



**HYBRID (IN-PERSON/VIRTUAL)
DENTISTRY EXAMINING BOARD**
Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Will Johnson, (608) 266-2112
May 1, 2024

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 March 6, 2024 (5-11)**
- D. Introductions, Announcements and Recognition**
- E. Reminders: Conflicts of Interest, Scheduling Concerns**
- F. Administrative Matters**
 - 1) Department, Staff and Board Updates
 - 2) Appointments of Liaisons and Alternates
 - 3) 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. Gundersen, David – 7/1/2026
 - 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
- G. Legislative and Policy Matters – Discussion and Consideration**

H. Administrative Rule Matters – Discussion and Consideration (12-45)

- 1) Discussion of Emergency Rule Draft of DE 1 to 17 - Dental Therapists (13-31)
- 2) Discussion of Scope Statement for DE 5, 8, and 14 - Informed Consent (32-33)
- 3) Discussion of Scope Statement for DE 1 to 17 - Dentist and Dental Hygienist Compact (34-35)
- 4) Discussion of Adoption Order for DE 1, 5, 6, 13, and 16 - Certification of EFDAs (36-43)
- 5) Pending or possible rulemaking items (44)

I. Opioid Abuse Goal Setting and Report Pursuant to Wis. Stat. 440.035 (2m)(c) – Discussion and Consideration (45)

J. Expanding Licensure Opportunities – Discussion and Consideration

K. 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) Public Health Emergencies
- 11) Administrative Rule Matters
- 12) Liaison Reports
- 13) Board Liaison Training and Appointment of Mentors
- 14) Informational Items
- 15) Division of Legal Services and Compliance (DLSC) Matters
- 16) Presentations of Petitions for Summary Suspension
- 17) Petitions for Designation of Hearing Examiner
- 18) Presentation of Stipulations, Final Decisions and Orders
- 19) Presentation of Proposed Final Decisions and Orders
- 20) Presentation of Interim Orders
- 21) Petitions for Re-Hearing
- 22) Petitions for Assessments
- 23) Petitions to Vacate Orders
- 24) Requests for Disciplinary Proceeding Presentations
- 25) Motions
- 26) Petitions
- 27) Appearances from Requests Received or Renewed
- 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports

L. 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.).

M. Credentialing Matters

1) Application Review

- a. Sarah Willard – Nitrous Oxide and Local Anesthesia Certification (46-57)
- b. Judy Burgess-Drain – Dentist (58-93)

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

1) Proposed Stipulations, Final Decisions and Orders

- a. 23 DEN 049 – Grant A. Lemke (94-99)
- b. 23 DEN 057 – Paramjit Singh Sidhu (100-105)
- c. 23 DEN 113 – Surinder K. Mehra (106-111)

2) Case Closings

- a. 23 DEN 110 – S.S.R. (112-116)
- b. 23 DEN 138 – L.A.Z. (117-121)

O. Deliberation of Items Added After Preparation of the Agenda

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

P. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

ADJOURNMENT

NEXT MEETING: JUNE 12, 2024

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://dsps.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.

**VIRTUAL/TELECONFERENCE
DENTISTRY EXAMINING BOARD
MEETING MINUTES
MARCH 6, 2024**

PRESENT: Troy Alton, DDS; Lisa Bahr, RDH; Matthew Bistan, DDS; Shaheda Govani, DDS; David Gundersen; Christine Kenyon, DDS; Debra Kolste; Katherine Schrubbe, RDH; Peter Sheild, DDS; Diana Whalen, RDH

EXCUSED: Joan Fox

STAFF: Will Johnson, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Brenda Taylor, Board Services Supervisor; and other Department staff

CALL TO ORDER

Matthew Bistan, Chairperson, called the meeting to order at 9:01 a.m. A quorum was confirmed with ten (10) members present.

ADOPTION OF AGENDA

MOTION: Katherine Schrubbe moved, seconded by Peter Sheild, to adopt the Agenda as published/. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 3, 2024

MOTION: Shaheda Govani moved, seconded by Lisa Bahr, to approve the Minutes of January 3, 2024, as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Appointments of Liaisons and Alternates, Delegation of Authorities

LIAISON APPOINTMENTS	
Credentialing Liaisons	Lisa Bahr (<i>Dental Hygiene</i>), Shaheda Govani (<i>Dentistry</i>) <i>Alternate:</i> Troy Alton
Education and Examination Liaison	Katherine Schrubbe, David Gundersen <i>Alternate:</i> Diana Whalen, Peter Sheild
Monitoring Liaison	Peter Sheild <i>Alternate:</i> Debra Kolste
Professional Assistance Procedure (PAP) Liaison	Peter Sheild [hold until confirmed] Joan Fox [contact prior to assignment] <i>Alternate:</i> Christine Kenyon

Legislative Liaison	Matthew Bistan <i>Alternate: Shaheda Govani</i>
Travel Authorization Liaison	Matthew Bistan <i>Alternate: Katherine Schrubbe</i>
Website Liaison	Matthew Bistan <i>Alternate: Lisa Bahr</i>
PDMP Liaison/ Appointed to Controlled Substances Board as per Wis. Stats. §15.405(5g)	David Gundersen <i>Alternate: Troy Alton</i>
Screening Panel Members	Troy Alton, Peter Sheild, Debra Kolste, Katherine Schrubbe <i>Alternate: Diana Whalen</i>
Licensure Forms Committee	Lisa Bahr, Shaheda Govani, Diana Whalen <i>Alternate: Matthew Bistan</i>

Delegation of Authorities

Review and Approval of 2023 Delegations

MOTION: David Gundersen moved, seconded by Matthew Bistan, to reaffirm all delegation motions from 2023 as reflected in the agenda materials. Motion carried unanimously.

Document Signature Delegations

MOTION: Peter Sheild moved, seconded by Lisa Bahr, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director, Board Counsel or DPD Division Administrator, the authority to sign on behalf of a Board member as necessary. Motion carried unanimously.

Monitoring Delegations

Delegation to Monitoring Liaison

MOTION: David Gundersen moved, seconded by Katherine Schrubbe, to delegate authority to the Monitoring Liaison(s) to make any determination on Orders under monitoring and to refer to the Full Board any matter the Monitoring Liaison deems appropriate. Motion carried unanimously.

Delegation to Department Monitor

MOTION: Matthew Bistan moved, seconded by Troy Alton, to delegate authority to the Department Monitor as outlined below:

1. to grant reinstatement of licensure if education and/or costs are the sole condition of the order and the credential holder has submitted the required proof of completion for approved courses and paid the costs.
2. to suspend the license if the credential holder has not completed Board ordered education and/or paid costs and forfeitures within the time specified by the Board order. The Department Monitor may remove the suspension and issue an order when proof of completion and/or payment has been received.
3. to suspend the license (or remove stay of suspension) if a credential holder fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if credential holder ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.
4. to grant or deny approval when a credential holder proposes treatment providers, mentors, and supervisors unless the Order specifically requires full-Board or Board designee approval.
5. to grant a maximum of one 90-day extension, if warranted and requested in writing by a credential holder, to complete Board ordered continuing, disciplinary, or remedial education.
6. to grant a maximum of one 90-day extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by a credential holder.
7. to grant a maximum of one 90-day extension, if warranted and requested in writing by a credential holder, to complete a Board ordered evaluation or exam.

Motion carried unanimously.

