



HYBRID (IN-PERSON/VIRTUAL) MEETING
DENTISTRY EXAMINING BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Adam Barr, (608) 266-2112
January 4, 2023

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 November 2, 2022 (5-7)**
- D. Introductions, Announcements and Recognition – Discussion and Consideration
- E. Reminders: Conflicts of Interest, Scheduling Concerns
- F. 9:00 A.M. Public Hearing – Emergency Rule 2216 and Clearinghouse Rule 22-086 on DE 11, Relating to Pre-Certification Sedation Education Requirements (8-23)**
 - 1) Review Public Hearing Comments and Respond to Clearinghouse Report
- G. 9:00 A.M. Public Hearing – Clearinghouse Rule 22-087 on DE 13, Relating to Controlled Substances Prescribing Continuing Education Requirements (24-33)**
 - 1) Review Public Hearing Comments and Respond to Clearinghouse Report
- H. Administrative Matters**
 - 1) Department, Staff and Board Updates
 - 2) 2023 Meeting Dates **(34)**
 - 3) Annual Policy Review **(35-38)**
 - 4) Election of Officers, Appointments of Liaisons and Alternates, Delegation of Authorities
 - 5) Board Members – Term Expiration Dates
 - a. Alton, Troy – 7/1/2025
 - b. Bahr, Lisa – 7/1/2026
 - c. Bistan, Matthew – 7/1/2025
 - d. Fox, Joan – 7/1/2025

- e. Govani, Shaheda – 7/1/2026
- f. Kaske, Herbert – 7/1/2022
- g. Kenyon, Chris – 7/1/2026
- h. Kolste, Debra – 7/1/2024
- i. Schrubbe, Katherine – 7/1/2026
- j. Sheild, Peter – 7/1/2026
- k. Whalen, Diana – 7/1/2024

I. Local Anesthetic Rules for Hygienists – Discussion and Consideration (39)

J. Legislative and Policy Matters – Discussion and Consideration

K. Administrative Rule Matters – Discussion and Consideration (40)

- 1) Drafting Proposals: DE 2 and 11, Relating to Certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support **(41-49)**
- 2) Pending or Possible Rulemaking Projects **(50)**

L. COVID-19 – Discussion and Consideration

M. 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

N. 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.).

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

- 1) **Administrative Warnings**
 - a. 21 DEN 102 – Mihaela Popa, DMD (**51-52**)
- 2) **Proposed Stipulations, Final Decisions and Orders**
 - a. 21 DEN 028 – Antonio G. Cigno, DDS (**53-59**)
 - b. 21 DEN 095 – Thomas J. McCarthy, DDS (**60-65**)
 - c. 22 DEN 009 – Christopher J. Rauch, DDS (**66-72**)
 - d. 22 DEN 010 – Carolyn Giannelli, DDS (**73-79**)
 - e. 22 DEN 023 – Ejlal J. Alalawi, DMD (**80-87**)

P. Deliberation on Proposed Final Decision and Orders

- 1) Elisabeth M. Baertlein, DDS – DHA Case Number SPS-22-0005/DLSC Case Number 19 DEN 107 (**88-108**)

Q. 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

R. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

ADJOURNMENT

NEXT MEETING: MARCH 1, 2023

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, or reach the Meeting Staff by calling 608-267-7213.

**DENTISTRY EXAMINING BOARD
MEETING MINUTES
NOVEMBER 2, 2022**

PRESENT: Troy Alton, DDS; Lisa Bahr, RDH; Matthew Bistan, DDS; Joan Fox; Shaheda Govani, DDS (*via Zoom*); Herbert Kaske, DDS (*via Zoom*); Christine Kenyon (*via zoom until arrival at 9:23 a.m.*), Debra Kolste; Katherine Schrubbe, RDH (*via Zoom*); Peter Sheild, DDS; Diana Whalen, RDH (*arrived at 9:13 a.m.*)

STAFF: Adam Barr, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Dialah Azam, Bureau Assistant; Kimberly Wood, Program Assistant Supervisor-Adv.; and other Department staff

CALL TO ORDER

Matthew Bistan, Chairperson, called the meeting to order at 9:04 a.m. A quorum was confirmed with ten (10) members present.

ADOPTION OF AGENDA

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

APPROVAL OF MINUTES OF SEPTEMBER 7, 2022

MOTION: Peter Sheild moved, seconded by Herbert Kaske, to approve the Minutes of September 7, 2022 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Department, Staff, and Board Updates

MOTION: Matthew Bistan moved, seconded by Peter Sheild, to acknowledge Kimberly Wood for her years of service to the Dentistry Examining Board and thank her for her expertise through the tenures of the members of the Board. Motion carried unanimously.

(Diana Whalen arrived in person at 9:13 a.m.)

(Christine Kenyon arrived in person at 9:23 am)

**REVIEW OF CONSCIOUS SEDATION EDUCATION PROGRAM APPROVAL FORM
DRAFT – DISCUSSION AND CONSIDERATION**

MOTION: Shaheda Govani moved, seconded by Troy Alton, to approve the Conscious Sedation Education Program Approval Form, 1135-OEE, as presented on pages 10-13 of the 11/2/2022 agenda packet with the amendment that the title on top of the page be changed from “Office of Education and Exam” to “Dentistry Examining Board”. Motion carried unanimously.

MOTION: Peter Sheild moved, seconded by Christine Kenyon, to establish a reapproval timeline of five (5) years for Conscious Sedation Education Program approvals. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Emergency and Preliminary Rule Drafts: DE 1, 5, 6, 13, and 16, Relating to Certification of Expanded Function Dental Auxiliaries

MOTION: Lisa Bahr moved, seconded by Diana Whalen, to authorize the Chairperson to approve the emergency rule on DE 1, 5, 6, 13, and 16, relating to Certification of Expanded Function Dental Auxiliaries, for emergency rule submission to the Governor and publication in an official newspaper. Motion carried unanimously.

CLOSED SESSION

MOTION: Lisa Bahr moved, seconded by Debra Kolste, 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; Herbert Kaske-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 11:01 a.m.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Administrative Warnings

22 DEN 002– E.E.L.

MOTION: Matthew Bistan moved, seconded by Peter Sheild, to issue an Administrative Warning in the matter of E.E.L., DLSC Case Number 22 DEN 002. Motion carried unanimously.

Case Closings

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

1. 21 DEN 108 – J.S.S. – No Violation
2. 22 DEN 078 – M.P.C., E.J.A. – No Violation

Motion carried unanimously.

Proposed Stipulations, Final Decisions and Orders

MOTION: Lisa Bahr moved, seconded by Herbert Kaske, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings of the following cases:

1. 20 DEN 126 – Joshua M. Davis, DDS
2. 21 DEN 056 – Michael L. Schmidt, DDS
3. 21 DEN 086 – Nabeel A. Khan, DDS
4. 21 DEN 091 – Kristi L. Wichman, RDH
5. 21 DEN 103 – Gregory A. Nyffeler, DDS

Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Debra Kolste moved, seconded by Peter Sheild, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 11:25 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Matthew Bistan moved, seconded by Lisa Bahr, 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.)

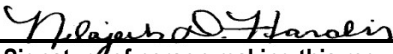
ADJOURNMENT

MOTION: Christine Kenyon, seconded by Debra Kolste, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:26 a.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: 12/14/22 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 01/04/23	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 9:00 A.M. Public Hearing – Emergency Rule 2216 and Clearinghouse Rule 22-086 on DE 11, Relating to Pre-Certification Sedation Education Requirements 1. Review Public Hearing Comments and Respond to Clearinghouse Report	
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: The Board will hold a Public Hearing on this rule as required by the rulemaking process.			
11) Authorization			
 Signature of person making this request		12/14/22 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.			

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD : ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 023-22, was approved by the Governor on March 31, 2022, published in Register 796A2 on April 11, 2022, and approved by the Dentistry Examining Board on June 3, 2022. This emergency rule as approved by the Governor on October 13, 2022.

ORDER

An order of the Dentistry Examining Board to amend DE 11.025 (2) (e); 11.035 (1) (q), and 11.035 (2) (s); and create DE 11.035 (1) (q) 1. to 5. and 11.035 (2) (s) 1. to 6.; relating to precertification sedation education requirements.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Dentistry Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Clearinghouse rule 19-132 went into effect on September 1, 2020. Among the provisions created, DE 11.035 was established to outline the board approved education criteria for Class II Enteral and Parenteral sedation permits. Upon further review, the Board has determined that changes to DE 11.035 are needed in order to properly implement these criteria. As currently written, the requirements are not specific enough for the Board to issue Class II sedation permits to their licensees in a timely manner. Therefore, emergency rules are needed to ensure that these permits can be issued safely and in line with the Board's expectations for sedation training until permanent rules can be promulgated.

