The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Pledge of Allegiance

B. Adoption of Agenda (1-3)

C. Approval of Minutes – May 3, 2017 (4-6)

D. Administrative Updates
   1) Appointment of Liaison to the Controlled Substances Board
   2) Board and Staff Updates

E. 9:00 A.M. Public Hearing: Clearinghouse Rule 17-045 Relating to Unprofessional Conduct (7-13)
   1) Review and respond to Clearinghouse Report and Public Hearing comments

F. 9:00 A.M. Public Hearing: Clearinghouse Rule 17-044 Relating to Designating Continuing Education on the Topic of Prescribing Controlled Substances (14-19)
   1) Review and respond to Clearinghouse Report and Public Hearing comments

G. Legislation and Rule Matters – Discussion and Consideration (20-25)
   1) DE 2, 3 Relating to Licensure and Practice of Dental Hygiene
   2) Update on Legislation and Pending and Possible Rulemaking Projects

H. Practice Matters - Delegation

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

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

K. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (Wis. Stat. s. 19.85(1)(a),); to consider licensure or certification of individuals (Wis. Stat s. 19.85(1)(b), Stats.; to consider closing disciplinary investigations with administrative warnings (Wis. Stat. s. 19.85 (1)(b), and 440.205,); to consider individual histories or disciplinary data (Wis. Stat. s. 19.85 (1)(f),); and to confer with legal counsel (Wis. Stat. s. 19.85(1)(g),).

L. 10:30 A.M. APPEARANCE: Board Request to Interview – K.C. (26-90)

M. Proposed Decision and Order in the Matter of the Application for a Dentistry License of B.O., Applicant, DHA Case No. SPS-16-0073, DLSC Case No. 16 DEN 101 – Objections and Response to Objections (91-101)

N. Deliberation on Division of Legal Services and Compliance (DLSC) Matters
   1) Administrative Warnings
   2) Proposed Stipulations, Final Decisions and Orders
      a) 15 DEN 072 and 15 DEN 078 (S.T.T.) (102-107)
   3) Case Closures
      a) 16 DEN 103 (108-111)
      b) 16 DEN 079 (112-115)

O. Consulting with Legal Counsel

P. Deliberation of Items Received After Preparation of the Agenda
   1) Education and Examination Matters
   2) Credentialing Matters
   3) Disciplinary Matters
   4) Monitoring Matters
   5) Professional Assistance Procedure (PAP)
   6) Petition(s) for Summary Suspensions
   7) Petitions for Designation of Hearing Examiner
8) Proposed Stipulations, Final Decisions and Orders
9) Administrative Warnings
10) Review of Administrative Warning
11) Proposed Final Decisions and Orders
12) Matters Relating to Costs/Orders Fixing Costs
13) Case Closings
14) Proposed Interim Orders
15) Petitions for Assessments and Evaluations
16) Petitions to Vacate Orders
17) Remedial Education Cases
18) Motions
19) Petitions for Re-Hearing
20) Appearances from Requests Received or Renewed

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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 DATE SEPTEMBER 6, 2017

************************************************************************************
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 at 1400 East Washington Avenue, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board’s agenda, please call the listed contact person. 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. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.
PRESENT: Debra Beres, RDH; Mark Braden, DDS; Eileen Donohoo, RDH; Leonardo Huck, DDS; Lyndsay Knoell, DDS; Wendy Pietz, DDS; Carrie Stempski, RDH; Beth Welter, DDS

EXCUSED: Timothy McConville, DDS

STAFF: Brittany Lewin, Executive Director; Sharon Henes, Administrative Rules Coordinator; Nifty Lynn Dio, Bureau Assistant; and other Department staff

CALL TO ORDER

Mark Braden, Chair, called the meeting to order at 9:00 a.m. A quorum of eight (8) members was confirmed.

ADOPTION OF AGENDA

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

APPROVAL OF MINUTES

MOTION: Debra Beres moved, seconded by Eileen Donohoo, to approve the minutes of March 1, 2017 as published. Motion carried unanimously.

