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**WEB/TELECONFERENCE**  
**PODIATRY AFFILIATED CREDENTIALING BOARD**  
**Room 121A, 1400 East Washington Avenue, Madison**  
**Contact: Tom Ryan (608) 266-2112**  
**June 17, 2014**

*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**

**10:45 A.M.**

**OPEN SESSION – CALL TO ORDER – ROLL CALL**

- A) Adoption of Agenda**
- B) Welcome New Members
- C) Approval of Minutes of February 4, 2014 (4-7)**
- D) Administrative Updates**
  - 1) Staff Updates
  - 2) Appointments/Reappointments/Confirmations
  - 3) DLSC Paperless Screening Panel Initiative **(8-14)**
    - a) **APPEARANCE** – Janie Brischke, Cortney Keo, Kelley Foster, and Matthew Niehaus (Department Staff)
  - 4) Prescription Drug Monitoring Program (PDMP) Liaison – Discussion and Consideration **(15)**
    - a) **APPEARANCE** – PDMP Staff
  - 5) Professional Assistance Procedure (PAP) Liaison – Discussion and Consideration **(16-20)**

- E) Legislative/Administrative Rule Matters:**
- 1) Current and Future Rule Making and Legislative Initiatives
  - 2) Administrative Rules Report
  - 3) Review of 2013 Wisconsin Act 345, Relating to Informed Consent **(21-23)**
  - 4) Discussion of Regulations from Other State Medical Boards Relating to Overbilling and Overtreatment **(24-32)**
  - 5) Review of Preliminary Draft of 165-POD 4, Relating to Biennial Registration **(33-36)**
  - 6) Adoption of Clearinghouse Rule 13-110, Relating to Podiatric X-ray Assistants **(37-42)**
  - 7) **11:00 A.M. – PUBLIC HEARING** – Clearinghouse Rule 14-035, Relating to Continuing Education Audits **(43-53)**
- F) Speaking Engagement(s), Travel, or Public Relation Request(s)
- G) Items Added After Preparation of Agenda:
- 1) Introductions, Announcements and Recognition
  - 2) Administrative Updates
  - 3) Education and Examination Matters
  - 4) Credentialing Matters
  - 5) Practice Matters
  - 6) Legislation/Administrative Rule Matters
  - 7) Liaison Report(s)
  - 8) Informational Item(s)
  - 9) Disciplinary Matters
  - 10) Presentations of Petition(s) for Summary Suspension
  - 11) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
  - 12) Presentation of Proposed Decisions
  - 13) Presentation of Interim Order(s)
  - 14) Petitions for Re-Hearing
  - 15) Petitions for Assessments
  - 16) Petitions to Vacate Order(s)
  - 17) Petitions for Designation of Hearing Examiner
  - 18) Requests for Disciplinary Proceeding Presentations
  - 19) Motions
  - 20) Petitions
  - 21) Appearances from Requests Received or Renewed
  - 22) Speaking Engagement(s), Travel, or Public Relation Request(s)
- H) 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 § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).**

**I) Case Status Report (54)**

**J) Case Closing(s)**

- 1) 13 POD 010 (P.Z.) **(55-57)**
- 2) 13 POD 015 (J.L.) **(58-62)**

**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) Petition(s) for Summary Suspensions
- 7) Proposed Stipulations, Final Decisions and Orders
- 8) Administrative Warnings
- 9) Proposed Decisions
- 10) Matters Relating to Costs
- 11) Complaints
- 12) Case Closings
- 13) Case Status Report
- 14) Petition(s) for Extension of Time
- 15) Proposed Interim Orders
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) 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) Ratification of Licenses and Certificates**

**ADJOURNMENT**

**PODIATRY AFFILIATED CREDENTIALING BOARD  
WEB/VIRTUAL MEETING MINUTES**

**February 4, 2014**

**PRESENT VIA GOTOMEETING:** Jeffery Giesking, DPM; Thomas Komp, DPM; William Weis, DPM

**ABSENT:** Gary Brown

**STAFF:** Tom Ryan, Executive Director; Daniel Agne, Bureau Assistant; and other Department staff

**CALL TO ORDER**

William Weis, Chair, called the meeting to order at 9:01 A.M. A quorum of three (3) members was confirmed.

**ADOPTION OF AGENDA**

**MOTION:** Thomas Komp moved, seconded by Jeffery Giesking, to adopt the agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES**

**MOTION:** Jeffery Giesking moved, seconded by Thomas Komp, to approve the minutes of October 24, 2013 as published. Motion carried unanimously.

**ADMINISTRATIVE MATTERS**

**ELECTION OF OFFICERS**

**BOARD CHAIR**

**NOMINATION:** Thomas Komp nominated William Weis for the Office of Board Chair.

Tom Ryan called for other nominations three (3) times.

William Weis was elected as Board Chair.

**VICE CHAIR**

**NOMINATION:** Jeffery Giesking nominated Thomas Komp for the Office of Vice Chair.

Tom Ryan called for other nominations three (3) times.

Thomas Komp was elected as Vice Chair.

**SECRETARY**

**NOMINATION:** William Weis nominated Gary Brown for the Office of Secretary.

Tom Ryan called for other nominations three (3) times.

Gary Brown was elected as Secretary.

<b>2014 ELECTION RESULTS</b>	
<b>Board Chair</b>	William Weis
<b>Vice Chair</b>	Thomas Komp
<b>Secretary</b>	Gary Brown

**APPOINTMENT OF LIAISONS, ALTERNATES, AND DELEGATES**

**MOTION:** Thomas Komp moved, seconded by Jeffery Giesking, to retain the current Liaisons, Screening Panel Members, and Delegates for 2014, as noted below. Motion carried unanimously.

**2014 LIAISONS (RETAINED FROM 2013):**

- Credentialing Liaison(s):** William Weis, Thomas Komp (alternate)
- Monitoring Liaison(s):** Thomas Komp, Jeffery Giesking (alternate)
- Education and Exams Liaison(s):** Jeffery Giesking, Thomas Komp (alternate)
- Legislative Liaison(s):** William Weis, Jeffery Giesking (alternate)
- Travel Liaison(s):** Jeffery Giesking, Thomas Komp (alternate)
- Rules Liaison:** William Weis, Thomas Komp (alternate)
- Screening Panel:** Thomas Komp, William Weis, and Gary Brown, Jeffery Giesking (alternate)

**DELEGATED AUTHORITY MOTIONS**

**MOTION:** William Weis moved, seconded by Jeffery Giesking, to adopt the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today’s agenda packet. Motion carried unanimously.

**MOTION:** Thomas Komp moved, seconded by Jeffery Giesking, that the Board delegates authority to the Chair (or order of succession) to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair delegates the authority to the Executive Director to sign the name of the Chair (or order of succession) on documents as necessary. Motion carried unanimously.

**MOTION:** Jeffery Giesking moved, seconded by Thomas Komp, that, in order to facilitate the completion of assignments between meetings, the Board delegates its 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 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.

## **LEGISLATIVE/ADMINISTRATIVE RULE MATTERS**

### **REVIEW AND APPROVAL OF CLEARINGHOUSE REPORT 13-110**

**MOTION:** Thomas Komp moved, seconded by Jeffery Giesking, to accept all Clearinghouse comments for CR 13-110, relating to Podiatry X-Ray Assistants. Motion carried unanimously.

### **REVIEW AND APPROVAL OF THE LEGISLATIVE REPORT REGARDING CLEARINGHOUSE REPORT 13-110**

**MOTION:** Jeffery Giesking moved, seconded by Thomas Komp, to authorize the Chair to approve as amended the Legislative Report and Draft for Clearinghouse Rule 13-110 revising POD 1.02 and 7.01, and to authorize the Chair to approve the final draft before submitting to the Governor's Office and Legislature. Motion carried unanimously.

### **REVIEW AND APPROVAL OF SCOPE STATEMENT FOR 165-POD 4.01, WIS. ADMIN. CODE, RELATING TO BIENNIAL REGISTRATION**

**MOTION:** Thomas Komp moved, seconded by Jeffery Giesking, to approve the Scope Statement on 165-POD 4.01, relating to Biennial Registration, for submission to the Governor's Office and publication, and to authorize the Chair to approve the Scope for implementation no less than 10 days after publication. Motion carried unanimously.

### **REVIEW AND CONSIDERATION OF 165-POD 3.01 AND 3.04, WIS. ADMIN. CODE, RELATING TO CONTINUING EDUCATION AUDITS FOR PODIATRISTS – PRELIMINARY RULE DRAFT**

**MOTION:** William Weis moved, seconded by Thomas Komp, to approve the Preliminary Rule Draft of 165-POD 3.01 and 3.04, relating to Continuing Education, provided the first line of 3.04 is changed from "shall" to "may," and to submit to the Clearinghouse and EIA Posting. Motion carried unanimously.

### **ADOPTION OF RULEMAKING ORDER FOR CLEARINGHOUSE REPORT 12-047 [POD 1.08 (5), 3.02 (4), AND 3.03 (3), WIS. ADMIN. CODE]**

**MOTION:** Jeffery Giesking moved, seconded by Thomas Komp, to approve the Adoption Order for Clearinghouse Rule 12-047, and to authorize Tom Ryan to sign on the Chair's behalf. Motion carried unanimously.

## ADJOURNMENT

**MOTION:** Jeffery Giesking moved, seconded by Thomas Komp, to adjourn the meeting.  
Motion carried unanimously.

The meeting adjourned at 10:49 A.M.

DRAFT

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Matthew C. Niehaus, DSPS WebMaster		<b>2) Date When Request Submitted:</b>  04/07/14  Items will be considered late if submitted after 4:30 p.m. on the deadline date: <ul style="list-style-type: none"> <li>▪ 8 business days before the meeting for paperless boards</li> <li>▪ 14 business days before the meeting for all others</li> </ul>	
<b>3) Name of Board, Committee, Council, Sections:</b>  Podiatrist Affiliated Credentialing Board			
<b>4) Meeting Date:</b>  06/17/14	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b>  DLSC Paperless Screening Panel Initiative - APPEARANCE	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled?</b>  <input checked="" type="checkbox"/> Yes ( <a href="#">Fill out Board Appearance Request</a> ) <input type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  Jane Brischke: Program & Policy Analyst – Advanced Cortney Keo: Records Management Supervisor Kelley Foster: Medical Examining Board Intake Specialist Matthew C. Niehaus: DSPS Webmaster  The above staff will be appearing before the Board to present the DLSC Paperless Screening Panel Initiative. Beginning in November, Screening Panel Members will be able to access case materials through the Board SharePoint site.			
<b>11) Authorization</b>			
		04/07/14	
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.			

