

July 18, 2016

TO: Telemedicine Committee of the Medical Examining Board

FROM: Reid C. Bowers, PA-C
Chair, Advocacy Committee

RE: Proposed Med 24 – PA Authority to Practice Telemedicine



Previously, WAPA provided a memo to this committee (dated July 8, 2016 written by WAPA Counsel, Guy DuBeau) expressing our desire that any new rules governing Telemedicine be written in such a way as to expressly authorize the practice by Physician Assistants (PAs).

We have since had the benefit of being able to review the proposed first draft included in your packets for your July 20th meeting, and therefore can provide a more clarity regarding our request.

As Attorney DuBeau explained, PAs in Wisconsin are already experiencing difficulty being authorized to provide telemedicine by certain health systems. The counsel and administration of those systems explain the reason is because Wisconsin statutes and administrative code do not expressly authorize PAs to do so.

For that simple reason, and because PAs are an integral and indispensable part of providing high quality, team-based care to patients throughout Wisconsin, we ask that any new rules governing Telemedicine not leave PAs' authority to provide Telemedicine in question – that PAs be expressly authorized to do so as they are in the rules governing Telemedicine in Florida.

Attached is a copy of the draft of Med 24 that you have been provided for consideration – with modifications (shown by yellow highlighting) that would accomplish our goal of “expressly authorizing” PAs to practice Telemedicine within their current scope of practice.

We do not offer this as a recommendation that you adopt this particular version of Med 24; rather we provide it simply to demonstrate the concept of “express authority” that we seek within the confines of the current draft before you. Should the draft of Med 24 undergo further substantive changes by this Committee or the larger MEB, we would seek similar language of enumerating “express authority” for PAs.

Thank you for your patience and consideration. Please feel free to reach out to me (reid.c.bowers@gmail.com) or our government relations consultant, Eric Jensen (eric@jgr-llc.com) if you have questions or concerns as the Committee moves forward with this important endeavor.

July Med 24 Draft – Examples of changes to accomplish “Express Authority to practice Telemedicine” by Physician Assistants – From Wisc. Academy of Physician Assistants

SECTION 1. Chapter Med 24 is created to read:

CHAPTER MED 24

TELEMEDICINE

Med 24.01 Authority and Scope. The rules in this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08(5), 227.11, and 448.40, Stats., and govern the standards of the practice of medicine using telemedicine. The rules in this chapter may not be construed to prohibit:

- (1) Consultations between physicians, **or as appropriate physician assistants and physicians**, or the transmission and review of digital images, pathology specimens, test results, or other medical data by physicians **or physician assistants** related to the care of Wisconsin patients.
- (2) Patient care in consultation with another physician **or physician assistant** who has established a physician-patient relationship with the patient.
- (3) Patient care in on-call or cross-coverage situations in which the physician **or physician assistant** has access to patient records.
- (4) Treating a patient with an emergency medical condition. In this subsection, “emergency medical condition” means a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention will result in serious jeopardy to patient health, serious impairment to bodily functions, or serious dysfunction of a body organ or part.

Med 24.02 Definition of Telemedicine. In this chapter, “telemedicine” means the practice of medicine by a physician **or physician assistant** where patient care, treatment, or services are provided through the use of medical information exchanged from one site to another via electronic communications. Telemedicine does not include the provision of health care services only through an audio-only telephone, email messages, text messages, facsimile transmission, mail or parcel service, or any combination thereof.

Med 24.03 Physician-patient relationship. A physician-patient relationship may be established through telemedicine.

Med 24.04 Wisconsin **medical license to practice medicine and surgery required.** A physician **or physician assistant** who uses telemedicine in the diagnosis

and treatment of a patient located in Wisconsin shall hold an active Wisconsin **medical** license **to practice medicine and surgery**.

Med 24.05 Standards of practice and conduct. A Wisconsin licensed physician **or physician assistant** shall be held to the same standards of practice and conduct, including patient confidentiality and recordkeeping, regardless of whether health care services are provided or by telemedicine.

Med 24.06 Equipment and technology. A Wisconsin licensed physician **or physician assistant** health care services by telemedicine is responsible for the quality and safe use of equipment and technology that is integral to patient diagnosis and treatment. The equipment and technology used by a Wisconsin licensed physician **or physician assistant** to provide health care services by telemedicine shall be able to provide, at a minimum, information that will enable the physician **or physician assistant** to meet or exceed the standard of minimally competent medical practice.

Med 24.07 Internet diagnosis and treatment. (1) When a physician **or physician assistant** uses a website to communicate to a patient located in Wisconsin, the physician **or physician assistant** may not provide treatment recommendations, including issuing a prescription, unless the following requirements are met:

- (a) The physician **or physician assistant** holds an active Wisconsin **medical** license **to practice medicine and surgery** as required under s. Med 24.04.
- (b) The physician's **or physician assistant's** name and contact information have been made available to the patient.
- (c) Informed consent as required under s. 448.30, Stats., and ch. Med 18.
- (d) A documented patient evaluation has been performed. A patient evaluation shall include a medical history and, to the extent required to meet or exceed the standard of minimally competent medical practice, an examination or evaluation, or both, and diagnostic tests.
- (e) A patient health care record is prepared and maintained as required under ch. Med 21.

(2) Providing treatment recommendations, including issuing a prescription, based solely on a static electronic questionnaire does not meet the standard of minimally competent medical practice.