Pre-Screening Authority Delegations

Delegation to Department Attorney to Open Cases

MOTION: Troy Alton moved, seconded by Peter Sheild to delegate pre-screening decision-making authority to the Department screening attorney for opening cases as outlined below:

1. OWIs of 3 or more that occurred in the last 5 years.
2. Reciprocal discipline cases.
3. Impairment and/or diversion at work that includes a positive drug/alcohol test or admission by respondent.
4. Pending charges, and/or conviction of a misdemeanor or felony that

the attorney believes is substantially related and is not otherwise excluded from consideration via Wis. Stat. ch. 111.

5. After three requests from intake to provide a response to the allegations, along with patient records and films, the respondent fails to provide all requested information and/or documentation.
 6. X-rays provided are not of diagnostic quality and/or patient notes and records are not legible.
 7. Response is provided by someone other than Respondent.
 8. Complaint based upon a settlement in a dental malpractice case.
 9. Unlicensed practice occurring during the 5-year right to renew period.
- Motion carried unanimously.

Discussion: Continuing education

Delegation to Department Attorney to Close Cases

MOTION: Matthew Bistan moved, seconded by Debra Kolste, to delegate prescreening decision making authority to the Department screening attorney for closing cases as outlined below:

1. One OWI that is non-work related and if AODA assessment completed, assessment does not indicate dependency.
2. Complaints that even if allegations are true, do not amount to a violation of law or rules, lack subject matter jurisdiction, and/or lack personal jurisdiction.

Motion carried unanimously.

Credentialing Authority Delegations

Delegation to Department Attorneys to Approve Duplicate Legal Issue

MOTION: Lisa Bahr moved, seconded by Matthew Bistan, to delegate authority to Department Attorneys to approve a legal matter in connection with a renewal application when that same/similar matter was already addressed by the Board and there are no new legal issues for that credential holder.

Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Consideration of board approval of Adoption Order for DE 2 and 11

MOTION: Matthew Bistan moved, seconded by Troy Alton, to authorize the Chair to approve the Adoption Order for DE 2 and 11 relating to Certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support. Motion carried unanimously.

Pending or Possible Rulemaking Projects

MOTION: Lisa Bahr moved, seconded by Shaheda Govani, to request DSPS staff draft a Scope Statement revising DE 1, 5, 6, 13, and 17, relating to Licensure of Dental Therapists. Motion carried unanimously.

MOTION: David Gundersen moved, seconded by Katherine Schrubbe, to designate the Chairperson to approve the Scope Statement DE 1, 5, 6, 13, and 17, relating to Licensure of Dental Therapists, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chairperson to approve the Scope Statement for implementation no less than 10 days after publication. If the Board is directed to hold a preliminary public hearing on the Scope Statement, the Chairperson is authorized to approve the required notice of hearing. Motion carried unanimously.

CLOSED SESSION

MOTION: Lisa Bahr moved, seconded by Katherine Schrubbe, 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; Shaheda Govani-yes; David Gundersen-yes; Christine Kenyon-yes; Debra Kolste-yes; Katherine Schrubbe-yes; Peter Sheild-yes; and Diana Whalen-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:32 a.m.

CREDENTIALING MATTERS

Application Review

Bernice Clement – Expanded Function Dental Auxiliary

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to deny the application of Bernice Clement for certification as an Expanded Function Dental Auxiliary. Reason for Denial: Applicant has not demonstrated to the satisfaction of the examining board that the applicant has successfully completed an accredited instructional program under Wis. Stats. § 447.035 (3)(b)2 and Wis. Admin. Code § DE 16.03(1)(c). Motion carried unanimously.

Rose DeMendonca – Expanded Function Dental Auxiliary

MOTION: Shaheda Govani moved, seconded by Lisa Bahr, to deny the application of Rose DeMendonca for certification as an Expanded Function Dental Auxiliary. Reason for Denial: Applicant has not demonstrated to the satisfaction of the examining board that the applicant has successfully completed an accredited instructional program under Wis. Stats. § 447.035 (3)(b)2 and Wis. Admin. Code § DE 16.03(1)(c). Motion carried unanimously.

Amy Elizabeth Gilbert – Dental Hygiene Certificate

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to approve the Dental Hygiene Certificate application of Amy Elizabeth Gilbert, once all requirements are met. Motion carried unanimously.

Chase Oshiro – Dentist

MOTION: Matthew Bistan moved, seconded by Christine Kenyon, to approve the Dentist application of Chase Oshiro, once all requirements are met. Motion carried unanimously.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Proposed Stipulations, Final Decisions and Orders

21 DEN 005 – Matthew H. Langewisch

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Matthew H. Langewisch, DLSC Case Number 21 DEN 005. Motion carried unanimously.

22 DEN 176 – David E. Krigbaum

MOTION: Peter Sheild moved, seconded by Troy Alton, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against David E. Krigbaum, DLSC Case Number 22 DEN 176. Motion carried unanimously.

23 DEN 023 and 23 DEN 024 – Jon E. Cruz

MOTION: Peter Sheild moved, seconded by Debra Kolste, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Jon E. Cruz, DLSC Case Numbers 23 DEN 023 and 23 DEN 024. Motion carried unanimously.

Administrative Warnings

23 DEN 069 – T.T.T.

MOTION: David Gundersen moved, seconded by Matthew Bistan, to issue an Administrative Warning in the matter of T.T.T., D.D.S., DLSC Case Number 23 DEN 069. Motion carried unanimously.

Case Closings

MOTION: Troy Alton moved, seconded by Katherine Schrubbe, to close the following DLSC Cases for the reasons outlined below:
22 DEN 051 – E.N.A. – No Violation
22 DEN 005 – D.J.W. – No Violation
23 DEN 117 – E.J.G. – No Violation
23 DEN 139 – D.S.R. – No Violation
Motion carried unanimously.

RECONVENE TO OPEN SESSION

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

The Board reconvened into Open Session at 11:19 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

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

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

ADJOURNMENT

MOTION: Peter Sheild, seconded by Debra Kolste, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:22 a.m.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Jake Pelegrin Administrative Rules Coordinator		2) Date when request submitted: 4/17/24 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: 5/1/24	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. Discussion of Emergency Rule Draft of DE 1 to 17, Dental Therapists 2. Discussion of Scope Statement for DE 5, 8, and 14 - Informed Consent 3. Discussion of Scope Statement for DE 1 to 17 - Dentist and Dental Hygienist Compact 4. Discussion of Adoption Order for DE 1,5,6,13,16 - Cert of EFDAs 5. Pending or possible rulemaking items	
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: Attachments: -Emergency Rule Draft of DE 1 to 17, Dental Therapists -Scope Statement for DE 5, 8, and 14 - Informed Consent -Scope Statement for DE 1 to 17 - Dentist and Dental Hygienist Compact -Adoption Order for DE 1,5,6,13,16 - Cert of EFDAs -Dentistry Rules Chart			
11) <i>Jake Pelegrin</i>		Authorization _____ 4/17/24	
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 : ORDER OF THE
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD : ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 031-24, was approved by the Governor on March 14, 2024, published in Register 819A3 on March 18, 2024, and approved by the Dentistry Examining Board on March 29, 2024. This emergency rule was approved by the Governor on (date).

ORDER

An order of the Dentistry Examining Board to amend DE; relating to Licensure of Dental Therapists.