# **BOARD APPEARANCE REQUEST FORM**

## **Appearance Information**

**Board Name:** Podiatry Affiliated Credentialing Board **Board**

**Meeting Date:** 06/17/14

**Person Submitting Agenda Request:** Matthew C. Niehaus: DSPP WebMaster

### **Persons requesting an appearance:**

Jane Brischke: Program & Policy Analyst – Advanced

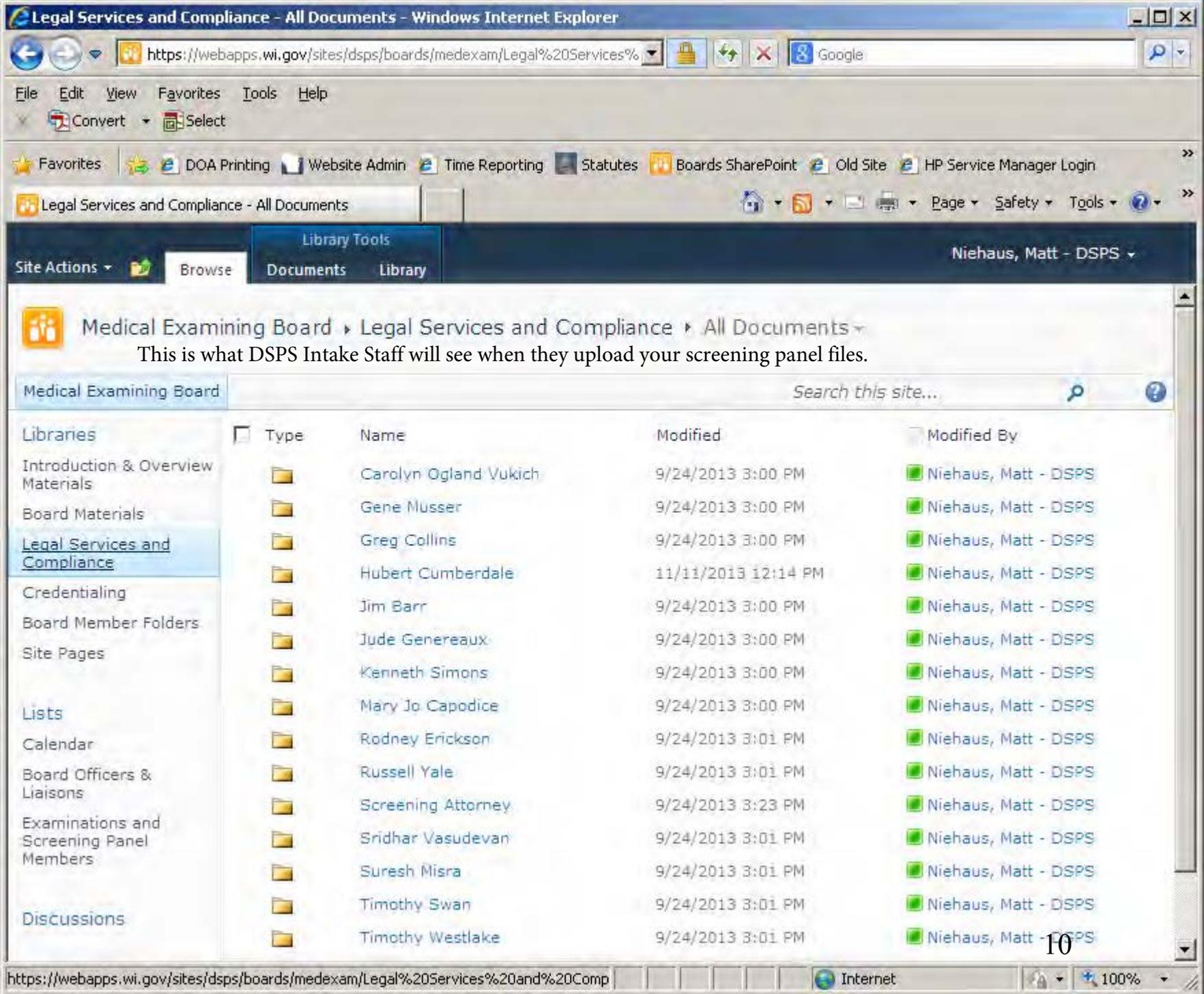
Cortney Keo: Records Management Supervisor

Kelley Foster: Medical Examining Board Intake Specialist

Matthew C. Niehaus: DSPP Webmaster

### **Reason for Appearance:**

The above DSPP staff are appearing before the Board to present the DLSC Paperless Screening Panel.



Medical Examining Board > Legal Services and Compliance > All Documents > This is what DSPS Intake Staff will see when they upload your screening panel files.

Medical Examining Board Search this site...

Libraries	Type	Name	Modified	Modified By
Introduction & Overview Materials	Folder	Carolyn Ogland Vukich	9/24/2013 3:00 PM	Niehaus, Matt - DSPS
Board Materials	Folder	Gene Nusser	9/24/2013 3:00 PM	Niehaus, Matt - DSPS
<b>Legal Services and Compliance</b>	Folder	Greg Collins	9/24/2013 3:00 PM	Niehaus, Matt - DSPS
	Folder	Hubert Cumberlande	11/11/2013 12:14 PM	Niehaus, Matt - DSPS
Credentialing	Folder	Jim Barr	9/24/2013 3:00 PM	Niehaus, Matt - DSPS
Board Member Folders	Folder	Jude Genereaux	9/24/2013 3:00 PM	Niehaus, Matt - DSPS
Site Pages	Folder	Kenneth Simons	9/24/2013 3:00 PM	Niehaus, Matt - DSPS
Lists	Folder	Mary Jo Capodice	9/24/2013 3:00 PM	Niehaus, Matt - DSPS
Calendar	Folder	Rodney Erickson	9/24/2013 3:01 PM	Niehaus, Matt - DSPS
Board Officers & Liaisons	Folder	Russell Yale	9/24/2013 3:01 PM	Niehaus, Matt - DSPS
Examinations and Screening Panel Members	Folder	Screening Attorney	9/24/2013 3:23 PM	Niehaus, Matt - DSPS
	Folder	Sridhar Vasudevan	9/24/2013 3:01 PM	Niehaus, Matt - DSPS
	Folder	Suresh Misra	9/24/2013 3:01 PM	Niehaus, Matt - DSPS
Discussions	Folder	Timothy Swan	9/24/2013 3:01 PM	Niehaus, Matt - DSPS
	Folder	Timothy Westlake	9/24/2013 3:01 PM	Niehaus, Matt - DSPS

Legal Services and Compliance - All Documents - Windows Internet Explorer

https://webapps.wi.gov/sites/dsps/boards/medexam/Legal%20Services%20Documents

File Edit View Favorites Tools Help

Convert Select

Favorites DOA Printing Website Admin Time Reporting Statutes Boards SharePoint Old Site HP Service Manager Login

Legal Services and Complian... Legal Services and Compl... x

Site Actions Browse Documents Library Hubert Cumberlande

Medical Examining Board > Legal Services and Compliance > All Documents

Medical Examining Board Search this site...

Libraries	Type	Name	Modified	Modified By
Introduction & Overview Materials	Folder	Hubert Cumberlande	11/11/2013 12:14 PM	Niehaus, Matt - DSPS

Board Materials

Legal Services and Compliance

Site Pages

Lists

Calendar

Board Officers & Liaisons

Examinations and Screening Panel Members

Discussions

Internet 100%

This is what you will see when you log in to check your screening panel documents. Much like your Board Member folder, this folder is visible only to you and the DSPS staff member responsible for adding the files for your review.

Files will be cleared monthly and password protected for added security.

Bookmarks will be added and comments will be enabled, much like your agenda packets.

One set of Medical Examining Board  
Screening Panel Materials  
(Four of these were mailed every month)



# PAPERLESS SCREENING PANELS

## TOTAL POTENTIAL SAVINGS

★ **\$2,397.57 printing + \$2,582.30 shipping + \$10,200 Canon IR 7086 + \$22,509.24 staff time = \$37,689.11 ANNUALLY<sup>1</sup>**

★ **In addition to the monetary savings:**

- ✓ This process introduces enhanced security for screening panel documents. Under the new system, these documents are carefully controlled and protected by multiple layers of authentication.
- ✓ Environmental impact: save 90 trees annually, landfill space, kilowatts of energy
- ✓ Real time updates and delivery of documents.
- ✓ Document management – ability to recreate misplaced/lost documents, locate/search/distribute files quickly and efficiently

### 1. COPIER/PAPER/MAILING (postage, envelopes) SAVINGS

- ✓ DLSC currently obtains paper for \$33.40 per box. Each box contains 5,000 sheets of paper. Each individual sheet of paper thus costs DSPS \$0.00668.
  - 100 sheets of paper weighs approximately 1 pound, meaning it costs \$0.668 to purchase one pound of paper.
  - Toner costs are covered by our lease on the printing equipment.
  - Print jobs after we surpass the 40,000 monthly page limit permitted in our lease cost us \$0.50 extra per 100 pages
- ✓ Adding in one internal packet for screening panel attorneys every month, DLSC printed approximately 206,500 pages of paper for Screening Panels over 210 calendar days (May 9 – November 26), not factoring in any erroneous print jobs.
- ✓ From May 9 to November 26, DLSC spent \$1,008.05 to ship Tyvek envelopes for large screening packets.
- ✓ \$51.52 is spent on regular envelopes for mailings that are light enough to send through the postal service. Mailing these envelopes costs \$414.96 in postage annually. \$365.82 is spent purchasing white Tyvek envelopes that must be sent through a courier service, for a total of \$832.30 annually on miscellaneous mailing materials.
- ✓ Based upon the above data, shipping costs for screening panels add up to \$2,582.30 annually, with estimated annual printing costs of \$2,397.57.

