stats., and requirements for a podiatrist who is supervising a physician assistant as provided under s. 448.21 (4), Stats.

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:

Current rules authorize a podiatric physician to delegate x-ray tasks to a person who has successfully completed a course of instruction for podiatric x-ray assistants approved by the Podiatry Affiliated Credentialing Board. The proposed rule would create ch. Pod 9 to reflect the provisions of 2017 Wisconsin Act 227, which, effective April 5, 2018, allows a podiatric physician to delegate nonsurgical patient services to a physician assistant licensed by the Medical Examining Board. As part of this update, the definitions under ch. Pod 1 may be revised.

If the rules are not updated, they will not reflect the provisions of 2017 Wisconsin Act 227.

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

Section 15.08 (5) (b), Stats., provides an affiliated credentialing board “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 448.695 (4) (a) and (b), Stats., provides the Podiatry Affiliated Credentialing Board shall promulgate rules establishing “[p]ractice standards for a physician assistant practicing podiatry as provided in s. 448.21 (4)” and “[r]equirements for a podiatrist who is supervising a physician assistant as provided in s. 448.21 (4).”

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

State employees will spend approximately 120 hours developing the proposed rule.

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

Individuals licensed to practice as podiatrists and physician assistants in Wisconsin.

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: Dale Kleven, (608) 261-4472, DSPSAdminRules@wisconsin.gov

Approved for publication:	Approved for implementation:
_____	_____
Authorized Signature	Authorized Signature
_____	_____
Date Submitted	Date Submitted

shall commit to passing applicable board certification and to practicing in this state for at least 2 years after graduation from the program.

(b) Costs associated with the board's duties under par. (a) shall be funded from the appropriation account under s. 20.285 (1) (c).

SECTION 4. 49.45 (29z) of the statutes is created to read:

49.45 **(29z)** BUPRENORPHINE PRIOR AUTHORIZATION REVIEW. The department shall review its prior authorization policy on buprenorphine–containing products provided to Medical Assistance program recipients. On the first day of the 7th month beginning after the effective date of this subsection .... [LRB inserts date], and every 6 months thereafter, the department shall submit to the standing committees of the legislature with jurisdiction over health under s. 13.172 (3) a report describing the department's findings on the prior authorization policy on buprenorphine–containing products and its progress on eliminating prior authorization requirements for buprenorphine–containing products in populations where removal of prior authorization is appropriate. The department is not required to submit the report under this subsection after the date the prior authorization requirement for use of buprenorphine–containing products by Medical Assistance program recipients is eliminated for all appropriate populations.

SECTION 5. 118.01 (2) (d) 2. d. of the statutes is created to read:

118.01 **(2)** (d) 2. d. Awareness about drug abuse, including prescription drug abuse, and prevention.

SECTION 6. 118.01 (2) (d) 6. of the statutes is amended to read:

118.01 **(2)** (d) 6. Knowledge of the prevention of accidents and promotion of safety on the public highways, including instruction on the relationship between highway safety and the use of alcohol and controlled substances, including prescription drugs, under ch. 961.

SECTION 7. 118.01 (2) (d) 7. of the statutes is amended to read:

118.01 **(2)** (d) 7. The skills needed to make sound decisions, knowledge of the conditions which may cause and the signs of suicidal tendencies, knowledge of the relationship between youth suicide and the use of alcohol and controlled substances, including prescription drugs, under ch. 961 and knowledge of the available community youth suicide prevention and intervention services. Instruction shall be designed to help prevent suicides by pupils by promoting the positive emotional development of pupils.

SECTION 7d. 227.01 (13) (zk) of the statutes is amended to read:

227.01 **(13)** (zk) Are guidelines issued under s. 440.035 (2m) (b).

SECTION 7h. 440.035 (2m) of the statutes is renumbered 440.035 (2m) (b) and amended to read:

440.035 **(2m)** (b) The medical examining board, the podiatry affiliated credentialing board, the board of nursing, the dentistry examining board, or the optometry examining board may issue guidelines regarding best practices in prescribing controlled substances~~, as defined in s. 961.01 (4),~~ for persons credentialed by that board who are authorized to prescribe controlled substances.

SECTION 7p. 440.035 (2m) (a) of the statutes is created to read:

440.035 **(2m)** (a) In this subsection, "controlled substance" has the meaning given in s. 961.01 (4).

SECTION 7t. 440.035 (2m) (c) of the statutes is created to read:

440.035 **(2m)** (c) 1. The medical examining board, the podiatry affiliated credentialing board, the board of nursing, the dentistry examining board, and the optometry examining board shall, by the first day of the 7th month beginning after the effective date of this subdivision .... [LRB inserts date], and annually thereafter, submit a report to the persons specified in subd. 2. that does all of the following:

a. Details proactive efforts taken by the board to address the issue of opioid abuse. The board shall specify whether the board has required, or otherwise encouraged, continuing education related to prescribing controlled substances for persons credentialed by that board who are authorized to prescribe controlled substances.

b. Sets goals for addressing the issue of opioid abuse, as that issue pertains to or implicates the practices of the professions regulated by the board.

c. Describes the actions taken by the board so that the goals described in subd. 1. b. that were identified in the board's previous reports under this paragraph can be achieved, whether those goals have been achieved, and, if the goals have not been achieved, the reasons therefor.

2. A report under subd. 1. shall be submitted to all of the following:

a. Any committee, task force, or other body or person designated by the governor.

b. To the appropriate standing committees of the legislature with jurisdiction over health issues under s. 13.172 (3).

SECTION 8. 440.043 of the statutes is created to read:

440.043 Behavioral health review committee. (1) The secretary shall appoint an advisory committee under s. 440.042 to provide advice concerning behavioral health. The advisory committee shall semiannually conduct a review of the requirements for obtaining a credential under s. 440.88 or ch. 457 or for other credentials related to behavioral health.

(2) The advisory committee shall accept comments from the public related to its review under sub. (1). Before conducting a review under sub. (1), the department shall publish a class 1 notice under ch. 985 and shall publish notice on its Internet site announcing the opportunity for public comment.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Dr. William Weis	3/14/2018
	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:

Podiatry Affiliated Credentialing Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
6/21/2018	☐ Yes x No	Continuing Education Random Audits – Board Discussion

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
x Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☐ No	

10) Describe the issue and action that should be addressed:

Discuss random audits of podiatry continuing education.

11) Authorization

Signature of person making this request Date

Supervisor (if required) Date

Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.