



Scott Walker, Governor
Dave Ross, Secretary

DENTISTRY EXAMINING BOARD
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
May 7, 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 description of the actions of the Board.

AGENDA

8:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Pledge of Allegiance
- B. Recognition of Board Members
- C. **Adoption of Agenda (1-3)**
- D. **Approval of Minutes – March 5, 2014 (4-9)**
- E. **Administrative Matters**
 - 1) July 18, 2014 Board Member Training
 - 2) Infection Control Presentation Scheduled (10)
 - 3) Specialty License Letter
 - 4) License Fee and Renewal
- F. **Education and Examination Matters-Discussion and Consideration**
 - 1) **8:45 A.M. APPEARANCE – Presentation from ADEX, CRDTS and NERB Representatives (11)**
 - 2) Examiner Process Discussion (12)
- G. **Legislative and Administrative Rule Matters – Discussion and Consideration**
 - 1) **9:15 A.M. APPEARANCE – Mobile Dentistry Coalition Presentation (13)**
 - 2) Adoption Order for Chs. DE 9, 11 and 12, and 8 (CR 13-060, 13-061, 13-074, 14-011)
 - 3) Scope Statement for Chs. DE 1/ 10, 11 and 12 – Mobile Dentistry and Definition of Dentistry (14-17)
 - 4) Verbal update of Rules Projects – Scope and Rule Drafting DE 2, Verbal update of Rules Projects – Scope and Rule Drafting DE 2, 3, 7 and 11 - Administration of Nitrous Oxide and Practice of Dental Hygiene; DE 2, 5 and 6 – Pathway to Licensure
 - 5) Status of Legislation; Position Statement on Records (18-22)

H. DLSC Matters

I. Items Added After Preparation of Agenda

- 1) Introductions, Announcements and Recognition
- 2) Presentations of Petition(s) for Summary Suspension
- 3) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 4) Presentation of Final Decisions
- 5) Disciplinary Matters
- 6) Administrative Matters
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Practice Matters
- 10) Legislative/Administrative Rule Matters
- 11) Liaison Report(s)
- 12) Informational Item(s)
- 13) Speaking Engagement(s), Travel, or Public Relation Request(s)

J. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (Wis. Stat. s. 19.85(1)(a),); to consider licensure or certification of individuals (Wis. Stat s. 19.85(1)(b), Stats.; to consider closing disciplinary investigations with administrative warnings (Wis. Stat. s. 19.85 (1)(b), and 440.205,); to consider individual histories or disciplinary data (Wis. Stat. s. 19.85 (1)(f),); and to confer with legal counsel (Wis. Stat. s. 19.85(1)(g),).

K. Presentation and Deliberation on Proposed Stipulations, Final Decisions and Orders by the Division of Legal Services and Compliance (DLSC)

- 1) 11 DEN 031- Corey C. Dike, D.D.S. (23-30)
 - o Case Advisor – Mark Braden

L. Presentation and Deliberation of Proposed Administrative Warnings

- 1) 11 DEN 097 – D.P.G., D.D.S. (31-32)
- 2) 13 DEN 118 – A.A.K., D.D.S. (33-34)
- 3) 13 DEN 122 – M.B.V., D.D.S. (35-36)
- 4) 14 DEN 001 – W.J.C., D.D.S. (37-38)
- 5) 13 DEN 104 – A.V. (39-40)

M. Credentialing Matters – Application Review(s)

- 1) Application Review L.M. (B.D.S.) (41-60)

N. Monitoring Matters

O. DLSC Matters

- 1) Case Status Report (61)
- 2) Case Closing(s)
 - a. 11 DEN 109 – T.H., D.D.S. (62-64)

P. Consulting with Legal Counsel

Q. Deliberation of Items Received After Preparation of the Agenda

- 1) Disciplinary Matters
- 2) Education and Examination Matters
- 3) Credentialing Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petition(s) for Summary Suspensions
- 7) Petition(s) for Extension of Time
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Administrative Warnings
- 10) Proposed Decisions
- 11) Matters Relating to Costs
- 12) Consulting with Legal Counsel
- 13) Petitions for Rehearing
- 14) Case Closings
- 15) Appearances from Requests Received or Renewed

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

ADJOURNMENT

**DENTISTRY EXAMINING BOARD
MINUTES
March 5, 2014**

PRESENT: Debra Beres, RDH; Mark Braden, DDS; Eileen Donohoo, RDH; Leonardo Huck, DDS; Lyndsay Knoell, DDS; Sandra Linhart, RDH; Timothy McConville, DDS; Beth Welter, DDS; Wendy Pietz, DDS

STAFF: Dan Williams, Executive Director; Matthew Guidry, Bureau Assistant; and other DSPS Staff

CALL TO ORDER

Meeting and hearing were delayed due to weather.