### 2. STAFF TIME/SAVINGS

- ✓ DLSC staff currently spends an average of 12 hours per Medical Examining Board screening panel packet copying and mailing. The average intake staff salary with fringe is \$24.44 per hour which costs out to \$293.28 of staff time per packet. This results in a \$7,038.72 expenditure in staff time annually. As the paperless scanning process only necessitates one run through the scanner, this will cut down the amount of time spent at the copier to ¼ its current level, a \$5,279.04 savings.
- ✓ Other Boards typically take considerably less time to prepare their screening panel packets. Assuming an average of 5 hours of staff processing time per packet, with 188 meetings that are not representative of the Medical Examining Board per year<sup>2</sup>, there is an additional staff time savings of \$17,230.20 for a grand total of \$22,509.24 in staff expenses that can be reallocated.
- ✓ The time currently spent compiling the printed packets for mailing may be shifted to improving the quality of the materials through bookmarking, page numbering, and running text recognition. This will aid the screening panel in its efforts, potentially saving time screening panel attorneys spend in meetings with screening panel members.

### 3. OTHER FACTORS

- ✓ By drastically reducing the amount of time needed for DLSC staff to physically stand at the copier and as it is possible to print to a copier that is being used to scan documents, we could cease leasing one of our two DLSC copiers. We currently lease the more expensive copier Canon IR 7086 (Mickey) on a 6-month basis for \$850/month (\$10,200 annually.)

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<sup>1</sup> This is achieved with virtually no cost, as the SharePoint Site has already been purchased for the Policy Development paperless initiative.

<sup>2</sup> 332 screening panel meetings are scheduled for 2014. Approximately 40% of all screening panel meetings from 2013 were cancelled due to lack of business, meaning there would be 200 total meetings. The estimate of 5 hours per packet (and 12 hours per Medical Examining Board packet) was taken from interviews with DLSC staff.

# Initiatives for Improving Service

## Division of Legal Services & Compliance – Paperless Screening Panels

- ✓ Drives Wisconsin to the cutting edge of state government technology solutions
- ✓ No potential for loss or damage in the mail
- ✓ Text recognition
  - Adobe can recognize typed (and usually handwritten) notes and allow for searching for specific words and phrases
- ✓ Enlarge text
  - Ability to enlarge the document for easier readability
- ✓ Accessibility of documents
  - No need to transport large files to screen materials
  - SharePoint is accessible anywhere you have a computer, tablet or smart phone and the internet
- ✓ Convenient notes and comments
  - Members have the ability to create a document in Microsoft Word directly from the SharePoint site to keep track of notes
  - This document is also accessible anywhere you can use SharePoint
  - Make comments directly in your electronic copy of each complaint on specific pages or places
  - Easy access to all comments, or specific comments, via a list in Adobe
- ✓ Pages will be numbered and bookmarked so members may easily reference points in the document
- ✓ Transition process
  - First sets of screening materials will be sent via **paper** and **electronic** formats, to ease the transition to paperless panels
- ✓ Financial impact
  - Paperless screening will save approximately \$40,000 on paper, ink, printer maintenance and shipping costs annually (\$240,000 by 2020)
  - There is also time savings in preparing, sorting, copying and mailing
  - Elimination of costs related to destroying screening panel documents
  - Reduction of file space requirements
- ✓ Technical support
  - Intake staff members are available to answer any questions you have regarding paperless screening
    - Kelley Foster – Intake for MED & MED Affiliates  
(608) 267-1818    kelly.foster@wi.gov
  - DLSC staff will follow-up in the months after implementation to obtain feedback and input on the paperless screening process



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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Ashley Horton  Department Monitor Division of Legal Services and Compliance		<b>2) Date When Request Submitted:</b>  December 20, 2013  Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
<b>3) Name of Board, Committee, Council, Sections:</b>			
<b>4) Meeting Date:</b>	<b>5) Attachments:</b>  <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b>  Appointment of Professional Assistance Procedure (PAP) Liaison	
<b>7) Place Item in:</b>  <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled?</b>  <input type="checkbox"/> Yes ( <a href="#">Fill out Board Appearance Request</a> ) <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  Appointment of 2014 PAP Liaison - see <i>Wis. Admin. Code SPS ch. 7, attached, for Liaison duties</i>			
<b>11)</b>  		Authorization  December 20, 2013	
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	
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

## Chapter SPS 7

### PROFESSIONAL ASSISTANCE PROCEDURE

SPS 7.01	Authority and intent.	SPS 7.07	Intradepartmental referral.
SPS 7.02	Definitions.	SPS 7.08	Records.
SPS 7.03	Referral to and eligibility for the procedure.	SPS 7.09	Report.
SPS 7.04	Requirements for participation.	SPS 7.10	Applicability of procedures to direct licensing by the department.
SPS 7.05	Agreement for participation.	SPS 7.11	Approval of drug testing programs.
SPS 7.06	Standards for approval of treatment facilities or individual therapists.		

**Note:** Chapter RL 7 was renumbered chapter SPS 7 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671

**SPS 7.01 Authority and intent.** (1) The rules in this chapter are adopted pursuant to authority in ss. 15.08 (5) (b), 15.30, 146.82, 227.11 and 440.03, Stats.

(2) The intent of the department in adopting rules in this chapter is to protect the public from credential holders who are impaired by reason of their abuse of alcohol or other drugs by promoting early identification of chemically dependent professionals and encouraging rehabilitation. This goal will be advanced by providing an option that may be used in conjunction with the formal disciplinary process for qualified credential holders committed to their own recovery. This procedure is intended to apply when allegations are made that a credential holder has practiced a profession while impaired by alcohol or other drugs or whose ability to practice is impaired by alcohol or other drugs or when a credential holder contacts the department and requests to participate in the procedure. It may be used in conjunction with the formal disciplinary process in situations where allegations exist that a credential holder has committed misconduct, negligence or violations of law, other than practice while impaired by alcohol or other drugs. The procedure may then be utilized to promote early identification of chemically dependent professionals and encourage their rehabilitation. Finally, the department's procedure does not seek to diminish the prosecution of serious violations but rather it attempts to address the problem of alcohol and other drug abuse within the enforcement jurisdiction of the department.

(3) In administering this program, the department intends to encourage board members to share professional expertise so that all boards in the department have access to a range of professional expertise to handle problems involving impaired professionals.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (2), Register, July, 1996, No. 487, eff. 8-1-96; CR 10-081: am. (2) Register December 2010 No. 660, eff. 1-1-11.

**SPS 7.02 Definitions.** In this chapter:

(1) "Board" means any board, examining board or affiliated credentialing board attached to the department.

(2) "Board liaison" means the board member designated by the board or the secretary or the secretary's designee as responsible for approving credential holders for the professional assistance procedure under s. SPS 7.03, for monitoring compliance with the requirements for participation under s. SPS 7.04, and for performing other responsibilities delegated to the board liaison under these rules.

(2a) "Coordinator" means a department employee who coordinates the professional assistance procedure.

(2b) "Credential holder" means a person holding any license, permit, certificate or registration granted by the department or any board. For purposes of this chapter, "credential holder" includes a person with a pending application for a credential for a period not to exceed one year from the date the application for the credential was submitted to the department.

(3) "Department" means the department of safety and professional services.

(4) "Division" means the division of enforcement in the department.

(5) "Informal complaint" means any written information submitted by any person to the division, department or any board which requests that a disciplinary proceeding be commenced against a credential holder or which alleges facts, which if true, warrant discipline. "Informal complaint" includes requests for disciplinary proceedings under s. 440.20, Stats.

(6) "Medical review officer" means a medical doctor or doctor of osteopathy who is a licensed physician and who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with an individual's medical history and any other relevant biomedical information.

(7) "Procedure" means the professional assistance procedure.

(8) "Program" means any entity approved by the department to provide the full scope of drug testing services for the department.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (1), (2), (5), cr. (2a), (2b), r. (6), Register, July, 1996, No. 487, eff. 8-1-96; cr. (6) and (8), Register, January, 2001, No. 541, eff. 2-1-01; CR 10-081: am. (1) to (2b), (7) Register December 2010 No. 660, eff. 1-1-11; correction in (2), (3) made under s. 13.92 (4) (b) 6., Register November 2011 No. 671.

**SPS 7.03 Referral to and eligibility for the procedure.** (1) A credential holder who contacts the department and requests to participate in the procedure shall be referred to the board liaison and the coordinator for determination of acceptance into the procedure.

(2) A credential holder who has been referred to the procedure and considered for eligibility shall be provided with an application for participation.

(3) All informal complaints involving allegations of impairment due to alcohol or chemical dependency shall be screened and investigated pursuant to s. SPS 2.035. After investigation, informal complaints involving impairment may be referred to the procedure along with a summary of the investigative results in the form of a draft statement of conduct to be used as a basis for the statement of conduct under s. SPS 7.05 (1) (a) and considered for eligibility for the procedure or for formal disciplinary proceedings under ch. SPS 2. The credential holder shall be provided with a written explanation of the credential holder's options for resolution of the matter through participation in the procedure and of the formal disciplinary process pursuant to ch. SPS 2.

(4) Eligibility for the procedure shall be determined by the board liaison and coordinator who shall review all relevant materials including investigative results and the credential holder's application for participation. Eligibility shall be determined upon criteria developed by the coordinator in consultation with the disciplinary authority. The decision on eligibility shall be consistent with the purposes of these procedures as described in s. SPS 7.01 (2). Credential holders who have committed violations of law may be eligible for the procedure. The board liaison shall have

responsibility to make the determination of eligibility for the procedure.

(5) The credential holder shall obtain a comprehensive assessment for chemical dependency from a treatment facility or individual therapist approved under s. [SPS 7.06](#). The credential holder shall arrange for the treatment facility or individual therapist to file a copy of its assessment with the board liaison or coordinator. The board liaison and the credential holder may agree to waive this requirement. The obtaining of the assessment shall not delay admission into the procedure.

(6) If a credential holder is determined to be ineligible for the procedure, the credential holder may be referred to the division for prosecution.