ADMINISTRATIVE UPDATES

Board and Staff Updates

MOTION: Lyndsay Knoell moved, seconded by Wendy Pietz, to thank Timothy Fox McConville for his dedicated service on the Dentistry Examining Board and to the State of Wisconsin. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS – DISCUSSION AND CONSIDERATION

Proposals for Amending DE 2, 3 Relating to Dentist Licensure and Practice of Dental Hygiene

MOTION: Lyndsay Knoell moved, seconded by Wendy Pietz, to request DPS draft a Scope Statement on DE 12 relating to delegation of functions to unlicensed persons and authorize the Chair to approve the Scope for submission to the Governor’s Office and publication, and for implementation no less than 10 days after publication. Motion carried unanimously.

Proposals for Amending DE 13 Relating to Designating Continuing Education on the Topic of Prescribing Controlled Substances

MOTION: Debra Beres moved, seconded by Lyndsay Knoell, to authorize the Chair to approve the emergency rule draft of DE 13 relating to Designating Continuing Education on the Topic of Prescribing Controlled Substances for submission to the Governor’s office and Publication in the official state newspaper and approve the preliminary rule draft for posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.
CLOSED SESSION

MOTION: Debra Beres moved, seconded by Beth Welter, 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.). Mark Braden, Chair, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Debra Beres – yes; Mark Braden – yes; Eileen Donohoo – yes; Leonardo Huck – yes; Lyndsay Knoell – yes; Wendy Pietz – yes; Carrie Stempski – yes; Beth Welter – yes. Motion carried unanimously.

At this time, all external communication contacts was terminated for purposes of going into Closed Session.

The Board convened into Closed Session at 10:17 a.m.

RECONVENE TO OPEN SESSION

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

The Board reconvened into Open Session at 11:21 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Debra Beres moved, seconded by Lyndsay Knoell, 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.)

DELIBERATION DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Proposed Stipulations, Final Decisions and Orders

15 DEN 051 & 16 DEN 014 – Zachary S. McCallum, D.D.S.

MOTION: Debra Beres moved, seconded by Beth Welter, to adopt the Finding of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Zachary S. McCallum, DLSC Case No. 15 DEN 051 and 16 DEN 014. Motion carried unanimously.

(Leonardo Huck recused himself and left the room for deliberation and voting in the matter of Zachary S. McCallum, D.D.S.)

15 DEN 075 – Andrew J. Bauman, D.D.S.

MOTION: Eileen Donohoo moved, seconded by Debra Beres, to adopt the Finding of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Andrew J. Bauman, DLSC Case No. 15 DEN 075. Motion carried unanimously.

15 DEN 082 – David W. Blanchard, D.D.S.
MOTION: Beth Welter moved, seconded by Debra Beres, to adopt the Finding of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against David W. Blanchard, DLSC Case No. 15 DEN 082. Motion carried unanimously.

Case Closures

MOTION: Eileen Donohoo moved, seconded by Beth Welter, to close the DLSC cases for the reasons outlined below:
1. 16 DEN 021 – Insufficient Evidence
2. 16 DEN 081 – No Violation
3. 16 DEN 087 – No Violation
Motion carried unanimously.

BOARD TRAINING REVIEW – PUBLIC RECORDS AND ETHICS AND LOBBYING

The Board reviewed training information relating to Public Records and Ethic and Lobbying requirements at this meeting.

ADJOURNMENT

MOTION: Debra Beres, seconded by Eileen Donohoo, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:26 a.m.
## AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:

Sharon Henes  
Administrative Rules Coordinator

2) Date When Request Submitted:

21 June 2017

Items will be considered late if submitted after 12:00 p.m. on the deadline date:

- 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Dentistry Examining Board

4) Meeting Date:

5 July 2017

5) Attachments:

☒ Yes  ☐ No

6) How should the item be titled on the agenda page?

Public Hearing on Clearinghouse Rule 17-045 relating to unprofessional conduct.

