



HYBRID (IN-PERSON/VIRTUAL) MEETING
DENTISTRY EXAMINING BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor Madison
Contact: Adam Barr, (608) 266-2112
July 6, 2022

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 record of the actions of the Board. Be advised that board members may attend meetings designated as “Hybrid” in-person or virtually.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Pledge of Allegiance**
- B. Adoption of Agenda (1-4)**
- C. Approval of Minutes of May 4, 2022 (5-8)**
- D. Introductions, Announcements and Recognition**
- E. Reminders: Conflicts of Interest, Scheduling Concerns**
- F. Administrative Matters**
 - 1) Department, Staff and Board Updates
 - 2) Board Members – Term Expiration Dates
 - a. Alton, Troy – 7/1/2025
 - b. Bahr, Lisa – 7/1/2022
 - c. Bistan, Matthew – 7/1/2025
 - d. Fox, Joan – 7/1/2025
 - e. Govani, Shaheda – 7/1/2022
 - f. Kaske, Herbert – 7/1/2022
 - g. Kenyon, Chris – 7/1/2022
 - h. Kolste, Deb – 7/1/2024
 - i. Schrubbe, Katherine – 7/1/2022
 - j. Sheild, Peter – 7/1/2022
 - k. Whalen, Diana – 7/1/2024

G. APPEARANCE: Jennifer Garrett, Director of Public Affairs, DSPS License Demonstration – Discussion and Consideration

H. Credentialing Matters – Discussion and Consideration

- 1) Credentialing Statistics

I. Legislative and Policy Matters – Discussion and Consideration

J. Administrative Rule Matters – Discussion and Consideration (9)

- 1) Scope Statement: DE 1, 5, 6, 13, and 16, Relating to Certification of Expanded Function Dental Auxiliaries **(10-11)**
 - a. 2021 Wisconsin Act 254 (Expanded Function Dental Auxiliaries) **(12-14)**
- 2) Drafting Proposals: DE 13, Relating to Controlled Substances Prescribing Continuing Education Requirements **(15-19)**
- 3) Possible Scope Statement: DE 11, Evidence of ACLS or PALS
- 4) Pending or Possible Rulemaking Projects **(20)**

K. COVID-19 – Discussion and Consideration

L. Discussion and Consideration of Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Administrative Matters
- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Legislative and Policy Matters
- 10) Administrative Rule Matters
- 11) Liaison Reports
- 12) Board Liaison Training and Appointment of Mentors
- 13) Informational Items
- 14) Division of Legal Services and Compliance (DLSC) Matters
- 15) Presentations of Petitions for Summary Suspension
- 16) Petitions for Designation of Hearing Examiner
- 17) Presentation of Stipulations, Final Decisions and Orders
- 18) Presentation of Proposed Final Decisions and Orders
- 19) Presentation of Interim Orders
- 20) Petitions for Re-Hearing
- 21) Petitions for Assessments
- 22) Petitions to Vacate Orders
- 23) Requests for Disciplinary Proceeding Presentations
- 24) Motions
- 25) Petitions
- 26) Appearances from Requests Received or Renewed
- 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

M. Public Comments

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.).

N. Division of Legal Services and Compliance (DLSC) Matters

- 1) Proposed Stipulations, Final Decisions and Orders**
 - a. 19 DEN 117 – Scott W. Charmoli, DDS **(21-26)**
 - b. 21 DEN 097 – Garima Sinha, DMD **(27-32)**
 - c. 21 DEN 104 – Tom Eldridge, DDS **(33-39)**
- 2) Administrative Warnings**
 - a. 21 DEN 117 – W.D.B. **(40-41)**
- 3) Case Closing(s)**
 - a. 21 DEN 019 – L.M.B. **(42-47)**
 - b. 21 DEN 093 – B.W.T. **(48-56)**
 - c. 21 DEN 104 – B.C.H. & P.M.M. **(57-65)**
 - d. 21 DEN 114 – M.N.P. **(66-76)**
- 4) Monitoring Matters (77-78)**
 - a. Joseph D. Uker, DDS – Requesting Full Licensure **(79-94)**

O. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

P. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

R. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING: SEPTEMBER 7, 2022

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board’s agenda, please visit the Department website at <https://dps.wi.gov>. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer at 608-266-2112, or the Meeting Staff at 608-266-5439.