ANALYSIS

Statutes interpreted: s. 447.02 (2) (b), Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.02 (2) (b), Stats.

Explanation of agency authority:

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 (2) (b), Stats, provides that the examining board shall promulgate rules specifying “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.”

Related statute or rule: s. 447.04 (1), Stats.

Plain language analysis:

The objective of the proposed rule is to update and add details to the requirements listed in DE 11.035. The Board will also review and update DE 11.025 (3) to align it with the expectations of the Board for courses certified by the American Heart Association.

Summary of, and comparison with, existing or proposed federal regulation: None.

Comparison with rules in adjacent states:

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Dentists in Illinois, with input from the Illinois Board of Dentistry. The Illinois Board is also responsible for the promulgation of rules to implement certain sections of the Illinois Dental Practice Act. This Act contains requirements for dental practice, including dentistry done under anesthesia or sedation [225 Illinois Compiled Statutes ch. 25]. The rules in the Illinois Administrative Code require a Dentist applying for a moderate sedation permit to complete 75 hours of didactic and clinical study and supervised experience in providing moderate sedation to 20 or more patients [Illinois Administrative Code s. 1220.510].

Iowa: The Iowa Dentistry Board is responsible for the licensure and regulation of Dentists in Iowa. Listed in the Iowa Administrative Code are the requirements for dental practice, including dentistry done under anesthesia or sedation. Iowa requires a Dentist applying for a moderate sedation permit to complete a training program that includes a minimum of 60 hours of instruction and management of at least 20 patients or an accredited residency program that includes clinical experience in moderate sedation [650 Iowa Administrative Code ch. 29].

Michigan: The Michigan Board of Dentistry is responsible for the licensure and regulation of Dentists in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for dentistry in Michigan, among several other occupations. [Michigan Compiled Laws s. 333.166] The Michigan Department of Licensing and Regulatory Affairs has administrative rules that include requirements for anesthesia and sedation dentistry. These rules require a Dentist who administers intravenous conscious sedation to have completed at least 60 hours of training in intravenous conscious sedation including a minimum of 40 hours of supervised clinical instruction where they have sedated not less than 20 cases [Michigan Administrative Rules R 338.11602].

Minnesota: The Minnesota Board of Dentistry is responsible for the licensure and regulation of Dentists in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for anesthesia and sedation dentistry. Minnesota requires a Dentist applying for initial certification for moderate sedation to have completed at least 60 hours of didactic education in enteral and parenteral sedation including at least 10 individual supervised cases of parenteral moderate sedation. No more than 5 of those cases may be performed on a patient simulation manikin. [Minnesota Administrative Rules part 3100.3600]

Summary of factual data and analytical methodologies:

The Board reviewed Wisconsin Administrative Code DE 11 to determine which case requirements are necessary for safe training of Dentists for anesthesia permits.

Fiscal Estimate:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on a date to be determined, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 11.025 (2) (e), 11.035 (1) (q), and 11.035 (2) (s) are amended to read:

DE 11.025 (2) (e). Evidence of certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support through a course that ~~follows~~ is certified by the American Heart Association ~~guidelines~~.

DE 11.035 (1) (q). 20 cases, which may include group observation cases, that each meet the following requirements:

DE 11.035 (2) (s). 20 individually managed cases, that each meet the following requirements:

SECTION 2. DE 11.035 (1) (q) 1. to 5. and DE 11.035 (2) (s) 1. to 6. are created to read:

- DE 11.035(1) (q) 1. Must occur in person;
2. Include full review of patient medical history, including pertinent lab values;
3. Applicant shall be in the room for the duration of the case, including recovery and discharge of the patient;
4. Applicant shall observe the administration of medicines;
5. Patient and any anesthesia monitors shall be in full view of the applicant.

- DE 11.035 (2) (s) 1. Must occur in person;
2. Include full review of patient medical history, including pertinent lab values;
3. Applicant shall be in the room for the duration of the case;
4. Applicant shall supervise recovery and discharge of the patient;
5. Applicant shall have full view of the patient and access to the patient's airway;
6. Anesthesia monitors shall be in full view of the applicant.

SECTION 3. EFFECTIVE DATE. This emergency rule shall take effect upon publication in the official state newspaper.

(END OF TEXT OF RULE)

Dated 9/26/2022

Agency

Shahade Gowari

Vice Chairperson
Dentistry Examining Board

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Dentistry Examining Board to amend DE 11.025 (3) (e); 11.035 (1) (q), and 11.035 (2) (s); and create DE 11.035 (1) (q) 1. to 5. and 11.035 (2) (s) 1. to 6.; relating to precertification sedation education requirements.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 447.02 (2) (b), Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.02 (2) (b), Stats.

Explanation of agency authority:

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 (2) (b), Stats, provides that the examining board shall promulgate rules specifying “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.”

Related statute or rule: s. 447.04 (1), Stats.

Plain language analysis:

The objective of the proposed rule is to update and add details to the requirements listed in DE 11.035. The Board will also review and update DE 11.025 (3) to align it with the expectations of the Board for courses certified by the American Heart Association.

Summary of, and comparison with, existing or proposed federal regulation: None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: No comments were received.

Comparison with rules in adjacent states:

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Dentists in Illinois, with input from the Illinois Board of Dentistry. The Illinois Board is also responsible for the promulgation of rules to implement certain sections of the Illinois Dental Practice Act. This Act contains requirements for dental practice, including dentistry done under anesthesia or sedation [225 Illinois Compiled Statutes ch. 25]. The rules in the Illinois Administrative Code require a Dentist applying for a moderate sedation permit to complete 75 hours of didactic and clinical study and supervised experience in providing moderate sedation to 20 or more patients [Illinois Administrative Code s. 1220.510].

Iowa: The Iowa Dentistry Board is responsible for the licensure and regulation of Dentists in Iowa. Listed in the Iowa Administrative Code are the requirements for dental practice, including dentistry done under anesthesia or sedation. Iowa requires a Dentist applying for a moderate sedation permit to complete a training program that includes a minimum of 60 hours of instruction and management of at least 20 patients or an accredited residency program that includes clinical experience in moderate sedation [650 Iowa Administrative Code ch. 29].

Michigan: The Michigan Board of Dentistry is responsible for the licensure and regulation of Dentists in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for dentistry in Michigan, among several other occupations. [Michigan Compiled Laws s. 333.166] The Michigan Department of Licensing and Regulatory Affairs has administrative rules that include requirements for anesthesia and sedation dentistry. These rules require a Dentist who administers intravenous conscious sedation to have completed at least 60 hours of training in intravenous conscious sedation including a minimum of 40 hours of supervised clinical instruction where they have sedated not less than 20 cases [Michigan Administrative Rules R 338.11602].

Minnesota: The Minnesota Board of Dentistry is responsible for the licensure and regulation of Dentists in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for anesthesia and sedation dentistry. Minnesota requires a Dentist applying for initial certification for moderate sedation to have completed at least 60 hours of didactic education in enteral and parenteral sedation including at least 10 individual supervised cases of parenteral moderate sedation. No more than 5 of those cases may be performed on a patient simulation manikin. [Minnesota Administrative Rules part 3100.3600]

Summary of factual data and analytical methodologies:

The Board reviewed Wisconsin Administrative Code DE 11 to determine which case requirements are necessary for safe training of Dentists for anesthesia permits.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis: The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-26-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing on January 4, 2023, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 11.025 (3) (e), 11.035 (1) (q), and 11.035 (2) (s) are amended to read:

DE 11.025 (3) (e). Evidence of certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support through a course that ~~follows~~ is certified by the American Heart Association ~~guidelines~~. Pediatric Advanced Life Support is required if treating pediatric patients.

DE 11.035 (1) (q). 20 cases, which may include group observation cases, that each meet the following requirements:

DE 11.035 (2) (s). 20 individually managed cases, that each meet the following requirements:

SECTION 2. DE 11.035 (1) (q) 1. to 5. and DE 11.035 (2) (s) 1. to 6. are created to read:

- DE 11.035(1) (q) 1. Must occur in person;
2. Include full review of patient medical history, including pertinent lab values;
 3. Applicant shall be in the room for the duration of the case, including recovery and discharge of the patient;
 4. Applicant shall observe the administration of medicines;
 5. Patient and any anesthesia monitors shall be in full view of the applicant.

- DE 11.035 (2) (s) 1. Must occur in person;
2. Include full review of patient medical history, including pertinent lab values;
 3. Applicant shall be in the room for the duration of the case;
 4. Applicant shall supervise recovery and discharge of the patient;
 5. Applicant shall have full view of the patient and access to the patient's airway;
 6. Anesthesia monitors shall be in full view of the applicant.