(7) A credential holder determined to be ineligible for the procedure by the board liaison or the department may, within 10 days of notice of the determination, request the credentialing authority to review the adverse determination.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (2) to (6), Register, July, 1996, No. 487, eff. 8-1-96; CR 10-081: renum. (1) and (3) to (6) to be (3) to (7) and am. (3) to (6), cr. (1), am. (2) Register December 2010 No. 660, eff. 1-1-11; correction in (3), (4), (5) made under s. [13.92 \(4\) \(b\) 7., Stats., Register November 2011 No. 671.](#)

**SPS 7.04 Requirements for participation. (1)** A credential holder who participates in the procedure shall:

- (a) Sign an agreement for participation under s. [SPS 7.05](#).
- (b) Remain free of alcohol, controlled substances, and prescription drugs, unless prescribed for a valid medical purpose.
- (c) Timely enroll and participate in a program for the treatment of chemical dependency conducted by a facility or individual therapist approved pursuant to s. [SPS 7.06](#).
- (d) Comply with any treatment recommendations and work restrictions or conditions deemed necessary by the board liaison or department.
- (e) Submit random monitored physiological specimens for the purpose of screening for alcohol or controlled substances provided by a drug testing program approved by the department under s. [SPS 7.11](#), as required.
- (f) Execute releases valid under state and federal law to allow access to the credential holder's counseling, treatment and monitoring records.
- (g) Have the credential holder's supervising therapist and work supervisors file quarterly reports with the coordinator.
- (h) Notify the coordinator of any changes in the credential holder's employer within 5 days.
- (i) File quarterly reports documenting the credential holder's attendance at meetings of self-help groups such as alcoholics anonymous or narcotics anonymous.

(2) If the board liaison or department determines, based on consultation with the person authorized to provide treatment to the credential holder or monitor the credential holder's enrollment or participation in the procedure, or monitor any drug screening requirements or restrictions on employment under sub. (1), that a credential holder participating in the procedure has failed to meet any of the requirements set under sub. (1), the board liaison may refer the credential holder to the division. A failure to maintain abstinence is considered a relapse and shall be reviewed by the board liaison to determine whether the credential holder should be referred to the division. The board liaison may review the complete record in making this determination.

(3) If a credential holder violates the agreement and no referral to the division occurs, then a new admission under s. [SPS 7.05 \(1\) \(a\)](#) shall be obtained for relapses and for misconduct, negligence or violations of law which are substantial. If a new admission is not obtained, then a referral to the division by the coordinator shall occur.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96; am. (1) (e), Register, January, 2001, No. 541, eff. 2-1-01; CR 10-081: am. (1) (e), (f), (2), (3) Register December 2010 No. 660, eff. 1-1-11;

correction in (1) (a), (c), (e), (3) made under s. [13.92 \(4\) \(b\) 7., Stats., Register November 2011 No. 671.](#)

**SPS 7.05 Agreement for participation. (1)** The agreement for participation in the procedure shall at a minimum include:

(a) A statement describing conduct the credential holder agrees occurred relating to participation in the procedure and an agreement that the statement may be used as evidence in any disciplinary proceeding under ch. [SPS 2](#).

(b) An acknowledgement by the credential holder of the need for treatment for chemical dependency;

(c) An agreement to participate at the credential holder's expense in an approved treatment regimen.

(d) An agreement to submit to random monitored drug screens provided by a drug testing program approved by the department under s. [SPS 7.11](#) at the credential holder's expense, if deemed necessary by the board liaison.

(e) An agreement to submit to practice restrictions at any time during the treatment regimen as deemed necessary by the board liaison.

(f) An agreement to furnish the coordinator with signed consents for release of information from treatment providers and employers authorizing the release of information to the coordinator and board liaison for the purpose of monitoring the credential holder's participation in the procedure.

(g) An agreement to authorize the board liaison or coordinator to release information described in pars. (a), (c) and (e), the fact that a credential holder has been dismissed under s. [SPS 7.07 \(3\) \(a\)](#) or violated terms of the agreement in s. [SPS 7.04 \(1\) \(b\) to \(e\)](#) and (h) concerning the credential holder's participation in the procedure to the employer, therapist or treatment facility identified by the credential holder and an agreement to authorize the coordinator to release the results of random monitored drug screens under par. (d) to the therapist identified by the credential holder.

(h) An agreement to participate in the procedure for a period of time as established by the board.

(2) The board liaison may include additional requirements for an individual credential holder, if the circumstances of the informal complaint or the credential holder's condition warrant additional safeguards.

(3) The board or board liaison may include a promise of confidentiality that all or certain records shall remain closed and not available for public inspection and copying. Any promise is subject to s. [SPS 7.08](#) and ends upon a referral to the division. Information and records may be made available to staff within the department on an as-needed basis, to be determined by the coordinator.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (1) (a) to (g) and (2), Register, July, 1996, No. 487, eff. 8-1-96; am. (1) (d), Register, January, 2001, No. 541, eff. 2-1-01; CR 10-081: am. (3) Register December 2010 No. 660, eff. 1-1-11; correction in (1) (a), (d), (g), (3) made under s. [13.92 \(4\) \(b\) 7., Stats., Register November 2011 No. 671.](#)

**SPS 7.06 Standards for approval of treatment facilities or individual therapists. (1)** The board or board liaison shall approve a treatment facility designated by a credential holder for the purpose of participation in the procedure if:

(a) The facility is certified by appropriate national or state certification agencies.

(b) The treatment program focus at the facility is on the individual with drug and alcohol abuse problems.

(c) Facility treatment plans and protocols are available to the board liaison and coordinator.

(d) The facility, through the credential holder's supervising therapist, agrees to file reports as required, including quarterly progress reports and immediate reports if a credential holder withdraws from therapy, relapses, or is believed to be in an unsafe condition to practice.

(2) As an alternative to participation by means of a treatment facility, a credential holder may designate an individual therapist for the purpose of participation in the procedure. The board liaison shall approve an individual therapist who:

(a) Has credentials and experience determined by the board liaison to be in the credential holder's area of need.

(b) Agrees to perform an appropriate assessment of the credential holder's therapeutic needs and to establish and implement a comprehensive treatment regimen for the credential holder.

(c) Forwards copies of the therapist's treatment regimen and office protocols to the coordinator.

(d) Agrees to file reports as required to the coordinator, including quarterly progress reports and immediate reports if a credential holder withdraws from therapy, relapses, or is believed to be in an unsafe condition to practice.

(3) If a board liaison does not approve a treatment facility or therapist as requested by the credential holder, the credential holder may, within 10 days of notice of the determination, request the board to review the board liaison's adverse determination.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96; r. (1) (d) and (2) (d), renum. (1) (e) and (2) (e) to be (1) (d) and (2) (d) and am., Register, January, 2001, No. 541, eff. 2-1-01.

**SPS 7.07 Intradepartmental referral.** (2) The division may refer individuals named in informal complaints to the board liaison for acceptance into the procedure.

(3) The board liaison may refer cases involving the following to the division for investigation or prosecution:

(a) Credential holders participating in the procedure who fail to meet the requirements of their rehabilitation program.

(b) Credential holders who apply and who are determined to be ineligible for the procedure where the board liaison is in possession of information indicating misconduct, negligence or a violation of law.

(c) Credential holders who do not complete an agreement for participation where the board liaison is in possession of information indicating misconduct, negligence or a violation of law.

(d) Credential holders initially referred by the division to the board liaison who fail to complete an agreement for participation.

(e) Credential holders who request early termination of an agreement for participation. In making the decision if a referral should occur, the board liaison shall consider whether the credential holder's therapist approves the early termination and whether this opinion is supported by a second therapist selected by the department who shall always be consulted and shall concur.

(4) The board liaison shall refer credential holders who relapse in the context of the work setting to the division for investigation and prosecution. A credential holder referred under this subsection who has not been dismissed from the procedure may continue to participate in the procedure.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (1), (3) (a) to (d), Register, July, 1996, No. 487, eff. 8-1-96; CR 10-081: r. (1), am. (3) (a), (b), (c), cr. (3) (e), (4) Register December 2010 No. 660, eff. 1-1-11.

**SPS 7.08 Records.** (1) CUSTODIAN. All records relating to the procedure including applications for participation, agreements for participation and reports of participation shall be maintained in the custody of the department secretary or the secretary's designee.

(2) AVAILABILITY OF PROCEDURE RECORDS FOR PUBLIC INSPECTION. Any requests to inspect procedure records shall be made to the custodian. The custodian shall evaluate each request on a case by case basis using the applicable law relating to open records and giving appropriate weight to relevant factors in order to determine whether public interest in nondisclosure outweighs the public interest in access to the records, including the reputational interests of the credential holder, the importance of confidentiality to the functional integrity of the procedure, the existence of any promise of confidentiality, statutory or common law rules which

accord a status of confidentiality to the records and the likelihood that release of the records will impede an investigation. The fact of a credential holder's participation in the procedure and the status of that participation may be disclosed to credentialing authorities of other jurisdictions.

(3) TREATMENT RECORDS. Treatment records concerning individuals who are receiving or who at any time have received services for mental illness, developmental disabilities, alcoholism, or drug dependence which are maintained by the department, by county departments under s. 51.42 or 51.437, Stats., and their staffs and by treatment facilities are confidential under s. 51.30, Stats., and shall not be made available for public inspection.

(4) PATIENT HEALTH CARE RECORDS. Patient health care records are confidential under s. 146.82, Stats., and shall not be made available to the public without the informed consent of the patient or of a person authorized by the patient or as provided under s. 146.82 (2), Stats.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. (2), Register, July, 1996, No. 487, eff. 8-1-96; CR 10-081: am. (2) Register December 2010 No. 660, eff. 1-1-11.

**SPS 7.09 Report.** The board liaison or coordinator shall report on the procedure to the board at least twice a year and if requested to do so by a board.

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96.

**SPS 7.10 Applicability of procedures to direct licensing by the department.** This procedure may be used by the department in resolving complaints against persons licensed directly by the department if the department has authority to discipline the credential holder. In such cases, the department secretary shall have the authority and responsibility of the "board" as the term is used in the procedure and shall designate an employee to perform the responsibilities of the "board liaison."

**History:** Cr. Register, January, 1991, No. 421, eff. 2-1-91; am. Register, July, 1996, No. 487, eff. 8-1-96.

**SPS 7.11 Approval of drug testing programs.** The department shall approve drug testing programs for use by credential holders who participate in drug and alcohol monitoring programs pursuant to agreements between the department or boards and credential holders, or pursuant to disciplinary orders. To be approved as a drug testing program for the department, programs shall satisfactorily meet all of the following standards in the areas of program administration, collection site administration, laboratory requirements and reporting requirements:

(1) Program administration requirements are:

(a) The program shall enroll participants by setting up an account, establishing a method of payment and supplying pre-printed chain-of-custody forms.

(b) The program shall provide the participant with the address and phone number of the nearest collection sites and shall assist in locating a qualified collection site when traveling outside the local area.