**DENTISTRY EXAMINING BOARD
MEETING MINUTES
MAY 5, 2022**

PRESENT: Troy Alton, DDS (*via Zoom*); Lisa Bahr, RDH; Matthew Bistan, DDS; Joan Fox, DDS (*via Zoom*); Shaheda Govani, DDS; Christine Kenyon, Debra Kolste; Katherine Schrubbe, RDH (*via Zoom*); Peter Sheild, DDS; Diana Whalen, RDH

EXCUSED: Herbert Kaske, DDS

STAFF: Adam Barr, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; and other Department staff

CALL TO ORDER

Matthew Bistan, Chairperson, called the meeting to order at 9:02 a.m. A quorum was confirmed with ten (10) members present.

ADOPTION OF AGENDA

MOTION: Debra Kolste moved, seconded by Shaheda Govani, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF MARCH 2, 2022

MOTION: Peter Sheild moved, seconded by Debra Kolste, to approve the Minutes of March 2, 2022 as published. Motion carried unanimously.

INTRODUCTIONS, ANNOUNCEMENTS AND RECOGNITION

Recognition: Wendy Pietz, Dentist Member (Replaced: 3/8/2022)

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to recognize and thank Wendy Pietz for her years of dedicated service to the Board and State of Wisconsin. Motion carried unanimously.

**BOARD CHAIR MEETING AND OPTIONS FOR
ADDRESSING DEPARTMENT RESOURCES**

MOTION: Debra Kolste moved, seconded by Matthew Bistan, to request that the Legislature allow the Department of Safety and Professional Services to utilize fee revenue to address staffing needs. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Possible Scope Statement: 2021 Wisconsin Act 254

MOTION: Matthew Bistan moved, seconded by Lisa Bahr, to request DSPS staff draft a Scope Statement relating to Certification of Expanded Function Dental Auxiliaries. Motion carried unanimously.

Preliminary Rule Draft: DE 11, Relating to Definitions

MOTION: Troy Alton moved, seconded by Peter Sheild, to approve the preliminary rule draft of DE 11, relating to Definitions, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Drafting Proposals: DE 11, Relating to Pre-Certification Sedation Education Requirements

MOTION: Matthew Bistan moved, seconded by Christine Kenyon, to designate Shaheda Govani and Troy Alton to serve as liaisons to DSPS staff for drafting DE 11, relating to Pre-Certification Sedation Education Requirements. Motion carried unanimously.

REVIEW OF DENTISTRY EXAMINING BOARD POSITION STATEMENTS

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to remove the Dentistry Examining Board Position Statements from the Department of Safety and Professional Services' website. Motion carried unanimously.

CLOSED SESSION

MOTION: Peter Sheild moved, seconded by Lisa Bahr, 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.). Matthew Bistan, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Troy Alton-yes; Lisa Bahr-yes; Matthew Bistan-yes; Joan Fox-yes; Shaheda Govani-yes; Christine Kenyon-yes; Debra Kolste-yes; Katherine Schrubbe-yes; Peter Sheild-yes; and Diana Whalen-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:45 a.m.

CREDENTIALING MATTERS

Application Review

Amy Fleischman – Dental Hygienist Applicant

MOTION: Matthew Bistan moved, seconded by Diana Whalen, to approve the Dental Hygienist renewal application of Amy Fleischman, once all requirements are met. Motion carried unanimously.

Christopher Kania – Dentistry Renewal Applicant

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to approve the Dentistry Renewal application of Christopher Kania, once all requirements are met. Motion carried unanimously.