SECTION 3. 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)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date December 6, 2022</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DE 11 - Permanent Rule</p>	
<p>4. Subject Pre-Certification Sedation Education</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected s. 20.165 (1) (g)</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule The objective of the proposed rule is to update and add details to the requirements listed in DE 11.035. The Board will also review and update DE 11.025 (3) to align it with the expectations of the Board for courses certified by the American Heart Association.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule will be posted for 14 days on the Department of Safety and Professional Services' website to solicit comments on the potential economic impact.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole. The Department estimates a total of \$1,000 in annual ongoing costs and \$2,650 in one-time administrative costs, which may be absorbed in the agency budget.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefits of implementing this rule are clear criteria for conscious sedation pre-certification education dentistry permits.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implications of implementing this rule are improved oversight and streamlined approval for conscious sedation pre-certification education in Wisconsin. .</p>	
<p>17. Compare With Approaches Being Used by Federal Government None</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Dentists in Illinois, with input from the Illinois Board of Dentistry. The Illinois Board is also responsible for the promulgation of rules to implement certain sections of the Illinois Dental Practice Act. This Act contains requirements for dental practice, including dentistry done under anesthesia or sedation [225 Illinois Compiled Statutes ch. 25]. The rules in the Illinois Administrative Code require a Dentist applying for a moderate sedation permit to complete 75 hours of didactic and clinical study and supervised experience in providing moderate sedation to 20 or more patients [Illinois Administrative Code s. 1220.510].

Iowa: The Iowa Dentistry Board is responsible for the licensure and regulation of Dentists in Iowa. Listed in the Iowa Administrative Code are the requirements for dental practice, including dentistry done under anesthesia or sedation. Iowa requires a Dentist applying for a moderate sedation permit to complete a training program that includes a minimum of 60 hours of instruction and management of at least 20 patients or an accredited residency program that includes clinical experience in moderate sedation [650 Iowa Administrative Code ch. 29]. **Michigan:** The Michigan Board of Dentistry is responsible for the licensure and regulation of Dentists in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for dentistry in Michigan, among several other occupations. [Michigan Compiled Laws s. 333.166] The Michigan Department of Licensing and Regulatory Affairs has administrative rules that include requirements for anesthesia and sedation dentistry. These rules require a Dentist who administers intravenous conscious sedation to have completed at least 60 hours of training in intravenous conscious sedation including a minimum of 40 hours of supervised clinical instruction where they have sedated not less than 20 cases [Michigan Administrative Rules R 338.11602].

Minnesota: The Minnesota Board of Dentistry is responsible for the licensure and regulation of Dentists in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for anesthesia and sedation dentistry. Minnesota requires a Dentist applying for initial certification for moderate sedation to have completed at least 60 hours of didactic education in enteral and parenteral sedation including at least 10 individual supervised cases of parenteral moderate sedation. No more than 5 of those cases may be performed on a patient simulation manikin. [Minnesota Administrative Rules part 3100.3600]

19. Contact Name Nilajah Hardin, Administrative Rules Coordinator	20. Contact Phone Number 608-267-7139
----------------------------------------------------------------------	------------------------------------------

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **22-086**

AN ORDER to amend DE 11.025 (3) (e) and 11.035 (1) (q) and (2) (s); and to create DE 11.035 (1) (q) 1. to 5. and (2) (s) 1. to 6., relating to precertification sedation education requirements.

Submitted by **DENTISTRY EXAMINING BOARD**

12-06-2022 RECEIVED BY LEGISLATIVE COUNCIL.

12-21-2022 REPORT SENT TO AGENCY.

MSK:KAM

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

CLEARINGHOUSE RULE 22-086

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. The treatment SECTIONS in the proposed rule should be revised to use separate SECTIONS in the following sequence:

- (1) Amend s. DE 11.025 (3) (e).
- (2) Renumber and amend s. DE 11.035 (1) (q) as (1) (q) (intro.).
- (3) Create s. DE 11.035 (1) (q) 1. to 5.
- (4) Renumber and amend s. DE 11.035 (2) (s) as (2) (s) (intro.).
- (5) Create s. DE 11.035 (2) (s) 1. to 6.

b. The caption for the proposed rule should be updated to reflect the treatment of each provision in the previous comment.

c. The following comments apply to the revision of s. DE 11.035 (1) (q):

- (1) Insert the phrase “all of” before the phrase “the following”, or some other indicator as to whether all or any number of the subunit requirements must be met. [s. 1.11 (2), Manual.]
- (2) Revise the format of the amended text to accurately reflect the changes made to the existing text of the provision, and to show the stricken material before the new underscored material. [s. 1.04 (4) (a), Manual.] In particular, a period should be shown following the word “cases”, and the period should be shown with a strike-through. The comma following the word “cases” should be shown following the stricken period, and should be shown with underscoring that is contiguous with the underscoring for the rest of the inserted material.

d. Similarly, the following comments apply to the revision of s. DE 11.035 (2) (s):

- (1) Insert the phrase “all of” before the phrase “the following”, or some other indicator as to whether all or any number of the subunit requirements must be met. [s. 1.11 (2), Manual.]
 - (2) Revise the format of the amended text to accurately reflect the changes made to the existing text of the provision, and to show the stricken material before the new underscored material. [s. 1.04 (4) (a), Manual.] In particular, a period should be shown following the word “cases”, and the period should be shown with a strike-through. The comma following the word “cases” should be shown following the stricken period, and should be shown with underscoring that is contiguous with the underscoring for the rest of the inserted material.
- e. The following comments apply to the creation of both s. DE 11.035 (1) (q) 1. to 5. and (2) (s) 1. to 6.:
- (1) The agency should be consistent with phrasing so as to maintain parallel structure within each list. In particular, subunits in each list should consistently begin with either a noun or a verb. Also, each subunit should complete the idea and result in a complete sentence when read with the introductory statement that precedes each list of requirements. [ss. 1.05 (1) (e) and 1.11 (2), Manual.]
 - (2) Each subunit in both lists of requirements should end in a period, rather than a semicolon. [s. 1.11 (3), Manual.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

The rule summary’s plain language analysis for the proposed rule should be revised to provide a narrative summary of the actual changes made in the proposed rule. [s. 1.01 (2) (b), Manual.]

**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: 12/14/22 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 01/04/23	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 9:00 A.M. Public Hearing – Clearinghouse Rule 22-087 on DE 13, Relating to Controlled Substances Prescribing Continuing Education Requirements 1. Review Public Hearing Comments and Respond to Clearinghouse Report	
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: The Board will hold a Public Hearing on this rule as required by the rulemaking process.			
11) Authorization			
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
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Dentistry Examining Board to amend DE 13.03 (1m), relating to controlled substances prescribing continuing education requirements.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 440.035 (2) and 447.056, Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.02 (1) (f), Stats.

Explanation of agency authority:

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.”

Related statute or rule: None

Plain language analysis:

The objective of this 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.

Summary of, and comparison with, existing or proposed federal regulation: None

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A

Comparison with rules in adjacent states:

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Dentists in Illinois, with input from the Illinois Board of Dentistry. The Illinois Board is also responsible for the promulgation of rules to implement certain sections of the Illinois Dental Practice Act. This Act contains requirements for dental practice, including continuing education. Illinois does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [225 Illinois Compiled Statutes ch. 25; Illinois Administrative Code Title 68, Chapter 8, Subchapter b, Part 1220, Section 1220.440].

Iowa: The Iowa Dentistry Board is responsible for the licensure and regulation of Dentists in Iowa. Listed in the Iowa Administrative Code are the requirements for dental practice, including continuing education. Iowa requires each licensed dentist who has prescribed opioids during a renewal period to complete at least 1 hour of continuing education on the topic of opioids, which can count toward the 30 required hours for that renewal period. This 1 hour of continuing education content needs to include “guidelines for prescribing opioids, including recommendations on limitations of dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacological therapy options.” [650 Iowa Administrative Code ch. 25].

Michigan: The Michigan Board of Dentistry is responsible for the licensure and regulation of Dentists in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for dentistry in Michigan, among several other occupations. These regulations include requirements for continuing education. Michigan does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [Michigan Compiled Laws s. 333.166].

Minnesota: The Minnesota Board of Dentistry is responsible for the licensure and regulation of Dentists in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for continuing education. Minnesota does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [Minnesota Administrative Rules part 3100.5100].

Summary of factual data and analytical methodologies:

The Board reviewed Wisconsin Administrative Code chapter DE 13 to determine what changes were needed to update the controlled substances prescribing continuing education requirement.

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

The proposed rule was posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing January 4, 2023, to be included in the record of rule-making proceedings.

TEXT OF RULE

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

DE 13.03 (1m) ~~RESPONSIBLE PRESCRIBING~~ 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 October 1, 2023.

