



Scott Walker, Governor
Dave Ross, Secretary

DENTISTRY EXAMINING BOARD
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
November 2, 2016

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. Adoption of Agenda (1-3)

C. Approval of Minutes – September 7, 2016 (4-5)

D. Administrative Updates

- 1) Board and Staff Updates

E. Legislation and Rule Matters – Discussion and Consideration (6-15)

- 1) Proposals for Amending DE 2, 3 Relating to Dentist Licensure and Practice of Dental Hygiene
- 2) Proposals for Amending DE 5, 6 Relating to Standards of Conduct and Unprofessional Advertising
- 3) Scope for Amending DE 7, 8 Relating to Certification of Dental Hygienists to Administer Local Anesthesia and Patient Dental Record Retention
- 4) Update on Pending and Possible Rulemaking Projects

F. Education and Examination Matters

- 1) Objective Structured Clinical Examination (OSCE) Information and Discussion

G. Speaking Engagement(s), Travel, or Public Relation Request(s)

- 1) 2017 Travel Requests

H. Items Added After Preparation of Agenda

- 1) Introductions, Announcements and Recognition
- 2) Election of Board Officers
- 3) Appointment of Board Liaison(s)
- 4) Administrative Updates

- 5) Education and Examination Matters
- 6) Credentialing Matters
- 7) Practice Matters
- 8) Legislative/Administrative Rule Matters
- 9) Liaison Report(s)
- 10) Informational Item(s)
- 11) Disciplinary Matters
- 12) Presentations of Petition(s) for Summary Suspension
- 13) Petitions for Designation of Hearing Examiner
- 14) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 15) Presentation of Proposed Final Decision(s) and Order(s)
- 16) Presentation of Interim Orders
- 17) Petitions for Re-Hearing
- 18) Petitions for Assessments
- 19) Petitions to Vacate Orders
- 20) Requests for Disciplinary Proceeding Presentations
- 21) Motions
- 22) Petitions
- 23) Appearances from Requests Received or Renewed
- 24) Speaking Engagement(s), Travel, or Public Relation Request(s)

I. 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),).

J. Credentialing Matters

- 1) Application Review – Hosan Park **(16-65)**

K. Deliberation on Division of Legal Services and Compliance (DLSC) Matters

- 1) **Proposed Stipulations, Final Decisions and Orders**
 - a) 15 DEN 029 – David Brown, D.D.S. **(66-72)**
 - b) 16 DEN 033 – Jay Peerenboom, D.D.S. **(73-78)**
- 2) **Case Closures**
 - a) 16 DEN 032 **(79-81)**

L. Consulting with Legal Counsel

M. Deliberation of Items Received After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP)

- 6) Petition(s) for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Administrative Warnings
- 10) Review of Administrative Warning
- 11) Proposed Final Decisions and Orders
- 12) Matters Relating to Costs/Orders Fixing Costs
- 13) Case Closings
- 14) Proposed Interim Orders
- 15) Petitions for Assessments and Evaluations
- 16) Petitions to Vacate Orders
- 17) Remedial Education Cases
- 18) Motions
- 19) Petitions for Re-Hearing
- 20) Appearances from Requests Received or Renewed

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

O. Open Session Items Noticed Above not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING DATE JANUARY 4, 2017

**DENTISTRY EXAMINING BOARD
MEETING MINUTES
September 7, 2016**

PRESENT: Debra Beres, RDH; Mark Braden, DDS; Eileen Donohoo, RDH (*arrived at 8:45 a.m. via GoToMeeting;*) Leonardo Huck, DDS; Lyndsay Knoell, DDS; Timothy McConville, DDS; Wendy Pietz, DDS; Carrie Stempski, RDH; Beth Welter, DDS

STAFF: Brittany Lewin, Executive Director; Amber Cardenas, Legal Counsel; Nifty Lynn Dio, Bureau Assistant; and other Department staff

CALL TO ORDER

Lyndsay Knoell, Chair, called the meeting to order at 8:30 a.m. A quorum of seven (7) members was confirmed.