Analysis prepared by the Department of Safety and Professional Services.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature by section 65 (2) (a) in 2023 Wisconsin Act 87 provides an exemption from a finding of emergency for the adoption of the rule.

ANALYSIS

Statutes interpreted: Section 447.02 (1) (g), Stats.

Statutory authority: Sections 15.08 (5) (b), 447.02 (1) (a), (1) (b), (1) (g), and 447.02 (2) (a), 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) (a), Stats. states that the examining board may promulgate rules “[g]overning the reexamination of an applicant who fails an examination specified in s. 447.04 (1) (a) 5., (1m) (e), or (2) (a) 5. The rules may specify additional education requirements for those applicants and may specify the number of times an applicant may be examined.”

Section 447.02 (1) (b), Stats. states that the examining board may promulgate rules “[g]overning the standards and conditions for the use of radiation and ionizing equipment in the practice of dentistry or dental therapy.”

Section 447.02 (1) (g), Stats. states that the examining board may promulgate rules “Specifying services, treatments, or procedures, in addition to those specified under s. 447.06 (3) (b) 1. to 27., that are included within the practice of dental therapy.”

Section 447.02 (2) (a), Stats. states that the examining board shall promulgate rules specifying “[t]he conditions for supervision and the degree of supervision required under ss. 447.03 (3) (a), (am), (b) and (d) 2. and 447.065.”

2023 Wisconsin Act 87, Section 65 (2) (a) provides that “The dentistry examining board shall promulgate emergency rules under s. 227.24 that are necessary to implement this act. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this paragraph remain in effect for 2 years, or until the date on which permanent rules take effect, whichever is sooner.”

Related statute or rule:

2023 Wisconsin Act 87.

Plain language analysis:

The objective of the proposed rule is to implement the statutory changes from 2023 Wisconsin Act 87, providing for the licensure and regulation of dental therapists in Wisconsin. The rule integrates dental therapists into the current code chapters DE 1 to 16 and creates chapter DE 17. The rule will expand on the regulations already set in statute by the Act, and further specify requirements in several areas. The rule clarifies and specifies the scope of practice for dental therapist, the levels of supervision required from a supervising dentist, and the ability of a dental therapist to dispense various medications.

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

None.

Comparison with rules in adjacent states:

Illinois:

Illinois statutes and codes do not provide for licensure of dental therapists.

Iowa:

Iowa statutes and codes do not provide for licensure of dental therapists.

Michigan:

Michigan law provides for licensure and regulation of dental therapists [MCL 333.16651 to 16659]. Their scope of practice includes a list of 27 dental therapy services including identifying conditions, dispensing medications prescribed by a health care professional, teeth cleaning, and other basic dental procedures. Their dental therapists can practice only under the supervision of a supervising dentist. The supervising dentist and dental therapist must create a written agreement to agree to the services and procedures the dental therapist is allowed to do. This written practice agreement must be fairly detailed and is regulated by a variety of provisions in Michigan law. Essentially, the supervising dentist has a fair amount of authority over what they will allow the dental therapist to do.

Michigan rules further specify a dental therapist's scope of practice and conditions of supervision [Michigan Rules R 338.11415 to 11417]. For supervision, the supervisor does not always need to be physically present in the office, but must be continuously available by telephone or telecommunication. Also, a dental therapist may supervise dental assistants and dental hygienists (to the extent permitted in the written practice agreement).

Minnesota:

Minnesota law provides for licensure and regulation of dental therapists and advanced dental therapists [2023 Minnesota Statutes, parts 150A.105 to 106]. Their scope of practice is limited to a similar list of 30 dental therapy services and procedures. However, in Minnesota's list, 14 of the more intensive procedures are required to be done under a level of supervision where the supervising dentist is physically present in the office (but doesn't need to be in the room). The remaining 16 less-intensive procedures are allowed to be done if the supervising dentist is not present in the office. However, these are minimums and the supervision can be more direct, as agreed on in the collaborative management agreement between the dental therapist and the supervising dentist. Like Michigan, the requirements for their collaborative management agreements specifies a large level of detail to be agreed on in writing between the two parties. Dental therapists may supervise dental assistants, but not dental hygienists.

Advanced dental therapists have increased education requirements but have a slightly wider scope of practice. In addition to the scope of practice described above, they can also perform nonsurgical extractions of permanent teeth. Also, all their services and procedures are allowed to be done under a level of supervision where the supervising dentist is not present in the office.

Minnesota administrative rules further specify licensure requirements for dental therapists but make minimal other additions to the regulations already in Minnesota statute [Minnesota Rules parts 3100.1170 to 1180].

Summary of factual data and analytical methodologies:

The department, in collaboration with the board, reviewed code chapters DE 1 to 16 to determine what changes need to be made due to 2023 Wisconsin Act 87. Additionally, the board decided to create chapter DE 17 to further specify practice requirements for dental therapists.

Fiscal Estimate:

The Fiscal Estimate 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 at Jennifer.Garrett@wisconsin.gov or (608) 266-2112.

Agency contact person:

Jake Pelegrin, 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 608-267-0989; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Jake Pelegrin, 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 1.01 is amended to read:

DE 1.01 Authority. The provisions in chs. DE 1 to ~~16~~¹⁷ are adopted pursuant to authority in ss. 15.08 (5) and 227.11 (2) (a), Stats., and ch. 447, Stats.

SECTION 2. DE 1.02 (4m) is created to read:

DE 1.02 (4m) “Dental therapy” means the limited practice of dentistry, consisting of the services, treatments, and procedures specified in s. 447.06 (3) (b), Stats. and ch. DE 17.

SECTION 3. DE 2.005 (intro) is amended to read:

DE 2.005 ~~Dental testing service and dental hygiene~~ Testing service requirements. A dental, dental therapy, ~~testing service~~ or dental hygiene testing service may be approved if all the testing service's exams meet all of the following requirements:

SECTION 4. DE 2.01 (3) is created to read:

DE 2.01 (3) An applicant for license as a dental therapist shall meet the requirements in sub. (1) (a) and (c) and shall also submit to the board:

(a) Evidence satisfactory to the board that the applicant has graduated from one of the following programs:

1. An accredited dental therapy education program.
2. A dental therapy education program that was not accredited at the time of graduation, but satisfies all of the following:
 - a. The program was approved by the Minnesota Department of Dentistry on or before February 2, 2024.
 - b. The program was accredited as of the date the individual applies for licensure under this subsection.
3. A dental therapy education program located in Wisconsin that at the time of graduation was not fully accredited, but had received initial accreditation as outlined in s. 447.04 (1m) (c) 3., Stats.

(b) Evidence satisfactory to the board that the applicant has passed a national board dental therapy examination and a dental therapy clinical examination administered by a regional testing service that has been approved by the board as outlined in s. 447.04 (1m) (d), Stats.

(c) Evidence of successful completion of an examination on the statutes and rules relating to dental therapy.

(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.

(e) If applicable, information relating to the applicant's licensure in other jurisdictions.

SECTION 5. DE 2.013 is amended to read:

DE 2.013 Student supervision. A dental student under s. 447.03 (3) (a), Stats., a dental therapy student under s. 447.03 (am), 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.

SECTION 6. DE 2.02 (2m) is created to read:

DE 2.02 (2m) Every person granted a license as a dental therapist shall be deemed licensed for the current biennial license period.