Assad Qasim – Conscious Sedation Permit Applicant

MOTION: Matthew Bistan moved, seconded by Lisa Bahr, to table the Conscious Sedation Permit application of Assad Qasim. Motion carried unanimously.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Proposed Stipulations, Final Decisions and Orders

MOTION: Peter Sheild moved, seconded by Shaheda Govani, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings of the following cases:

1. 20 DEN 107 – Mohammad M. Alsamarraie, DDS
2. 21 DEN 069 – Frederick B. Gilbert, DDS
3. 21 DEN 101 – Aaron R. Cwik, DDS

Motion carried unanimously.

Administrative Warnings

20 DEN 109 – M.V.R.

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to issue an Administrative Warning in the matter of M.V.R., DLSC Case Number 20 DEN 109. Motion carried unanimously.

Case Closings

MOTION: Matthew Bistan moved, seconded by Christine Kenyon, to close the following DLSC Cases for the reasons outlined below:

1. 20 DEN 070 – P.M.M. – Prosecutorial Discretion (P3)
2. 20 DEN 125 – R.S., M.S. – No Violation
3. 21 DEN 011 – P.M.M. – No Violation
4. 21 DEN 029 – A.G.C. – No Violation
5. 21 DEN 092 – S.P. – Insufficient Evidence

Motion carried unanimously.

Monitoring Matters

**David W. Blanchard, DDS
Requesting Full Licensure**

MOTION: Peter Sheild moved, seconded by Shaheda Govani, to grant the request of David W. Blanchard, DDS for full licensure. Motion carried unanimously.

**Eugene A. Darkrow, DDS
Requesting Full Licensure**

MOTION: Matthew Bistan moved, seconded by Lisa Bahr, to grant the request of Eugene A. Darkrow, DDS for full licensure. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Lisa Bahr moved, seconded by Christine Kenyon, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 12:17 p.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Debra Kolste moved, seconded by Peter Sheild, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the Closed Session motions stand for the purposes of the affirmation vote.)


ADJOURNMENT

MOTION: Peter Sheild, seconded by Matthew Bistan, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:19 p.m.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 06/22/22 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 07/06/22	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Scope Statement – DE 1, 5, 6, 13, and 16 relating to Certification of Expanded Function Dental Auxiliaries a. 2021 Wisconsin Act 254 2. Drafting Proposals – DE 13, Relating to Controlled Substances Prescribing Continuing Education Requirements 3. Pending or Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Act on a Scope Statement and Drafting of Rules; Review Board’s Current Rule Projects Attachments: <ul style="list-style-type: none"> DE 1, 5, 6, 13, and 16 Scope Statement 2021 Wisconsin Act 254 DE 13 Scope Statement DE 13 Draft Text of Rule Wisconsin Administrative Code Chapter DE 13 Rule Projects Chart Copies of current Board Rule Projects Can be Viewed Here: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx			
11) Authorization			
 Signature of person making this request		06/22/22 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.			

STATEMENT OF SCOPE

DENTISTRY EXAMINING BOARD

Rule No.: DE 1, 5, 6, 13, 16

Relating to: Certification of Expanded Function Dental Auxiliaries

Rule Type: Both Permanent and Emergency

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

Per 2021 Wisconsin Act 254 Section 17: "Notwithstanding s. 227.24 (1) (a) and (3), the dentistry examining board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection."

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

The objective of the proposed rule is to implement the statutory changes from 2021 Wisconsin Act 254.

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

The Board intends to update the Administrative Code Chapters DE 1, 5, 6, and 13, as well as create DE 16, in order to bring them into alignment with 2021 Wisconsin Act 254. An alternative would be to not revise the code to reflect these new requirements, which would create confusion and a lack of clarity for stakeholders as to what is required of expanded function dental auxiliaries and the board as it relates to the new statutory requirements.

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

Section 15.08 (5) (b), Stats., provides that an examining board "[s]hall 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 447.035 (3) (a), Stats. provides that "the examining board shall, subject to pars. (b) and (c), promulgate rules for the certification and practice of dental auxiliaries."

2021 Wisconsin Act 254, Section 17 provides that "(1) EMERGENCY RULES. Using the procedure under s. 227.24, the dentistry examining board shall promulgate the rules for the certification and practice of expanded function dental auxiliaries required under s. 447.035 (3)."