ADOPTION OF AGENDA

Amendments to Agenda

- *Added item G.2: 2016 ADA OSCE Development Forum*

MOTION: Mark Braden moved, seconded by Beth Welter, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Debra Beres moved, seconded by Beth Welter, to approve the minutes of July 6, 2016 as published. Motion carried unanimously.

CLOSED SESSION

MOTION: Wendy Pietz 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, Chair, 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; Timothy McConville – yes; Wendy Pietz – yes; Carrie Stempski – yes; Beth Welter – yes. Motion carried unanimously.

The Board convened into Closed Session at 10:20 a.m.

RECONVENE TO OPEN SESSION

MOTION: Debra Beres moved, seconded by Beth Welter, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 11:10 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Lyndsay Knoell moved, seconded by Mark Braden, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

DELIBERATION DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Administrative Warnings

13 DEN 111 – R.S.W.

MOTION: Mark Braden moved, seconded by Debra Beres, to issue an Administrative Warning in the matter of DLSC Case No. 13 DEN 111. Motion carried unanimously.

Proposed Stipulations, Final Decisions and Orders

16 DEN 008 – Jeffrey Sorensen, D.D.S.

MOTION: Timothy McConville moved, seconded by Debra Beres, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Jeffrey Sorensen, D.D.S., DLSC Case No. 16 DEN 008. Motion carried unanimously.

(Mark Braden recused himself and left the room for deliberation and voting in the matter of Jeffrey Sorensen, DLSC Case No. 16 DEN 008.)

Case Closures

15 DEN 011

MOTION: Mark Braden moved, seconded by Debra Beres, to close DLSC Case No. 15 DEN 011, against A.M., for Insufficient Evidence. Motion carried unanimously.

16 DEN 038

MOTION: Beth Welter moved, seconded by Timothy McConville, to close DLSC Case No. 16 DEN 038, against D.H., for Prosecutorial Discretion (P2). Motion carried unanimously.

ADJOURNMENT

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

The meeting adjourned at 11:11 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sharon Henes Administrative Rules Coordinator		2) Date When Request Submitted: 24 October 2016 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 2 November 2016	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislation and Rule Matters – Discussion and Consideration 1. Proposals for Amending DE 2, 3 Relating to Dentist Licensure and Practice of Dental Hygiene 2. Proposals for Amending DE 5, 6 Relating to Standards of Conduct and Unprofessional Advertising 3. Scope for Amending DE 7, 8 Relating to Certification of Dental Hygienists to Administer Local Anesthesia and Patient Dental Record Retention 4. Update on Pending and Possible Rulemaking Projects	
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:			
11) Authorization			
<i>Sharon Henes</i>		<i>24 October 2016</i>	
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	
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.			

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

Chapter DE 2

LICENSURE

DE 2.01	Application for license.	DE 2.05	Examination passing score.
DE 2.015	Faculty license.	DE 2.06	Unauthorized assistance.
DE 2.02	Duration of license.	DE 2.07	Examination review.
DE 2.03	Biennial renewal.	DE 2.08	Claim of examination error.
DE 2.04	Endorsement.	DE 2.09	Failure and reexamination.

Note: Chapter DE 2 as it existed on February 28, 1982, was repealed and a new chapter DE 2 was created effective March 1, 1982.

DE 2.01 Application for license. (1) An applicant for license as a dentist shall submit all of the following to the board:

- (a) An application on a form approved by the board.
- (c) The fee authorized by s. 440.05 (1), Stats.
- (d) Evidence of successful completion of an examination on ~~provisions in ch. 447, Stats., and chs. DE 1 to 9~~ the statutes and rules relating to dentistry.

(e) Evidence satisfactory to the board of having graduated from an accredited dental school.

(f) Verification from the commission on national examinations of the American dental association or other board-approved professional testing services of successful completion of an examination.