(c) Random selection of days when participants shall provide specimens shall begin upon enrollment and the program shall notify designated department staff that selection has begun.

(d) The program shall maintain a nationwide toll-free access or an internet website that is operational 24 hours per day, 7 days per week to inform participants of when to provide specimens and is able to document the date and time of contacts by credential holders.

(e) The program shall maintain and make available to the department and treatment providers through an internet website data that are updated on a daily basis verifying the date and time each participant was notified after random selection to provide a specimen, the date, time and location each specimen was collected, the results of drug screen and whether or not the participant complied as directed.

(f) The program shall maintain internal and external quality of test results and other services.

(g) The program shall maintain the confidentiality of participants in accordance with s. 146.82, Stats.

(h) The program shall inform participants of the total cost for each drug screen including the cost for program administration, collection, transportation, analysis, reporting and confirmation. Total cost shall not include the services of a medical review officer.

(i) The program shall immediately report to the department if the program, laboratory or any collection site fails to comply with this section. The department may remove a program from the approved list if the program fails to comply with this section.

(j) The program shall make available to the department experts to support a test result for 5 years after the test results are released to the department.

(k) The program shall not sell or otherwise transfer or transmit names and other personal identification information of the participants to other persons or entities without permission from the department. The program shall not solicit from participants presently or formerly in the monitoring program or otherwise contact participants except for purposes consistent with administering the program and only with permission from the department.

(L) The program and laboratory shall not disclose to the participant or the public the specific drugs tested.

**(2)** Collection site administration requirements are:

(a) The program shall locate, train and monitor collection sites for compliance with the U.S. department of transportation collection protocol under 49 CFR 40.

(b) The program shall require delivery of specimens to the laboratory within 24 hours of collection.

**(3)** Laboratory requirements are:

(a) The program shall utilize a laboratory that is certified by the U.S. department of health and human services, substance abuse and mental health services administration under 49 CFR 40. If the laboratory has had adverse or corrective action, the department shall evaluate the laboratory's compliance on a case by case basis.

(b) The program shall utilize a laboratory capable of analyzing specimens for drugs specified by the department.

(c) Testing of specimens shall be initiated within 48 hours of pickup by courier.

(d) All positive drug screens shall be confirmed utilizing gas chromatography in combination with mass spectrometry, mass spectrometry, or another approved method.

(e) The laboratory shall allow department personnel to tour facilities where participant specimens are tested.

**(4)** The requirements for reporting of results are:

(a) The program shall provide results of each specimen to designated department personnel within 24 hours of processing.

(b) The program shall inform designated department personnel of confirmed positive test results on the same day the test results are confirmed or by the next business day if the results are confirmed after hours, on the weekend or on a state or federal holiday.

(c) The program shall fax, e-mail or electronically transmit laboratory copies of drug test results at the request of the department.

(d) The program shall provide a medical review officer upon request and at the expense of the participant, to review disputed positive test results.

(e) The program shall provide chain-of-custody transfer of disputed specimens to an approved independent laboratory for retesting at the request of the participant or the department.

**History:** Cr. Register, January, 2001, No. 541, eff. 2-1-01; CR 10-081: am. (1) (d), (e) Register December 2010 No. 660, eff. 1-1-11.

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

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Shawn Leatherwood</b>		2) Date When Request Submitted:  <b>April 25, 2014</b> <small>Items will be considered late if submitted after 12:00 p.m. and less than:              ▪ 8 work days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: <b>Podiatry Affiliated Credentialing Board</b>			
4) Meeting Date:  <b>June 17, 2014</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Review of 2013 Wisconsin Act 345</b>	
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? If yes, who is appearing?  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:  <b>N/A</b>	
10) Describe the issue and action that should be addressed:  <p>The Board will review 2013 Wisconsin Act 345 and request DSPS staff to draft a scope statement regarding informed consent.</p>			
11) <b>Shawn Leatherwood</b> <small>Signature of person making this request</small>		Authorization  <b>April 25, 2014</b> <small>Date</small>	
Supervisor (if required)		Date	
Bureau 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 Board Services Bureau 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



2013 Senate Bill 518

Date of enactment: April 23, 2014  
Date of publication\*: April 24, 2014

## 2013 WISCONSIN ACT 345

AN ACT to renumber and amend 448.695 (1); and to create 446.02 (11), 446.08, 447.02 (2) (f), 447.40, 448.695 (1) (b), 448.697 and 449.25 of the statutes; relating to: a duty of podiatrists, chiropractors, dentists, and optometrists to inform patients of treatment options and granting rule-making authority.

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

SECTION 1. 446.02 (11) of the statutes is created to read:

446.02 (11) The examining board shall promulgate rules implementing s. 446.08.

SECTION 2. 446.08 of the statutes is created to read:

**446.08 Informed consent.** Any chiropractor who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable chiropractor standard is the standard for informing a patient under this section. The reasonable chiropractor standard requires disclosure only of information that a reasonable chiropractor would know and disclose under the circumstances. The chiropractor's duty to inform the patient under this section does not require disclosure of any of the following:

- (1) Detailed technical information that in all probability a patient would not understand.
- (2) Risks apparent or known to the patient.
- (3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.
- (4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

(5) Information in cases where the patient is incapable of consenting.

(6) Information about alternate modes of treatment for any condition the chiropractor has not included in his or her diagnosis at the time the chiropractor informs the patient.

SECTION 3. 447.02 (2) (f) of the statutes is created to read:

447.02 (2) (f) Provisions implementing s. 447.40.

SECTION 4. 447.40 of the statutes is created to read:

**447.40 Informed consent.** Any dentist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable dentist standard is the standard for informing a patient under this section. The reasonable dentist standard requires disclosure only of information that a reasonable dentist would know and disclose under the circumstances. The dentist's duty to inform the patient under this section does not require disclosure of any of the following:

- (1) Detailed technical information that in all probability a patient would not understand.
- (2) Risks apparent or known to the patient.
- (3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

\* 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."

(4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

(5) Information in cases where the patient is incapable of consenting.

(6) Information about alternate modes of treatment for any condition the dentist has not included in his or her diagnosis at the time the dentist informs the patient.

SECTION 5. 448.695 (1) of the statutes is renumbered 448.695 (1) (intro.) and amended to read:

448.695 (1) (intro.) The affiliated credentialing board shall promulgate all of the following rules defining:

(a) Rules defining the acts or attempted acts of commission or omission that constitute unprofessional conduct under s. 448.60 (5).

SECTION 6. 448.695 (1) (b) of the statutes is created to read:

448.695 (1) (b) Rules implementing s. 448.697.

SECTION 7. 448.697 of the statutes is created to read:

**448.697 Informed consent.** Any podiatrist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable podiatrist standard is the standard for informing a patient under this section. The reasonable podiatrist standard requires disclosure only of information that a reasonable podiatrist would know and disclose under the circumstances. The podiatrist's duty to inform the patient under this section does not require disclosure of any of the following:

(1) Detailed technical information that in all probability a patient would not understand.

(2) Risks apparent or known to the patient.

(3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

(4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

(5) Information in cases where the patient is incapable of consenting.

(6) Information about alternate modes of treatment for any condition the podiatrist has not included in his or her diagnosis at the time the podiatrist informs the patient.

SECTION 8. 449.25 of the statutes is created to read:

**449.25 Informed consent.** (1) Any optometrist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable optometrist standard is the standard for informing a patient under this section. The reasonable optometrist standard requires disclosure only of information that a reasonable optometrist would know and disclose under the circumstances. The optometrist's duty to inform the patient under this section does not require disclosure of any of the following:

(a) Detailed technical information that in all probability a patient would not understand.

(b) Risks apparent or known to the patient.

(c) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

(d) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

(e) Information in cases where the patient is incapable of consenting.

(f) Information about alternate modes of treatment for any condition the optometrist has not included in his or her diagnosis at the time the optometrist informs the patient.

(2) The examining board shall promulgate rules implementing sub. (1).

**SECTION 9. Initial applicability.**

(1) The treatment of section 446.08 of the statutes first applies to a chiropractor required to inform a patient about modes of treatment on the effective date of this subsection.

(2) The treatment of section 447.40 of the statutes first applies to a dentist required to inform a patient about modes of treatment on the effective date of this subsection.

(3) The treatment of section 448.697 of the statutes first applies to a podiatrist required to inform a patient about modes of treatment on the effective date of this subsection.

(4) The treatment of section 449.25 (1) of the statutes first applies to an optometrist required to inform a patient about modes of treatment on the effective date of this subsection.

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  <b>Shawn Leatherwood</b>		<b>2) Date When Request Submitted:</b>  <b>February 5, 2014</b> <small>Items will be considered late if submitted after 12:00 p.m. and less than:              * 8 work days before the meeting</small>	
<b>3) Name of Board, Committee, Council, Sections:</b> Podiatry Affiliated Credentialing Board			
<b>4) Meeting Date:</b>  <b>June 17, 2014</b>	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b>  <b>Discussion of regulations from other State Medical Boards relating to Overbilling and Overtreatment</b>	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled? If yes, who is appearing?</b>  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>  N/A	
<b>10) Describe the issue and action that should be addressed:</b>  <p>The Board will consider other state medical board's regulations concerning overbilling and overtreatment.</p>			
<b>11) Authorization</b> Shawn Leatherwood Signature of person making this request		February 5, 2014 Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)    Date			
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

## Cal Bus &amp; Prof Code § 725

DEERING'S CALIFORNIA CODES ANNOTATED  
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\*\*\* This document is current with urgency legislation  
 through Chapter 800 of \*\*\*  
 the 2013 Regular Session and through Chapter 5 of the First  
 Extra Session of the 2013-2014 Legislature.

BUSINESS & PROFESSIONS CODE  
 Division 2. Healing Arts  
 Chapter 1. General Provisions  
 Article 10.5. Unprofessional Conduct

## GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Bus & Prof Code § 725 (2013)

Practitioner's Toolbox 

↓ History

↓ Notes

↓ Notes of Decisions

## Resources &amp; Practice Tools

## Related Statutes &amp; Rules

- > Furnishing drugs without examination as unprofessional conduct: B & P C § 2242.
- > "Misdemeanor": Pen C § 17.

## Collateral References

- > Cal. Forms Pleading & Practice (Matthew Bender(R)) ch 414 "Physicians: Licensing And Discipline".