Review and respond to Clearinghouse Report and Public Hearing comments

7) Place Item in:

☒ Open Session  ☐ Closed Session  ☐ Both

8) Is an appearance before the Board being scheduled?

☐ Yes ([Fill out Board Appearance Request])  ☐ No

9) Name of Case Advisor(s), if required:

10) Describe the issue and action that should be addressed:

Hold Public Hearing at 9:00

Discuss any public hearing comments. Review, discuss and respond to any Clearinghouse comments.

11) Authorization

Sharon Henes  
21 June 2017

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.
CLEARINGHOUSE RULE 17-045

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

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

In SECTION 4 of the proposed rule, the Board should consider clarifying what is meant by “irregularities in billing” in s. DE 5.02 (27). The provision that the Board proposes removing, s. DE 5.03, explains in detail a particular type of billing conduct that is prohibited. The Board could consider adding language from s. DE 5.03 to s. DE 5.02 (27) or otherwise clarifying the practices it intends to prohibit as “irregularities”.
STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

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

---------------------------------------------------------------------------------------------------------------------

PROPOSED ORDER

An order of the Dentistry Examining Board to repeal DE 5.02 (12) and 5.03; to amend DE 5.02
(13); and to create DE 5.02 (14m) and (27) relating to unprofessional conduct.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

Statutes interpreted: s. 447.07, Stats.

Statutory authority: s. 15.08 (5) (b), Stats.

Explanation of agency authority:

Each Examining Board shall promulgate rules for the guidance of the profession to which it
pertains, and define and enforce professional conduct and unethical practices not inconsistent
with the law relating to the profession.

Related statute or rule: ch. DE 5

Plain language analysis:

This rule updates the unprofessional conduct provisions.

Section 1 repeals the provision relating to false, deceptive or misleading advertising due to it
being redundant in that ch. DE 6 governs advertising and it is unprofessional conduct to violate
any valid rule of the board.

Section 2 updates the provision relating to refusing to render services based upon discriminatory
basis by removing the words “color and sex” and adding the word “gender”.

Section 3 clarifies it is unprofessional conduct if the person surrenders a credential issued by
another state while under investigation by that other jurisdiction.

Sections 4 and 5 create a provision under unprofessional conduct relating to engaging in
irregularities in billing a 3rd party for services provided to a patient and then eliminates the
prohibited practice section as being duplicative. The Board determined the prohibited practice section is not required and the new unprofessional conduct provision adequately protects the public.

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

**Comparison with rules in adjacent states:**

**Illinois:** Illinois’ unprofessional conduct provisions include irregularities in billing for services rendered to a patient. It does not include surrendering a license while under investigation. It also does not address failure to treat a person due to color, sex or gender.

**Iowa:** Iowa’s unprofessional conduct provisions include: various billing violations; and refusing to accept patients or deny dental service to patients because of the patient’s race, creed, sex or national origin. It does not mention a person surrendering a license while under investigation.

**Michigan:** The provisions addressed in this proposed rule are not included in Michigan’s unprofessional conduct provisions.

**Minnesota:** The provisions addressed in this proposed rule are not included in Minnesota’s unprofessional conduct provisions.

**Summary of factual data and analytical methodologies:**

The Dentistry Examining Board did a comprehensive review of chapter DE 5 to create clarity and remove obsolete provisions.

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

This rule was posted for economic comments and none were received. The rule relates to unprofessional conduct and does not have a fiscal or economic impact.

**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 Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.
Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held on July 5, 2017 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. DE 5.02 (12) is repealed.

SECTION 2. DE 5.02 (13) is amended to read:

DE 5.02 (13) Refusing to render services to a person because of race, color, sex, gender, or religion.

SECTION 3. DE 5.02 (14m) is created to read:

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.

SECTION 4. DE 5.02 (27) is created to read:

DE 5.02 (27) Engaging in irregularities in billing a 3rd party for services rendered to a patient.

SECTION 5. DE 5.03 is repealed.