(g) Verification from the central regional dental testing service or other board-approved testing services of successful completion of an examination in ~~clinical and laboratory demonstrations~~ taken within the 5-year period immediately preceding application. ~~In this paragraph, "successful completion" means an applicant has passed all parts of the examination in no more than 3 attempts on any one part, as required in s. DE 2.09.~~

(h) Submits evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization or institution of higher education approved by the Wisconsin department of health services.

Note: Application forms are available upon request to the board office at 1400 East Washington Avenue, P. O. Box 8935, Madison, Wisconsin 53708.

(1m) An applicant for a license as a dentist who is a graduate of a foreign dental school shall submit all of the following to the board:

(a) Evidence satisfactory to the board of having graduated from a foreign dental school.

(b) The information required in sub. (1) (a) to (d), (f) and (g).

(d) Evidence of one of the following:

1. Verification of having been awarded a DDS or DMD degree from an accredited dental school.

2. Verification of having received a dental diploma, degree or certificate from a full time, undergraduate supplemental dental education program of at least two academic years at an accredited dental school. The program must provide didactic and clinical education to the level of a DDS or DMD graduate.

(e) Submits evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation,

including the use of an automated external defibrillator achieved through instruction provided by an individual, organization or institution of higher education approved by the Wisconsin department of health services.

(2) An applicant for license as a dental hygienist shall meet requirements in sub. (1) (a) through (d) and shall also submit to the board:

(a) Verification from the commission on national examinations of the American dental association or other board-approved professional testing service of successful completion of an examination on the basic principles of the practice of dental hygiene; and

(b) Verification from the central regional dental hygiene testing service or other board-approved testing service of successful completion of an examination in ~~clinical and laboratory demonstrations~~ taken within the 5-year period immediately preceding application.

(c) Evidence satisfactory to the board of having graduated from an accredited dental hygiene school.

(d) Evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization or institution of higher education approved by the Wisconsin department of health services.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; am. (1) (g), Register, May, 1984, No. 341, eff. 6-1-84; am. (1) (e), Register, March, 1988, No. 387, eff. 4-1-88; am. (1) (e) and (2) (intro.), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) (intro.), (a), (c), (e), (f) and r. (1) (b), Register, April, 1999, No. 520, eff. 5-1-99; am. (1) (g), Register, June, 2001, No. 546, eff. 7-1-01; CR 09-007: am. (1) (e), cr. (1m) Register October 2009 No. 646, eff. 11-1-09; **CR 15-013: r. (1m) (e), cr. (1m) (d) Register October 2015 No. 717, eff. 10-1-15.**

DE 2.015 Faculty license. (1) The board shall grant a license to practice dentistry to an applicant who is licensed in good standing to practice dentistry in another jurisdiction approved by the board upon presentation of the license and who does all of the following:

(a) Submits an application on a form provided by the board.

(b) Pays the fee specified in s. 440.05 (2), Stats.

(c) Submits a written certification from an accredited post-doctoral dental residency training program or accredited school of dentistry in this state that the applicant has been offered employment as a full-time faculty member in that program or at that school of dentistry.

(d) Submits to ~~an initial interview and any other~~ interview that the board may require that demonstrates, to the board's satisfaction, that the applicant is competent to practice dentistry.

(e) Discloses all discipline which has ever been taken against the applicant in any jurisdiction.

(f) Submits evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization or institution of higher education approved by the Wisconsin department of health services.

(2) A license granted under sub. (1) authorizes the license holder to do all of the following:

(a) Practice dentistry only within the primary educational facility affiliated with an accredited post-doctoral dental residency training program or accredited school of dentistry in this state.

(b) Perform dental procedures that are incident to instruction while at a site affiliated with an accredited post-doctoral dental residency training program or accredited school of dentistry located in this state.

(3) A license granted under sub. (1) shall not be transferable to another accredited school of dentistry in this state or accredited post-doctoral dental residency training program without prior approval by the board.

