



Scott Walker, Governor
Dave Ross, Secretary

DENTISTRY EXAMINING BOARD
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
January 8, 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. Welcome New Board Members
- D. Adoption of Agenda (1-4)
- E. Approval of Minutes – November 6, 2013 (5-10)
- F. Election of Board Officers and Appointment of Liaisons – Discussion and Consideration (11-18)
- G. Administrative Updates
 - 1) Staff Updates
 - 2) Other
- H. DLSC Matters
- I. Credentialing Matters – Discussion and Consideration
 - 1) Renewal Dates and CRDTS Reporting (19-20)
 - 2) Foreign Trained Dentists – Specialists (21-22)
- J. Education and Examination Matters
- K. Legislative/Administrative Rule Matters – Discussion and Consideration
 - 1) Hearing Draft for Ch. DE 8 – Patient Dental Records (23-29)
 - 2) Scope Input for Statement for Chs. DE 2, 5, 6 etc., Pathway to Licensure for Foreign-Trained Applicants (30-32)

L. Practice Matters

M. Speaking Engagements, Travel or Public Relations Requests

N. Informational Items

O. 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) Class 1 Hearing(s)
- 10) Practice Matters
- 11) Legislative/Administrative Rule Matters
- 12) Liaison Report(s)
- 13) Informational Item(s)
- 14) Speaking Engagement(s), Travel, or Public Relation Request(s)

P. 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),).

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

- 1) 12 DEN 021 – John A. Petty, DDS (33-38)
 - o Case Advisor – Lyndsay Knoell
- 2) 13 DEN 005 and 13 DEN 006 – William E. Kortsch, DDS (39-44)
 - o Case Advisor – Lyndsay Knoell

R. Proposed Administrative Warnings

S. Credentialing Matters – Application Review(s) and Personal Interview

- 1) L.A., DDS – **10:00 a.m.** - Personal Interview and Review of Application for Faculty License (45-54)
- 2) W.F.F., DMD – Dentistry Application by Endorsement (55-162)
- 3) P.G., DDS – Dentistry Application by Examination (163-184)
- 4) F.S., DDS – Dentistry Application by Endorsement (185-216)

T. Monitoring

- 1) **APPEARANCE 10:15 a.m – Blair Moldenhauer, DMD** – Request for Reinstatement of Stay (217-262)

U. DLSC Matters

- 1) Case Status Report (263-264)
- 2) Case Closing(s)

V. Deliberation of Items Received After Preparation of the Agenda

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

W. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

ADJOURNMENT

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**DENTISTRY EXAMINING BOARD
MINUTES
NOVEMBER 6, 2013**

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

STAFF: Angela Hellenbrand, Executive Director; Karen Rude-Evans, Bureau Assistant

CALL TO ORDER

Lyndsay Knoell, Chair, called the meeting to order at 8:37 a.m. A quorum of nine (9) members was confirmed.

ADOPTION OF AGENDA

Amendments

- Item H1a – Insert additional information after page 38
- Item J2 – Insert additional information after page 64

MOTION: Eileen Donohoo moved, seconded by Deb Beres, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF SEPTEMBER 4, 2013

MOTION: Mark Braden moved, seconded by Eileen Donohoo, to approve the minutes of September 4, 2013 as published. Motion carried unanimously.

CREDENTIALING MATTERS

Foreign Trained Dentists

MOTION: Leo Huck moved, seconded by Tim McConville, to request DSPS staff draft a scope statement relating to foreign trained dentists' licensure pathway and to draft an emergency and permanent rule scope statement. Motion carried unanimously.

MOTION: Leo Huck moved, seconded by Deb Beres, to approve the scope statement on foreign trained licensure pathway for submission and publication of the emergency rule, and to the Governor's Office and publication and to authorize the Chair to approve the scope for implementation no less than ten (10) days after publication. Motion carried unanimously.

MOTION: Eileen Donohoo moved, seconded by Leo Huck, to request DSPS staff draft a scope statement relating to licensure of foreign trained dentists who have graduated from a CODA accredited specialty program in an ADA approved specialty. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Public Hearings – Chs. DE 9, 11 and 12 Relating to Lab Work Authorization, Sedation Permits and Training Verification Forms (CR 13-060, 13-061 and 13-074)

Chair Lyndsay Knoell called the public hearing to order at 10:44 a.m.