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

Approximately 200 hours

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

Licensed dentists, dental hygienists, and those looking to be certified as an expanded function dental auxiliary in Wisconsin.

Rev. 3/6/2012

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):

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Nilajah Hardin, (608) 267-7139, DSPSAdminRules@wisconsin.gov

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

State of Wisconsin



2021 Senate Bill 392

Date of enactment: **April 15, 2022**
Date of publication*: **April 16, 2022**

2021 WISCONSIN ACT 254

AN ACT to renumber and amend 447.05; to amend 440.08 (2) (a) (intro.), 447.04 (title), 447.07 (3) (intro.), 447.07 (3) (e), 447.07 (3) (f), 447.07 (3) (g), 447.07 (3) (h), 448.03 (2) (a), 448.21 (1) (a), 450.03 (1) (e) and 462.02 (2) (d); and to create 440.03 (13) (b) 28m., 447.035, 447.04 (3) and 447.05 (1) (b) of the statutes; relating to: certification of expanded function dental auxiliaries, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.

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

SECTION 1. 440.03 (13) (b) 28m. of the statutes is created to read:

440.03 (13) (b) 28m. Expanded function dental auxiliary.

SECTION 2. 440.08 (2) (a) (intro.) of the statutes, as affected by 2021 Wisconsin Act 22, is amended to read:

440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04, 444.03, 444.11, 447.04 (2) (c) 2., 447.05 (1) (b), 449.17 (1m) (d), 449.18 (2) (e), 455.06 (1) (b), 463.10, 463.12, and 463.25 and subch. II of ch. 448, the renewal dates for credentials are as follows:

SECTION 3. 447.035 of the statutes is created to read:

447.035 Certification; expanded function dental auxiliaries. (1) In this section, "auxiliary" means an expanded function dental auxiliary.

(2) Notwithstanding s. 447.03 (1) and (2), a certification to practice as an auxiliary granted under s. 447.04 (3) shall permit the holder to perform all of the following as delegated and supervised by a dentist:

(a) Placement and finishing of restoration material after the dentist prepares a tooth for restoration.

(b) Application of sealants.

- (c) Coronal polishing.
 - (d) Impressions.
 - (e) Temporizations.
 - (f) Packing cord.
 - (g) Removal of cement from crowns.
 - (h) Adjustment of dentures and other removable oral appliances.
 - (i) Removal of sutures and dressings.
 - (k) Application of topical fluoride, fluoride varnish, or similar dental topical agent.
- (3) (a) The examining board shall, subject to pars. (b) and (c), promulgate rules for the certification and practice of auxiliaries.
- (b) The rules promulgated under par. (a) shall do all of the following:
1. Require an applicant to the accredited instructional program described in subd. 2. to demonstrate in his or her application that the individual satisfies one of the following criteria in order to be permitted to enroll in the instructional program:
 - a. Has completed at least 1,000 hours practicing as a dental assistant and holds the certified dental assistant credential issued by the Dental Assisting National Board, Inc., or its successor.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

b. Has completed at least 2,000 hours practicing as a dental assistant, as verified by the supervising licensed dentist.

2. Require an applicant for certification under s. 447.04 (3) to demonstrate to the satisfaction of the examining board that the applicant has successfully completed an accredited instructional program that provides training in practice as an auxiliary and requires no fewer than 70 hours of classroom instruction.

3. Require a dentist who delegates a procedure to an auxiliary certified under s. 447.04 (3) to remain on the premises where the auxiliary is performing the procedure until the procedure is complete and the dentist has verified that the procedure has been performed successfully.

4. Require each auxiliary to maintain 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 under s. 46.03 (38) to provide such instruction.

(c) The rules promulgated under par. (a) may not permit an auxiliary to perform any of the following:

1. Cutting of hard or soft tissue.
2. Diagnosis.
3. Treatment planning.

SECTION 4. 447.04 (title) of the statutes is amended to read:

447.04 (title) Licensure; certification.