## § 725. Excessive prescribing or treatment; Treatment for intractable pain

**(a) Repeated acts of clearly excessive** prescribing, furnishing, dispensing, or administering of drugs or treatment, **repeated acts of clearly excessive** use of diagnostic procedures, or **repeated acts of clearly excessive** use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

**(b)** Any person who engages in **repeated acts of clearly excessive** prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

**(c)** A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

**(d)** No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5.

⚡ History:

Added Stats 1979 ch 348 § 2. Amended Stats 1984 ch 769 § 1; Stats 1998 ch 984 § 1 (AB 2305); Stats 2006 ch 350 § 2 (AB 2198), ch 659 § 1.5 (SB 1475), effective January 1, 2007; Stats 2007 ch 130 § 2 (AB 299), effective January 1, 2008.

⚡ Notes:

26 V.S.A. § 1354

VERMONT STATUTES ANNOTATED  
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VERMONT

\*\*\* Statutes current through the 2013 Session \*\*\*  
\*\*\* Annotations current through July 9, 2013 \*\*\*

TITLE TWENTY-SIX. PROFESSIONS AND OCCUPATIONS  
CHAPTER 23. MEDICINE  
SUBCHAPTER 2. BOARD OF MEDICAL PRACTICE

**Go to the Vermont Code Archive Directory**

26 V.S.A. § 1354 (2013)

§ 1354. Unprofessional conduct

(a) The board shall find that any one of the following, or any combination of the following, whether or not the conduct at issue was committed within or outside the state, constitutes unprofessional conduct:

(1) fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic renewal of a medical license;

(2) all advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons and so be harmful or injurious to public morals or safety;

(3) [Repealed.]

(4) abandonment of a patient;

(5) habitual or excessive use or abuse of drugs, alcohol, or other substances that impair the licensee's ability to practice medicine;

(6) promotion by a physician of the sale of drugs, devices, appliances, or goods provided for a patient in such a manner as to exploit the patient for financial gain of the physician or selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes;

(7) conduct which evidences unfitness to practice medicine;

(8) willfully making and filing false reports or records in his or her practice as a physician;

(9) willful omission to file or record, or willfully impeding or obstructing a filing or recording, or inducing another person to omit to file or record medical reports required by law;

(10) failure to make available promptly to a person using professional health care services, that person's representative, succeeding health care professionals or institutions, when given proper written request and direction of the person using professional health care services, copies of that person's records in the possession or under the control of the licensed practitioner;

(11) solicitation of professional patronage by agents or persons or profiting from the acts of those representing themselves to be agents of the licensed physician;

(12) division of fees or agreeing to split or divide the fees received for professional services for any person for bringing to or referring a patient;

(13) agreeing with clinical or bio-analytical laboratories to make payments to such laboratories for individual tests or test series for patients, unless the physician discloses on the bills to patients or third party payors the name of such laboratory, the amount or amounts to such laboratory for individual tests or test series and the amount of his or her processing charge or procurement, if any, for each specimen taken;

(14) willful misrepresentation in treatments;

(15) practicing medicine with a physician who is not legally practicing within the state, or aiding or abetting such physician in the practice of medicine; except that it shall be legal to practice in an accredited preceptorship or residency training program or pursuant to section 1313 of this title;

(16) gross overcharging for professional services on repeated occasions, including filing of false statements for collection of fees for which services are not rendered;

(17) offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine;

(18) **consistent improper utilization** of services;

(19) consistent use of nonaccepted procedures which have a consistent detrimental effect upon patients;

(20) professional incompetency resulting from physical or mental impairment;

(21) permitting one's name or license to be used by a person, group, or corporation when not actually in charge of or responsible for the treatment given;

(22) in the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions, that degree of care, skill, and proficiency which is commonly exercised by the ordinary skillful, careful, and prudent physician engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred;

(23) revocation of a license to practice medicine or surgery in another jurisdiction on one or more of the grounds specified in this section;

(24) failure to comply with the provisions of 18 V.S.A. § 1852;

(25) failure to comply with an order of the board or violation of any term or condition of a license which is restricted or conditioned by the board;

(26) any physician who, in the course of a collaborative agreement with a nurse practitioner allows the nurse practitioner to perform a medical act which is outside the usual scope of the physician's own practice or which the nurse practitioner is not qualified to perform by training or experience, or which the ordinary reasonable and prudent physician engaged in a similar practice would not agree should be written into the scope of the nurse practitioner's practice, shall be subject to disciplinary action by the board in accordance with chapter 23 of this title;

## Fla. Stat. § 456.072

LexisNexis (R) Florida Annotated Statutes  
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Practitioner's Toolbox



⌵ Case Notes

⌵ History

\*\*\* Statutes and Constitution are updated through the 2013 Regular Session.\*\*\*

\*\*\* Annotations are current through October 7, 2013 \*\*\*

TITLE 32. REGULATION OF PROFESSIONS AND OCCUPATIONS (Chs. 454-493)  
CHAPTER 456. HEALTH PROFESSIONS AND OCCUPATIONS: GENERAL PROVISIONS

**GO TO FLORIDA STATUTES ARCHIVE DIRECTORY**

Fla. Stat. § 456.072 (2013)

§ 456.072. Grounds for discipline; penalties; enforcement

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

(b) Intentionally violating any rule adopted by the board or the department, as appropriate.

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted under s. 501.122(2) governing the registration of the devices.

(e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.

(f) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.

(h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(i) Except as provided in s. 465.016, failing to report to the department any person who the

licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

(k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

(l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

(n) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(p) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of the responsibilities knows, or has reason to know, the person is not qualified by training, experience, and authorization when required to perform them.

(q) Violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(s) Failing to comply with the educational course requirements for domestic violence.

(t) Failing to identify through written notice, which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing. Any advertisement for health care services naming the practitioner must identify the type of license the practitioner holds. This paragraph does not apply to a practitioner while the practitioner is providing services in a facility licensed under chapter 394, chapter 395, chapter 400, or chapter 429. Each board, or the department where there is no board, is authorized by rule to determine how its practitioners may comply with this disclosure requirement.

(u) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(v) Engaging or attempting to engage in sexual misconduct as defined and prohibited in s.

456.063(1).

(w) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

(x) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

(y) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents under s. 316.066, or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in the accidents.

(z) Being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with the order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.

(aa) Testing positive for any drug, as defined in s. 112.0455, on any confirmed preemployment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using the drug.

(bb) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

(cc) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.

(dd) Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.

(ee) With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill that has been "upcoded" as defined in s. 627.732.

## § 334.100 R.S.Mo.

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\*\*\* CURRENT THROUGH ALL ACTS FROM THE 97TH  
GENERAL ASSEMBLY, 1ST REGULAR SESSION, 2013  
APPROVED PRIOR TO THE VETO OVERRIDE SESSION HELD  
ON SEPTEMBER 11, 2013 \*\*\*

\*\*\* MOST CURRENT ANNOTATION AUGUST 28, 2013. \*\*\*

TITLE 22. OCCUPATIONS AND PROFESSIONS (Chs. 324-  
346)  
CHAPTER 334. PHYSICIANS AND SURGEONS--THERAPISTS-  
-ATHLETIC TRAINERS --HEALTH CARE PROVIDERS

**GO TO CODE ARCHIVE DIRECTORY FOR THIS  
JURISDICTION**

§ 334.100 R.S.Mo. (2013)

§ 334.100. Denial, revocation or suspension of license, alternatives, grounds for --  
reinstatement provisions

1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

**Practitioner's Toolbox** 

⚡ **Case Notes**

⚡ **Opinions of Attorney General**

⚡ **History**

**Resources & Practice Tools**

**Law Reviews**

> 70 UMKC L. Rev. 55, ARTICLE: THE  
LEGAL AND REGULATORY CLIMATE  
IN THE STATE OF MISSOURI FOR  
COMPLEMENTARY AND  
ALTERNATIVE MEDICINE --  
HONEST DISAGREEMENT AMONG  
COMPETENT PHYSICIANS OR  
MEDICAL MCCARTHYISM.

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense involving fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests or medical or surgical services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment or infirmity can be cured by a method, procedure, treatment, medicine or device;

(f) Performing or prescribing medical services which have been declared by board rule to be of no medical or osteopathic value;

(g) Final disciplinary action by any professional medical or osteopathic association or society or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension, limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of this chapter;

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination including failing to establish a valid physician-patient relationship pursuant to section 334.108, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

(i) Exercising influence within a physician-patient relationship for purposes of engaging a patient in sexual activity;

(j) Being listed on any state or federal sexual offender registry;

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

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Shawn Leatherwood</b>		2) Date When Request Submitted:  <b>April 25, 2014</b> <small>Items will be considered late if submitted after 12:00 p.m. and less than: ▪ 8 work days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: <b>Podiatry Affiliated Credentialing Board</b>			
4) Meeting Date:  <b>June 17, 2014</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Review of Preliminary Draft of 165-Pod 4 Biennial Registration</b>	
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? If yes, who is appearing?  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:  <b>N/A</b>	
10) Describe the issue and action that should be addressed:  <p>The Board will review and approve the preliminary draft of 165-Pod 4 relating to biennial registration for posting for EIA comments and submission to the Clearinghouse.</p>			
11) <b>Shawn Leatherwood</b> <small>Signature of person making this request</small>		<b>Authorization</b>  <b>April 25, 2014</b> <small>Date</small>	
Supervisor (if required)		Date	
Bureau 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 Board Services Bureau 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  
PODIATRY AFFILIATED CREDENTIALING BOARD

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

---

PROPOSED ORDER

An order of the Podiatry Affiliated Credentialing Board to amend Pod 4.01 and 4.03 relating to biennial registration of podiatrists.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

Section 448.65 (2), Stats.

**Statutory authority:**

Sections 15.085 (b), 227.11 (2) (a) and 448.65 (2), Stats.

**Explanation of agency authority:**

Affiliated credentialing boards such as the Podiatry Affiliated Credentialing Board have the authority to promulgate rules that provide guidance within their profession pursuant to s. 15.085 (b), Stats. Boards are also authorized by s. 227.11 (2) (a), Stats., to set forth rules interpreting the provisions of any statute it enforces or administers. Section 448.65 (2), Stats., is administered by the Podiatry Affiliated Credentialing Board and provides guidance in the profession with regards to the requirements for podiatrists seeking renewal of their credential. The proposed rule seeks to amend the rules regarding renewal of a podiatrist's credential. Therefore, the Podiatry Affiliated Credentialing Board is empowered both generally and specifically to promulgate the proposed rules.

