

WISCONSIN HOSPITAL ASSOCIATION, INC.



March 9, 2017

Kenneth Simons, MD
Chair, Medical Examining Board of Wisconsin
Department of Safety and Professional Services
1400 East Washington Avenue, Room 112
Madison, WI 53703

Re: Recommendation for Board Resolution Regarding PDMP Compliance and Unprofessional Conduct

Dear Dr. Simons and members of the Wisconsin Medical Examining Board,

Thank you for the opportunity to consider a request from the WHA Physician Leaders Council to provide via board resolution at its March 15 meeting some additional clarity to physicians regarding the Medical Examining Board's intent regarding physician discipline and the upcoming Prescription Drug Monitoring Program (PDMP) prescriber mandate. An outline of a proposed Medical Examining Board resolution is attached.

Background on WHA Physician Leaders Council.

In 2014, the Wisconsin Hospital Association established the WHA Physician Leaders Council to utilize the expertise and perspectives that WHA's member physician leaders bring to Wisconsin's health and hospital systems. Consisting of Chief Medical Officers, Vice Presidents for Medical Affairs and other physician leaders at WHA's member organizations, the WHA Physician Leaders Council has served as a forum to help address a wide range of policy and other needs facing physicians and physician leaders in WHA's member organizations. Joining my physician leader colleagues from hospitals and health systems small and large, urban and rural, it was my honor to be named to serve as the 2017 Chair of the WHA Physician Leaders Council.

WHA Physician Leaders Council discussions regarding the PDMP.

Over the course of 2015, 2016, and 2017, responding to Wisconsin's opioid abuse epidemic and the utilization of the Prescription Drug Monitoring Program (PDMP) as an important infrastructure to prevent patient abuse of opioids have been recurring agenda items of the WHA Physician Leaders Council. Those discussions have also included Representative Nygren and former DSPS Secretary Ross.

A consensus of those discussions has been that physicians greatly appreciate the information contained in the PDMP and have significant interest in utilizing the PDMP to enable physicians to make more informed decisions that can prevent doctor-shopping. However, the Council has also been concerned that a well-intentioned mandate for use of a PDMP system has the potential to introduce additional, unintended regulatory complexity for physicians, particularly if the PDMP system is not optimally designed to be integrated into existing physician practice patterns and EHR resources.

After discussions in early March with the WHA Physician Leaders Council, it is clear that physicians across the state have many questions regarding multiple technical compliance questions regarding the new PDMP mandate and how the Medical Examining Board will be approaching physician discipline related to the April 1 mandate.

Many of these same questions were also raised by members of the Medical Examining Board at its February meeting.

The Board can reduce regulatory complexity and physician uncertainty by publicly stating its intents regarding physician discipline and compliance with the PDMP mandate.

Based on the discussions at the February Medical Examining Board meeting, it appears that the Board's intent is not to create and enforce a new technical regulatory scheme defining compliance with the PDMP mandate that will subject individuals attempting to utilize the PDMP in good faith to discipline. But instead it appeared that the Board's intent as a regulatory body is to promote and encourage use of the PDMP as an effective patient care tool and that its regulatory focus will be on disciplining those physicians that are willfully ignoring or avoiding the Board's intent that physicians utilize the PDMP to identify patients with patterns of misuse or abuse of opioids.

While full clarity on many of the nuanced or technical compliance questions may not be possible by April 1 or beyond, it is possible for the Medical Examining Board to reduce physician uncertainty regarding the Medical Examining Board's approach to discipline in regards to the new PDMP mandate. **To that end, the WHA Physician Leaders Council discussed and recommended that the Medical Examining Board publicly provide clarity to physicians as to the Board's intents in the form of a Board resolution at its March 15 meeting. The Council was supportive of the points outlined in the attached "Suggested Resolution Regarding PDMP Compliance and Unprofessional Conduct."**

The burden of regulatory complexity, intended or not, on physicians is a significant concern to physicians and their hospitals and health systems. Regulatory complexity adds to physician frustrations and professional dissatisfaction as physicians see even well intentioned regulations eroding trust in physicians' professional judgement and negatively impacting their ability to provide efficient, high quality patient care. By articulating a clear and common sense approach that aligns with the intent of the PDMP prescriber mandate, the Medical Examining Board can help physicians focus on the benefits of the PDMP and remove technical compliance concerns of physicians intending to make good faith use of the PDMP tool.

Sincerely,



Dr. Steven Kulick, MD
Chair, WHA Physician Leaders Council

Attachment

Suggested Resolution Regarding PDMP Compliance and Unprofessional Conduct

The WHA Physician Leaders Council was supportive of a clarifying Medical Examining Board resolution that would generally make the following points:

- The Medical Examining Board's intent is not to discipline physicians attempting to utilize the PDMP in good faith for unprofessional conduct for mere technical noncompliance with the April 1 PDMP mandate.
- Instead, in order for noncompliance to rise to unprofessional conduct, the noncompliance with the mandate must be a willful act of the physician to ignore or avoid the Board's intent that physicians routinely utilize the PDMP to identify patients that may demonstrate patterns of misuse or abuse of opioids.
- The Board will review this resolution no later than 2018, and will provide physicians with reasonable advance notice should any changes to this resolution be made.