SECTION 5. 447.04 (3) of the statutes is created to read:

447.04 (3) EXPANDED FUNCTION DENTAL AUXILIARIES. The examining board shall grant a certification to practice as an expanded function dental auxiliary to an individual who does all of the following:

- (a) Pays the fee specified in s. 440.05 (1).
- (b) Submits evidence satisfactory to the examining board that he or she has completed the accredited instructional program required under s. 447.035 (3) (b) 2.

(c) Submits evidence satisfactory to the examining board that he or she 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 under s. 46.03 (38) to provide such instruction.

SECTION 6. 447.05 of the statutes is renumbered 447.05 (1) (a) and amended to read:

447.05 (1) (a) ~~Renewal Except as provided in par. (b), renewal applications shall be submitted to the department on a form provided by the department on or before the applicable renewal date specified under s. 440.08 (2) (a) and shall include the applicable renewal fee determined by the department under s. 440.03 (9) (a).~~

(2) The examining board may not renew a license to practice dentistry unless the applicant for renewal attests that he or she has complied with s. 447.056, that he or she

has current proficiency in cardiopulmonary resuscitation, ~~including and that he or she has current proficiency in~~ the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

(3) The examining board may not renew a license to practice dental hygiene unless the applicant for renewal attests that he or she has complied with s. 447.055 and any rules promulgated by the examining board under s. 447.055, that he or she has a current certification in cardiopulmonary resuscitation, and that he or she has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

SECTION 7. 447.05 (1) (b) of the statutes is created to read:

447.05 (1) (b) A certification to practice as an expanded function dental auxiliary granted under s. 447.04 (3) is permanent unless revoked and not subject to periodic renewal.

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

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

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

447.07 (3) (e) Subject to ss. 111.321, 111.322, and 111.335, been convicted of a crime, the circumstances of which substantially relate to the practice of dentistry or dental hygiene, ~~the practice of an expanded function dental auxiliary~~, or the operation of a mobile dentistry program.

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

447.07 (3) (f) Violated this chapter or any federal or state statute or rule that relates to the practice of dentistry

or, dental hygiene, or an expanded function dental auxiliary, or the operation of a mobile dentistry program.

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

447.07 (3) (g) Subject to ss. 111.321, 111.322 and 111.34, practiced dentistry or dental hygiene or as an expanded function dental auxiliary while his or her ability was impaired by alcohol or other drugs.

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

447.07 (3) (h) Engaged in conduct that indicates a lack of knowledge of, an inability to apply or the negligent application of, principles or skills of dentistry or dental hygiene or the practice of an expanded function dental auxiliary.

SECTION 13. 448.03 (2) (a) of the statutes, as affected by 2021 Wisconsin Acts 23 and 130, is amended to read:

448.03 (2) (a) Any person lawfully practicing within the scope of a license, permit, registration, certificate, or certification granted to practice midwifery under subch. XIII of ch. 440, to practice professional or practical nursing or nurse–midwifery under ch. 441, to practice chiropractic under ch. 446, to practice dentistry or dental hygiene or as an expanded function dental auxiliary under ch. 447, to practice optometry under ch. 449, to practice as a physician assistant under subch. VIII, to practice acupuncture under ch. 451 or under any other statutory provision, to practice naturopathic medicine under ch. 466, or as otherwise provided by statute.

SECTION 14. 448.21 (1) (a) of the statutes is amended to read:

448.21 (1) (a) The practice of dentistry or dental hygiene within the meaning of ch. 447 or the practice of an expanded function dental auxiliary under s. 447.035.

SECTION 15. 450.03 (1) (e) of the statutes, as affected by 2021 Wisconsin Act 130, is amended to read:

450.03 (1) (e) Any person lawfully practicing within the scope of a license, permit, registration, certificate, or certification granted to provide home medical oxygen under s. 450.076, to practice professional or practical nursing or nurse–midwifery under ch. 441, to practice dentistry or dental hygiene or as an expanded function dental auxiliary under ch. 447, to practice medicine and surgery under ch. 448, to practice optometry under ch. 449, to practice naturopathic medicine under ch. 466, or to practice veterinary medicine under ch. 89, or as otherwise provided by statute.