The public hearing adjourned at 10:47 a.m.

Discuss and Consider Hearing Comments, Clearinghouse Comments and Legislative Report, Chs. DE 9, 11 and 12 (CR 13-060, 13-061 and 13-074)

DE 9

MOTION: Eileen Donohoo moved, seconded by Mark Braden, to authorize the Chair to approve the Legislative Report and draft with modifications for Clearinghouse Rule 13-060 revising DE 9 relating to lab work authorizations for submission to the Governor’s Office and Legislature. Motion carried unanimously.

DE 11

MOTION: Eileen Donohoo moved, seconded by Deb Beres, to authorize the Chair to approve the Legislative Report with responses and draft with modifications for Clearinghouse Rule 13-061 revising DE 11 relating to sedation permits for submission to the Governor’s Office and Legislature. Motion carried unanimously.

DE 12

MOTION: Eileen Donohoo moved, seconded by Deb Beres, to authorize the Chair to approve the Legislative Report, except for 5(e) and 5 (f) and draft with modifications for Clearinghouse Rule 13-074 revising DE 12 relating to training verification forms for submission to the Governor’s Office and Legislature. Motion carried unanimously.

SB 311 – Hygienists Administering Nitrous Oxide Inhalation Analgesia

MOTION: Eileen Donohoo moved, seconded by Deb Beres, to request DSPS staff to follow legislation and draft a scope statement relating to SB 311, Hygienists Administering Nitrous Oxide, for presentation at the next meeting. Motion carried unanimously.

SPEAKING ENGAGEMENTS, TRAVEL OR PUBLIC RELATIONS**ADEX House of Representatives Meeting**

MOTION: Eileen Donohoo moved, seconded by Beth Welter, to appoint Leo Huck as the Board’s representative at the ADEX House of Representatives Meeting. Motion carried unanimously.

CLOSED SESSION

MOTION: Leo Huck moved, seconded by Lyndsay Knoell, to invite Dr. Wendy Pietz to sit in during closed session. Dr. Pietz is a non-voting member. Motion carried unanimously.

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.).

MOTION: Deb Beres moved seconded by Eileen Donohoo, 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; Leo Huck-yes; Lyndsay Knoell-yes; Sandra Linhart – yes; Timothy McConville-yes; Kirk Ritchie-yes; and Beth Welter-yes. Motion carried unanimously.

The Board convened into closed session at 12:08 p.m.

RECONVENE TO OPEN SESSION

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

The Board reconvened into open session at 1:58 p.m.

VOTING ON ITEMS DELIBERATED IN CLOSED SESSION

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

MOTION: Eileen Donohoo moved, seconded by Tim McConville, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against **Anelin Feilen, DDS (12 DEN 113)**. Motion carried. Leo Huck was excused during deliberation and abstained from voting.

MOTION: Deb Beres moved, seconded by Beth Welter, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against **Stephen Schwalbach, DDS (12 DEN 122)**. Motion carried unanimously.

ADMINISTRATIVE WARNING(S)

MOTION: Deb Beres moved, seconded by Mark Braden, to issue the Administrative Warning in case **12 DEN 026 (L.N.)**. Motion carried unanimously.

APPLICATION REVIEW(S)

MOTION: Mark Braden moved, seconded by Eileen Donohoo, to approve the application of **W.J.M.** subject to the applicant's successful completion of a clinical remediation course approved by the credentialing liaison and completion of 30 hours of CE related to the clinical practice of dental hygiene as defined in DE 13.04 and Wis. Stat. sec. 447.055. Motion carried unanimously.

REQUEST FOR WAIVER OF CPR REQUIREMENT

MOTION: Lyndsay Knoell moved, seconded by Eileen Donohoo, to deny the request from **S.F.D.** for a waiver of the CPR requirement. Licensee has not provided sufficient evidence for the Board to find that she is unable to complete CPR training. Motion carried unanimously.

MONITORING

MOTION: Eileen Donohoo moved, seconded by Leo Huck, to grant the request of **Steven Schnoll, DDS**, for a reduction in screens from thirty six (36) to twenty four (24) screens per year plus one hair test per year . Motion carried unanimously.

CASE CLOSING (S)

MOTION: Sandy Linhart moved, seconded by Deb Beres, to close case **12 DEN 026 (D.T.) for prosecutorial discretion**. Motion carried unanimously.