(END OF TEXT OF RULE)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date December 6, 2022</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DE 13</p>	
<p>4. Subject Controlled Substances Prescribing Continuing Education Requirements</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input checked="" type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected s. 20.165 (1) (g)</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the 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.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule was posted for 14 days on the Department of Safety and Professional Services' website to solicit comments on the potential economic impact. No comments were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole. The Department estimates a total of \$470 in one-time administrative costs, which may be absorbed in the agency budget.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefits of implementing this rule is ongoing continuing education for Dentists on prescribing controlled substances.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implications of implementing this rule are improved practice for Dentists in the area of prescribing controlled substances in Wisconsin and better overall patient care.</p>	
<p>17. Compare With Approaches Being Used by Federal Government None.</p>	
<p>18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Dentists in Illinois, with input from the Illinois Board of Dentistry. The Illinois Board is also responsible for the promulgation of rules to implement certain sections of the Illinois Dental Practice Act. This Act contains requirements for dental practice, including continuing education. Illinois does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [225 Illinois Compiled Statutes ch. 25; Illinois Administrative Code Title 68, Chapter 8, Subchapter b, Part 1220, Section 1220.440].

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Michigan: The Michigan Board of Dentistry is responsible for the licensure and regulation of Dentists in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for dentistry in Michigan, among several other occupations. These regulations include requirements for continuing education. Michigan does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [Michigan Compiled Laws s. 333.166].

Minnesota: The Minnesota Board of Dentistry is responsible for the licensure and regulation of Dentists in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for continuing education. Minnesota does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [Minnesota Administrative Rules part 3100.5100].

19. Contact Name

Nilajah Hardin, Administrative Rules Coordinator

20. Contact Phone Number

608-267-7139

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)
 Yes No



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **22-087**

AN ORDER to amend DE 13.03 (1m), relating to controlled substances prescribing continuing education requirements.

Submitted by **DENTISTRY EXAMINING BOARD**

12-06-2022 RECEIVED BY LEGISLATIVE COUNCIL.

12-14-2022 REPORT SENT TO AGENCY.

SG:SM

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

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Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 22-087

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

In addition to extending the application of s. DE 13.03 (1m) beyond biennia ending in 2019 and 2021, the proposed rule also removes the words “responsible” and “acute” from the rule text. In its plain language analysis, could the agency briefly explain the intended effect of those amendments?

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Dialah Azam, Bureau Assistant		2) Date when request submitted: 12/14/2022 <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: 1/4/2023	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? 2023 Meeting Dates	
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 <Appearance Name(s)> <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A
10) Describe the issue and action that should be addressed: The Board will review and potentially make a motion to approve the follow 2023 meeting dates: a. Wednesday, January 4, 2023 – In-Person b. Wednesday, March 1, 2023 – Virtual c. Wednesday, May 3, 2023 – Virtual d. Wednesday, July 12, 2023 – In-Person e. Wednesday, September 6, 2023 – Virtual f. Wednesday, November 1, 2023 – Virtual			
11) Authorization			
<i>Dialah Azam</i>		12/14/2022	
Signature of person making this request		Date	
Supervisor (Only required for post agenda deadline items)		Date	
Executive Director signature (Indicates approval for post agenda deadline items)		Date	
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the Agenda Items folders. 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**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Katlin Schwartz, Bureau Assistant on behalf of Division of Policy Development Executive Directors		2) Date when request submitted: 12/14/2022 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting											
3) Name of Board, Committee, Council, Sections: All Boards													
4) Meeting Date: First Meeting of 2023	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Annual Policy Review											
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A											
10) Describe the issue and action that should be addressed: Please be advised of the following Annual Policy Review items: <ol style="list-style-type: none"> 1. In-Person Meeting Policy: Depending on the frequency of Board meetings, a Board may be allowed a certain number of in-person meetings. <ul style="list-style-type: none"> • 4-5 Meetings per year = 1 in-person opportunity • 6-8 Meetings per year = 2 in-person opportunities • 12 Meetings per year = 4 in-person opportunities 2. Attendance/Quorum: Thank you for your service and for your commitment to meeting attendance. If you cannot attend a meeting or if you have scheduling conflicts impacting your attendance, please let us know ASAP. Timely notification is appreciated as quorum is required for our Boards, Sections and Councils to meet pursuant to Open Meetings Law. 3. Walking Quorum: Board/Section/Council members must not collectively discuss the body's business outside of a properly noticed meeting. Should several members of a body do so, the members could be violating the open meetings law. 4. Mandatory Training: All Board Members must complete their annual Public Records and Ethics Trainings, if not complete, the training will be done at the next meeting. 5. Agenda Deadlines: Please communicate agenda topics to your Executive Director before the agenda submission deadline which is at 12:00 pm, 8 business days prior to a meeting. (Attachment: Timeline of a Meeting) 6. Travel Voucher and Per Diem Submissions: Please submit all Per Diem and Reimbursement claims to DSPS within 30 days of the close of each month in which expenses are incurred. (Attachments: Per Diem Example, Travel Voucher Example) 7. Lodging Accommodations/Hotel Cancellation Policy: Lodging accommodations are available to eligible members. Standard eligibility: member must leave home before 6:00 a.m. to attend a meeting by the scheduled start time. <ul style="list-style-type: none"> • If a member cannot attend a meeting it is their responsibility to cancel their reservation within the applicable cancellation timeframe. If a meeting is changed to occur remotely or is cancelled or rescheduled DSPS staff will cancel or modify reservations as appropriate. 8. Inclement Weather Policy: In the event of inclement weather the agency may change a meeting from an in-person venue to one that is executive remotely. 													
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">11) Authorization</td> <td style="width: 30%;"></td> </tr> <tr> <td>Katlin Schwartz</td> <td style="text-align: right;">12/14/2022</td> </tr> <tr> <td style="border-top: 1px solid black;">Signature of person making this request</td> <td style="text-align: right; border-top: 1px solid black;">Date</td> </tr> <tr> <td style="border-top: 1px solid black;">Supervisor (Only required for post agenda deadline items)</td> <td style="text-align: right; border-top: 1px solid black;">Date</td> </tr> <tr> <td style="border-top: 1px solid black;">Executive Director signature (Indicates approval for post agenda deadline items)</td> <td style="text-align: right; border-top: 1px solid black;">Date</td> </tr> </table>				11) Authorization		Katlin Schwartz	12/14/2022	Signature of person making this request	Date	Supervisor (Only required for post agenda deadline items)	Date	Executive Director signature (Indicates approval for post agenda deadline items)	Date
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Katlin Schwartz	12/14/2022												
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Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be saved with any other documents submitted to the Agenda Items folders. 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. 													

Timeline of a Meeting

8 business days prior to the meeting: All agenda materials are due to the Department by 12:00 pm, 8 business days prior to the meeting date.

7 business days prior to the meeting: The draft agenda page is due to the Executive Director. The Executive Director transmits to the Chair for review and approval.

5 business days prior to the meeting: The approved agenda is returned to the Bureau Assistant for agenda packet production and compilation.

4 business days prior to the meeting: Agenda packets are posted on the DSPS Board SharePoint site and on the Department website.

Agenda Item Examples:

- Approval of the Agenda and Minutes (from the last meeting)
- Open Session Items
 - Public Hearings (on Admin Rules)
 - Administrative Matters
 - Legislation and Policy Matters
 - Administrative Rules Matters
 - Credentialing Matters
 - Education and Exam Issues
 - Public Agenda Requests
 - Current Issues Affecting the Profession
 - Public Comments
- Closed Session items
 - Deliberations on Proposed Disciplinary Actions
 - Stipulations
 - Administrative Warnings
 - Case Closings
 - Monitoring Matters
 - Professional Assistance Procedure (PAP) Issues
 - Proposed Final Decisions and Orders
 - Orders Fixing Costs/Matters Relating to Costs
 - Credentialing Matters
 - Education and Exam Issues

Thursday of the Week Prior to the Meeting: Agendas are published for public notice on the Public Notices and Meeting Minutes website: publicmeetings.wi.gov.

1 business day after the Meeting: "Action" lists are distributed by staff detailing board actions on closed session business.

5 business days after the Meeting: "To Do" lists are distributed to staff to ensure that board decisions are acted on and/or implemented within the appropriate divisions in the Department. Minutes approved by the board are published on the the Public Notices and Meeting Minutes website: publicmeetings.wi.gov.

Department of Safety and Professional Services

PER DIEM REPORT

INSTRUCTIONS: Claimant records board-related activities by entering the date of an activity, the duration of time spent in that activity, the relevant purpose code (see purpose code descriptions below), where the activity is conducted, and the type of activity performed. Only one (1) \$25.00 per diem payment can be issued on any given calendar day.