(4) A license granted under sub. (1) is no longer in effect if the license holder ceases to be employed as a full-time faculty member at an accredited post-doctoral dental residency training program or accredited school of dentistry in this state. The license holder shall notify the board in writing within 30 days of the date on which his or her employment as a licensed faculty member under sub. (1) is terminated.

Note: Application forms are available upon request to the Dentistry Examining Board, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

History: CR 02-139: cr. Register December 2003 No. 576, eff. 1-1-04; CR 11-034: am. (1) (c), (2) (a), (b), (3), (4) Register July 2012 No. 679, eff. 8-1-12.

DE 2.02 Duration of license. (1) Every person granted a license as a dentist shall be deemed licensed for the current biennial license period.

(2) Every person granted a license as a dental hygienist shall be deemed licensed for the current biennial license period.

(3) Licensees shall qualify biennially for renewal of license.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; am. (2), Register, June, 1995, No. 474, eff. 7-1-95; am. Register, April, 1999, No. 520, eff. 5-1-99.

DE 2.03 Biennial renewal. (1) REQUIREMENTS FOR RENEWAL; DENTISTS. To renew a license a dentist shall, by October 1 of the odd-numbered year following initial licensure and every 2 years thereafter, file with the board all of the following:

(a) An application for renewal on a form prescribed by the department.

(b) The fee authorized by s. 440.08 (2), Stats.

(c) Evidence satisfactory to the board that the licensee has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator, achieved through instruction provided by an individual, organization, or institution of higher education approved by the Wisconsin department of health services.

(d) Except as provided in sub. (4), evidence satisfactory to the board of successful completion of the continuing education credit hours required under ch. DE 13.

(2) REQUIREMENTS FOR RENEWAL; DENTAL HYGIENISTS. A dental hygienist shall by October 1 of the odd-numbered year following initial licensure and every 2 years thereafter, meet the requirements for renewal specified in sub. (1) (a) to (d).

(3) FAILURE TO MEET REQUIREMENTS. A dentist or dental hygienist who fails to meet the requirements under subs. (1) (a) to (d) and (2) by the renewal date shall cease and desist from dental or dental hygiene practice.

(4) NEW LICENSEES. Dentists and dental hygienists are not required to satisfy the continuing education requirements under sub. (1) (d) for the first renewal period following the issuance of their initial licenses.

(5) REQUIREMENTS FOR LATE RENEWAL; REINSTATEMENT. (a) A dentist or dental hygienist who files an application for renewal of a license within 5 years after the renewal date may renew his or her license by filing with the board all of the following:

1. An application for renewal on a form prescribed by the department.

2. The fee authorized by s. 440.08 (2), Stats., plus the applicable late renewal fee authorized by s. 440.08 (3), Stats.

3. Evidence satisfactory to the board that the licensee has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator, achieved through instruction provided by an individual, organization, or institution of higher education approved by the department of health services.

4. Except as provided under sub. (4), evidence satisfactory to the board of successful completion of the continuing education credit hours required under ch. DE 13.

(b) A dentist or dental hygienist who files an application for renewal more than 5 years after the renewal date may be reinstated by filing with the board an application and fees as specified in subs. (1) and (2) and verification of successful completion of examinations or education, or both, as the board may prescribe.

(6) REINSTATEMENT FOLLOWING DISCIPLINARY ACTION. A dentist or dental hygienist applying for licensure following disciplinary action by the board, pursuant to s. 447.07, Stats., may be reinstated by filing with the board:

(a) An application as specified in s. DE 2.01;

(b) The fee authorized by s. 440.05 (1), Stats.;

(c) Verification of successful completion of examinations as the board may prescribe; and,

(d) Evidence satisfactory to the board, either orally or in writing as the board deems necessary, that reinstatement to practice will not constitute a danger to the public or a patient.