MOTION: Lyndsay Knoell moved, seconded by Deb Beres, to request DLSC staff to provide informal case closings with an agenda request cover letter in writing to be included in the agenda packet. Motion carried unanimously.

ADJOURNMENT

MOTION: Kirk Ritchie moved, seconded by Mark Braden, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:04 p.m.

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**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: 1/8/14	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Election of Board Officers and Appointment of Liaisons – Discussion and Consideration	
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 type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Election of Board Officers (Chair, Vice-Chair and Secretary) and appointment of liaisons.			
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: Ashley Horton Department Monitor Division of Legal Services and Compliance		2) Date When Request Submitted: December 20, 2013 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:			
4) Meeting Date:	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Monitoring: Appointment of Monitoring Liaison and Delegated Authority Motion	
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 checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: 1. Appointment of 2014 Monitoring Liaison 2. Delegated Authority Motion: <i>“_____ moved, seconded by _____ to adopt/reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today’s agenda packet.”</i>			
11) Authorization <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;">  </div> <div style="width: 30%; text-align: center;"> December 20, 2013 </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Signature of person making this request</div> <div style="width: 20%; text-align: center;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Supervisor (if required)</div> <div style="width: 20%; text-align: center;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</div> <div style="width: 20%; text-align: center;">Date</div> </div>			
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.			

Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison is a board designee who works with department monitors to enforce the Board's orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board:

1. Grant a temporary reduction in random drug screen frequency upon Respondent's request if he/she is unemployed and is otherwise compliant with Board order. The Department Monitor will draft an order and sign on behalf of the Liaison. The temporary reduction will be in effect until Respondent secures employment in the profession.
2. Grant a stay of suspension if Respondent is eligible per the Board order. The Department Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board order. The Department Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board approval. The Department Monitor will notify Respondent of the Liaison's decision.
5. Grant a maximum 90-day extension, if warranted and requested in writing by Respondent, to complete Board-ordered CE, pay proceeding costs, and/or pay forfeitures upon Respondent's request.

Current Authorities Delegated to the Department Monitor

The Department Monitor may take the following actions on behalf of the Board, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
2. Suspend the license if Respondent has not completed Board-ordered CE and/or paid costs and forfeitures within the time specified by the Board order. The Department Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.

Clarification

1. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. (This is consistent with current practice.)

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

AGENDA REQUEST FORM

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3) Name of Board, Committee, Council, Sections:			
4) Meeting Date:	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Appointment of Professional Assistance Procedure (PAP) Liaison	
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 checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Appointment of 2014 PAP Liaison - see <i>Wis. Admin. Code SPS ch. 7, attached, for Liaison duties</i>			
11) 		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	
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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: Brittany Lewin Executive Director		2) Date When Request Submitted: 12/19/13	
		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 ▪ 08 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 1/8/13	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Credentialing Matters – Renewal Dates and CRDTS Reporting – Discussion and Consideration	
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:	
10) Describe the issue and action that should be addressed: See attached email with input regarding renewal dates and CRDTS for Board consideration			
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.			

From: jeanne.hoppe
To: knoeldds@hotmail.com
CC: william.lobb
Subject: Questions/Concerns
Date: Thu, 21 Nov 2013 17:46:14 +0000
Good Morning Lyndsay,

Was good to see you the other day and know you are doing well. As I briefly mentioned to you, I have a couple of questions/concerns regarding the dental licensure process here in Wisconsin. For the past several years, I am the one working with our graduates in helping them with their dental license applications for Wisconsin and other states.

One of my concerns is that several years ago, when the board changed the renewal date to be in September of odd numbered years, it created an issue for our graduates in that odd number year. Many have been receiving their WI license around June because CRDTS is over with and if they graduate on time, they can start working earlier than in years past. However, because of the WI renewal date change, they must renew their license in September which for many is only a few months from their original license. I have asked if WI could pro-rate their fee for these graduates and the answer has always been no. Seems to me that WI wants graduates to practice here, but cannot seem to accommodate them regarding this renewal.

