

Report From Agency

**STATE OF WISCONSIN
PHYSICIAN ASSISTANT AFFILIATED CREDENTIALING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
PHYSICIAN ASSISTANT AFFILIATED: CR 22-064
CREDENTIALING BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The objective of the proposed rules is to implement the statutory changes from 2021 Wisconsin Act 23.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Physician Assistant Affiliated Credentialing Board ("Board") held a public hearing on October 20, 2022. The following people either testified at the hearing, or submitted written comments:

- Wisconsin Hospital Association
 - Matthew Stanford, JD, MHA, General Counsel
 - Ann Zenk, RN, BSN, MHA, Senior Vice President, Workforce and Clinical Practice
- Wisconsin Academy of Physician Assistants
 - Roger Lovelace, PA-C, President
 - Reid Bowers, MPAS, PA-C

The Board summarizes the comments received either by hearing testimony or by written submission as follows:

- The Wisconsin Hospital Association submitted the following recommended changes:
 - Remove the word "verified" from PA 2.01 (1) (c)
 - Amend PA 2.01 (1) (e) to only require employment information related to clinical health care practice be submitted with an application

- Add requirements PA 2.01 for new graduates, who have not previously been credentialed as Physician Assistants, to attest to education program completion without submission of primary source verification until after the credential has been issued.
- Add requirements to PA 2.01 that allow the applicant to not have to include information on specific minor, non-violent, or older convictions or gaps in employment not related to clinical health practice.
- Add requirements to PA 2.01 for the Board to review and make changes to the application form every other odd-numbered year.
- Amend PA 2.01 (2) to include exception language for minor, non-violent or old convictions listed as exempted from application requirements in PA 2.01
- Amend PA 2.03 (1) to begin with “the board may require an applicant to...”, instead of “each applicant shall...”.
- Amend PA 2.03 (1) (d) to add exemption for convictions listed as not required in PA 2.01.
- Amend PA 2.03 (1) (f) to require someone who “is currently” a party in a lawsuit where negligent practice has been alleged to do an oral interview or personal appearance
- Amend PA 2.03 (1) (i) to require someone who has had adverse formal action that limited the applicant’s clinical practice or activities to do an oral interview or personal appearance.
- Amend PA 2.04 (1) to reference the statute for renewal.
- Amend PA 2.04 (2) to reference the statute for renewal and that the renewal application shall be approved by the Board.
- Amend PA 2.04 (3) to require that each licensee shall attest to completion of continuing medical education every two years.
- Amend PA 2.04 (4) to reflect that the 30 hours of continuing medical education is not required for the first two years following initial licensure.
- Amend PA 3.01 (1) to read “Except as provided in sub. (2), PA 2.03, PA 3.03, and PA 3.04, a physician assistant shall maintain and practice in accordance with a written collaborative agreement with a physician as specified in s. 448.975 (2) (a), Stats.”
- Amend PA 3.01 (2) to read “(a) A physician assistant may practice without a written collaborative agreement specified in s. 448.975 (2) (a), if the physician assistant’s practice is pursuant to an employment arrangement specified in s. 448.975 (2) (a) 1. a.
 (b) The requirement specified in s. 448.975 (2) (a) 1. a. is met if the physician assistant or his or her employer maintains and can provide to the board upon request a position description, policy document, organizational chart, or other document from the employer indicating that an administrator for the employing organization who is a physician has managerial responsibility for overseeing the overall direction, management, and clinical care delivered in the clinical department in which the physician assistant is a clinical employee. Such document is not the exclusive means for a physician assistant to comply with s. 448.975 (2) (a) 1. a. A physician assistant may meet the requirements for maintaining

- the evidence specified in s. 448.975 (2) (a) 1. a. if the physician assistant has reasonable belief that his or her employer maintains such evidence.
 - Create PA 3.01 (3) to read “As provided by s. 448.975 (2) (a) 2. subs. (1) and (2) do not require the physical presence of a physician at the time and place a physician assistant renders a service.”
 - Amend s. PA 3.06 (4) to include that physician assistants shall maintain records of all prescriptions dispensed or disposed of by the physician assistant.
 - Amend PA 3.06 (4) (a) to read “records required by the federal controlled substances and ch. 961, Stats shall be maintained as required by Wisconsin and federal law.”
 - Remove PA 3.06 (4) (b).
 - Amend PA 3.08 (2) (a) so that the end of the requirement reads “...or other medical data related to the care of patients in this state.”
 - Remove PA 3.08 (8).
 - Amend PA 4.01 (2) (k) to read “Aiding or abetting the practice of an unlicensed, incompetent, or impaired person or allowing another person or organization to use his or her license to practice as a physician assistant.
 - Create PA. 4.01 (3) (h) 3. to include the list of minor, non-violent, or older convictions from PA 2.01 as not substantially related to the practice of a physician assistant.
- The Wisconsin Academy of Physician Assistants submitted the following recommended changes:
 - Amend PA 3.01 (1) to more closely mirror the statutory language.
 - Amend PA 2.01 to include an attestation that the applicant is at least 18 years old.
 - Amend PA 2.01 (4) to use the word “qualified” instead of the phrase “minimally competent.”
 - Amend PA 3.01 (2) to use the phrase “time and place” instead of the word “location”