SECTION 7. DE 2.03 (2m) is created to read:

DE 2.03 (2m) REQUIREMENTS FOR RENEWAL; DENTAL THERAPISTS. A dental therapist 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).

SECTION 8. DE 2.03 (3) is amended to read:

DE 2.03 (3) FAILURE TO MEET REQUIREMENTS. A dentist, dental therapist, or dental hygienist who fails to meet the requirements under subs. (1) (a) to (d), ~~and (2)~~ and (2m) by the renewal date shall cease and desist from dental, dental therapy, or dental hygiene practice.

SECTION 9. DE 2.03 (4) is amended to read:

DE 2.03 (4) NEW LICENSEES. Dentists, dental therapists, 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.

SECTION 10. DE 2.03 (5) (a) is amended to read:

DE 2.03 (5) (a) A dentist, dental therapist, 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:

SECTION 11. DE 2.03 (5) (b) is amended to read:

DE 2.03 (5) (b) This paragraph does not apply to dentists or dental hygienists who have unmet disciplinary requirements. A dentist, dental therapist, or dental hygienist renewing the license after 5 years shall do all of the following:

SECTION 12. DE 2.03 (5) (b) 3. b. is amended to read:

DE 2.03 (5) (b) 3. b. If a dentist or dental therapist, successful completion of a board approved testing service examination within one year of renewal.

SECTION 13. DE 2.03 (6) is amended to read:

DE 2.03 (6) REINSTATEMENT. A dentist, dental therapist, 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:

SECTION 14. DE 2.035 (2) and (2) (e) are amended to read:

DE 2.035 (2) Each applicant for reciprocal licensure as a dentist, dental therapist, or dental hygienist shall submit all of the following:

(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, dental therapist, or dental hygienist license granted by the board.

SECTION 15. DE 2.04 (3) is created to read:

DE 2.04 (3) The board may grant a license as a dental therapist 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 dental therapy education program**.

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

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

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

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

(f) 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.

(g) 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.

SECTION 16. DE 3.01 is amended to read:

DE 3.01 Supervision. A dental hygienist shall practice under the supervision of a licensed dentist or dental therapist in a dental facility or a facility specified in s. 447.06 (2), Stats., if applicable.

SECTION 17. DE 3.02 (1) (b) is amended to read:

DE 3.02 (1) (b) A dental hygienist may practice dental hygiene or perform remediable procedures only as authorized by a licensed dentist or dental therapist who is present in the facility in which those practices or procedures are performed, except as provided in par. (c).

SECTION 18. DE 3.02 (1) (c) is amended to read:

DE 3.02 (1) (c) A dental hygienist may practice dental hygiene or perform remediable procedures if a licensed dentist or dental therapist is not present in the facility in which those practices or procedures are performed only if all of the following conditions are met:

SECTION 19. DE 3.02 (2) (a) 2. is amended to read:

DE 3.02 (2) (a) 2. For a school for the education of dentists, dental therapists, or dental hygienists.

SECTION 20. DE 3.04 (3) is amended to read:

DE 3.04 (3) A dentist or dental therapist may delegate to a dental hygienist the administration of oral systemic premedications and subgingival sustained release chemotherapeutic agents to patients only if all of the following conditions are met:

(a) The administration is performed pursuant to a treatment plan for the patient approved by a dentist or dental therapist.

(b) A dentist or dental therapist remains on the premises in which the administration is performed and is available to the patient throughout the completion of the appointment.

SECTION 21. DE 5.02 (intro), (5), (9), (14m), (15), (20), and (24) are amended to read:

DE 5.02 Unprofessional conduct. Unprofessional conduct by a dentist, dental therapist, dental hygienist, or expanded function dental auxiliary includes:

(5) Practicing in a manner which substantially departs from the standard of care ordinarily exercised by a dentist, dental therapist, dental hygienist, or expanded function dental auxiliary which harms or could have harmed a patient.

(9) Impersonating another dentist, dental therapist, dental hygienist, or expanded function dental auxiliary.

(14m) Surrendering, while under investigation, a license, certificate, permit, or registration granted by another state to practice as a dentist, dental therapist, dental hygienist, or expanded function dental auxiliary.

(15) Violating any law or being convicted of a crime the circumstances of which substantially relate to the practice of a dentist, dental therapist, or dental hygienist.

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

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

SECTION 22. DE 5.02 (21m) is created to read:

DE 5.02 (21m) Aiding or abetting or permitting unlicensed persons in the practice of dental therapy, as defined in s. 447.01 (6r), Stats.

Add anything for chapter DE 6, Unprofessional Advertising?

SECTION 23. DE 6.02 (5) is created to read:

DE 6.02 (5) Advertising restrictions for dental therapists include:

SECTION 23. DE 7.04 (3) (b) (Note) is amended to read:

Note: ~~Applications are available upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708. Instructions for applications are available on the department of safety and professional services' website at <http://dsps.wi.gov> or by calling (608) 266-2112.~~

SECTION 24. DE 7.06 is amended to read:

DE 7.06 Dentist responsibility for the administration of local anesthetic. The dentist is ultimately responsible for all decisions regarding the administration of local anesthetic,

particularly in determining the pharmacological and physiological considerations of each individual treatment plan. A dental therapist may not supervise the administration of local anesthetic by a dental hygienist.

SECTION 24. DE 8.02 (1) is amended to read:

DE 8.02 (1) "Patient" means a person who receives dental services from a licensed dentist, dental therapist, or dental hygienist.

SECTION 25. DE 8.035 is amended to read:

DE 8.035 Preservation of patient health care records. A person who manages or controls a business that offers dental, dental therapy, or dental hygiene services, including management or control of a business through which the person allows another person to offer dental or dental hygiene services, shall preserve patient health care records for at least 10 years from the date of the last entry.

SECTION 26. DE 9.02 (2) is amended to read:

DE 9.02 (2) The dentist's or dental therapist's name.

SECTION 27. DE 10.01 (1) is amended to read:

DE 10.01 (1) "Mobile dentistry program" means a program providing dental hygiene as defined by s. 447.01 (3), Stats., dental therapy as defined by s. 447.01 (6r), Stats., or dentistry as defined by s. 447.01 (8), Stats., excluding a health practitioner practicing within the scope of a license not governed by ch. 447, Stats., in one of the following:

SECTION 28. DE 10.02 (1) (b), 1., b., and 2. are amended to read:

DE 10.02 (1) (b) A program providing dental, dental therapy, or dental hygiene care is not required to register if one of the following requirements is satisfied:

1. The dental, dental therapy, or dental hygiene care is provided within a 50 mile radius of their main or satellite facility and all of the following:

b. The dentist, dental therapist, or dental hygienist provides any necessary follow-up care to the patient.

2. The dental, dental therapist, or dental hygiene care is being provided to a new or established patient of record of the main or satellite dental facility and no more than 2 patients per day are being treated using portable equipment or a self-contained, intact facility that can be moved.

SECTION 29. DE 10.02 (2) (c) is amended to read:

10.02 (2) (c) A list of all employees, contractors, or volunteers who are providing dental, dental therapy, or dental hygiene care in Wisconsin. The list shall include the Wisconsin license number for each person providing dental, dental therapy, or dental hygiene care.

SECTION 30. DE 10.02 (3) (c) is amended to read:

10.02 (3) (c) A list of all employees, contractors or volunteers who are providing dental, dental therapy or dental hygiene care in Wisconsin. The list shall include the Wisconsin license number for each person providing dental care.