Another concern I have is with WI requesting the graduates to contact CRDTS for them to send their final results to the WI board as part of their application. For years, WI has requested the graduate to submit their original CRDTS result letter. Also, the WI board has for years and I know still does receive a master list from CRDTS of all board results. This costs the graduate more money to do this, which last year was \$50.00 to which they have already paid at least over \$2000.00 to CRDTS, etc. Last year, the board changed this new rule in the middle of the application process and when I called them on it, the web site changed overnight to reflect the change. Needless to say, I was very unhappy about this to which it makes no sense to me and only causes more angst to our graduates. And they also had no reason for this change. Now, if a dental applicant took another board exam that was not CRDTS, I can understand as I do not believe the other testing agencies send results to WI.

Thank you Lyndsay for listening as these issues have been bothering me and I thought I would contact you as I know you are an active member of the WI board. Dr. Lobb is well aware of these concerns as I have talked with him about them. I realize these issues may or may not change, but I thought it was worth noting.

Happy Thanksgiving to you and your family,
Jeanne

**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: 12/26/13 <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: Dentistry Examining Board			
4) Meeting Date:	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Foreign Trained Dentists-Specialists – Discussion and Consideration	
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:	
10) Describe the issue and action that should be addressed:			
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.			

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**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: 12/19/13 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: 20140108	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 1. Discuss and Consider Hearing Draft for ch. DE 8, patient dental records 2. Discuss and Consider Scope input for Statement for Chs. DE 2, 5, 6 etc., pathway to licensure for foreign-trained applicants 3. Verbal Update—Chs. DE 9, 11 & 12 and Timelines	
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. Discuss and Consider Hearing Draft for ch. DE 8, patient dental records (MOTION #6 First moved, seconded by Second to approve the hearing draft for the creation of ch. DE 8 relating to patient dental records for posting for economic impact comments, submission to the Clearinghouse and notice of public hearing. The public hearing will take place at the next meeting or on March 5, 2014). 2. Discuss and Consider Scope input for Statement for Chs. DE 2, 5, 6 etc., pathway to licensure for foreign-trained applicants (permananet rule) (MOTION First moved, seconded by Second, to designate (Name of Board Member) to serve as liaison to DSPS staff for drafting the Scope Statement relating to pathway to licensure for foreign-trained applicants for consideration at the next meeting.) 3. Verbal Update—Chs. DE 9, 11 & 12 and Timelines			
11) <i>Jean MacCubbin</i>	Authorization		12/19/2013
Signature of person making this request			Date

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD	:	ADOPTING RULES
	:	(CR)

PROPOSED ORDER

An order of the Dentistry Examining Board to create chapter DE 8 relating to patient dental records.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 146.81 (1) and (4), and 447.02, Stats

Statutory authority: ss. 15.08 (5) (b) and 227.11 (2) (a), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., requires all examining boards to “...promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 227.11 (2) (a), Stats., authorizes all agencies to promulgate rules interpreting the statutes it enforces or administers, when deemed necessary to effectuate the purpose of such statutes.

Related statute or rule: s. 146.81 (1) and (4), Stats.

Plain language analysis:

The primary purpose of the proposed rule is to develop minimum requirements for patient dental records. The rule considers ss. 146.81 (1) and (4), Stats., whereby “dentist” is defined as a healthcare provider and consequently is required to maintain patient health

records as specified in s. 146.81 (4). No additional requirements are proposed in this newly created chapter.

SECTION 1. This section creates a new chapter, DE 8 patient dental records and substantially mirrors the patient health records as specified in ch. Med 21, Wisc. Admin. Code. Specific areas of compliance include: retention, confidentiality, destruction and falsification of records.

SECTION 2. This section identifies when in the rule-making process the rule shall become effective.

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

An Internet-based search of the U.S. Code and Federal Register did not reveal any laws or proposals related to patient dental records, with the exception of the move to electronic records for Medicaid patients in 2016.

Comparison with rules in adjacent states:

An Internet-based search of the four adjacent states revealed the following:

Illinois: In Illinois Department of Financial and Professional Regulation oversees dentists; no rules requiring patient dental records were found.

Iowa: In Iowa, chapter 27 of the Iowa code, 650—27.11 (153,272C), relates to record keeping. Patient dental records must be maintained for a minimum of six years after the date of last examination, prescription, or treatment and for a minor 6 years after the age of majority. . Similar to other states, when electronic records are kept, a duplicate hard copy record or use an unalterable electronic record must be kept.