~~(7) DISPLAY OF LICENSE. The license and certificate of registration shall be displayed in a prominent place by every person licensed and currently registered by the board.~~

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; correction in (6) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1986, No. 364; am. (1) (intro.), (b), (2), (5) (a) (intro.), 2., (b), (6) (intro.) and (7), r. (4), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) (intro.), (2), Register, June, 1996, No. 486, eff. 7-1-96; am. (1) (b), (5) (a) 2. and (6) (b), Register, April, 1999, No. 520, eff. 5-1-99; CR 11-033: am. (1) (intro.), (a), cr. (1) (d), am. (2), (3), cr. (4), am. (5) (a) (intro.), 1., cr. (5) (a) 4. Register July 2012 No. 679, eff. 8-1-12.; CR 11-035: am. (1) (intro.), (a), cr. (1) (c), am. (5) (a) (intro.), 1., cr. (5) (a) 3. Register July 2012 No. 679, eff. 8-1-12.

DE 2.04 Endorsement. (1) The board may grant a license as a dentist to an applicant who holds a valid license issued by the proper authorities of any other jurisdiction of the United States or Canada upon payment of the fee authorized by s. 440.05 (2), Stats., and submission of evidence satisfactory to the board that all of the following conditions are met:

(a) The applicant has graduated from an accredited school of dentistry or the applicant has graduated from a foreign dental

school and has successfully completed an accredited postgraduate program in advanced education in general dentistry or an accredited general dental practice residency.

(b) The applicant submits a certificate from each jurisdiction in which the applicant is or has ever been licensed stating that no disciplinary action is pending against the applicant or the license, and detailing all discipline, if any, which has ever been imposed against the applicant or the license.

(c) The applicant has not failed the central regional dental testing service ~~clinical and laboratory demonstration~~ examination, or any other dental licensing examination, within the previous 3 years.

(d) The applicant has been engaged in the active practice of dentistry, as defined in s. DE 1.02 (2), in one or more jurisdictions in which the applicant has a current license in good standing, for at least 48 of the 60 months preceding the application for licensure in Wisconsin.

(e) The applicant has successfully completed a ~~clinical and laboratory demonstration~~ licensing examination on a human subject which, in the board's judgment, is substantially equivalent to the ~~clinical and laboratory demonstration~~ examination administered by the central regional dental testing service, or, alternatively, has successfully completed a board specialty certification examination in a dental specialty recognized by the American Dental Association.

(f) The applicant has successfully completed a jurisprudence examination on the provisions of Wisconsin statutes and administrative rules relating to dentistry and dental hygiene.

(g) The applicant possesses a current certificate of proficiency in cardiopulmonary resuscitation from a course provider approved by the Wisconsin department of health services.

(h) The applicant has disclosed all discipline which has ever been taken against the applicant in any jurisdiction shown in reports from the national practitioner data bank and the American Association of Dental Boards.

(i) The applicant has presented satisfactory responses during any personal interview with the board which may be required to resolve conflicts between the licensing standards and the applicant's application.

(2) The board may grant a license as a dental hygienist to an applicant who holds a license issued by the proper authorities of any other jurisdiction of the United States or Canada upon payment of the fee authorized by s. 440.05 (2), Stats., and submission of evidence satisfactory to the board that all of the following conditions are met:

(a) The applicant has graduated from a school of dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association.

(b) The applicant submits a license from each jurisdiction in which the applicant is or has ever been licensed stating that no disciplinary action is pending against the applicant or the license, and detailing all discipline, if any, which has ever been imposed against the applicant or the license.

(c) The applicant has not failed the central regional dental testing service ~~clinical and laboratory demonstration~~ examination, or any other dental hygiene licensing examination, within the previous 3 years.

(d) The applicant has successfully completed a ~~clinical and laboratory demonstration~~ an examination on a human subject which, in the board's judgment, is substantially equivalent to the

~~clinical and laboratory demonstration~~ examination administered by the central regional dental testing service.

(e) The applicant has successfully completed a jurisprudence examination on the provisions of Wisconsin statutes and administrative rules relating to dentistry and dental hygiene.

(f) The applicant has been engaged in the active practice of dental hygiene, as defined in s. DE 1.02 (1), in a jurisdiction in which the applicant has a current license in good standing.