SECTION 31. DE 10.045 is amended to read:

DE 10.045 Notification to department. The mobile dentistry program shall notify the department within 30 days of new employees, contractors or volunteers providing dental, dental therapy, or dental hygiene services in Wisconsin.

SECTION 32. DE 11.10 (3m) (g) (Note) is amended to read:

Note: Forms are available on the department of safety and professional services' website at <http://dps.wi.gov> or at the office of the Dentistry Examining Board located at 4822 Madison Yards Way/400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

SECTION 33. DE 12.01 (intro) is amended to read:

DE 12.01 Nondelegated functions. A dentist or dental therapist may not delegate any dental procedure of any description to an unlicensed person if the procedure or function to be delegated is any of the following:

SECTION 34. DE 12.02 is amended to read:

DE 12.02 Training. A dentist or dental therapist who delegates any remediable dental procedure or function to an unlicensed person shall first provide training to or verify competency of the person in the performance of the procedure or function.

SECTION 35. DE 12.03 is amended to read:

DE 12.03 Reporting violations. (1) A licensee shall report to the board any dentist or dental therapist who is improperly delegating the performance of any dental or dental therapy procedure or function to an unlicensed person, or is delegating to a person performing any dental or dental therapy procedure or function in a manner which is less than minimally competent.

(2) A licensee who fails to report the circumstances as specified in sub. (1) constitutes aiding and abetting the violation of a law substantially related to the practice of dentistry, dental therapy, or dental hygiene, and shall be in violation of s. DE 5.02 (20), (21), or (22).

SECTION 36. DE 13.02 (3) and (4) are amended to read:

DE 13.02 (3) "Professional organization" means an organization that seeks to further the dental, dental therapy, dental hygiene, or medical professions, the interests of licensees engaged in those professions, and the public interests. "Professional organization" includes a study group, as defined in sub. (4).

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

SECTION 37. DE 13.035 is created to read:

DE 13.035 Continuing education requirements for dental therapists. (1) COMPLETION OF CONTINUING EDUCATION CREDIT HOURS. Except as provided under sub. (6), during the 2-year period immediately preceding the renewal date specified under s. 440.08 (2) (a), Stats., a dental therapist shall complete 12 credit hours of continuing education related to the practice of dental therapy. No more than 2 of the 12 credit hours may be satisfied by training related to basic life support or cardiopulmonary resuscitation. Not less than 2 of the 12 credit hours shall include training in infection control.

(1m) PRESCRIBING CONTROLLED SUBSTANCES CONTINUING EDUCATION. If a dental therapist has a federal drug enforcement administration registration number, the 12 credit hours of continuing education shall include 2 hours in the topic of prescribing of controlled substances for the treatment of dental pain.

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

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

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

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

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

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

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

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

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

SECTION 38. DE 13.05 (1m) is created to read:

DE 13.05 (1m) DENTAL THERAPISTS. The board accepts continuing education programs for dentists that satisfy the following criteria:

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

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

- 1.** Sponsored or recognized by a local, state, regional, national, or international dental, dental therapy, dental hygiene, dental assisting, or other medical professional organization.
- 2.** A college level course that is offered by a postsecondary institution accredited by the American Dental Association Commission on Dental Accreditation or a successor agency, or by another recognized accrediting body.
- 3.** A study group as specified in s. DE 13.02 (4).

SECTION 39. DE 14.01 (2) is amended to read:

DE 14.01 (2) PURPOSE. The purpose of the rules is to define the obligation of a dentist or dental therapist to communicate alternate modes of treatment to a patient.

SECTION 40. DE 14.02 is amended to read:

DE 14.02 Informed consent. Any dentist or dental therapist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments prior to treating the patient. The reasonable dentist standard is the standard for informing a patient under this section. The reasonable dentist standard requires disclosure only of information that a reasonable dentist would know and disclose under the circumstances.

SECTION 41. DE 14.03 is amended to read:

DE 14.03 Recordkeeping. A dentist's or dental therapist's patient record shall include documentation that alternate modes of treatment have been communicated to the patient and informed consent has been obtained from the patient.

SECTION 42. DE 14.04 is amended to read:

DE 14.04 Exceptions to communication of alternate modes of treatment. A dentist or dental therapist is not required to disclose the types of information listed in ss. 447.40 (1) to (6), Stats.

Note: Section 447.40, Stats., reads: "Any dentist or dental therapist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable dentist standard is the standard for informing a patient under this section. The reasonable dentist standard requires disclosure only of information that a reasonable dentist would know and disclose under the circumstances. The dentist's or dental therapist's duty to inform the patient under this section does not require disclosure of any of the following: **(1)** Detailed technical information that in all probability a patient would not understand. **(2)** Risks apparent or known to the patient. **(3)** Extremely remote possibilities that might falsely or detrimentally alarm the patient. **(4)** Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment. **(5)** Information in cases where the patient is incapable of consenting. **(6)** Information about alternate modes of treatment for any condition the dentist or dental therapist has not included in his or her diagnosis, assessment, or treatment plan at the time the dentist or dental therapist informs the patient.

SECTION 43. DE 16.04 (2) is amended to read:

DE 16.04 (2) At least 2,000 hours of practice as a dental assistant, verified by a supervising licensed dentist or dental therapist.

SECTION 43. DE 16.05 is amended to read:

DE 16.05 Supervised Practice. (1) An auxiliary certified under s. 447.04 (3), Stats. may perform any of the functions listed in s. 447.035 (2), Stats. under the supervision of a Wisconsin licensed dentist or dental therapist.

(2) The supervising licensed dentist or dental therapist who has delegated a procedure to an auxiliary certified under s. 447.04 (3), Stats. shall remain on the premises for the duration of the delegated procedure and verify that the procedure has been performed successfully.

SECTION 43. Chapter DE 17 is created to read:

Chapter DE 17

PRACTICE OF DENTAL THERAPY

DE 17.01 Definitions. In this chapter:

(1) “Direct Supervision” means that the dentist is present in the dental office or other practice setting, personally diagnoses the condition to be treated, personally authorizes each procedure, and before dismissal of the patient, evaluates the performance of the supervised dental personnel.

(2) “General Supervision” means that the dentist is not present in the dental office or other practice setting or on the premises at the time tasks or procedures are being performed by the supervised dental personnel, but that the tasks or procedures performed by the supervised dental personnel are being performed with the prior knowledge and consent of the dentist.

(3) “Indirect Supervision” means that the dentist is present in the dental office or other practice setting, authorizes each procedure, and remains in the office while the procedures are being performed by the supervised dental personnel.

DE 17.02 Scope of Practice. A licensed dental therapist shall practice dental therapy under the following conditions:

(1) EMPLOYMENT. Subject to sub. (2), a licensed dental therapist shall comply with all of the following conditions:

(a) Pursuant to s. 447.06 (3) (dr), Stats., the dentist must either be the dental therapist’s employer or contracted by the dental therapist’s employer for treatment services.

(b) Provide dental therapy services as an employee of one or more of the following:

1. A dentist with whom the dental therapist has entered into a collaborative management agreement as outlined in s. DE 17.03.