Michigan: In Michigan the Board of Dentistry rule, 1120 (R 338.11101 - 338.11821), requires records to be maintained for 10 years after the last treatment. In addition charting of dental procedures and a listing of medications administered are two additional requirements unlike proposed in this rule.

Minnesota: In Minnesota the related rule is 3100.9600 record keeping. This rule requires records to be maintained for **7 years** after the last treatment. In the case of the patient being a minor, the records must be maintained for 7 years beyond the age of majority. In addition an emergency contact, information related to any insurance coverage, and providing an electronic backup are three additional requirements unlike proposed in this rule.

Summary of factual data and analytical methodologies:

No factual data and analytical methodologies were used to draft these rules.

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

The issue of patient dental records was raised in the context of not having a retention policy and the impact on associated costs related to the amount of storage dentist and firms are currently are maintaining. Section 146.81 (4), Stats., provides a period for destruction of records-- 5 years after the date of the last entry, or for such longer period as may be otherwise required by law.

It is expected that this proposed rule will decrease at least the cost of hard-copy record storage. No specific data was collected or analyzed to come to this conclusion.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is 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:

Jean MacCubbin, 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 608-266-0955 or telecommunications rely at 711; email at Jean.MacCubbin@wisconsin.gov.

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

Comments may be submitted to Jean MacCubbin, 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 53708-8366, or by email to Jean.MacCubbin@wisconsin.gov. Comments must be received on or before the hearing to be held on March 5, 2014 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapter DE 8 is created to read:

Chapter DE 8
PATIENT DENTAL RECORDS

DE 8.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.08 (5) (b), 227.11 (2) and ch. 447, Stats., to govern the practice of dentists in the preparation and retention of patient dental records.

DE 8.02 Definitions. In this chapter:

(1) "Patient" means a person who receives dental services from a licensed dentist or dental hygienist.

(2) "Patient dental record" or "patient health care record" has the meaning given in s. 146.81 (4), Stats.

Patient health care records" means all records related to the health of a patient prepared by or under the supervision of a health care provider; and..."

DE 8.10 Minimum standards for patient health care record retention. (1) A licensed dentist or dental hygienist shall maintain patient health care records on every patient administered to for a period of not less than **5 years after the date of the last entry, or for such longer period as may be otherwise required by law.**

(2) A patient health care record prepared by a licensed dentist or dental hygienist shall contain the following health care information that applies to the patient's dental history and condition:

(a) Pertinent patient history.

(b) Pertinent objective findings related to examination and test results.

(c) Assessment or diagnosis.

(d) Plan of treatment for the patient.

(3) Each patient dental record entry shall at least be dated, identify the practitioner, and be sufficiently legible to allow interpretation by other practitioners for the benefit of the patient.

(4) When patient dental records are maintained in an electronic format, a secure back up or duplicate file shall be maintained.

DE 8.20 Confidentiality of patient health care records. All patient health care records shall remain confidential as provided in s. 146.82, Stats.

Note: Section 146.82, Stats., reads: “**146.82 (1) CONFIDENTIALITY.** All patient health care records shall remain confidential. Patient health care records may be released only to the persons designated in this section or to other persons with the informed consent of the patient or of a person authorized by the patient. This subsection does not prohibit reports made in compliance with s. 253.12 (2), 255.40, or 979.01; records generated or disclosed pursuant to rules promulgated under s. 450.19; testimony authorized under s. 905.04 (4) (h); or releases made for purposes of health care operations, as defined in 45 CFR 164.501, and as authorized under 45 CFR 164, subpart E.

DE 8.30 Preservation or destruction of patient health care records. The preservation or destruction of patient health care records shall be in compliance with s. 146.819, Stats.

Note: Section 146.189, Stats., reads: “**146.819 Preservation or destruction of patient health care records.** (1) Except as provided in sub. (4), any health care provider who ceases practice or business as a health care provider or the personal representative of a deceased health care provider who was an independent practitioner shall do one of the following for all patient health care records in the possession of the health care provider when the health care provider ceased business or practice or died:

(a) Provide for the maintenance of the patient health care records by a person who states, in writing, that the records will be maintained in compliance with ss. 146.81 to 146.835.

(b) Provide for the deletion or destruction of the patient health care records.