(g) The applicant possesses a current certificate of proficiency in cardiopulmonary resuscitation from a course provider approved by the Wisconsin department of health services.

(h) The applicant has disclosed all discipline which has ever been taken against the applicant in any jurisdiction shown in reports from the national practitioner data bank and the American Association of Dental Boards.

(i) The applicant has presented satisfactory responses during any personal interview with the board which may be required to resolve conflicts between the licensing standards and the applicant's application.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; renum. (1) (c) and (d), (2) (c) and (d) to be (1) (d) and (f), (2) (d) and (e) and am. (1) (f), (2) (d) and (e), am. (1) (e), cr. (1) (c) and (2) (c), Register, August, 1987, No. 380, 9-1-87; am. (1) and (2), cr. (1) (g) to (i) and (2) (f) to (i), Register, August, 1991, No. 428, eff. 9-1-91; emerg. r. and recr. (1) (ed), eff. 3-18-97; am. (1) (intro.), (c) (e), (2) (intro.), (c) and (d), Register, April, 1999, No. 520, eff. 5-1-99; CR 09-007: am. (1) (a) Register October 2009 No. 646, eff. 11-1-09; CR 11-034: am. (1) (e) Register July 2012 No. 679, eff. 8-1-12; CR 11-035: am. (1) (g), (h), (2) (a), (g), (h) Register July 2012 No. 679, eff. 8-1-12.

DE 2.05 Examination passing score. The score required to pass an examination shall be based on the board's determination of the level of examination performance required for minimum acceptable competence in the profession. ~~The board shall make the determination after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing score for the examination at that point which represents minimum acceptable competence in the profession. The board may adopt the recommended passing score of the examination provider.~~

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

~~**DE 2.06 Unauthorized assistance.** An applicant may not give or receive unauthorized assistance during the examination. The action taken by the board when unauthorized assistance occurs shall be related to the seriousness of the offense. These actions may include withholding the score of the applicant, entering a failing grade for the applicant, and suspending the ability of the applicant to sit for the next scheduled examination after the examination in which the unauthorized assistance occurred.~~

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

~~**DE 2.07 Examination review.** (1) An applicant who fails an examination administered by the board may request a review of that examination by filing a written request to the board within 30 days after the date on which the examination results were mailed to the applicant.~~

~~(2) An examination review shall be conducted under the following conditions:~~

~~(a) The time for review shall be limited to one hour.~~

~~(b) The examination shall be reviewed only by the applicant and in the presence of a proctor.~~

~~(c) The proctor may not respond to inquiries by the applicant regarding allegations of examination error.~~

~~(d) Any comments or claims of error regarding specific questions or procedures in the examination may be placed in writing by the applicant on the form provided for this purpose. The request shall be reviewed by the board in consultation with a subject matter expert. The applicant shall be notified in writing of the board's decision.~~

~~(e) An applicant shall be permitted only one review of the failed examination each time it is taken and failed.~~

~~Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.~~

~~History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.~~

~~DE 2.08 Claim of examination error. (1) An applicant wishing to claim an error on an examination administered by the board must file a written request for board review in the board office within 30 days after the date the examination was reviewed. The request shall include all of the following:~~

~~(a) The applicant's name and address.~~

~~(b) The type of license applied for.~~

~~(c) A description of the perceived error, including reference text citations or other supporting evidence for the applicant's claim.~~

~~(2) The request shall be reviewed by the board in consultation with a subject matter expert. The applicant shall be notified in writing of the board's decision.~~

~~Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.~~

~~History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.~~

~~DE 2.09 Failure and reexamination. An applicant who fails to achieve a passing grade on the board approved examination in clinical and laboratory demonstrations may apply for reexamination on forms provided by the board and shall pay the appropriate fee for each reexamination as required in s. 440.05, Stats. If the applicant fails to achieve a passing grade on any part of the second reexamination, the applicant may not be admitted to any further examination until the applicant reapplies for licensure and presents evidence satisfactory to the board of further professional training or education as the board may prescribe following its evaluation of the applicant's specific case.~~

~~History: Cr. Register, June, 2001, No. 546, eff. 7-1-01.~~

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Chapter DE 5

STANDARDS OF CONDUCT

DE 5.01 Authority.
DE 5.02 Unprofessional conduct.