The Board explains modifications to its rule-making proposal prompted by public comments as follows:

- Amend PA 2.01 (2) (c) to remove the word “verified.”
- Create PA 2.01 (1) (f) to read “An attestation that the applicant is at least 18 years old.”
- Amend PA 2.01 (4) to read “The board may require an applicant to complete a personal appearance for purposes or an interview, or review of credentials, or both.”
- Amend PA 2.03 (1) (intro.) to read “The board may require an applicant to complete an oral interview or personal appearance before the board if any of the following circumstances apply:”
- Amend PA 2.03 (1) (f) to read “The applicant has been found to have been negligent in the practice as a physician assistant or is currently a party in a lawsuit in which it was alleged that the applicant has been negligent in the practice of medicine.
- Amend PA 2.04 (1) to read “A licensee shall renew their license as specified by ss. 440.03 (9) (a) and 440.08 (2) (a), Stats.”

- Amend PA 2.04 (2) to read “A licensee shall complete a renewal application approved by the board and return it with the required fee prior to the date specified by ss. 440.03 (9) (a) and 440.08 (2) (a), Stats.”
- Amend PA 2.04 (3) to read “Except as provided under subsection (4) and specified by s. 440.08 (2) (a), a licensee shall attest to the completion of the following:”
- Amend PA 2.04 (4) to read “Section (3) does not apply to the first renewal following the date a license is issued.”
- Amend Chapter PA 3 (title) to read “Practice.”
- Amend PA 3.01 (1) to read “Except as provided in sub. (2), PA 3.02, 3.03, and 3.04, a physician assistant shall maintain and practice in accordance with a written collaborative agreement with a physician as specified in s. 448.975 (2) (a), Stats.”
- Amend PA 3.01 (2) to read “(a) A physician assistant may practice without a written collaborative agreement specified in s. 448.975 (2) (a), Stats., if the physician assistant’s practice is pursuant to an employment arrangement specified in s. 448.975 (2) (a) 1. a., Stats.
 (b) The requirement specified in s. 448.975 (2) (a) 1. a., Stats. is met if the physician assistant or his or her employer maintains and can provide to the board upon request a position description, policy document, organizational chart, or other document from the employer indicating that an administrator for the employing organization who is a physician has managerial responsibility for overseeing the overall direction, management, and clinical care delivered in the organization or clinical department in which the physician assistant is a clinical employee. Such document is not the exclusive means for a physician assistant to comply with s. 448.975 (2) (a) 1. a., Stats. A physician assistant may meet the requirements for maintaining the evidence specified in s. 448.975 (2) (a) 1. a., Stats. if the physician assistant has reasonable belief that his or her employer maintains such evidence.”
- Create PA 3.01 (3) to read “As provided by s. 448.975 (2) (a) 2., Stats., ss. (1) and (2) do not require the physical presence of a physician at the time and place a physician assistant renders a service.”
- Amend PA 3.06 (4) (a) and (b) to read “(a) Unless otherwise maintained by an organization, a physician assistant shall maintain complete and accurate records of each prescription drug received, dispensed, or disposed of in any other manner.
 (b) Records for controlled substances shall be maintained as required by the federal controlled substances act and ch. 961, Stats.”
- Remove PA 3.06 (4) (a) and (b).
- Amend PA 3.08 (2) (a) to read “Consultations between physician assistants, or between physician assistants and other medical professionals, or the transmission and review of digital images, pathology specimens, test results, or other medical data related to the care of patients in this state.”
- Remove PA 3.08 (8).
- Amend PA 4.01 (2) (k) to read “Aiding or abetting the practice of an unlicensed, incompetent, or impaired person or allowing another person or organization to use his or her license to practice as a physician assistant.”

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 4d. “Section PA 3.02 provides that “a physician assistant may practice with the supervision and direction of a podiatrist pursuant to s. 448.975 (1) (b) 2., stats. and the rule promulgated under s. 448.695 (4) (b), Stats.” Should further reference to the actual rules promulgated under s. 448.695 (4) (b), Stats., be made in this rule? For example, it appears ch. Pod 9 addresses podiatrist supervision of a physician assistant, and that administrative code chapter contains further references to requirements found in other statutes and administrative code provisions.”

Response: The Board is rejecting comment #4d, as it would prefer to reference the statute instead of areas of the administrative code that may change without the Board’s knowledge or input.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A