(c) Provide for the maintenance of some of the patient health care records, as specified in par. (a), and for the deletion or destruction of some of the records, as specified in par. (b).

(2) If the health care provider or personal representative provides for the maintenance of any of the patient health care records under sub. (1), the health care provider or personal representative shall also do at least one of the following:

(a) Provide written notice, by 1st class mail, to each patient or person authorized by the patient whose records will be maintained, at the last-known address of the patient or person, describing where and by whom the records shall be maintained.

(b) Publish, under ch. 985, a class 3 notice in a newspaper that is published in the county in which the health care provider's or decedent's health care practice was located, specifying where and by whom the patient health care records shall be maintained.

(3) If the health care provider or personal representative provides for the deletion or destruction of any of the patient health care records under sub. (1), the health care provider or personal representative shall also do at least one of the following:

(a) Provide notice to each patient or person authorized by the patient whose records will be deleted or destroyed, that the records pertaining to the patient will be deleted or destroyed. The notice shall be provided at least 35 days prior to deleting or destroying the records, shall be in writing and shall be sent, by 1st class mail, to the last-known address of the patient to whom the records pertain or the last-known address of the person authorized by the patient. The notice shall inform the patient or person authorized by the patient of the date on which the records will be deleted or destroyed, unless the patient or person retrieves them before that date, and the location where, and the dates and times when, the records may be retrieved by the patient or person.

(b) Publish, under ch. 985, a class 3 notice in a newspaper that is published in the county in which the health care provider's or decedent's health care practice was located, specifying the date on which the records will be deleted or destroyed, unless the patient or person authorized by the patient retrieves them before that date, and the location where, and the dates and times when, the records may be retrieved by the patient or person.

(4) This section does not apply to a health care provider that is any of the following:

- (a) A community-based residential facility or nursing home licensed under s. 50.03.
- (b) A hospital approved under s. 50.35.
- (c) A hospice licensed under s. 50.92.
- (d) A home health agency licensed under s. 50.49 (4).
- (f) A local health department, as defined in s. 250.01 (4), that ceases practice or business and transfers the patient health care records in its possession to a successor local health department. “

DE 8.31 Intentionally falsifying patient records. Intentionally falsifying patient records shall be considered a violation of unprofessional conduct as specified in s. DE 5.02 (7).

SECTION 2. 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.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Board Chairperson
Dentistry Examining Board

STATEMENT OF SCOPE

Dentistry Examining Board

Rule No.: DE 2, 5 & 6

Relating to: Pathway to licensure for foreign-trained applicants

Rule Type: Permanent

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

N/A

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

The primary intent of this proposed rule is to revise and clarify the pathway to licensure for foreign-trained applicants. In reviewing applications from individuals whose education was obtained other than from an accredited U.S. or Canadian dental school, the Credentialing Committee of the Dentistry Examining Board (the Board) determined that eligibility for application for licensure in Wisconsin was inconsistent with eligibility requirements of adjoining states.

Research was further conducted of the rules for a number of mid-western states; it was determined that Wisconsin standards, which changed in 2007, were now the weakest of the states surveyed. While Wisconsin requires the passage of a clinical exam for these applicants and additional training (one year AGD or GPR), these requirements are no longer considered equivalent to obtaining a DDS or DMD via the traditional degree route in Wisconsin.

Requirements will be established for both initial licensure and endorsement for foreign-trained applicants. Typographical errors, formatting, and other corrections, such as definitions, will be made where appropriate.

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:

After 2007, a new provision for initial licensure that applies only to foreign-trained applicants was created. The provisions qualified a foreign-trained dentist eligible to apply for a Wisconsin license if he or she submits to the Board evidence of graduation from a non-U.S. or Canadian accredited dental school and evidence of the successful completion of an accredited postgraduate program in advanced education in general dentistry or an accredited general dental practice residency. In addition, a foreign-trained dentist must submit the same information required of non-foreign trained dentists listed in s. DE 2.01 (1) (a) to (d), (f) and (g) prior to initial application.

Like Wisconsin, a number of adjacent states--Illinois, Indiana, Iowa, Ohio, Michigan and Minnesota, all require a degree (DDS or DMD) from an accredited dental school. Unlike Wisconsin and except for Minnesota, these states also require a minimum of a 2-year specialty program. Iowa allows either the degree (DDS or DMD) or a 2 yr-IDP (undergrad). In lieu of the 2-year specialty program, Wisconsin allows the one-year AGD or GPR training.