Lyndsay Knoell, Chair, called the meeting to order at 9:00 a.m. A quorum of nine (9) members was confirmed.

RECOGNITION OF BOARD MEMBERS

MOTION: Eileen Donohoo moved, seconded by Mark Braden, to recognize Kirk Ritchie, D.D.S. for his years of service and to thank him for his dedication to the Board. Motion carried unanimously.

ADOPTION OF AGENDA

The chair moves Item D. to Item B on the Agenda. Motion carried unanimously.

MOTION: Eileen Donohoo moved, seconded by Leonardo Huck, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 8 2013

Amendment of Minutes item "Board Chair Nomination" to read to be nominated by Kirk Ritchie, not Mark Braden.

MOTION: Eileen Donohoo moved, seconded by Leonardo Huck, to approve the minutes of January 8, 2014 as amended. Motion carried unanimously.

CLEARINGHOUSE RULE 14-011

MOTION: Mark Braden moved, seconded by Eileen Donohoo, to accept all Clearinghouse comments for CR 14-011 relating to DE 8 Patient Dental Records. Motion carried unanimously.

MOTION: Eileen Donohoo moved, seconded by Debra Beres, to authorize the Vice Chair to approve the Legislative Report and the amended Draft as discussed pending further research with regard to record retention for Clearinghouse Rule 14-011 creating Ch. DE 8 Patient Dental Records for submission to the Governor's Office and Legislature. Motion carried unanimously.

DELEGATION OF AUTHORITY

MOTION: Eileen Donohoo moved, seconded by Leonardo Huck, that the Board delegates authority to the Chair 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 to the Board's Executive Director for purposes of facilitating the completion of assignments during or between meetings. Motion carried unanimously.

MOTION: Leonardo Huck moved, seconded by Eileen Donohoo, 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 where knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

MOTION: Eileen Donohoo moved, seconded by Leonardo Huck, to adopt the "Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor" document. Motion carried unanimously.

MOTION: Eileen Donohoo moved, seconded by Debra Beres, to delegate authority to the Credentialing Liaison(s) to address all issues related to credentialing matters. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

- MOTION:** Mark Braden moved, seconded by Leonardo Huck, to authorize Wendy Pietz to work with DSPS Staff relative to Chs. DE 1 & 2 relating to Definition of dentistry, dental specialties, etc. Motion carried unanimously.
- MOTION:** Timothy McConville moved, seconded by Leonardo Huck, to authorize Debra Beres to work with DSPS Staff and to approve the Scope Statement on Chs. DE 2, 3, 7, and 11 relating to Administration of Nitrous Oxide and Practice of Dental Hygiene 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.
- MOTION:** Braden moved, seconded by Timothy McConville, to authorize Leonardo Huck continue to work with DSPS Staff, and to approve the Scope Statement on chs. DE 2, 5 & 6 relating to Pathway to Licensure for Foreign Trained Applicants 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.
- MOTION:** Eileen Donohoo moved, seconded by Leonardo Huck, to designate Beth Welter to serve as a liaison to DSPS Staff for drafting the Scope Statement relating to the regulation of mobile dentistry for consideration at a future meeting. Motion carried unanimously.
- MOTION:** Donohoo moved, seconded by Braden, to acknowledge legal counsel's opinion that Wis. Stats. ch 447 only provides authority to issue licenses specifically provided for in this chapter. Motion carried unanimously.
- MOTION:** Eileen Donohoo moved, seconded by Timothy McConville, to request DSPS staff to draft and send a formal Board letter with the chair's approval to respond to concerns related to Specialty Licenses. This letter will be sent to any state dental association that provided testimony or inquired on the subject. Motion carried unanimously.