DE 5.03 Prohibited practice.

Note: Chapter DE 5 as it existed on February 28, 1982, was repealed and a new chapter DE 5 was created effective March 1, 1982.

DE 5.01 Authority. The rules in this chapter are adopted pursuant to ss. 15.08 (5), 227.11 and 447.07 (3), Stats.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1988, No. 387.

DE 5.02 Unprofessional conduct. Unprofessional conduct by a dentist or dental hygienist includes:

- (1) Engaging in any practice which constitutes a substantial danger to the health, welfare or safety of a patient or the public.
- (2) Practicing or attempting to practice when unable to do so with reasonable skill and safety to patients.
- (3) Practicing or attempting to practice beyond the scope of any license or certificate.
- (4) Practicing or attempting to practice while the ability to perform services is impaired by physical, mental or emotional disorder, drugs or alcohol.
- (5) Practicing in a manner which substantially departs from the standard of care ordinarily exercised by a dentist or dental hygienist which harms or could have harmed a patient.
- (6) Administering, dispensing, prescribing, supplying or obtaining controlled substances as defined in s. 961.01 (4), Stats., other than in the course of legitimate practice, or as otherwise prohibited by law.
- (7) Intentionally falsifying patient records.
- (8) Obtaining or attempting to obtain any compensation by fraud.
- (9) Impersonating another dentist or dental hygienist.
- (10) Exercising undue influence on or taking unfair advantage of a patient.
- (11) Participating in rebate or fee-splitting arrangements with health care practitioners, unless the arrangements are disclosed to the patient.
- (12) Advertising in a manner which is false, deceptive, or misleading.
- (13) Refusing to render services to a person because of race, color, sex or religion.
- (14) Having a license, certificate, permit, or registration granted by another state to practice as a dentist or dental hygienist limited, suspended or revoked, or subject to any other disciplinary action.
- (15) Violating any law or being convicted of a crime the circumstances of which substantially relate to the practice of a dentist or dental hygienist.
- (16) Violating any provision of ch. 447, Stats., or any valid rule of the board.

(17) Violating any provision of any order of the board.

(18) Failing to maintain records and inventories as required by the United States department of justice drug enforcement administration, and under ch. 961, Stats., and s. Phar 8.02, Wis. Adm. Code.

(20) Violating, or aiding or abetting the violation of any law substantially related to the practice of dentistry or dental hygiene.

(21) Aiding or abetting or permitting unlicensed persons in the practice of dentistry, as defined in s. 447.01 (8), Stats.

(22) Aiding or abetting or permitting unlicensed persons in the practice of dental hygiene, as defined in s. 447.01 (3), Stats.

(23) Obtaining, prescribing, dispensing, administering or supplying a controlled substance designated as a schedule II, III or IV stimulant in s. 961.16 (5), 961.18 (2m) or 961.20 (2m), Stats., unless the dentist has submitted, and the board has approved, a written protocol for use of a schedule II, III or IV stimulant for the purpose of clinical research, prior to the time the research is conducted.

(24) Failing to hold a current certificate in cardiopulmonary resuscitation unless the licensee has obtained a waiver from the board based on a medical evaluation documenting physical inability to comply. A waiver shall be issued by the board only if it is satisfied that another person with current certification in CPR is immediately available to the licensee when patients are present.

(25) After a request by the board, failing to cooperate in a timely manner with the board's investigation of complaints filed against the applicant or licensee. There is a rebuttable presumption that a licensee or applicant who takes longer than 30 days to respond to a request of the board has not acted in a timely manner under this subsection.