SECTION 16. 462.02 (2) (d) of the statutes is amended to read:

462.02 (2) (d) A dentist licensed under s. 447.04 (1), a dental hygienist licensed under s. 447.04 (2), a person certified as an expanded function dental auxiliary under s. 447.04 (3), or a person under the direct supervision of a dentist.

SECTION 17. Nonstatutory provisions.

(1) EMERGENCY RULES. Using the procedure under s. 227.24, the dentistry examining board shall promulgate the rules for the certification and practice of expanded function dental auxiliaries required under s. 447.035 (3). Notwithstanding s. 227.24 (1) (a) and (3), the dentistry examining board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2), an emergency rule promulgated under this subsection remains in effect for one year after its promulgation, or until permanent rules take effect, whichever is sooner, and the effective period may not be further extended under s. 227.24 (2).

STATEMENT OF SCOPE

DENTISTRY EXAMINING BOARD

Rule No.: DE 13

Relating to: Controlled Substances Prescribing Continuing Education Requirements

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 extend the 2 hour-controlled substances prescribing continuing education requirement outlined in DE 13.03 (1m) that was only in effect for the 2019 and 2021 license renewal periods.

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:

Clearinghouse rule 17-044 added DE 13.03 (1m), which required 2 hours of controlled substance prescribing continuing education for the 2019 and 2021 licensing bienniums. Without the proposed rule, this requirement will not continue into future bienniums.

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

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall 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 447.02 (1) (f), Stats., provides “[the examining board may promulgate rules] governing compliance with continuing education requirements under s. 447.056.”

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

60 hours

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

Dentists and continuing education providers

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):

This rule is not likely to have a significant impact on small businesses.

Contact Person: Nilajah Hardin, (608) 267-7139, DSPSAdminRules@wisconsin.gov

Approved for publication:



Authorized Signature

3/15/2022

Date Submitted

Approved for implementation:



Authorized Signature

6/3/2022

Date Submitted

TEXT OF RULE

SECTION 1 DE 13.03 (1m) is amended to read:

DE 13.03 (1m) RESPONSIBLE PRESCRIBING CONTROLLED SUBSTANCES CONTINUING EDUCATION. The 30 credit hours of continuing education shall include 2 hours in the topic of responsible prescribing of controlled substances for the treatment of acute dental pain. ~~This subsection applies to the bienniums ending in 2019 and 2021.~~

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)

DRAFT

Chapter DE 13

CONTINUING EDUCATION

DE 13.01 Authority.
DE 13.02 Definitions.
DE 13.03 Continuing education requirements for dentists.

DE 13.04 Continuing education requirements for dental hygienists.
DE 13.05 Criteria for acceptance of continuing education programs.

DE 13.01 Authority. The rules in this chapter are adopted by the dentistry examining board under the authority of ss. 227.11 (2), 447.02 (1) (f), 447.055 and 447.056, Stats.

History: CR 11-033; cr. Register July 2012 No. 679, eff. 8-1-12.

DE 13.02 Definitions. In this chapter:

(1) “Accredited” means accredited by the American Dental Association Commission on Dental Accreditation or its successor agency.

(2) “Credit hour” means 60 minutes, of which at least 50 minutes are instruction attended by the student.

(3) “Professional organization” means an organization that seeks to further the dental, dental hygiene, or medical professions, the interests of licensees engaged in those professions, and the public interests. “Professional organization” includes a study group, as defined in sub. (4).

(4) “Study group” means a group of 2 or more dentists or dental hygienists who discuss continuing education topics relating to the practice of dentistry or medicine, or the clinical practice of dental hygiene, and that satisfies all of the following:

- (a) Has been in existence as a group for at least one year.
- (b) Meets face-to-face at least once each year to discuss issues.

(c) Has adopted by-laws governing the operation of the group.

History: CR 11-033; cr. Register July 2012 No. 679, eff. 8-1-12.