Purpose Codes:

- A. Official meetings including video/teleconference calls** (automatic day of per diem): i.e., board, committee, board training or screening panels; **Hearings**, i.e., Senate Confirmation, legislative, disciplinary or informal settlement conferences; **Examinations and Test Development Sessions**, i.e., test administration, test review or analysis events, national testing events, tour of test facilities, etc.)
- B. Other** (One (1) per diem will be issued for every five (5) hours spent in category B, per calendar month): i.e., review of disciplinary cases, consultation on cases, review of meeting materials, board liaison work e.g., contacts regarding Monitoring, Professional Assistance Procedure, Credentialing, Education and Examinations

NAME OF EXAMINING BOARD OR COUNCIL			BOARD OR COUNCIL MEMBER'S NAME	
EXAMPLE EXAMINING BOARD			MARY SUNSHINE	
Activity Date	Duration of Activity	Purpose Code	Where Performed	Activity
MM/DD/YY	Hours/Minutes	A or B	City/Location (Home, Work, DSPS)	Describe Activity Performed (see purpose codes)
12/2/20	2 hrs	B	Pleasant Prairie/Home	Review of screening panel materials
12/3/20	2 hr / 30 mins	B	Pleasant Prairie/Home	Review of screening panel materials
12/10/20	1 hr	A	Pleasant Prairie/Home	Screening Panel Meeting - Teleconference
12/12/20	1 hr / 30 mins	B	Pleasant Prairie/Home	Case consultation
12/13/20	1 hr	B	Pleasant Prairie/Home	Liaison: Application Review
12/16/20	6 hrs	A	Madison/DSPS	Board Member Training
				<p>The 5-hour rule applies to "B" code activities. Add the 'B' codes within the calendar month and then divide by five (5) hours to calculate your per diem payment. In this case the total is seven (7) hours which equals one (1) day of per diem.</p> <p>Each 'A' code is an automatic day of per diem regardless of time spent in that activity. Ms. Sunshine is eligible for two (2) additional days of payment.</p> <p>Department staff completes the fields titled "Total Days Claimed".</p>
CLAIMANT'S CERTIFICATION			Comments:	
The undersigned certifies, in accordance with § 16.53, Wis. Stats., that this account for per diem, is just and correct; and that this claim is for service necessarily incurred in the performance of duties required by the State, as authorized by law.				
<i>Mary Sunshine</i>		1/4/2021		
Claimant's Signature	Date	Supervisor	Date	

EMPL ID: 100012345-0

To be completed by Department staff: **TOTAL DAYS CLAIMED: 3 @ \$25.00 = 75.00**

Travel Voucher

Staple Receipts Face Up On Backside

Safety & Professional Services														
Department/ Division		Example Examining Board			Emp ID		100012345		Z					
State Officer/Employee Name		Mary Sunshine			Address		2424 Happy Road							
Mo/Yr		From/To:			City		Pleasant Prairie		State		WI		Zip-Code 53158	
FY	FUND	BUSINESS UNIT	DEPART	APPR CLASS	OBJECT	PROJECT	BALANCE SHEET ACCT	REPORTING CATEGORY	PROJECT NUMBER	AMOUNT				
2021	10000	16500	1651300200	12100	7340000	16500P1<BRD ID>								
				12800		16500P2<TRD ID>								
				22100										
										TOTALS				

Official Business		Travel Points		HDQS-TIME		Personal Vehicle	Lodging	Meals, including tips			Other Allowable Expenses		Total Allowable Expenses	
Date	Purpose of Trip	From	To	Depart	Return	Miles		Morning	Noon	Evening	Item	Amount	Taxable	Non-Taxable
Use	Board Meeting	Home base	Madison	Report times you left		Miles	P-card	\$8.00	\$10.00	\$20.00			Report	Report
separate		Madison	Home base	and returned home if		must be		Maximum in-state amounts					meal cost	meal cost
lines for	You must identify			meals are claimed		split.	Enter		or				here if there	here if there
each leg	the purpose of					Cannot	"P-card"	\$10.00	\$15.00	\$25.00			is NO	IS an
of your	your trip.					place	when hotel	Maximum out-of-state amounts					overnight	overnight
trip.						roundtrip	is provided						stay.	stay.
						total on	by DSPS	Must leave	Must leave	Must return				
						one line.		home	home	home after				
								before	before	7:00 p.m.				
								6:00 a.m.	10:30 a.m.					
									and return					
									home after					
									2:30 p.m.					

LEGEND: Staff can fill in these areas.
Board Member MUST fill in these areas

*Item billed directly to the state agency

Sub-Totals															
										Mileage Costs					
										Miles at		0.510 cents/mile			
										Totals					
										Total Expenditure					
										Less Travel Advance					
										Net Amount Due					

Claimant's Statement § 16.53 Wisconsin Statutes

I declare, under penalties, that all claimed travel expenses are true and correct and are in conformity with Wisconsin statute 16.53 and related agreements. This claim represents reasonable and actual expenses necessarily incurred by me personally in the performance of official duties and no portion was previously reimbursed to me by the State or any other source.

I certify that all expenses on this voucher conform to statutory, departmental or applicable collective bargaining provisions, and were necessary in the official performance of duties required by the State Expenditures are determined to be reasonable and proper, and that sufficient funds are available to pay this claim.

Date _____ Claimant's Signature _____

I certify that this travel claim is reasonable, proper, and in conformity with applicable statutes, travel schedule amounts, and/or collective bargaining agreements.

Agency Head or Authorized Representative

Date _____ Supervisor's Signature _____

Audited in accordance with S. 16.53 Wisconsin Statutes and allowed by the provisions of chapter 20.

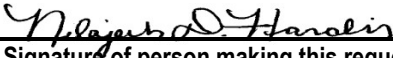
**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Dialah Azam		2) Date when request submitted: 12/9/2022 <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: 1/4/2023	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Local Anesthetic Rules for Hygienists – Discussion and Consideration	
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: Request from Lisa Bahr: “Could a review of local anesthetic rules in regards to if Cetacaine and Oqaqix can be used by a hygienist without a DDS on site be added to the agenda for the next meeting?” <div style="text-align: center; margin-top: 20px;"><i>Dialah Azam</i></div>			
11) Authorization			
		12/9/2022	
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**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 12/14/22 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 01/04/23	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. Drafting Proposals: DE 2 and 11, Relating to Certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support 2. 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"> Scope Statement – DE 2 and 11 Wis. Admin Code Chapters DE 2 and 11 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		12/14/22 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 2 and 11

Relating to: Certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support

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 revise the requirements in DE 11 relating to Advanced Cardiovascular Life Support (ACLS) or Pediatric Advanced Life Support (PALS) certification to reflect that it should be an ongoing or maintained certification for each dentist who performs anesthesia services. This update may also mean that changes to DE 2 will be needed to accurately account for a new ongoing licensure requirement.

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:

Wisconsin Administrative Code chapter DE 11 currently requires certification in either ACLS or PALS. The rules do not specify whether such a certification needs to be current or ongoing. The alternative to making changes to the rule is that the certification will still be required, but it will not necessarily need to be current.

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) (b) The Examining Board shall promulgate rules specifying 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 DE 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

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

Contact Person: Nilajah Hardin, Administrative Rules Coordinator, (608) 267-7139.

Approved for publication:




Authorized Signature

10/3/2022

Date Submitted

Approved for implementation:



Authorized Signature

11/21/2022

Date Submitted

Chapter DE 2

LICENSURE

<p>DE 2.005 Dental testing service and dental hygiene testing service requirements.</p> <p>DE 2.01 Application for license.</p> <p>DE 2.013 Student supervision.</p> <p>DE 2.015 Faculty license.</p> <p>DE 2.02 Duration of license.</p>	<p>DE 2.03 Biennial renewal.</p> <p>DE 2.035 Application procedure for service members, former service members, and their spouses.</p> <p>DE 2.04 Endorsement.</p> <p>DE 2.05 Examination passing score.</p>
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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 2.005 Dental testing service and dental hygiene testing service requirements. A dental testing service or dental hygiene testing service may be approved if all the testing service's exams meet all of the following requirements:

(1) Test clinical knowledge.

(2) Include a practical component on application of the basic principles utilizing live human patients or simulated patients.

History: CR 17-068: cr. Register August 2019 No. 764, eff. 9-1-19; correction in (2) made under s. 35.17, Stats., Register August 2019 No. 764.

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 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 Joint Commission on National Dental Examinations or other board-approved professional testing services of successful completion of an examination.

(g) Verification from a board-approved testing service of successful completion of an examination taken within one year immediately preceding application.