2. A dental practice.
3. A school district, private school operator, or tribal school as defined in ss. 115.001 (3r) and (15m), Stats.
4. An operator of a school for education of dentists or dental hygienists.
5. A federal, state, county, or municipal correction or detention facility, or a hospice facility.
6. A local health department as defined in s. 250.01, Stats.
7. A charitable institution open to the public or members of a religion.
8. A nonprofit home health care agency.
9. An operator of a non-profit dental care program that serves economically disadvantaged populations.
10. A health care employer as defined in s. 440.094 (1) (b), Stats.

(2) PRACTICE LIMITATION. In addition to the requirements in sub. (1), a licensed dental therapist shall at all times comply with at least one of the following:

- (a)** Limit their practice to one or more dental health shortage areas.
- (b)** Practice in one or more settings in which at least 50 percent of the total patient base consists of any of the following:
 1. Medical Assistance patients.
 2. Uninsured patients.
 3. Patients receiving dental care at free and charitable clinics.
 4. Patients receiving dental care at federally qualified health centers.
 5. Patients who reside in long-term care facilities.
 6. Veterans.
 7. Patients who are members of a federally recognized Indian tribe or band.
 8. Patients receiving dental care at clinics or facilities located on tribal lands.

9. Patients with medical disabilities or chronic conditions that create barriers of access to dental care.

(3) SERVICES, TREATMENTS, AND PROCEDURES. Subject to the collaborative management agreement in s. DE 17.03, the scope of practice of a dental therapist is limited to the services, treatments, and procedures listed in s. 447.06 (3) (b), Stats. Pursuant to s. 447.06 (3) (b) 28., Stats., a dental therapist may also perform any of the following services, treatments, and procedures:

(a) [REDACTED]

(4) RADIATION AND IONIZING EQUIPMENT. [REDACTED] ---

(5) PRACTICE STANDARDS (This is sample language from cosmetology and the board can decide if any or all of these provisions are wanted.)

(a) Services provided by any licensee shall be performed in a manner that is consistent with basic and accepted practice standards and in accordance with all state statutes, board rules and local codes and ordinances.

(b) Licensees may provide only those services which they are competent to perform by training or experience and are licensed to provide.

(c) Licensees shall provide services to the best of their ability and make reasonable efforts to comply with requests in a manner that is satisfactory to a patient. Licensees shall not provide services to a patient without first obtaining the consent of the patient or legal guardian of the patient.

(d) Licensees shall take adequate and necessary precautions to protect the patient from health and safety hazards when performing services

DE 17.03 Collaborative Management Agreement. (1) A dental therapist shall be subject to a collaborative management agreement with a dentist that meets the following requirements:

(a) A list of the practice settings where services may be provided and which patient populations may be served.

(b) A list of any limitations outlined in sub. (2) on the services, treatments, and procedures provided by the dental therapist or that are or are considered outside of the dental therapist's education and training.

(c) Pursuant to DE 17.04, the level of supervision provided.

(d) A list of any circumstances where consultation with the supervising dentist is required prior to performing services.

Commented [NH1]: Any other services in addition to the ones in statute that the DTs can do?

Commented [NH2]: 447.02 (1) (b) "Governing the standards and conditions for the use of radiation and ionizing equipment in the practice of dentistry or dental therapy." (No rules written for Dentists, does the Board want to write rules for DTs?)

(e) A list of protocols for all of the following areas:

1. Age-specific practices.
2. Procedure specific practices.
3. Dental recordkeeping.
4. Managing dental or medical emergencies.
5. Quality assurance plan for monitoring care provided by the dental therapist.
6. Administering and dispensing medications.
7. Provision of care to patients with specific medical conditions.
8. Supervision of dental hygienists and other staff.
9. Referral of patients to other healthcare providers.
10. Performing any service listed under s. 447.06 (3) (b) 15., Stats.

(2) A collaborative management agreement shall be limited to one dentist and one dental therapist.

(3) A dental therapist may enter into multiple collaborative management agreements.

(4) A dentist may not have collaborative management agreements with more than four dental therapists at any time.

DE 17.04 Supervision. (1) DENTIST SUPERVISION OF DENTAL THERAPISTS. In addition to the requirements listed in s. DE 17.03, either of the following also apply:

(a) A licensed dental therapist with less than 2,000 practice hours shall practice under the direct/indirect supervision of a dentist.

(b) A licensed dental therapist with 2,000 practice hours or more may practice under the general supervision of a dentist.

(2) DENTAL THERAPIST SUPERVISION OF DENTAL HYGIENISTS. Subject to the collaborative management agreement in s. DE 17.03, a dental therapist may supervise dental hygienists under the following conditions:

(a)

Commented [HND3]: Per 447.06 (3) (c) 2. - direct or indirect supervision?

Commented [HND4]: When and how can DTs supervise DHs?

(3) DENTAL THERAPIST SUPERVISION OF EXPANDED FUNCTION DENTAL AUXILIARIES. Subject to the collaborative management agreement in s. DE 17.03, a dental therapist may supervise expanded function dental auxiliaries under the following conditions:

(a) [REDACTED]

Commented [HND5]: When and how can DTs supervise EFDAs?

(4) DENTAL THERAPIST SUPERVISION OF UNLICENSED STAFF. Subject to the collaborative management agreement in s. DE 17.03, a dental therapist may supervise unlicensed staff under the following conditions:

(a) [REDACTED]

Commented [HND6]: When and how can DTs supervise unlicensed staff?

SECTION 6. Pursuant to 2023 Wisconsin Act 87 section 65 (2) (a), this emergency rule shall take effect upon publication in the official state newspaper and remain in effect for 2 years, or until the date on which permanent rules take effect, whichever is sooner.

(END OF TEXT OF RULE)

Dated _____

Chairperson
Dentistry Examining Board

STATEMENT OF SCOPE

DENTISTRY EXAMINING BOARD

Rule No.: DE 5, 8, and 14

Relating to: Informed Consent

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 clarify the regulations on informed consent for dental patients, which may include revisions to DE 5, 8, and 14.

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

The Board has identified a need to clarify the rules on informed consent for dental patients. Current rules are unclear on whether a verbal informed consent or a written, signed informed consent is required for various procedures. The Board will consider updating the code to clarify when a signed informed consent is required, and when a verbal informed consent is acceptable.

An alternative would be not to revise the code, which would leave the requirements unclear and can create confusion for licensees, patients, and regulators.

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

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Sections 447.02 (2) and 447.02 (2) (i), Stats.: “The examining board shall promulgate rules specifying all of the following:

(i) Provisions implementing s. 447.40.”

Section 447.40, Stats.: “Informed consent. Any dentist or dental therapist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable dentist standard is the standard for informing a patient under this section. The reasonable dentist standard requires disclosure only of information that a reasonable dentist would know and disclose under the circumstances. The dentist’s or dental therapist’s duty to inform the patient under this section does not require disclosure of any of the following:

- (1) Detailed technical information that in all probability a patient would not understand.
- (2) Risks apparent or known to the patient.

- (3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.
- (4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.
- (5) Information in cases where the patient is incapable of consenting.
- (6) Information about alternate modes of treatment for any condition the dentist or dental therapist has not included in his or her diagnosis, assessment, or treatment plan at the time the dentist or dental therapist informs the patient.”

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

Approximately 80 hours

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

Licensed dentists and dental hygienists and their patients.

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

None.

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

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

Contact Person: Jake Pelegrin, Administrative Rule Coordinator, DSAdminRules@wisconsin.gov, (608) 267-0989.