DE 13.03 Continuing education requirements for dentists. (1) **COMPLETION OF CONTINUING EDUCATION CREDIT HOURS.** Except as provided under sub. (6), during the 2-year period immediately preceding the renewal date specified under s. 440.08 (2) (a), Stats., a dentist shall complete 30 credit hours of continuing education related to the practice of dentistry or the practice of medicine. The 30 credit hours of continuing education shall include not less than 25 credit hours of instruction in clinical dentistry or clinical medicine.

(1m) **RESPONSIBLE PRESCRIBING CONTROLLED SUBSTANCES CONTINUING EDUCATION.** The 30 credit hours of continuing education shall include 2 hours in the topic of responsible prescribing of controlled substances for the treatment of acute dental pain. This subsection applies to the bienniums ending in 2019 and 2021.

(2) **CREDIT FOR TEACHING OR PREPARING A PROGRAM.** One hour of teaching or preparing a professional dental or medical program is equivalent to one credit hour of continuing education. A licensee who teaches or prepares a professional dental or medical program may obtain credit for the program only once during a biennium. Not more than 4 of the 30 hours may be from teaching.

(3) **CREDIT FOR COLLEGE LEVEL COURSES.** One credit hour of a college level course is equivalent to 6 credit hours of continuing education. A licensee may substitute credit hours of college level courses related to the practice of dentistry or medicine for the required continuing education credit hours.

(4) **CREDIT FOR DISTANCE EDUCATION.** The credit hours required under sub. (1) may be satisfied by independent study, correspondence, or internet programs or courses.

(5) **CREDIT FOR ACCREDITED RESIDENCY TRAINING PROGRAM.** Active enrollment in an accredited post-doctoral dental residency training program for at least 12 months of the current licensure cycle will be accepted as meeting the required 30 credit hours of continuing education.

(6) **EXEMPTION FOR NEW LICENSEES.** Subsection (1) does not apply to an applicant for renewal of a license that expires on the first renewal date after the date on which the applicant is licensed.

(7) **CERTIFICATION STATEMENT.** At the time of each renewal, each licensee shall sign a statement certifying that, within the 2 years immediately preceding the renewal date specified under s. 440.08 (2) (a), Stats., he or she has completed the continuing education credit hours required under sub. (1).

(8) **FAILURE TO COMPLETE CONTINUING EDUCATION HOURS.** A licensee who fails to complete the continuing education requirements by the renewal date specified under s. 440.08 (2) (a), Stats., shall not practice dentistry until his or her license is restored under s. DE 2.03 (5).

(9) **TIME LIMITS ON OBTAINING CREDITS.** Credit hours completed before the 2-year period immediately preceding renewal of a license to practice dentistry may not be applied to fulfill the credit hours required under sub. (1).

(10) **RECORDKEEPING.** Every licensee shall maintain a written record of the continuing education hours required under sub. (1) for not less than 6 years after completion of each credit.

(11) **WAIVER OF CONTINUING EDUCATION HOURS.** The board may waive the continuing education requirements under sub. (1) if it finds that exceptional circumstances such as prolonged illness, disability, or other similar circumstances have prevented a licensee from meeting the requirements.

History: CR 11-033; cr. Register July 2012 No. 679, eff. 8-1-12; CR 17-044; cr. (1m), Register February 2018 No. 746 eff. 3-1-18.

DE 13.04 Continuing education requirements for dental hygienists. (1) **COMPLETION OF CONTINUING EDUCATION CREDIT HOURS.** Except as provided in sub. (5), during the 2-year period immediately preceding the renewal date, a dental hygienist shall complete 12 credit hours of continuing education related to the clinical practice of dental hygiene or the practice of medicine. No more than 2 of the 12 credit hours may be satisfied by training related to basic life support or cardiopulmonary resuscitation. Not less than 2 of the 12 credit hours shall include training in infection control.

(2) **CREDIT FOR TEACHING OR PREPARING A PROGRAM.** One hour of teaching or preparing a professional dental or medical program is equivalent to one credit hour of continuing education. A licensee who teaches or prepares a professional dental or medical program may obtain credit for the program only once during a biennium.