Regionally, Wisconsin is now known as having some of the weakest rules where foreign-trained applicants come to obtain licensure. This route to licensure affects the number of 'seats' available to applicants with degrees, education and training from ADA CODA (American Dental Association-Commission on Dental Accreditation) institutions. For example, Marquette University Dental School requires foreign-trained dentists who were trained in countries outside the United States but wish to may

apply for advanced standing admission, are required to complete three-years of training before a DDS degree is conferred. These applicants are admitted on a space-available basis.

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

Section 447.02 (2) (b) reads: "447.02 Dentistry examining board. (2)The examining board shall promulgate rules specifying all of the following:

(b) The standards, conditions and any educational requirements that are in addition to the requirements specified in s. 447.04 (1) that must be met by a dentist to be permitted to induce general anesthesia or conscious sedation in connection with the practice of dentistry."

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 200 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:

Applicants with foreign-based training and/or degrees and Wisconsin licensed dental hygienists and dentists

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:

There is no known existing or proposed federal regulations addressing the licensure requirements for dentists from U.S., Canadian or foreign-based schools and institutions.

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

There is minimal or no economic impact of implementing this rule and is not likely to have a significant economic impact on small businesses.

Contact Person: Jean MacCubbin, (608) 266-0955

Board Chairperson
Dentistry Examining Board

Date Submitted

Timeline for chs. DE 2, 5 6 Pathway to Licensure for Foreign-trained Dentists

<u>Action</u>	<u>Date</u>
<u>Emergency Rule</u>	
Get Board approval of scope statement	March 5, 2014
Get Governor approval of scope statement & transmit to LRB (14 day)	March 19, 2014
Scope statement printed in <i>Wisconsin Administrative Register</i>	April 15, 2014
Scope statement implemented (drafting)	April 25, 2014
Finalize emergency rule and send to Board for approval	July 9, 2014
Send to Governor for approval	July 10, 2014
Send to Board for adoption	September 3, 2014
Emergency rule adoption date	September 3, 2014
Emergency rule effective date (see publication deadlines) (Sunday newspaper)	September 21, 2014
Emergency rule (and permanent rule) Hearing date	November 5, 2014
Draft request for 1st extension	January 15, 2015
Expiration of emergency rule	February 17, 2015
Draft request for 2nd extension	January 5, 2015
Expiration of 1st extension	April 18, 2015
Expiration of 2nd extension	June 17, 2015

<u>Permanent Rule</u>	
Finalize the draft rule and the draft Economic Impact Analysis	July 9, 2014
End of comment period for draft Economic Impact Analysis	July 23, 2014
Finalize Economic Impact Analysis	August 23, 2014
Get approval to announce Hearing and transmit to LRB	September 3, 2014
Announcement noticed in <i>Register</i>	October 1, 2014
Permanent rule (and emergency rule) Hearing date	November 5, 2014
Finalize rule materials for legislative review	December 12, 2014
Get Board approval for legislative review (est. bd. mtg. date)	January 8, 2015
Get GORC approval for legislative review (14 day)	January 22, 2015
Transmit for legislative review	January 30, 2015
Assignment of rule	February 5, 2015
Senate and Assembly review ends (includes no hearing)	March 7, 2015
Rule sent to Joint Committee for Review of Administrative Rules	March 9, 2015
JCRAR review ends (no extension included)	April 8, 2015
Adoption and filing of rule	April 15, 2015
Rule in effect (includes 1.5 months for printing)	June 1, 2015

Assumptions in addition to those listed above in parentheses, to avoid a too-soon sunset of the e-rule:

1. Each Board approval occurs within two weeks, as does the Governor's and GORC's, except all approvals for legislative review and for final adoption occur within one week.
2. Permanent rule and analysis and EIA can be developed within two weeks after Governor approves emergency rule.
3. Economic impact will be none to minimal.
4. EIA and Hearing inputs can each be adequately addressed within ten business days.
5. Emergency rule will be extended as requested.

Deadlines Due to Adopting an Emergency Rule

- Submit-to-Clearinghouse deadline
- Hearing deadline -- from effective date of emergency rule
- Hearing deadline -- from Clearinghouse response (with ≥ 5-day review)