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

STATEMENT OF SCOPE

DENTISTRY EXAMINING BOARD

Rule No.: DE 1 to 17

Relating to: Dentist and Dental Hygienist Compact

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 implement the statutory changes from 2023 Wisconsin Act 88, which may include revisions to DE 1 to 17.

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

The Board intends to update the Administrative Code Chapters DE 1 to 17 in order to bring them into alignment with 2023 Wisconsin Act 88. The Act ratifies and enters Wisconsin into the Dentist and Dental Hygienist Compact, providing individuals with the ability to become eligible to practice in Wisconsin and other compact states. The Board will consider updating the code to include compact privileges for dentists and dental hygienists. The Board may also update obsolete references and inconsistent provisions in DE 1 to 17.

An alternative would be not to revise the code to reflect these new requirements, which would create confusion for stakeholders as to what is required of dentists and dental hygienists and the Board as it relates to the compact.

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

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Sections 447.04 (1) (bm) and 447.04 (1) (bm) 1. to 4.: “The examining board shall grant a compact privilege to practice dentistry to an individual who does all of the following:

1. Submits an application for the compact privilege to the department on a form provided by the department.
2. Pays the applicable fee specified in s. 447.51 (2).
3. Passes an examination administered by the examining board on the statutes and rules relating to dentistry.
4. Satisfies all other applicable requirements under s. 447.50 (4).”

Sections 447.04 (2) (bm) and 447.04 (2) (bm) 1. to 4.: “The examining board shall grant a compact privilege to practice dental hygiene to an individual who does all of the following:

1. Submits an application for the compact privilege to the department on a form provided by the department.
2. Pays the applicable fee specified in s. 447.51 (2).
3. Passes an examination administered by the examining board on the statutes and rules relating to dental hygiene.
4. Satisfies all other applicable requirements under s. 447.50 (4).”

Section 447.51 (2), Stats: “The department may impose a fee for an individual to receive a compact privilege as provided in s. 447.50 (4) (a) 4.”

Section 447.51 (3) (b) (b), Stats.: “Subject to s. 447.50 and any rules promulgated thereunder, ss. 440.20 to 440.22 and the rules promulgated under s. 440.03 (1) shall apply to an individual who is exercising the compact privilege in this state in the same manner that they apply to holders of licenses issued under subch. I.”

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

Approximately 160 hours

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

Licensed dentists and dental hygienists and anyone looking to become licensed as such in Wisconsin or to have compact privilege to practice in the state.

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

None.

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

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

Contact Person: Jake Pelegrin, Administrative Rule Coordinator, DSPSAdminRules@wisconsin.gov, (608) 267-0989.

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 23-051)

ORDER

An order of the Dentistry Examining Board to amend DE 1.01, 5.02 (intro.), (5), (9), (14m), (18), (20), (24), and (25); and create DE 5.02 (22m), 13.045, 13.05 (3), and chapter DE 16, relating to Certification of Expanded Function Dental Auxiliaries.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 447.04 (3), Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.035 (3) (a), 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 447.035 (3) (a), Stats., provides that “the examining board shall, subject to pars. (b) and (c), promulgate rules for the certification and practice of dental auxiliaries.”

Related statute or rule: 2021 Wisconsin Act 254

Plain language analysis: The objective of the proposed rule is to implement the statutory changes from 2021 Wisconsin Act 254. This was achieved through updates made several sections in DE 1 and 5, as well as the creation of new requirements in DE 5, 13, and the new chapter DE 16.

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 the practice of Dentistry 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 Expanded Function Dental Assistants. These requirements include supervised practice, and performance of specific functions. In Illinois, Expanded Function Dental Assistants are allowed to perform digital scans for impressions, pulp vitality tests, placing and carving of amalgam restorations, placing and finishing of composite restorations, and coronal polishing, among other functions. The supervising dentist is required to remain onsite and is responsible for all functions performed by the dental assistant. Education and training for Expanded Function Dental Assistants must be completed through either an approved continuing education sponsor or a dental assistant training program approved by the Commission on Dental Accreditation of the American Dental Association. [225 Illinois Compiled Statutes ch. 25 s. 17.1].

Iowa: The Iowa Dentistry Board is responsible for the licensure and regulation of the practice of dentistry in Iowa. Listed in the Iowa Administrative Code are the requirements for dental practice, including practice for Expanded Function Dental Assistants and Hygienists. Iowa has two levels of expanded function procedures that Dental Hygienists and Assistants can operate under. Level 1 expanded functions for Dental Assistants include taking occlusal registrations, placement of gingival retraction material, fabrication and removal of provisional restorations, applying cavity lines and bonding systems, placement of orthodontic brackets, adjustment of nitrous oxide inhalation analgesia, and taking impressions. Level 2 expanded functions for Dental Assistants or Hygienists includes placing and shaping of amalgam and restorative materials, polishing of adhesive restorative materials, and placement of intracoronal temporary fillings, among other procedures. In order to qualify for Level 1, each Dental Assistant or Hygienist must have either an active dental assistant registration or dental hygiene license, be certified by the Dental Assistant National Board, or at least one year of clinical practice as a registered dental assistant. Each Dental Assistant or Hygienist must also complete an approved expanded function training program approved by the Iowa Board. [650 Iowa Administrative Code ch. 23].

Michigan: The Michigan Board of Dentistry is responsible for the licensure and regulation of the practice of dentistry in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for the practice dentistry in Michigan, among several other occupations. In Michigan, Dental Assistants may perform expanded functions under either direct or general supervision of a Dentist upon completion of a course in that area of practice that is offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Michigan Department of Licensing and Regulatory Affairs. Expanded functions that require direct supervision include placing and condensing amalgam restorations and taking final impressions for indirect restorations. Expanded functions that require general supervision include pulp vitality testing, placing matrices and wedges, applying cavity liners, placing non-epinephrine retraction cords, applying desensitizing agents and taking

impressions for orthodontic appliances, among other functions. [Michigan Compiled Laws Act 368, Article 15, Part 166, Section 333.16611 (11) to (13)].

Minnesota: The Minnesota Board of Dentistry is responsible for the licensure and regulation of dentistry in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for licensed Dental Assistants. Minnesota requires more coursework or in-office training for any procedure delegated that indicates the need for more coursework. Procedures that Dental Assistants can perform under general supervision of a Dentist include working on orthodontic appliances, placing temporary fillings, taking radiographs and impressions. Procedures that Dental Assistants can perform under indirect supervision, or while the supervising Dentist remains on-site, include applying topical medications, placing devices for isolation purposes, performing mechanical polishing of crowns, placing periodontal dressings, and removing sutures, among other procedures. Procedures that Dental Assistants can perform under direct supervision include removing bond material from teeth with rotary instruments after removal of orthodontic appliances, etching enamel surfaces before bonding, fabrication and placement of temporary crowns and restorations, placing matrix systems and wedges, and administration of nitrous oxide inhalation analgesia, among other procedures. [Minnesota Administrative Rules s. 3100.8500]

Summary of factual data and analytical methodologies: The Board reviewed Wisconsin Administrative Code DE 1, 5, 6, and 13 to determine what changes need to be made due to 2021 Wisconsin Act 254. Additionally, the Board decided to create chapter DE 16 to outline practice requirements for Expanded Function Dental Auxiliaries.

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 at Jennifer.Garrett@wisconsin.gov, or (608) 266-2112.