ADEX DENTAL EXAMINATION COMMITTEE

- MOTION:** Eileen Donohoo moved, seconded by Debra Beres, to table the discussion on ADEX Dental Examiner appointment until a future meeting, pending further information. Motion carried unanimously.

CRDTS EXAMINERS

MOTION: Eileen Donohoo moved seconded by Debra Beres, to table the discussion related to formalizing the examiners appointment process and the related associations, pending further information at the next meeting. Motion carried unanimously.

TREATMENT OF ORAL LESIONS WITH LASERS BY DENTAL HYGIENISTS

MOTION: Eileen Donohoo moved seconded by Mark Braden, to acknowledge the Board discussion and conclusions that treatment of oral lesions by any method is not within the scope of practice of dental hygiene. Motion carried unanimously.

CLOSED SESSION

Eileen Donohoo moved seconded by Mark Braden, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Lyndsay Knoell read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Debra Beres-yes; Mark Braden-yes; Eileen Donohoo-yes; Leonardo Huck-yes; Lyndsay Knoell-yes; Sandra Linhart-yes; Timothy McConville-yes; Wendy Pietz-yes; and Beth Welter -yes. Motion carried unanimously.

The Board convened into closed session at 12:55 p.m.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

MOTION: Eileen Donohoo moved, seconded by Debra Beres, to accept the Findings of Fact, Conclusions of Law and Orders in the matter of disciplinary proceedings against James F. Marchigiani, D.D.S, **12DEN068** and **13DEN028**. Motion carried unanimously.

DLSC 13DEN001

Lyndsay Knoell recuses himself for the discussion and consideration of the matters related to case number 13DEN001.

MOTION: Timothy McConville moved, seconded by Beth Welter, grants the Department of Safety and Professional Services, Division of Legal Services and Compliance's Motion to Designate Hearing Official to Preside over Summary Suspension Proceeding, in 13DEN001 (J.B.) due to a conflict of interest. Motion carried unanimously.

MOTION: Timothy McConville moved, seconded by Beth Welter, to authorize the Division of Hearings and Appeals to Issue the Final Decision In This Matter 13DEN001, (J.B.) due to a conflict of interest. Motion carried unanimously.

ADMINISTRATIVE WARNINGS

MOTION: Timothy McConville moved, seconded by Leonardo Huck, to issue an Administrative Warning in the matter of DLSC case number 13DEN090 (J.O.). Motion carried unanimously.

APPLICATION REVIEW(S)

MOTION: Eileen Donohoo moved, seconded by Timothy McConville, to approve the RDH application of K.M., once all requirements are met. Motion carried unanimously.

MOTION: Eileen Donohoo moved, seconded by Leonardo Huck, to defer the credentialing decision until further information has been obtained in the matter of the LA application of K.W. Motion carried unanimously.

MOTION: Debra Beres moved, seconded by Leonardo Huck, to deny the application of W.F. pursuant to Wis. Stats. § 447.07(3)(a), engaged in unprofessional conduct, and Wis Admin. Code § DE 2.04(1)(d), failed to practice dentistry in good standing for at least forty-eight(48) of the last sixty(60) months preceding his application date. Motion carried unanimously.

MONITORING

EDWARD MCGRATH – REDUCTION OF SCREENING

MOTION: Mark Braden moved, seconded by Leonardo Huck, to grant the request of Edward McGrath for a reduction of random drug and alcohol screens to forty-eight (48) urine screens per year plus one annual hair test. Motion carried unanimously.

UPDATE ON ELDER V. WISCONSIN DENTISTRY EXAMINING BOARD

Sandra Linhart recused herself from all discussion related to Update on Elder v. Wisconsin Dentistry Examining Board.

RECONVENE TO OPEN SESSION

MOTION: Eileen Donohoo moved, seconded by Beth Welter, to reconvene into open session. Motion carried unanimously.

The Board reconvened into open session at 3:04 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MOTION: Eileen Donohoo moved, seconded by Timothy McConville, to affirm all motions made in closed session. Motion carried unanimously.