(h) 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) 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 Joint Commission on National Dental Examinations or other board-approved professional testing service of successful completion of an examination on the basic principles of the practice of dental hygiene.

(b) Verification from a board-approved testing service of successful completion of an examination taken within one year 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; CR 17-068: am. (1) (d), (f), (g), cr. (1) (h), (1m) (e), am. (2) (a), (b), cr. (2) (c), (d) Register August 2019 No. 764, eff. 9-1-19.

DE 2.013 Student supervision. A dental student under s. 447.03 (3) (a), Stats., or a dental hygiene student under s. 447.03 (3) (b), Stats., is required to practice under the supervision of a dentist who is present in the facility in which the practice occurs.

History: CR 17-068: cr. Register August 2019 No. 764, eff. 9-1-19; correction made under s. 13.92 (4) (b) 7., Stats., Register August 2019 No. 764.

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 any 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; CR 17-068: am. (1) (d), cr. (1) (f) Register August 2019 No. 764, eff. 9-1-19.

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. (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 as determined by the department under s. 440.03 (9) (a), 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) This paragraph does not apply to dentists or dental hygienists who have unmet disciplinary requirements. A dentist or dental hygienist renewing the license after 5 years shall do all of the following:

1. Pay the renewal fee as determined by the department under s. 440.03 (9) (a), Stats., and the late renewal fee.

2. Submit 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.

3. Provide evidence of one of the following:

a. An active license in good standing in another state.

b. If a dentist, successful completion of a board approved testing service examination within one year of renewal.

c. If a dental hygienist, successful completion of a board approved testing service examination within one year of renewal.

d. Completion of a one year general practice residency within one year of renewal.

e. Completion of a clinical education program approved by the board.

(6) REINSTATEMENT. A dentist or dental hygienist who has unmet disciplinary requirements and failed to renew the license within 5 years or whose license has been denied at renewal, surrendered or revoked may apply to have the license reinstated following submission of all of the following:

(a) Evidence of completion of the requirements in sub. (5) (b) if the license has not been active within 5 years.

(b) Evidence of completion of the disciplinary requirements, if applicable.

(c) Evidence of rehabilitation or change in circumstances that indicates reinstatement to practice will not constitute a danger to the public or a patient.

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; CR 17-068: am. (5) (title), (a) 2., r. and recr. (5) (b), (6), r. (7) Register August 2019 No. 764, eff. 9-1-19; correction in (5) (b) 1., (6) (a) made under s. 35.17, Stats., Register August 2019 No. 764.

DE 2.035 Application procedure for service members, former service members, and their spouses. (1) In this section:

(a) "Former service member" has the meaning given in s. 440.09 (1) (a), Stats.

(b) "Service member" has the meaning given in s. 440.09 (1) (b), Stats.

(c) "Spouse" has the meaning given in s. 440.09 (1) (c), Stats.

(2) Each applicant for reciprocal licensure as a dentist or dental hygienist shall submit all of the following:

(a) A completed application form with the signature of the applicant and date of signature.

Note: An application form is available from the Department of Safety and Professional Services by calling (608) 266-2112, or online at <https://dps.wi.gov>.

(b) Fees as determined by the department under s. 440.05 (2), Stats.

(c) A statement that the applicant resides in this state.

(d) Documentation that the applicant is a service member, former service member, or the spouse of a service member or former service member. If an applicant is unable to provide the documentation, the applicant may submit an affidavit to the board stating that the applicant is a service member, former service member, or the spouse of a service member or former service member.

(e) Evidence that the applicant is in good standing with the governmental authorities in every jurisdiction outside this state that have granted the applicant a license, certification, registration, or permit that qualifies the individual to perform acts authorized under a dentist or dental hygienist license granted by the board.

(3) A license granted under this section expires on the renewal date specified in s. 440.08 (2) (a), Stats., except that if the first renewal date specified in s. 440.08 (2) (a), Stats., after the date on which the license is granted is within 180 days of the date on which the license is granted, the license expires on the 2nd renewal date specified in s. 440.08 (2) (a), Stats., after the date on which the license is granted.

History: CR 21-032: cr. Register January 2022 No. 793, eff. 2-1-22; correction in (2) (e) made under s. 35.17, Stats., Register January 2022 No. 793.

DE 2.04 Endorsement. (1) The board may grant a license as a dentist to an applicant who holds a valid license in good standing issued by the proper authorities of any other jurisdiction of the United States or Canada upon payment of the fee as determined by the department under s. 440.03 (9) (a), 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 holds one of the following:

1. A DDS or DMD degree from an accredited dental school.

2. A dental diploma, degree or certificate from a full-time, undergraduate supplemental dental education program of at least 2 academic years at an accredited dental school. The program shall provide didactic and clinical education to the level of a DDS or DMD degree.

(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 successfully completed a licensing examination that, in the board's judgment, is substantially equivalent to an examination administered by a board-approved 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 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.

(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 in good standing issued by the proper authorities of any other jurisdiction of the United States or Canada upon payment of the fee as determined by the department under s. 440.03 (9) (a), 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.

(d) The applicant has successfully completed an examination that, in the board's judgment, is substantially equivalent to an examination administered by a board approved 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.

(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; CR 17-068: am. (1) (intro.), r. and recr. (1) (a), r. (1) (c), (d), am. (1) (e), (g), (2) (intro.), r. (2) (c), am. (2) (d), r. (2) (f) Register August 2019 No. 764, eff. 9-1-19; correction in (1) (a) 2., (e), (2) (d) made under s. 35.17, Stats., Register August 2019 No. 764.

DE 2.05 Examination passing score. The score required to pass an examination shall be the recommended passing score of the examination provider.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99; CR 17-068: am. Register August 2019 No. 764, eff. 9-1-19.

Chapter DE 11

ANESTHESIA

<p>DE 11.01 Authority and purpose. DE 11.02 Definitions. DE 11.025 Permit to administer anesthesia. DE 11.03 Requirements for nitrous oxide in combination with sedative agent. DE 11.035 Board approved education program content.</p>	<p>DE 11.075 Continuing education. DE 11.085 Auxiliary Personnel. DE 11.09 Standards of care. DE 11.10 Reporting of adverse occurrences related to sedation or anesthesia administration.</p>
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DE 11.01 Authority and purpose. The rules in this chapter are adopted under authority in ss. 15.08 (5) (b), 227.11 (2) (a) and 447.02 (2) (b), Stats., for the purpose of defining standards for the administration of anesthesia by dentists. The standards specified in this chapter shall apply equally to general anesthesia and sedation, regardless of the route of administration.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. Register, October, 1988, No. 394, eff. 11-1-88; am. Register, August, 1991, No. 428, eff. 9-1-91.

DE 11.02 Definitions. In this chapter,

(1g) “ASA” means American Society of Anesthesiologists.

(1s) “Class I permit” means a sedation permit issued prior to September 1, 2020. This permit is no longer valid.

(1t) “Class II permit – enteral” means a sedation permit enabling a dentist to administer, by enteral route, moderate sedation.

(1tm) “Class II permit – parenteral” means a sedation permit enabling a dentist to administer, by parenteral route, moderate sedation.

(1u) “Class III permit” means a sedation permit enabling a dentist to administer moderate or deep sedation, or general anesthesia.

(2g) “Continual” means repeated regularly and frequently in a steady succession.

(2r) “Continuous” means prolonged without any interruption at any time.

(3) “Deep sedation” means a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. A patient may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(3m) “Enteral” means administration by which the agent is absorbed through the gastrointestinal tract or through the oral, rectal, or nasal mucosa.

(4) “General anesthesia” means drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. A patient often requires assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(4e) “Immediately available” means physically located in the dental office or facility and ready for immediate use or response.

(4m) “Minimal sedation” means a minimally depressed level of consciousness, produced by a pharmacological method that retains the patient’s ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected.

(4s) “Moderate sedation” means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. If more than one enteral drug is administered or if an enteral drug is administered at a dosage that exceeds the maximum recommended dose during a single appointment, such administration is considered moderate sedation.

(6) “Nitrous oxide” means a combination of nitrous oxide and oxygen.

(6g) “Parenteral” means administration by which the drug bypasses the gastrointestinal tract through intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular methods.

(6r) “Pediatric patient” means a patient who is 12 years old and under.