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.

TEXT OF RULE

SECTION 1. DE 1.01 is amended to read:

DE 1.01 Authority. The provisions in chs. DE 1 to ~~4216~~ are adopted pursuant to authority in ss. 15.08 (5) and 227.11 (2) (a), Stats., and ch. 447, Stats.

SECTION 2. DE 5.02 (intro.), (5), (9), (14m), (18), (20), (24), and (25) are amended to read:

DE 5.02 (intro.) Unprofessional conduct by a dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary includes:

DE 5.02 (5) Practicing in a manner which substantially departs from the standard of care ordinarily exercised by a dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary which harms or could have harmed a patient.

DE 5.02 (9) Impersonating another dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary.

DE 5.02 (14m) Surrendering, while under investigation, a license, certificate, permit, or registration granted by another state to practice as a dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary.

DE 5.02 (18) Failing to maintain records and inventories as required by the United States department of justice drug enforcement administration, and under ch. 961, Stats., and s. Phar ~~8.02~~ 8.05, Wis. Adm. Code.

DE 5.02 (20) Violating, or aiding or abetting the violation of any law substantially related to the practice of dentistry, ~~or dental hygiene,~~ or the practice of an expanded function dental auxiliary.

DE 5.02 (24) Failing to hold a current certificate in cardiopulmonary resuscitation unless the licensee or certified individual has obtained a waiver from the board based on a medical evaluation documenting physical inability to comply. A waiver shall be issued by the board only if it is satisfied that another person with current certification in CPR is immediately available to the licensee when patients are present.

DE 5.02 (25) After a request by the board, failing to cooperate in a timely manner with the board's investigation of complaints filed against the applicant, certified individual, or licensee. There is a rebuttable presumption that a licensee, certified individual, or applicant who takes longer than 30 days to respond to a request of the board has not acted in a timely manner under this subsection.

SECTION 3. DE 5.02 (22m) is created to read:

DE 5.02 (22m) Aiding or abetting or permitting persons who are not certified in the practice of an expanded function dental auxiliary under s. 447.035, Stats.

SECTION 4. DE 13.045 and 13.05 (3) are created to read:

DE 13.045 Continuing education requirements for expanded function dental auxiliaries.

(1) COMPLETION OF CONTINUING EDUCATION CREDIT HOURS. Except as provided in sub. (5), in each two-year period following certification, an expanded function dental auxiliary shall complete 12 credit hours of continuing education related to the clinical practice of expanded function dental auxiliaries or the practice of medicine. No more than 2 of the 12 credit hours may be satisfied by training related to basic life support or cardiopulmonary resuscitation. Not less than 2 of the 12 credit hours shall include training in infection control.

(2) CREDIT FOR TEACHING OR PREPARING A PROGRAM. One hour of teaching or preparing a professional dental or medical program is equivalent to one credit hour of continuing education. A certified individual who teaches or prepares a professional dental or medical program may obtain credit for the program only once every two-year period.

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

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

(5) EXEMPTION FOR NEW CERTIFIED INDIVIDUALS. Subsection (1) does not apply to an applicant who has had their certification for two years or less.

(6) CERTIFICATION STATEMENT. Every two years, each certified individual shall sign a statement certifying that within the two years immediately preceding that time, they have completed the continuing education credit hours required under sub. (1).

Note: The continuing education certification statement form is available on the Department's website at <http://dsps.wi.gov>. Completed forms can be mailed to the Department at 4822 Madison Yards Way, Madison, WI 53705.

(7) FAILURE TO COMPLETE CONTINUING EDUCATION HOURS. A certified individual who fails to meet the continuing education requirements every two years may be subject to discipline for unprofessional conduct under s. DE 5.02 (16).

(8) TIME LIMITS ON OBTAINING CREDITS. Credit hours completed outside of each two-year time period may not count towards the requirements in sub. (1).

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

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

DE 13.05 (3) EXPANDED FUNCTION DENTAL AUXILIARIES. The board accepts continuing education programs for expanded function dental auxiliaries that satisfy the following criteria:

(a) The subject matter of the continuing education program relates to the clinical practice of an expanded function dental auxiliary or the practice of medicine.

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

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

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

SECTION 5. Chapter DE 16 is created to read:

Chapter DE 16

CERTIFICATION OF EXPANDED FUNCTION DENTAL AUXILIARIES

DE 16.01 Authority. The rules in this chapter are adopted pursuant to authority in s. 447.035 (3) (a), Stats.

DE 16.02 Definitions. In this chapter:

(1) “Auxiliary” means an expanded function dental auxiliary certified under s. 447.04 (3), Stats.

DE 16.03 Certification. (1) Each applicant for an expanded function dental auxiliary certification shall complete the following:

(a) Submit a completed application form as specified by the Department.

Note: Instructions for applications are available on the department of safety and professional services' website at <http://dsps.wi.gov>.

(b) Pay the fee as required by s. 440.05 (1), Stats.

(c) Submit proof of completion of an accredited educational program specified under s. 447.035 (3) (b) 2., Stats.

(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.

(2) Pursuant to s. 447.05 (1) (b), Stats., once granted, a certification to practice as an expanded function dental auxiliary is permanent unless revoked and is not subject to periodic renewal.

DE 16.04 Education Requirements. In order to enroll in an educational program specified under s. 447.035 (3) (b) 2., Stats., each applicant shall complete one of the following:

(1) At least 1,000 hours of practice as a dental assistant and a certified dental assistant credential from the Dental Assisting National Board, Inc. or a successor organization approved by the Dentistry Examining Board.

(2) At least 2,000 hours of practice as a dental assistant, verified by a supervising licensed dentist.

DE 16.05 Supervised Practice. (1) An auxiliary certified under s. 447.04 (3), Stats. may perform any of the functions listed in s. 447.035 (2), Stats. under the supervision of a Wisconsin licensed dentist.

(2) The supervising licensed dentist who has delegated a procedure to an auxiliary certified under s. 447.04 (3), Stats. shall remain on the premises for the duration of the delegated procedure and verify that the procedure has been performed successfully.

SECTION 6. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chairperson
Dentistry Examining Board

**Dentistry Examining Board
Rule Projects**

Clearinghouse Rule Number	Scope #	Scope Implementation	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
23-051 (EmR 2304)	065-22	08/15/2022	02/01/2025	DE 1, 5, 6, 13, and 16	Certification of Expanded Function Dental Auxiliaries	Board review of Adoption Order.	Submittal of Adoption Order to LRB.
23-041	086-22	11/21/2022	05/07/2025	DE 2 and 11	Certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support	Adoption Order has been submitted to LRB.	Rule will be effective 5/1/2024.
23-066	039-23	06/30/2023	12/12/2025	DE 3 and 7	Topical Application of Anesthetics by a Dental Hygienist	Final Rule Draft is with the Legislature for review.	Board review of Adoption Order.
	031-24	3/29/2024	9/18/2026	DE 1 to 17	Dental Therapists (Permanent and Emergency)	Rule drafting.	Submittal of Emergency Rule Draft to Gov's Office by 7/1/24.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Will Johnson, Executive Director		2) Date When Request Submitted: 4.16.2024 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: May 01, 2023	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Opioid Abuse Goal Setting and Report Pursuant to Wis. Stat. 440.035 (2m)(c) – Discussion and Consideration	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <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:			
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.			