ADJOURNMENT

MOTION: Debra Beres moved, seconded by Leonardo Huck, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:05 p.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Brittany Lewin Executive Director		2) Date When Request Submitted: Items will be considered late if submitted after 12:00 p.m. and less than: ▪ 8 work days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 5/7/14	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Matters – Infection Control Presentation	
7) Place Item in: <input 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 type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: State Dental Director, Dr. Jeff Chaffin, and team are planning a brief presentation regarding infection control as related to emergency preparedness for the July meeting.			
11) Authorization			
Signature of person making this request		Date	
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
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Brittany Lewin Executive Director		2) Date When Request Submitted: Items will be considered late if submitted after 12:00 p.m. and less than: ▪ 8 work days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 5/7/14	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Education and Examination Matters-Regional Examination Presentations	
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 checked="" type="checkbox"/> Yes by <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Presentations from representatives from NERB and CRDTS.			
11) Authorization			
Signature of person making this request			Date
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
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Brittany Lewin Executive Director		2) Date When Request Submitted: Items will be considered late if submitted after 12:00 p.m. and less than: ▪ 8 work days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 5/7/14	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Education and Examination Matters-Appointment of Examiners	
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 <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Discussion regarding formalizing the process of appointing examiners.			
11) Authorization			
Signature of person making this request		Date	
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
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Brittany Lewin Executive Director		2) Date When Request Submitted: Items will be considered late if submitted after 12:00 p.m. and less than: ■ 8 work days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 5/7/14	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative/Administrative Rules Matters – Mobile Dentistry Coalition Presentation	
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 checked="" type="checkbox"/> Yes by Members of the Mobile Dentistry Coalition <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Presentation and recommendations by the coalition of groups (DHS, WPHCA, CHAW, Delta, WDHA) that supported and advocated for 2013 Wisconsin Act 244 regarding mobile dentistry.			
11) Authorization			
Signature of person making this request		Date	
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
Department of Safety & Professional Services
AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request: Jean MacCubbin, Admin. Rules Coordinator		2) Date When Request Submitted: 04/23/14 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 20140507	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? LEG_ADMIN MATTERS Discuss and Consider: 1. Adoption Order for Chs. DE 9, 11 & 12, and 8 (CR 13-060, 13-061, 13-074, 14-011) 2. Scope Statement for chs. DE 1, 10, 11 & 12-- mobile dentistry and definition of dentists 3. Verbal Update of Rule Projects --Scope and Rule Drafting DE 2, 3, 7 & 11 N ₂ O Practice of Hygiene and DE 2, 5 & 6 Pathway to Licensure 4 Status of Legislation; Position Statement on Records	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed: 1. Adoption Order for: Chs. DE 9, 11, 12 and 8(CR 13-060, 13-061, 13-074, and 14-011) JCRAR Review ended 3/28/14 for DE 9, 11&12. (For ch. DE 8, review expected to end >5/24/14, before the next board meeting). MOTIONS: a. First moved, seconded by Second, to approve the Adoption Order for Clearinghouse Rule CR 13-060, chs. REEB 9 relating to lab authorizations. b. First moved, seconded by Second, to approve the Adoption Order for Clearinghouse Rule CR 13-061, chs. REEB 10 relating to sedation permits. c. First moved, seconded by Second, to approve the Adoption Order for Clearinghouse Rule CR 13-074, chs. REEB 12 relating to training verification forms. d. First moved, seconded by Second, to approve the Adoption Order for Clearinghouse Rule CR 14-011, chs. REEB 8 relating to patient dental records <u>contingent on no action taken by JCRAR.</u> 2. Scope Statement for chs. DE 1, 10, 11 & 12, mobile dentistry Act 244 (Dr. Welter) MOTION First moved, seconded by Second, to approve the Scope Statement on chs. DE 1, 10 ,11, & 12 relating to mobile dentistry for submission to the Governor's Office and for publication, and to authorize the Chair to approve the Scope for implementation no less than 10 days after publication. 3. Verbal Update of Rule Projects— Scope and Rule Drafting DE 2, 3, 7&11 N₂O and Practice of Hygiene (Debra Beres) and DE 2, 5, & 6 Pathway to Licensure (Dr. Huck) 4. Status of Legislation—SB 518 reasonable treatment options/informed consent; Position Statement on Records			
11) <i>Jean MacCubbin</i> Signature of person making this request		Authorization 04232014 Date	

STATEMENT OF SCOPE

Dentistry Examining Board

Rule No.: Chs. DE 1 and 10

Relating to: Definition of Dentistry, and Regulation and Registration of Mobile Dentistry Programs

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The 2013 Wisconsin Act 244 includes an amended definition for dentistry, the regulation and registration of mobile dentistry programs, and the granting of rulemaking authority to the Dentistry Examining Board to promulgate rules regulating mobile dentistry programs. Such regulation may be contained in a new chapter, ch. DE 10 Regulation of Mobile Dentistry Programs.

