



**MEDICAL EXAMINING BOARD
TELEMEDICINE RULE COMMITTEE
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
September 21, 2016**

The following agenda describes the issues that the Committee 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 Committee.

AGENDA

10:15 A.M. OR IMMEDIATELY FOLLOWING THE FULL BOARD MEETING

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1)

B. Minutes of July 20, 2016 – Review and Approval (2)

C. Legislative and Rule Matters – Discussion and Consideration (4-11)

- 1) Recommendation from the Wisconsin Academy of Physician Assistants
- 2) Recommendation from HealthPartners
- 3) Review Revised Draft of Med 24 Relating to Telemedicine

D. Deliberation on Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Election of Committee Officers
- 3) Appointment of Committee Liaison(s)
- 4) Administrative Updates
- 5) Nominations, Elections, and Appointments
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Legislative/Administrative Rule Matters
- 10) Liaison Reports
- 11) Informational Items
- 12) Appearances from Requests Received or Renewed
- 13) Speaking Engagement(s), Travel, or Public Relation Request(s)

E. Public Comments

ADJOURNMENT

**TELEMEDICINE RULE COMMITTEE OF THE
MEDICAL EXAMINING BOARD
MEETING MINUTES
July 20, 2016**

PRESENT: David Roelke, M.D.; Kenneth Simons, M.D.; Robert Zondag

EXCUSED: Carolyn Ogland Vukich, M.D.

STAFF: Brittany Lewin, Executive Director; Dale Kleven, Administrative Rules Coordinator;
Nifty Lynn Dio, Bureau Assistant

CALL TO ORDER

Kenneth Simons, Chair, called the meeting to order at 11:26 a.m. A quorum of three (3) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda:

- *Added to C.1; AMA Wire Article on Telemedicine Safety and Regulations*
- *Added to C.1.c; Additional Correspondence from Wisconsin Academy of Physician Assistants*

MOTION: Robert Zondag moved, seconded by David Roelke, to adopt the agenda as amended. Motion carried unanimously.

MINUTES OF MAY 18, 2016 – REVIEW AND APPROVAL

MOTION: David Roelke moved, seconded by Robert Zondag, to approve the minutes of May 18, 2016 as published. Motion carried unanimously.

ADJOURNMENT

MOTION: Robert Zondag moved, seconded by David Roelke, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:38 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 9/9/16 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: Telemedicine Rules Committee of the Medical Examining Board			
4) Meeting Date: 9/21/16	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislation and Rule Matters – Discussion and Consideration 1. Recommendation from the Wisconsin Academy of Physician Assistants 2. Recommendation from HealthPartners 3. Revised Draft of Med 24 Relating to Telemedicine	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) <i>Dale Kleven</i> Signature of person making this request		Authorization <i>September 9, 2016</i> 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.			

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.

HealthPartners
8170 33rd Avenue South
Bloomington, MN 55425

healthpartners.com

Mailing Address:
PO Box 1309
Minneapolis, MN 55440-1309



September 12th, 2016

Katie Vieira
Administrative Rules Coordinator
Department of Safety and Professional Services
Division of Policy Development
1400 East Washington Avenue
P.O. Box 8366
Madison, WI 53708-8935

Submitted electronically to Kathleen.Vieira@wisconsin.gov

Re: Chapter Med 24 Telemedicine

Dear Ms. Vieira:

We would like to thank you and the Wisconsin Medical Examining Board for your work on rules relating to telemedicine. We provided comments on the prior draft rule in January of this year. We are grateful for the opportunity to again provide input. We are supportive of the clear and concise language that the Board is currently considering. We have only two substantive additions that we would like to recommend.

I. Background on HealthPartners and Telemedicine

As described in our previous comment letter, HealthPartners is a non-profit healthcare system, which provides health care services through a large integrated health system that includes more than 1,700 physicians, seven hospitals, 55 primary care clinics, 22 urgent care locations and numerous specialty practices in Minnesota and western Wisconsin.

We currently provide services via telemedicine through our hospitals and clinics and are working to expand the services we offer to improve access to care in rural areas. Some of the telemedicine services we provide include:

- **E-visits**
HealthPartners offers E-visits for certain types of care and for managing ongoing health issues. E-visits allow providers and established patients to conduct a web-based exchange of non-urgent clinical information over a secure encrypted web site as an alternative to an in-person visit.
- **teleNeurology**
We currently provide teleNeurology services through the Regions Hospital Comprehensive Stroke Center. Time is critical to achieving the best outcomes for individuals suffering from a

Our mission is to improve health and well-being in partnership with our members, patients and community.

stroke and thanks to telemedicine, patients no longer need to be at Regions to receive a consult from one of our Neurologists. Precious minutes can be saved by extending our Neurologists reach beyond the walls of the hospital and across state lines.