(3) **CREDIT FOR COLLEGE LEVEL COURSES.** One credit hour of a college level course is equivalent to 6 credit hours of continuing education. A licensee may substitute credit hours of college level courses related to the practice of dental hygiene or the practice of medicine for the required continuing education credit hours.

(4) CREDIT FOR DISTANCE EDUCATION. The credit hours required under sub. (1) may be satisfied by independent study, correspondence, or internet programs or courses.

(5) EXEMPTION FOR NEW LICENSEES. Subsection (1) does not apply to an applicant for renewal of a license that expires on the first renewal date after the date on which the applicant is licensed.

(6) CERTIFICATION STATEMENT. At the time of each renewal, each licensee shall sign a statement certifying that within the 2 years immediately preceding the renewal date specified under s. 440.08 (2) (a), Stats., he or she has completed the continuing education credit hours required under sub. (1).

(7) FAILURE TO COMPLETE CONTINUING EDUCATION HOURS. A licensee who fails to meet the continuing education requirements by the renewal date specified under s. 440.08 (2) (a), Stats., shall not practice dental hygiene until his or her license is restored under s. DE 2.03 (5).

(8) TIME LIMITS ON OBTAINING CREDITS. Credit hours completed before the 2-year period immediately preceding renewal of a license to practice dental hygiene may not be applied to fulfill the credit hours required under sub. (1).

(9) RECORDKEEPING. Every licensee shall maintain a written record of the continuing education hours required under sub. (1) for not less than 6 years after completion of each credit.

(10) WAIVER OF CONTINUING EDUCATION HOURS. The board may waive the continuing education requirements under sub. (1) if it finds that exceptional circumstances such as prolonged illness, disability, or other similar circumstances have prevented a

licensee from meeting the requirements.

History: CR 11-033; cr. Register July 2012 No. 679, eff. 8-1-12.

DE 13.05 Criteria for acceptance of continuing education programs. (1) DENTISTS. The board accepts continuing education programs for dentists that satisfy the following criteria:

(a) The subject matter of the continuing education program relates to the practice of dentistry or the practice of medicine.

(b) The continuing education program is one of the following:

1. Sponsored or recognized by a local, state, regional, national, or international dental or medical professional organization.

2. A college level course that is offered by a postsecondary institution accredited by the American Dental Association Commission on Dental Accreditation or a successor agency, or by another recognized accrediting body.

3. A study group as specified in s. DE 13.02 (4).

(2) DENTAL HYGIENISTS. The board accepts continuing education programs for dental hygienists that satisfy the following criteria:

(a) The subject matter of the continuing education program relates to the clinical practice of dental hygiene or the practice of medicine.

(b) The continuing education program is one of the following:

1. Sponsored or recognized by a local, state, regional, national, or international dental, dental hygiene, dental assisting, or medical related professional organization.

2. A study group as specified in s. DE 13.02 (4).

History: CR 11-033; cr. Register July 2012 No. 679, eff. 8-1-12.

Dentistry Examining Board
Rule Projects (updated 06/22/22)

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
Not Assigned Yet	Not Assigned Yet	Determined After Scope Publication	DE 1, 5, 6, 13, and 16	Certification of Expanded Function Dental Auxiliaries	Scope Submitted for Board Review and Approval at 07/06/22 Meeting	Submission to the Governor's Office for Approval and for Publication
21-086	036-21	10/05/2023	DE 11	Permits to Administer Anesthesia	Legislative Review after 01/03/2023	Adoption Order Anticipated for Board Review at a Future Meeting
Not Assigned Yet	109-21	06/13/2024	DE 11	Definitions	Finalize EIA and Submission to Clearinghouse	Public Hearing Anticipated for September 7, 2022 Meeting
Not Assigned Yet	023-22	09/28/2024	DE 11	Pre-Certification Sedation Education	Drafting	Board Review and Approval of Preliminary Rule Draft
Not Assigned Yet	031-22	10/11/2024	DE 13	Controlled Substances Prescribing Continuing Education Requirements	Drafting	Board Review and Approval of Preliminary Rule Draft