It is the board's primary intent when regulating the standards and conditions of mobile dentistry programs and registrants to assure the following:

- 1) That all who deliver dental care in temporary locations, using equipment that is mobile or portable, are held to the same level of standards as when services are delivered in the traditional office setting.
- 2) That the rules for registration of mobile dentistry programs and registrants at least include complete contact information regarding the owner, individuals delivering dental care, licensure numbers, and a process for application, renewal and discipline, reprimand, and forfeitures.
- 3) That the patient dental records be available to the patient and the patient's guardian or parent for follow up care.
- 4) That the mobile dentistry program have an agreement with a local dentist(s) or a plan for the continuity of care of each patient.
- 5) That definitions be drafted to provide clarity for mobile dentistry programs and registrants.
- 6) That mobile dentistry programs substantially conform to the requirements set forth in chs. DE 1 to 12.

References to ch. DE 10 Regulation of Mobile Dentistry may require minor cross reference corrections to be made in existing chapters, DE 1 to 12.

Consistent with the Act, these rules shall have a three-month delayed effective date after adoption to assure adequate outreach to affected parties.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Board acknowledges that there are areas in the state where individuals are underserved, and there are individuals who are in need of dental care and lack the means to pay for such care. The Board has some knowledge of for profit, not-for-profit, and charitable mobile dentistry programs operating in the state. Many of these programs are where licensed professionals provide their services without reimbursement. Supervised dental students provide a level of emergency care and preventive care in some programs conducted in schools or other institutions. Overall, the Board has limited knowledge of what programs

exist, where they exist, and who is providing such service. There are currently no policies in place regulating dental services via mobile, portable, or mobile-portable hybrid means. Other than the requirements for obtaining a temporary permit to practice dentistry without compensation in this state, no registry of such programs exist.

Consistent with recent legislation, these proposed rules will develop the registration of mobile dentistry program and registrants; this will provide those schools, institutions, and other temporary settings with assurances that the level of care is consistent with state rules and the individuals providing such dental care are so licensed.

The alternative of not promulgating the rules would mean the rules of the Dentistry Examining Board will be inconsistent with state law and those entities entering into agreements with such providers will continue without the benefit of statewide standards.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 447.02 (1) (g) reads: "447.02 Dentistry examining board.(1)The examining board may promulgate rules:

(g) Governing the standards and conditions for the provision of dental services out of a mobile dentistry unit and the use of portable dental equipment.

Section 447.058 reads: "447.058 Mobile dentistry program registration. (1) Registration required. No person may own or operate a mobile dentistry program in this state unless the person is registered under this section. A person that wishes to own or operate more than one mobile dentistry program in this state shall apply for a separate registration under this section for each mobile dentistry program the person owns or operates.

(2) REGISTRATION. (a) The examining board may grant a registration under this section to a person who does all of the following:

1. Submits an application for registration to the department on a form provided by the department. The application shall include the person's name and tax identification number, the person's business address and telephone number, and any other information the department or the examining board requires.

2. Pays the fee specified in s. 440.05 (1).

3. Satisfies any other requirements established by the examining board by rule.

4 (b) A mobile dentistry program registrant shall submit an application for renewal, and the applicable renewal fee determined by the department under s. 440.03 (9) (a), to the department on a form provided by the department on or before the applicable renewal date specified under s. 440.08 (2) (a).

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 300 hours, depending on the complexity. This includes coordinating the rule-making process with the Board, research, rule drafting, and processing the rules through public hearings, legislative review, and adoption. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule:

Dental providers such as licensed dental hygienists and dentists, patients who utilize the services of mobile dentistry, and the owners and operators of mobile dentistry programs.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

No existing or pending Federal rules were found.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule is not expected to have a significant adverse economic impact on small business, as defined in s. 227.114 (1), Stats.