(10) “Time-oriented anesthesia record” means documentation at appropriate intervals of drugs, doses and physiologic data obtained during patient monitoring.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; r. and recr. Register, October, 1988, No. 394, eff. 11-1-88; r. (4), renum. (1) to (3) to be (2) to (4) and am., cr. (1) and (5), Register, August, 1991, No. 428, eff. 9-1-91; CR 04-095: am. (1) to (4), cr. (1m) and (6) to (10), r. (5) Register August 2006 No. 608, eff. 1-1-07; CR 13-061: cr. (1s) to (1u) Register June 2014 No. 702, eff. 7-1-14; CR 19-132: r. (1), cr. (1g), r. (1m), am. (1s), (1t), cr. (1tm), am. (1u), r. (2), cr. (2g), (2r), am. (3), cr. (3m), am. (4), cr. (4e), (4m), (4s), am. (6), cr. (6g), (6r), r. (7) to (9) Register August 2020 No. 776, eff. 9-1-20; correction in (3) made under s. 35.17, Stats., Register August 2020 No. 776.

DE 11.025 Permit to administer anesthesia.

(1) Minimal sedation does not require a permit.

(2) The board may issue an anesthesia permit at the following levels:

(a) Class II – enteral is for the administration of moderate sedation by enteral route.

(b) Class II – parenteral is for the administration of moderate sedation by either enteral or parenteral route,

(c) Class III is for the administration of moderate or deep sedation, or general anesthesia.

(3) A dentist may apply to the board for an anesthesia permit by submitting all of the following:

(a) Application and fee.

(b) Verification of any permit or credential authorizing anesthesia or sedation held by the dentist.

(c) Disclosure of any previous anesthesia or sedation-related incident, morbidity, or mortality or any board investigation or discipline relating to the delivery of anesthesia or sedation.

(d) Evidence of current licensure to practice dentistry in the state of Wisconsin.

(e) Evidence of certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support through a course that follows the American Heart Association guidelines. Pediatric Advanced Life Support is required if treating pediatric patients.

(f) Affidavit indicating the dentist has the required equipment and medications.

(g) If applying for a class II permit – enteral, evidence of one of the following:

1. Current board certification or a candidate for board certification by the American Board of Oral and Maxillofacial Surgery.
2. Completion of an accredited oral and maxillofacial surgery residency.
3. Diplomate or candidate of the American Dental Board of Anesthesiology.
4. Successful completion of a board approved education program that provides comprehensive training meeting the requirements in s. DE 11.035.

(h) If applying for a class II permit– parenteral, evidence of one of the following:

1. Current board certification or a candidate for board certification by the American Board of Oral and Maxillofacial Surgery.
2. Completion of an accredited oral and maxillofacial surgery residency.
3. Diplomate or candidate of the American Dental Board of Anesthesiology.
4. Successful completion of a board approved education program that provides comprehensive training meeting the requirements in s. DE 11.035.

(i) If applying for a class III permit, evidence of one of the following:

1. Current board certification or a candidate for board certification by the American Board of Oral and Maxillofacial Surgery.
2. Completion of an accredited oral and maxillofacial surgery residency.
3. Diplomate or candidate of the American Dental Board of Anesthesiology.
4. Postdoctoral residency in an accredited dental program in dental anesthesiology.

(j) Notwithstanding par. (g) or (h), a dentist holding a class I permit on August 31, 2020, shall be granted a class II permit – enteral upon evidence of 20 cases within the last 5 years of providing moderate sedation.

Note: As of September 1, 2020, a class I permit is no longer valid and moderate sedation requires either a class II permit – enteral or class II permit – parenteral.

(k) Notwithstanding par. (h), a dentist holding a class II permit on August 31, 2020, shall be granted a class II permit – parenteral.

(4) A dentist may not administer anesthesia or sedation without a permit at the appropriate level of anesthesia or sedation.

History: CR 13–061: cr. Register June 2014 No. 702, eff. 7–1–14; CR 19–132: r. and recr. Register August 2020 No. 776, eff. 9–1–20; correction in (2) (a) to (c), (3) (c), (g) (intro.), (h) (intro.), (i) (intro.), (j), (k) made under s. 35.17, Stats., and correction in (3) (j), (k) made under s. 13.92 (4) (b) 14., Stats., Register August 2020 No. 776.

DE 11.03 Requirements for nitrous oxide in combination with sedative agent. Nitrous oxide when used in combination with sedative agent may produce minimal, moderate or deep sedation. During the administration of moderate or nitrous–oxide oxygen sedation, if a patient enters a deeper level of sedation than the dentist is authorized by permit to provide, then the dentist shall stop the sedation and dental procedures until the patient returns to the intended level of sedation.

History: CR 04–095: cr. Register August 2006 No. 608, eff. 1–1–07; CR 15–056: am. (1) Register February 2016 No. 722, eff. 3–1–16; CR 19–132: r. and recr. Register August 2020 No. 776, eff. 9–1–20.

DE 11.035 Board approved education program content. (1) A board approved education program that provides comprehensive training for a class II permit – enteral shall consist of a minimum of 18 hours in administration and management of moderate sedation, including all of the following course content:

(a) Historical, philosophical and psychological aspects of anxiety and pain control.

(b) Patient evaluation and selection through review of medical history taking, physical diagnosis and psychological profiling.

(c) Use of patient history and examination for ASA classification, risk assessment and pre–procedure fasting instruction.

(d) Definitions and descriptions of physiological and psychological aspects of anxiety and pain.

(e) Description of the sedation anesthesia continuum, with special emphasis on the distinction between the conscious and the unconscious state.

(f) Review of adult respiratory and circulatory physiology and related anatomy.

(g) Pharmacology of local anesthetics and agents used in moderate sedation, including drug interactions and contraindications.

(h) Indications and contraindications for use of moderate sedation.

(i) Review of dental procedures possible under moderate sedation.

(j) Patient monitoring using observation, monitoring equipment, with particular attention to vital signs, ventilation, breathing and reflexes related to consciousness.

(k) Maintaining proper records with accurate chart entries recording medical history, physical examination, informed consent, time–oriented anesthesia record, including the names of all drugs administered, doses and monitored physiological parameters.

(L) Prevention, recognition and management of complications and emergencies.

(m) Description, maintenance and use of moderate sedation monitors and equipment.

(n) Discussion of abuse potential.

(o) Description and rationale for the technique to be employed.

(p) Prevention, recognition and management of systemic complications of moderate sedation, with particular attention to airway maintenance and support of the respiratory and cardiovascular systems.

(q) 20 cases, which may include group observation cases.

(2) A board approved education program that provides comprehensive training for a class II permit – parenteral shall consist of a minimum of 60 hours in administration and management of moderate sedation, including all of the following course content:

(a) Historical, philosophical and psychological aspects of anxiety and pain control.

(b) Patient evaluation and selection through review of medical history taking, physical diagnosis and psychological profiling.

(c) Use of patient history and examination for ASA classification, risk assessment and pre–procedure fasting instruction.

(d) Definitions and descriptions of physiological and psychological aspects of anxiety and pain.

(e) Description of the sedation anesthesia continuum, with special emphasis on the distinction between the conscious and the unconscious state.

(f) Review of adult respiratory and circulatory physiology and related anatomy.

(g) Pharmacology of local anesthetics and agents used in moderate sedation, including drug interactions and contraindications.

(h) Indications and contraindications for use of moderate sedation.

(i) Review of dental procedures possible under moderate sedation.

(j) Patient monitoring using observation, monitoring equipment, with particular attention to vital signs, ventilation, breathing and reflexes related to consciousness.

(k) Maintaining proper records with accurate chart entries recording medical history, physical examination, informed consent, time oriented anesthesia record, including the names of all

drugs administered, doses and monitored physiological parameters.

(L) Prevention, recognition and management of complications and emergencies.

(m) Description, maintenance and use of moderate sedation monitors and equipment.

(n) Discussion of abuse potential.

(o) Intravenous access anatomy, equipment and technique.

(p) Prevention, recognition and management of complications of venipuncture and other parenteral techniques.

(q) Description and rationale for the technique to be employed.

(r) Prevention, recognition and management of systemic complications of moderate sedation, with particular attention to airway maintenance and support of the respiratory and cardiovascular systems.

(s) 20 individually managed cases.

History: CR 19-132: cr. Register August 2020 No. 776, eff. 9-1-20; correction in (1) (intro.), (2) (intro.) made under s. 35.17, Stats., Register August 2020 No. 776, eff. 9-1-20.

DE 11.075 Continuing education. A dentist with a sedation permit shall complete 2 hours of continuing education on the topic of sedation and anesthesia each biennium. The continuing education completed under this section shall count toward the continuing education requirement under s. DE 13.03.

History: CR 19-132: cr. Register August 2020 No. 776, eff. 9-1-20.

DE 11.085 Auxiliary Personnel. (1) Auxiliary personnel shall be certified in basic life support for the health care provider.

(2) A dentist administering sedation shall have one additional individual present during the procedure and another individual on the premises and available to respond to a patient emergency.

(3) A dentist administering general anesthesia or deep sedation shall have 2 additional individuals present during the procedure.