**Related statute or rule:**

Section 440.08 (2) (a) 60, Stats.

**Plain language analysis:**

The sole purpose of this proposed rule is to correct an inconsistency regarding the renewal date for podiatrists. Currently, s. Pod 4.01 and 4.03 states the renewal date for podiatrists is November 1 of each odd-numbered year while s. 440.08 (2) (a) 60, Stats., states that the renewal date is November 1 of each even-numbered year. The statute is controlling. Therefore, the proposed rule seeks to correct s. Pod 4.01 and 4.03 to reflect the correct date. There are no new policies proposed by the rule.

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

None.

**Comparison with rules in adjacent states:**

**Illinois:** Licenses issued in Illinois expire on January 31<sup>st</sup> of each odd-numbered year. A podiatrist may renew their license during the month preceding the expiration date. ILL. ADMIN. CODE tit. 68 §1360.55 a).

**Iowa:** Biennial license renewal for podiatrist is June 30<sup>th</sup> of each even-numbered year. Iowa Admin. Code r. 645-220.09 (1).

**Michigan:** Licensees must renew on an annual basis. MICH. ADMIN. CODE R 338.3701.

**Minnesota:** The renewal term begins on July 1 in odd-numbered years for a licensee whose license number is an odd number and in even-numbered years for a licensee whose license number is an even numbered. Minn. Rules. 6900.0200.

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

None.

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

This rule will not have any effect on small businesses.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis are attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

**Agency contact person:**

Shawn Leatherwood, Administrative Rules Coordinator Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366 Madison, Wisconsin 53708-8366; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

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

Comments may be submitted to Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received on or before October 7, 2014 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. Pod 4.01 is amended to read:

**Pod 4.01 Registration required; method of registration.** Each licensee shall register biennially with the board. Prior to November 1 of each ~~odd-numbered~~ even-numbered year the department shall mail to each licensee at his or her last known address an application form for registration. Each licensee shall complete the application form and return it with the required fee prior to November 1 of that year. The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied

SECTION 2. Pod. 4.03 (2) is amended to read:

**Pod 4.03 (2)** Failure to renew a license by November 1 of ~~odd-numbered~~ even-numbered year shall cause the license to lapse. A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows:

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.

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(END OF TEXT OF RULE)

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Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson

Podiatry Affiliated Credentialing Board

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

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Shawn Leatherwood</b>		2) Date When Request Submitted:  <b>June 3, 2014</b> <small>Items will be considered late if submitted after 12:00 p.m. and less than:              ▪ 8 work days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: <b>Podiatry Affiliated Credentialing Board</b>			
4) Meeting Date:  <b>June 17, 2014</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  <b>Adoption of CR 13-110 Podiatric X-ray Assistants</b>	
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? If yes, who is appearing?  <input type="checkbox"/> Yes by _____ (name)  <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:  <p style="text-align: center;"><b>The Board will approve the Adoption Order for Clearinghouse Rule 13-110.</b></p>			
11) <b>Shawn Leatherwood</b> <small>Signature of person making this request</small>		Authorization  <b>June 3, 2014</b> <small>Date</small>	
Supervisor (if required)		Date	
Bureau 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 Board Services Bureau 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  
PODIATRY AFFILIATED CREDENTIALING BOARD

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IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	PODIATRY AFFILIATED
PODIATRY AFFILIATED	:	CREDENTIALING BOARD
CREDENTIALING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 13-110)

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PROPOSED ORDER

An order of the Podiatry Affiliated Credentialing Board to amend Pod 1.02 (intro) and create Pod 1.02 (2m), (6m) and 7.01, relating, to podiatric x-ray assistants.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

s. 462.02 (2) (f), Stats.

**Statutory authority:**

ss. 227.11 (2) (a), 448.695 (3), 462.02 (2) (f), Stats.

**Explanation of agency authority:**

Pursuant to s. 227.11 (2) (a), the Podiatry Affiliated Credentialing Board (Board) is generally empowered by the legislature to promulgate rules that will provide guidance within the profession and rules that interpret the statutes it enforces or administers. Section 448.695 (3), Stats., specifically empowers the Board to, “promulgate rules specifying the requirements for a course of instruction related to x-ray examinations by persons under the direct supervision of a podiatrist. . .” The proposed rule seeks to carry out this mandate by specifying the necessary course of instruction for podiatric x-ray assistants. Therefore, the Board is empowered both generally and specifically to promulgate the proposed rule.

**Related statute or rule:**

None.

**Plain language analysis:**

The proposed rule deals with the requirements for a course of instruction for x-ray examinations by persons under the direct supervision of a podiatrist. Generally, a person who practices radiography is required to be credentialed by the Radiography Examining Board. However, under s. 462.02 (2) (f), Stats., if a person is under the direct supervision of a podiatrist and has successfully completed a course of instruction approved by the Podiatry Affiliated Credentialing Board they are not required to have a permit to conduct radiography. Pursuant to s. 448.695 (3), the Board is authorized to promulgate rules that identify the specific courses a person who is under the direct supervision of a podiatrist must complete in order to be qualified to conduct podiatric x-ray examinations. The statute also requires the Podiatry Affiliated Credentialing Board to consult with the Radiography Examining Board in drafting the proposed course of instruction.

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

The Consumer-Patient Radiation Health & Safety Act of 1981, 42 USCS 10001, et seq. establishes federal guidelines for standards of accreditation of educational programs for certain occupations that administer radiologic procedures. The standards are in place to protect the public from excessive exposure to radiation by health care professionals who most often use radiation in the treatment of disease or other medical conditions. The regulations are directed towards radiographers, dental hygienists, dental assistants, nuclear medicine technologists, and radiation therapy technologists.

42 USCS § 10003 (5) broadly defines, “persons who administer radiologic procedures” as any person, other than a practitioner, who intentionally administers radiation to other persons for medical purposes and includes medical radiologic technologists (including dental hygienists and assistants), radiation therapy technologists and nuclear medicine technologists.” 42 CFR 75.2 defines radiation therapy technologist as, “a person other than a licensed practitioner who utilizes ionizing radiation-generating equipment for therapeutic purposes on human subjects.” Although non-licensed personnel who assist podiatrists, the topic of these proposed rules, are not specifically addressed, they could be captured under the broad definition of radiation therapy technologists. The federal statute and regulations are comparable to the proposed rule in that they both set forth course instructions for persons who administer radiologic procedures such as podiatric x-ray assistants.

**Comparison with rules in adjacent states:**

**Illinois:** Technicians under the general supervision of a podiatric physician are exempt from being certified. Ill Admin. Code tit. 32 §401.30 (5).

**Iowa:** Iowa grants permits to podiatric X-ray equipment operators defined as one who “performs radiography of only the foot and ankle using dedicated podiatric equipment”. IAC 641-42.2 (136C).

**Michigan:** Michigan does not regulate podiatric x-ray assistants.

**Minnesota:** Minnesota regulates limited x-ray operators. They may only practice medical radiography on limited regions of the body as long as he or she has successfully passed the American Registry of Radiologic Technologists (ARRT) exam, or the American Chiropractic Registry of Radiologic Technologists (ACRRT) exam. Minn. Stats. 144.121 subd. 5a.

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

The Board ensures the accuracy, integrity, objectivity and consistency of the data used in preparing the proposed rule and related analysis.

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

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 Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis are attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

**Agency contact person:**

Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

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

Comments may be submitted to Shawn Leatherwood Department of Safety and Professional Services, Division of Policy and Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received on or before February 4, 2014 to be included in the record of rule-making proceedings.

## TEXT OF RULE

SECTION 1. Pod 1.02 (intro) is amended to read:

Pod 1.02 Definitions. As used in chs. Pod 1 to ~~6~~ 7:

SECTION 2. Pod 1.02 (2m) is created to read:

Pod 1.02 (2m) "Direct supervision" means a podiatric physician has assumed responsibility for directing, supervising, and inspecting the work of the person being supervised and the supervising podiatric physician is physically present on the same premises as the person being supervised, with face-to-face contact as necessary.

SECTION 3. Pod 1.02 (6m) is created to read:

Pod 1.02 (6m) "Podiatric x-ray assistant" means a person who is under the direct supervision of a licensed podiatric physician and who performs only those radiographic functions that are within the scope of practice of a podiatric physician licensed under s. 448.61, Stats., and that the podiatric physician is competent to perform.

SECTION 4. Chapter Pod 7.01 is created to read:

### CHAPTER POD 7 (title) PODIATRIC X-RAY ASSISTANT

**Pod 7.01 Podiatric x-ray assistant under direct supervision of a podiatrist.** A podiatric physician may not delegate x-ray tasks to an unlicensed person unless the delegate has successfully completed a course of instruction for podiatric x-ray assistants approved by the board. A course of instruction for podiatric x-ray assistants is approved by the board if all of the following are true:

(1) The instructor is a physician, podiatrist, or radiographer whose license to practice in Wisconsin is current and unlimited.

(2) The program consists of at least 8 hours of instruction and a written examination. The written examination shall test a podiatric x-ray assistant's knowledge and understanding of the required course of instruction.

(3) The course of instruction addresses; and attendees demonstrate knowledge and understanding of, all the following topics,

(a) Terminology.

(b) Science of radiation in x-rays.

(c) Radiation exposure and monitoring including dose limits for exposure to ionizing radiation.

(d) Health risks of radiation exposure.

(e) Safety techniques to reduce radiation exposure to staff and patients as low as reasonably achievable (ALARA).

(f) Anatomy and function of foot and leg.

(g) Positioning for podiatric x-rays.

(h) Equipment operation technique and quality control, including analog and digital.

(i) Infection control.

(j) Legal and ethical issues.

(4) A podiatric physician who uses the services of a podiatric x-ray assistant shall keep at each practice site a copy of documentation that the podiatric x-ray assistant satisfactorily completed a course of instruction that meets the requirements set out above.

(5) Podiatric x-ray assistants must demonstrate every 10 years that they are competent to perform delegated x-ray tasks by successfully completing 8 hours of course instruction outlined in this chapter and successfully completing a written examination.