Contact Person:

Jean MacCubbin, at jean.maccubbin@wi.gov; or at telephone (608) 266-0955 or 711 (Telecommunications Relay); or at 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI, 53708-8366.

Approved for publication in the *Wisconsin Administrative Register* at Madison, Wisconsin, this date: _____

Approved for implementation at Madison, Wisconsin, this date: _____

DENTISTRY EXAMINING BOARD

DENTISTRY EXAMINING BOARD

Chairperson

Chairperson

Date of Governor's approval: _____

State of Wisconsin



2013 Senate Bill 573

Date of enactment:
Date of publication*:

2013 WISCONSIN ACT

AN ACT to amend 447.07 (1), 447.07 (3) (intro.), 447.07 (3) (a), 447.07 (3) (b), 447.07 (3) (e), 447.07 (3) (f), 447.07 (3) (m), 447.07 (5) and 447.07 (7); and to create 440.03 (13) (b) 38m., 440.08 (2) (a) 46y., 447.01 (10), 447.02 (2) (f), (g) and (h) and 447.058 of the statutes; relating to: regulation of mobile dentistry programs and granting rule-making authority.

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

SECTION 1. 440.03 (13) (b) 38m. of the statutes is created to read:

440.03 (13) (b) 38m. Mobile dentistry program registrant.

SECTION 2. 440.08 (2) (a) 46y. of the statutes is created to read:

440.08 (2) (a) 46y. Mobile dentistry program registration: October 1 of each odd-numbered year.

SECTION 3. 447.01 (10) of the statutes is created to read:

447.01 (10) "Mobile dentistry program registrant" means a person registered under s. 447.058.

SECTION 4. 447.02 (2) (f), (g) and (h) of the statutes are created to read:

447.02 (2) (f) A requirement that a mobile dentistry program registrant establish procedures for a patient treated in the mobile dentistry program to access his or her patient records.

(g) Standards of conduct for the operation of a mobile dentistry program in this state, the provision of dental services through a mobile dentistry program, and the use of portable dental equipment.

(h) A definition of "mobile dentistry program" and the activities that constitute the operation of a mobile dentistry program for purposes of the registration requirement under s. 447.058.

SECTION 5. 447.058 of the statutes is created to read:
447.058 Mobile dentistry program registration.

(1) **REGISTRATION REQUIRED.** No person may own or operate a mobile dentistry program in this state unless the person is registered under this section. A person that wishes to own or operate more than one mobile dentistry program in this state shall apply for a separate registration under this section for each mobile dentistry program the person owns or operates.

(2) **REGISTRATION.** (a) The examining board may grant a registration under this section to a person who does all of the following:

1. Submits an application for registration to the department on a form provided by the department. The application shall include the person's name and tax identification number, the person's business address and telephone number, and any other information the department or the examining board requires.

2. Pays the fee specified in s. 440.05 (1).

3. Satisfies any other requirements established by the examining board by rule.

* 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."

(b) A mobile dentistry program registrant shall submit an application for renewal, and the applicable renewal fee determined by the department under s. 440.03 (9) (a), to the department on a form provided by the department on or before the applicable renewal date specified under s. 440.08 (2) (a).

SECTION 6. 447.07 (1) of the statutes is amended to read:

447.07 (1) The examining board may, without further notice or process, limit, suspend, or revoke the license or certificate of any dentist or dental hygienist, or the registration of a mobile dentistry program registrant, who fails, within 60 days after the mailing of written notice to the dentist's ~~or~~ dental hygienist's, or registrant's last-known address, to renew ~~his or her~~ the license ~~or~~ certificate, or registration.

SECTION 7. 447.07 (3) (intro.) of the statutes is amended to read:

447.07 (3) (intro.) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings in regard to any alleged action of any dentist or dental hygienist, of a mobile dentistry program registrant, or of any other person it has reason to believe is engaged in or has engaged in the practice of dentistry or dental hygiene, or the operation of a mobile dentistry program, in this state, and may, on its own motion, or upon complaint in writing, reprimand any dentist or dental hygienist who is licensed or certified under this chapter, or any mobile dentistry program registrant, or deny, limit, suspend, or revoke his or her license or certificate, or the registration of the mobile dentistry program registrant, if it finds that the dentist ~~or~~ dental hygienist, or mobile dentistry program registrant has done any of the following:

SECTION 8. 447.07 (3) (a) of the statutes is amended to read:

447.07 (3) (a) Engaged in unprofessional conduct or violated the standards of conduct established by the examining board under s. 447.02 (2) (g).