(26) Practicing under an expired certificate of registration.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; cr. (23), Register, August, 1984, No. 344, eff. 9-1-84; cr. (24) and (25), Register, March, 1988, No. 387, eff. 4-1-88; cr. (26), Register, December, 1989, No. 408, eff. 1-1-90; am. (18), Register, June, 1996, No. 486, eff. 7-1-96; am. (6), (18), (21), (22), (23) and r. (19), Register, April, 1999, No. 520, eff. 5-1-99.

DE 5.03 Prohibited practice. It is a prohibited practice and shall be considered a violation of s. 447.07 (3) (k), Stats., if a dentist abrogates the copayment provisions of a contract by agreeing to forgive any or all of the patient's obligation for payment under the contract. In this paragraph, "copayment provisions" mean any terms within a contract with a third party whereby the patient remains financially obligated to the dentist for payment.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; cr. (2), Register, May, 1984, No. 341, eff. 6-1-84; r. (1), renum. (2), Register, April, 1986, No. 364, eff. 5-1-86.

Chapter DE 6

UNPROFESSIONAL ADVERTISING

DE 6.01 Authority.

DE 6.02 Unprofessional advertising.

DE 6.01 Authority. The rules in this chapter are adopted pursuant to authority in s. 447.07 (3) (o), Stats.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; am., Register, April, 1999, No. 520, eff. 5-1-99.

DE 6.02 Unprofessional advertising. The following, without limitation because of enumeration, constitute unprofessional advertising:

(1) Publishing or communicating statements or claims in any media which are false, fraudulent or deceptive.

(2) Compensating or giving anything of value to media representatives in anticipation of or in return for professional publicity, unless the payment or receipt of an object of value is disclosed to the public.

(3) Refusing to honor payment in the amount of an advertised price for a service during the period of time stated in the advertisement.

(4) Including in an advertisement:

(a) A patient's identity or any identifiable fact, datum or information, without the patient's permission,

(b) A name of a dentist who has not been associated with the advertising dentist for the past year or longer,

(c) Notice of a practice as a specialist in a dental specialty unless the dentist has successfully completed a post-doctoral educational training program approved by the Commission on Dental Accreditation of the American Dental Association in a specialty recognized by the American Dental Association. Advertising as a specialist in a non-American Dental Association-recognized specialty is prohibited.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; r. (3), (4), (6), (7) (a) to (d) and (g), renum. (5), (7) (intro.), (e), (f) and (h) to be (3), (4) (intro.), (a), (b) and (c) and am. (4) (a) to (c), Register, April, 1986, No. 364, eff. 5-1-86; CR 02-138: am. (4) (c), Register November 2003 No. 575, eff. 12-1-03; CR 11-035: am. (4) (c) Register July 2012 No. 679, eff. 8-1-12.

STATEMENT OF SCOPE

DENTISTRY EXAMINING BOARD

Rule No.: DE 7, 8

Relating to: Certification of Dental Hygienists to Administer Local Anesthesia and Patient Dental Record Retention

Rule Type: Permanent

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

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

The objective of the proposed rule is to complete a comprehensive review of chs. DE 7 Certification of Dental Hygienists to Administer Local Anesthesia and DE 8 Patient Dental Record Retention and make revisions to ensure the chapters are statutorily compliant and are current with professional standards and practices.

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 Dentistry Examining Board is beginning a comprehensive review of the chs. DE 7 and 8. The Board will make revisions to these chapters to create clarity, remove obsolete provisions and ensure statutory compliance.

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

15.08 (5) (b) Each Examining Board shall 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.

447.02 (2) (e) The examining board shall promulgate rules specifying the educational requirements for administration of local anesthesia by a dental hygienist licensed under this chapter under s. 447.06 (2) (e) 2.

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

75 hours

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

Dentists and Dental Hygienists

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:

None

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

None to minimal economic impact. It is not likely to have a significant economic impact on small businesses.

Contact Person: Sharon Henes, Administrative Rules Coordinator, (608) 261-2377

Authorized Signature

Date Submitted