(4) If a dentist is both performing the dental procedure and administering moderate or deep sedation, or general anesthesia, one auxiliary personnel must be designated to only monitor the patient. The designated auxiliary personnel may be one of the additional individuals required in sub. (2) or (3).

History: CR 19-132: cr. Register August 2020 No. 776, eff. 9-1-20.

DE 11.09 Standards of care. (1) GENERAL. A dentist administering anesthesia or sedation shall be in the room to continuously monitor the patient until the patient meets the criteria for transfer to recovery and may not leave the dental office or facility until the patient meets the criteria for discharge and is discharged from the dental office or facility.

(2) Preoperative preparation. Preoperative preparation for the administration of anesthesia or sedation shall include all of the following steps:

(a) Determine the adequacy of the oxygen supply and equipment necessary to deliver oxygen under positive pressure.

(b) Take and record the patient's baseline vital signs, including blood pressure, respiratory rate and heart rate. For the administration of general anesthesia and deep and moderate sedation, baseline vital signs include weight, height, blood pressure, heart rate, respiratory rate, blood oxygen saturation by pulse oximetry, and body temperature when appropriate. The inability to take vital signs due to the patient's behavior or condition shall be documented in the patient record.

(c) Complete medical history and a focused physical evaluation.

(d) Instruct the patient on specific dietary limitations based upon the sedative and anesthetic technique to be used and patient's physical status.

(e) Provide preoperative instructions to the patient or, as appropriate, to the patient's parent or legal guardian.

(f) Notify and require a patient to arrive and leave with a vested escort.

(g) Establish and secure, where clinically indicated, an intravenous line throughout the procedure, except as provided for pediatric or special needs patients.

(h) Advise the patient of fasting requirements.

(3) MONITORING AND EVALUATION OF GENERAL ANESTHESIA, DEEP SEDATION OR MODERATE SEDATION. A dentist administering general anesthesia, deep sedation, or moderate sedation shall continuously monitor and evaluate all of the following:

(a) Level of consciousness.

(b) Oxygenation saturation by pulse oximetry.

(c) Chest excursions.

(d) Ventilation monitored by end-tidal carbon dioxide.

(e) Auscultation of breath sounds by precordial or pretracheal stethoscope.

(f) Respiration rate.

(g) Heart rate and rhythm via electrocardiogram.

(h) Blood pressure.

(i) Color of mucosa, skin or blood.

(j) Body temperature whenever triggering agents associated with malignant hyperthermia are administered.

(4) MONITORING AND EVALUATION OF MINIMAL SEDATION. A dentist administering minimal sedation shall continuously monitor and evaluate all of the following:

(a) Level of consciousness.

(b) Chest excursions.

(c) Ventilation by either auscultation of breath sounds or by verbal communication with the patient.

(d) Color of mucosa, skin or blood.

(e) Blood pressure, heart rate, and oxygenation saturation by pulse oximetry pre-operatively and post-operative and intraoperatively.

(5) RECOVERY AND DISCHARGE. A dentist shall maintain and implement recovery and discharge procedures which include all of the following:

(a) Immediate availability of oxygen and suction equipment.

(b) Monitor and document the patient's blood pressure, heart rate, oxygenation and level of consciousness during recovery.

(c) Determine and document that blood pressure, heart rate, level of consciousness, oxygenation, ventilation, and circulation are satisfactory for discharge.

(d) Post-operative verbal and written instructions provided.

(e) If a reversal agent is administered before discharge criteria have been met, the patient must be monitored until recovery is assured.

(6) EQUIPMENT. A dentist administering anesthesia or sedation shall have immediately available and maintain equipment, appropriate for patients served, in good working order according to manufacturer's directions all the following equipment:

(a) Alternative light source for use during power failure.

(b) Automated external defibrillator.

(c) Disposable syringes in assorted sizes.

(d) Oxygen in a portable cylinder E tank capable of administering positive pressure ventilation via a bag-valve-mask system.

(e) Sphygmomanometer and stethoscope for pediatric and adult patients.

(f) Suction and backup system.

(g) An operating chair capable of withstanding cardiopulmonary resuscitation or a back board.

(h) Emergency airway equipment including oral and nasal airway and advanced airway devices for appropriate patient populations being served.

(7) DRUGS. A dentist administering anesthesia or sedation shall be responsible to maintain and properly store drugs in current and unexpired condition and properly dispose of expired drugs. The following drugs shall be maintained in an emergency drug kit:

- (a) Non-enteric coated aspirin.
- (b) Ammonia inhalants.
- (c) Antihistamine.
- (d) Antihypoglycemic agent.
- (e) Bronchodilator.
- (f) Epinephrine.
- (g) Oxygen.
- (h) Nitroglycerin.
- (i) Reversal agents.
- (j) Muscle relaxant.

(8) EMERGENCY MANAGEMENT. A dentist administering anesthesia or sedation shall be responsible for the sedative or anesthetic management, diagnosis and treatment of emergencies related to the administration of anesthesia or sedation and for ensuring the equipment, drugs and protocols for patient rescue are immediately available.

(9) ANESTHESIA RECORD. A dentist shall maintain an anesthesia record that documents all events related to the administration of the sedative or anesthetic agents, including all of the following:

- (a) Time-oriented anesthesia record that includes the date, names of all drugs administered, dosages, methods of administration and monitored physiological parameters.
- (b) Heart rate, respiratory rate, blood pressure, pulse oximetry, and end-tidal carbon dioxide measurements shall be recorded in 5-minute intervals for general anesthesia, deep and moderate sedation.

(c) The duration of the procedure.

(d) The individuals present during the procedure.

History: CR 04-095: cr. Register August 2006 No. 608, eff. 1-1-07; CR 19-132: r. and recr. Register August 2020 No. 776, eff. 9-1-20; correction in (2) (e) made under s. 35.17, Stats., Register August 2020 No. 776.

DE 11.10 Reporting of adverse occurrences related to sedation or anesthesia administration. (1m) A dentist shall report to the board any anesthesia-related or sedation-related mortality which occurs during or as a result of treatment provided by the dentist within 2 business days of the dentist's notice of such mortality.

(2m) A dentist shall report any morbidity which may result in permanent physical or mental injury as a result of the administration of anesthesia or sedation by the dentist to the board within 30 days of the notice of the occurrence of any such morbidity.

(3m) The report shall include all of the following:

- (a) A description of the dental procedures.
- (b) The names of all participants in the dental procedure and any witnesses to the adverse occurrence.
- (c) A description of the preoperative physical condition of the patient.
- (d) A list of drugs and dosage administered before and during the dental procedures.
- (e) A detailed description of the techniques utilized in the administration of all drugs used during the dental procedure.
- (f) A description of the adverse occurrence, including the symptoms of any complications, any treatment given to the patient, and any patient response to the treatment.
- (g) A description of the patient's condition upon termination of any dental procedures undertaken.

Note: Forms are available at the office of the Dentistry Examining Board located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

History: CR 04-095: cr. Register August 2006 No. 608, eff. 1-1-07; CR 19-132: r. (intro.), renum. (1) to (7) to (3) (a) to (g), cr. (1m), (2m), (3m) (intro.) Register August 2020 No. 776, eff. 9-1-20; correction in (1m) made under s. 35.17, Stats., and renum. (3) (a) to (g) to (3m) (a) to (g) under s. 13.92 (4) (b) 7., Stats., Register August 2020 No. 776.

**Dentistry Examining Board
Rule Projects (updated 12/14/22)**

Clearinghouse Rule Number	Scope #	Scope Implementation	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
Not Assigned Yet	065-22	08/15/2022	02/01/2025	DE 1, 5, 6, 13, and 16	Certification of Expanded Function Dental Auxiliaries	Emergency Rule Submitted to Governor's Office on 12/06/22	Emergency Rule Submission to Wisconsin State Journal for Publication
Not Assigned Yet	086-22	11/21/2022	05/07/2025	DE 2 and 11	Certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support	Drafting	Board Approval of Preliminary Rule Draft
21-086	036-21	04/21/2021	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
22-055	109-21	01/14/2022	06/13/2024	DE 11	Definitions	Legislative Review After 01/03/2023	Adoption Order Anticipated for Board Review at a Future Meeting
22-086 (EmR 2216)	023-22	04/13/2022	09/28/2024	DE 11	Pre-Certification Sedation Education	Emergency Rule Effective on 11/28/2022; Public Hearing for Both Emergency and Permanent Rules at 01/04/2023 Meeting	Board Approval of Final Permanent Rule Draft and Legislative Report; Emergency Rule effective until 04/26/2023
22-087	031-22	06/03/2022	10/11/2024	DE 13	Controlled Substances Prescribing Continuing Education Requirements	Public Hearing at 01/04/2023 Meeting	Board Approval of Final Rule and Legislative Report