SECTION 9. 447.07 (3) (b) of the statutes is amended to read:

447.07 (3) (b) Made any false statement or given any false information in connection with an application for a license ~~or~~ certificate, or registration or for renewal or reinstatement of a license ~~or~~ certificate, or registration, or received a license ~~or~~ certificate, or registration through error.

SECTION 10. 447.07 (3) (e) of the statutes is amended to read:

447.07 (3) (e) Subject to ss. 111.321, 111.322, and 111.335, been convicted of a crime, the circumstances of

which substantially relate to the practice of dentistry or dental hygiene or the operation of a mobile dentistry program.

SECTION 11. 447.07 (3) (f) of the statutes is amended to read:

447.07 (3) (f) Violated this chapter or any federal or state statute or rule ~~which that~~ relates to the practice of dentistry or dental hygiene, or the operation of a mobile dentistry program.

SECTION 12. 447.07 (3) (m) of the statutes is amended to read:

447.07 (3) (m) Made a substantial misrepresentation in the course of practice, or in the operation of a mobile dentistry program, that was relied upon by a client.

SECTION 13. 447.07 (5) of the statutes is amended to read:

447.07 (5) The examining board may reinstate a license ~~or~~ certificate, or registration that has been voluntarily surrendered or revoked on terms and conditions that it considers appropriate. This subsection does not apply to a license or registration that is revoked under s. 440.12.

SECTION 14. 447.07 (7) of the statutes is amended to read:

447.07 (7) In addition to or in lieu of a reprimand or denial, limitation, suspension, or revocation of a license ~~or~~ certificate, or registration under sub. (3), the examining board may assess against an applicant, licensee ~~or~~ certificate holder, or mobile dentistry program registrant a forfeiture of not more than \$5,000 for each violation enumerated under sub. (3).

SECTION 15. Nonstatutory provisions.

(1) At the same time the dentistry examining board files with the legislative reference bureau under section 227.20 of the statutes a rule satisfying the requirements under section 447.02 (2) (f), (g), and (h) of the statutes, as created by this act, the dentistry examining board shall send a notice to the legislative reference bureau for publication in the Wisconsin Administrative Register that states the date on which the treatments to the statutes described under SECTION 16 (intro.) of this act will take effect as provided in SECTION 16 (intro.) of this act.

SECTION 16. Effective dates. This act takes effect on the 1st day of the 3rd month beginning after the legislative reference bureau receives the notice under SECTION 15 (1) of this act, except as follows:

(1) The treatment of sections 447.01 (10) and 447.02 (2) (f), (g), and (h) of the statutes and SECTION 15 (1) of this act take effect on the day after publication.

State of Wisconsin



2013 Senate Bill 518

Date of enactment:
Date of publication*:

2013 WISCONSIN ACT

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.

RECORDKEEPING REMINDERS

The Dentistry Examining Board reviews dental health care records as a part of screening and/or investigation of a complaint. This provides us exposure to records very different in content, accuracy and style. We highly recommend it include:

1. Written and dated medical history – signed by the patient.
2. Written examination chart with procedure clearly indicated.
3. Consent form signed by the patient is highly recommended.
4. Radiographs.
5. Anesthetic type, amount administered any unusual reactions.
6. All prescriptions ordered.

Other important recommendations:

1. Never use pencil. Black pen or type is best.
2. Print legibly.
3. Sign or initial every entry.
4. Do not use white out. Cross out incorrect entry with one line; make correction, date and initial.
5. Avoid acronyms that are only understood by the author.
6. If any other staff member is writing in the patient's record, the credential holder (dentist or dental hygienist) is still responsible for its accuracy.

Finally, if your records are requested as part of an investigation, do not rewrite or attempt to “improve” them in any way. Falsification, withholding, concealing, and/or destruction of the patient health care record with the intent to obstruct an investigation or prosecution is a violation under 146.83 (4) (a) (b) (c).

Proper recordkeeping should be a consistent well-understood standard for everyone in the office. Its indication of a standard of care is clearly apparent. Its impact on an investigation is tremendous.