- **Virtuwell**

In 2010, HealthPartners launched virtuwell, a 24/7 telemedicine clinic for about 50 common conditions like bladder infection, sinus infection or pink eye. Virtuwell's online diagnosis and treatment services are available in 12 states, including Wisconsin. .

At virtuwell, we ask patients the same questions you'd expect from a doctor's office visit, except we do it through an online adaptive interview process. As patients pace themselves through relevant presenting symptoms and medical history questions, virtuwell leverages sophisticated evidenced-based clinical algorithms to make sure all the right questions are asked. Then the interview is reviewed by a board-certified nurse practitioner, who double checks allergies and medications, initiates a phone call as appropriate, writes a diagnosis and treatment plan and sends electronic prescriptions, if indicated, to the patient's pharmacy of choice. If a patient's answers show that she needs to be seen in person, we tell her to see her primary doctor and do not charge for the advice. We also follow up with every patient to make sure they're getting better. And, patients may contact virtuwell with any follow up questions for which there is never an additional charge. We would be happy to provide additional information or answer any questions you have about virtuwell.

III. Proposed Policies

We support the current proposed language that is being considered and we are especially supportive of including the following provisions:

- ***Med 24.03 Physician-patient relationship:***
A physician-patient relationship may be established through telemedicine. We agree that a practitioner-patient relationship can be established through a telemedicine encounter where the standard of care does not require an in-person encounter.
- ***Med 24.05 Standards of practice and conduct***
A Wisconsin licensed physician shall be held to the same standards of practice and conduct, including patient confidentiality and recordkeeping, regardless of whether health care services are provided in person or by telemedicine. We concur with your decision to hold the standards of practice the same for telemedicine and in-person care.
- ***Med 24.07(2) Medical history and physical examination***
Providing treatment recommendations, including issuing a prescription, based solely on a static electronic questionnaire does not meet the standard of minimally competent medical practice.

We support you making this important distinction between a simple static electronic questionnaire, and the complex adaptive online interviews that are now possible.

IV. Recommended Additions

Our mission is to improve health and well-being in partnership with our members, patients and community.

- We would like to suggest the addition of a clarifying exception in Med 24.01. Although phone calls and emails are excluded from the definition of “telemedicine” under the proposed rule, these are modes of communication commonly used with established patients. Sometimes this occurs when a patient calls the physician with a question after an in-person visit, or emails the physician requesting a prescription refill. Or, it could be a scheduled phone or “e-visit” encounter. It would be helpful if the rule could make clear that it is not the intention of the Board to limit or disrupt these common practices with regard to established patients, provided of course, that the services are provided by a licensee and in accordance with applicable standards of care and professional ethics. For example, an additional exception could be added to Med 24.01, as follows:

[. . .] (5) Situations in which the licensee has previously established a valid physician-patient relationship, and telephone or electronic messaging is being used by the licensee to provide additional services to the patient that are in accordance with the same standards of care and professional ethics as a licensee using a traditional in-person encounter with a patient.

- We support the affirmative inclusion of physician assistants under the telemedicine rule. Physician assistants should be held to the same standards of practice and care regardless of whether health care services are provided in person or by telemedicine. This would reduce uncertainty among health care providers about the use of physician assistants in telemedicine and allow physician assistants to practice at the top of their license while achieving the triple aim of improving the affordability, experience, and health of their patients.

Thank you again for the opportunity to provide input on the proposed telemedicine rules. If you have any additional questions or if we can be of assistance in any other way, please contact Kevin Palattao, Vice President of Clinic Patient Care Systems at Kevin.J.Palattao@HealthPartners.com, 952-883-5348.

Sincerely,



Andrew Zinkel, MD, MBA
Associate Medical Director for Quality
HealthPartners Health Plan
Medical Director, virtuwell by HealthPartners

TEXT OF RULE

SECTION 1. Chapter Med 24 is created to read:

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(2) Patient care in consultation with another physician who has an established physician-patient relationship with the patient.

(3) Patient care in on-call or cross-coverage situations in which the physician 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.

(5) Use of telemedicine by a Wisconsin licensed physician assistant to provide patient care, treatment, or services within the licensee’s scope of practice under s. Med 8.07.

Med 24.02 Definition of telemedicine. In this chapter, “telemedicine” means the practice of medicine 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.

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(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.

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)