(6) Podiatric x-ray assistants who have taken the podiatric x-ray assistant course offering by the wisconsin society of podiatric medicine between January 1, 2010 and December 31, 2013 have met the requirement of s. Pod 7.01.

SECTION 5. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)  
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Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson

Podiatry Affiliated Credentialing Board

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

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Shawn Leatherwood</b>		2) Date When Request Submitted:  <b>June 5, 2014</b>	
		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:  <b>Podiatry Affiliated Credentialing Board</b>			
4) Meeting Date:  June 17, 2014	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? <b>Public Hearing on CR 14-035 relating to continuing education audits</b>  <b>Review and respond to Clearinghouse Report and Public Hearing comments</b>	
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 ( <a href="#">Fill out Board Appearance Request</a> ) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:  N/A	
10) Describe the issue and action that should be addressed:  <b>Hold Public Hearing at 11:00 AM</b>  <b>Discuss any public hearing comments. Review, discuss and respond to any Clearinghouse comments.</b>			
11) Authorization			
<i>Shawn Leatherwood</i>		<i>June 5, 2014</i>	
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.			



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**WISCONSIN LEGISLATIVE COUNCIL  
RULES CLEARINGHOUSE**

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**Scott Grosz and Jessica Karls-Ruplinger**  
*Clearinghouse Co-Directors*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

**CLEARINGHOUSE REPORT TO AGENCY**

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 14-035**

AN ORDER to amend Pod 3.01 and 3.04, relating to continuing education audits of podiatrists.

Submitted by **DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

05-19-2014 RECEIVED BY LEGISLATIVE COUNCIL.

06-09-2014 REPORT SENT TO AGENCY.

SG:MM

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Scott Grosz and Jessica Karls-Ruplinger  
Clearinghouse Co-Directors

Terry C. Anderson  
Legislative Council Director

Laura D. Rose  
Legislative Council Deputy Director

### CLEARINGHOUSE RULE 14-035

#### Comments

**[NOTE:** All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

#### 2. Form, Style and Placement in Administrative Code

a. In the portion of the Plain Language Analysis describing SECTIONS 1 and 2 of the rule, both occurrences of “identifies” should be capitalized. In addition, in the description of SECTION 2, the phrase “the amount of time in which” should be replaced with “how long”, and the description should identify who is responsible for keeping the certificates of completion.

b. An applicant for renewal of the podiatrist credential must complete at least 50 hours of continuing education programs every two years. Under both the current and proposed rules, an applicant must report on his or her compliance with this requirement at the time they apply for renewal of their credential. The analysis incorrectly states that SECTION 1 of the rule “identifies when compliance with the continuing education requirement must be reported”. The proposed rule does not identify when compliance must be reported, but rather adjusts the two-year period for which an applicant must report at the time of credential renewal. The analysis should more accurately describe this change.

c. The text of current s. Pod 3.01 is not accurately shown in the first sentence of SECTION 1 of the rule-making order. Specifically, the phrase “in the each second year” should be changed to “in each second year”.

#### 4. Adequacy of References to Related Statutes, Rules and Forms

In s. Pod 3.01, the citation to the statutory provision that establishes the renewal date for podiatrist credentials should be changed to “s. 440.08 (2) (a) 60., Stats.”.

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. Proposed s. Pod 3.04 states, in part, that “The board may conduct a random audit of all licensees”. Should “all” be changed to “any”? If all licensees were audited, the audit would not be random. In addition, as written, the rule could be interpreted to require that, if an audit is performed, all licensees must be audited.

b. In the first sentence of proposed s. Pod 3.04, “for compliance” should be replaced with “to determine compliance”.

STATE OF WISCONSIN  
PODIATRY AFFILIATED CREDENTIALING BOARD

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

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PROPOSED ORDER

An order of the Podiatry Affiliated Credentialing Board to amend Pod 3.01 and 3.04, relating to continuing education audits of podiatrists.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

s. 448.665, Stats.

**Statutory authority:**

s. 227.11 (2) (a) and 448.665, Stats.

**Explanation of agency authority:**

Pursuant to s. 227.11 (2) (a), Stats. the Podiatry Affiliated Credentialing Board (Board) is generally empowered by the legislature to promulgate rules that will provide guidance within the profession and rules that interpret the statutes it enforces or administers. Section 448.665, Stats., empowers the Board to, "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." The proposed rule seeks to carry out this mandate by promulgating rules setting forth the time period for conducting continuing education audits and by specifying the time period for retaining documentary evidence of continuing education compliance.

**Related statute or rule:**

None.

**Plain language analysis:**

This proposed rule is focused on specifying the time period for conducting audits of licensee's compliance with the continuing education requirement in Wis. Admin. Code § Pod 3 and specifying the time period licensees must maintain evidence of compliance. Currently, the rule requires, "any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium." Wis. Admin. Code § Pod 3.04. The rule does not state when audits are to take place or how long a licensee must maintain evidence of compliance with the continuing education requirement. This proposed rule identifies when audits of continuing education will take place and how long evidence of compliance with the required continuing education must be maintained.

SECTION 1. identifies when compliance with the continuing education requirement must be reported.

SECTION 2. identifies when audits are to take place and the amount of time in which certificates of completion of continuing education must be kept.

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

None.

**Comparison with rules in adjacent states:**

**Illinois:** Illinois does not set a specific time frame for conducting audits or maintaining certificates of compliance with continuing education. It is the responsibility of each licensee to maintain evidence of compliance with continuing education requirements and provide evidence of such upon request pursuant to a random audit. ILL. ADMIN. CODE tit. 68 §. 1360.70 d) 2).

**Iowa:** Even though Iowa defines the term "audit" in 645 IAC 225., the code is silent with regards to a specific time period for auditing continuing education compliance and maintaining evidence of compliance.

**Michigan:** The Department of Licensing and Regulatory Affairs, Bureau of Health Care Services conducts an audit at the conclusion of each renewal period to verify compliance with continuing education requirements. In accordance with Mich. Admin. Code r. 338.3711 (2), licensees are responsible for maintaining evidence of compliance.

**Minnesota:** Licensees must provide the board with proof of attendance in a continuing education program within the renewal period. The evidence must be in the form of a certificate, descriptive receipt, or affidavit. MINN. Rules 6900.0300 Subp. 4.

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

The Board reviewed its rules and determined that a set time was required for auditing licensees' compliance with continuing education requirements. No other factual data or

analytical methodologies were used. The Board ensures the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis.

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

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 [Tom.Engels@wisconsin.gov](mailto:Tom.Engels@wisconsin.gov), or by calling (608) 266-8608.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis are attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at [Tom.Engels@wisconsin.gov](mailto:Tom.Engels@wisconsin.gov), or by calling (608) 266-8608.

**Agency contact person:**

Shawn Leatherwood, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4438; email at [Shancethea.L Leatherwood@wisconsin.gov](mailto:Shancethea.L Leatherwood@wisconsin.gov).

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

Comments may be submitted to Shawn Leatherwood, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708, or by email to [Shancethea.L Leatherwood@wisconsin.gov](mailto:Shancethea.L Leatherwood@wisconsin.gov). Comments must be received on or before October 7, 2014 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. Pod 3.01 is amended to read:

**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 the 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 ~~the 2 calendar years immediately preceding the calendar year for which application for registration is made~~ each 2-year period immediately preceding the renewal date specified under s. 440.08 (2) (a), Stats.

SECTION 2. Pod 3.04 is amended to read:

**Pod 3.04** The board may conduct a random audit of all licensees on a biennial basis for compliance with continuing education requirements. 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 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.

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(END OF TEXT OF RULE)  
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Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson  
Podiatry Affiliated Credentialing Board

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original    Updated    Corrected

2. Administrative Rule Chapter, Title and Number

165- Pod 3.01, 3.04

3. Subject

Continuing Education Audit

4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect    Increase Existing Revenues    Increase Costs  
 Indeterminate    Decrease Existing Revenues    Could Absorb Within Agency's Budget  
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy    Specific Businesses/Sectors  
 Local Government Units    Public Utility Rate Payers  
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

9. Policy Problem Addressed by the Rule

The proposed rule addresses the Podiatry Affiliated Credentialing Board's concern that licensees were not being audited for compliance with the continuing education requirements as specified in Wis. Admin. Code § Pod 3.01. To alleviate this concern, the Board seeks to amend Wis. Admin. Code § Pod 3.01 and 3.04 to allow audits to take place every two years and to require that licensees maintain evidence of continuing education compliance for four years. The proposed rule would accomplish these two goals.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This proposed rule was posted on the Department of Safety and Professional Services website and on the Wisconsin government website for 14 business days to solicit comments from the public. No businesses, business sectors, associations representing business, local governmental units, or individuals contacted the department about the proposed rule during that time period.

11. Identify the local governmental units that participated in the development of this EIA.

No local governmental units participated in developing this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule will have no economic or fiscal impact on specific business, business sectors, public utility rate payers, local government units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit of implementing the proposed rule is greater uniformity in the process of determining whether licensees are complying with continuing education requirements.

14. Long Range Implications of Implementing the Rule

A consistent audit of licensee's compliance with the continuing education requirement will, over a period of time, act as a deterrent to non-compliance.

15. Compare With Approaches Being Used by Federal Government

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

None.

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

**Illinois:** Illinois does not set a specific time frame for conducting audits or maintaining certificates of compliance with continuing education. It is the responsibility of each licensee to maintain evidence of compliance with continuing education requirements and provide evidence of such upon request pursuant to a random audit. ILL. ADMIN. CODE tit. 68 §. 1360.70 d) 2).

**Iowa:** Even though Iowa defines the term “audit” in 645 IAC 225., the code is silent with regards to a specific time period for auditing continuing education compliance and maintaining evidence of compliance.

**Michigan:** The Department of Licensing and Regulatory Affairs, Bureau of Health Care Services conducts an audit at the conclusion of each renewal period to verify compliance with continuing education requirements. In accordance with Mich. Admin. Code r. 338.3711 (2) licensees are responsible for maintaining evidence of compliance.

**Minnesota:** Licensees must provide the board with proof of attendance in a continuing education program within the renewal period. The evidence must be in the form of a certificate, descriptive receipt, or affidavit. MINN. Rules 6900.0300 Subp. 4. The rules are silent with regards to conducting audits.

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17. Contact Name Shawn Leatherwood	18. Contact Phone Number 608-261-4438
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This document can be made available in alternate formats to individuals with disabilities upon request.