

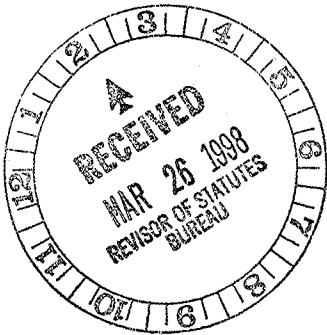
CERTIFICATE

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Patrick D. Braatz, Director, Bureau of Health Professions in the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Medical Examining Board, do hereby certify that the annexed rules were duly approved and adopted by the Medical Examining Board on the 26th day of March, 1998.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue, Madison, Wisconsin this 26th day of March, 1998.

A large, stylized handwritten signature in black ink, appearing to read "Patrick D. Braatz".

Patrick D. Braatz, Director, Bureau of Health Professions, Department of Regulation and Licensing

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD
MEDICAL EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 97-114)

ORDER

An order of the Medical Examining Board to create Med 10.02 (2) (zb) relating to dispensing or prescribing of controlled substances for the treatment of obesity.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats.

Statutes interpreted: s. 448.01 (11), Stats.

In this proposed rule-making order the Medical Examining Board establishes standards for prescribing of controlled substances for treatment of obesity. The rule would revise the definition of unprofessional conduct to include prescribing or dispensing anorectic drugs, Schedules II through V, for the purpose of weight reduction or control in the treatment of obesity unless certain conditions are met.

Current rules require that all prescribing meet the minimum standard of competence in that such prescribing must not be an unjustified risk to the health of the patient, and that when controlled substances are involved, that it be within the scope of legitimate medical practice. Recently, some practitioners have opened weight loss "clinics" which require patients to purchase prescription drugs from the clinic itself, and thus provide a profit for each prescription written. A national chain of weight loss businesses not owned by licensed health care providers has begun hiring physicians to write prescriptions for weight loss drugs to customers of the business.

Enforcement of existing rules is quite cumbersome, in that for each and every case, a physician expert witness must be hired by the Department of Regulation and Licensing to review the case and testify that the accused practitioner's prescribing was either not within a legitimate physician-patient relationship, or was so incompetent or negligent that it did not meet the standards of the profession.

The board deems that the suggested rule is necessary to protect the public from inappropriate prescribing while still providing physicians with the ability to exercise reasonable medical judgment for the benefit of their patients.

TEXT OF RULE

SECTION 1. Med 10.02 (2) (zb) is created to read:

Med 10.02 (2) (zb) Prescribing, ordering, dispensing, administering, supplying, selling or giving any anorectic drug designated as a schedule II, III, IV or V controlled substance for the purpose of weight reduction or control in the treatment of obesity unless each of the following conditions is met:

1. The patient's body mass index, weight in kilograms divided by height in meters squared, is greater than 25.
2. A comprehensive history, physical examination, and interpreted electrocardiogram are performed and recorded at the time of initiation of treatment for obesity by the prescribing physician.
3. A diet and exercise program for weight loss is prescribed and recorded.
4. The patient is weighed at least once a month, at which time a recording is made of blood pressure, pulse, and any other tests as may be necessary for monitoring potential adverse effects of drug therapy.
5. No more than a 30-day supply of drugs is prescribed or dispensed at any one time.
6. No drugs are prescribed or dispensed for more than 90 days unless all of the following occur:
 - a. The patient has a recorded weight loss of at least 12 pounds in the first 90 days of therapy.
 - b. The patient has continued progress toward achieving or maintaining a target weight.
 - c. The patient has no significant adverse effects from the prescribed program.
7. Any variance from the foregoing requirements is justified by documentation in the patient's record.

(END OF TEXT OF RULE)

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.

Dated March 26, 1998 Agency Walter R. Schwanig M.D.
Chairperson
Medical Examining Board

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3/10/98