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)
1. Type of Estimate and Analysis
☐ Original  □ Updated  □ Corrected

2. Administrative Rule Chapter, Title and Number
DE 5

3. Subject
Unprofessional Conduct

4. Fund Sources Affected
☐ GPR  □ FED  ☒ PRO  □ PRS  □ SEG  □ SEG-S

5. Chapter 20, Stats. Appropriations Affected
20.165(1)(g)

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect  ■ Increase Existing Revenues  □ Increase Costs
☐ Indeterminate  ☒ Decrease Existing Revenues  ☒ Could Absorb Within Agency’s Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State’s Economy  ☒ Specific Businesses/Sectors
☐ Local Government Units  ☒ Public Utility Rate Payers
☐ Small Businesses (If checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes  ☒ No

9. Policy Problem Addressed by the Rule
The Board completed a comprehensive review of DE 5 Standards of Conduct to ensure the chapters are statutorily compliant and are current with professional standards and practices.

10. 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.
This rule was posted for economic comments and none were received.

11. Identify the local governmental units that participated in the development of this EIA.
None

12. 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)
This rule will not have an economic or fiscal impact.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit to implementing the rule is a code which has not been updated since 1999 will reflect current professional standards and practices.

14. Long Range Implications of Implementing the Rule
The long range implication is the unprofessional conduct provisions reflect current professional practice.

15. Compare With Approaches Being Used by Federal Government
None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
Illinois’ unprofessional conduct provisions include irregularities in billing for services rendered to a patient. It does not include surrendering a license while under investigation. It also does not address failure to treat a person due to color, sex or gender.
Iowa’s unprofessional conduct provisions include: various billing violations; and refusing to accept patients or deny dental service to patients because of the patient’s race, creed, sex or national origin. It does not mention a person.
surrendering a license while under investigation.
The provisions addressed in this proposed rule are not included in Michigan or Minnesota’s unprofessional conduct provisions.

<table>
<thead>
<tr>
<th>17. Contact Name</th>
<th>18. Contact Phone Number</th>
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<tbody>
<tr>
<td>Sharon Henes</td>
<td>(608) 261-2377</td>
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</table>

This document can be made available in alternate formats to individuals with disabilities upon request.
## State of Wisconsin
Department of Safety & Professional Services

### AGENDA REQUEST FORM

<table>
<thead>
<tr>
<th>1) Name and Title of Person Submitting the Request:</th>
<th>2) Date When Request Submitted:</th>
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<tbody>
<tr>
<td>Sharon Henes</td>
<td>21 June 2017</td>
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<tr>
<td>Administrative Rules Coordinator</td>
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Items will be considered late if submitted after 12:00 p.m. on the deadline date:
- 8 business days before the meeting

<table>
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<tr>
<th>3) Name of Board, Committee, Council, Sections:</th>
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<tbody>
<tr>
<td>Dentistry Examining Board</td>
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<tr>
<th>4) Meeting Date:</th>
<th>5) Attachments:</th>
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<tr>
<td>5 July 2017</td>
<td>☑ Yes</td>
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<td></td>
<td>☐ No</td>
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6) How should the item be titled on the agenda page?
Public Hearing on Clearinghouse Rule 17-044 relating to designating continuing education on the topic of prescribing controlled substances.
Review and respond to Clearinghouse Report and Public Hearing comments

<table>
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<tr>
<th>7) Place Item in:</th>
<th>8) Is an appearance before the Board being scheduled?</th>
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<tbody>
<tr>
<td>☑ Open Session</td>
<td>☐ Yes ([Fill out Board Appearance Request])</td>
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<tr>
<td>☐ Closed Session</td>
<td>☐ No</td>
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<td>☐ Both</td>
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9) Name of Case Advisor(s), if required:

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<th>10) Describe the issue and action that should be addressed:</th>
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<tr>
<td>Hold Public Hearing at 9:00</td>
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<tr>
<td>Discuss any public hearing comments. Review, discuss and respond to any Clearinghouse comments.</td>
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<th>11) Authorization</th>
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<tr>
<td>Sharon Henes</td>
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<tr>
<td>Signature of person making this request</td>
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<tr>
<th>Supervisor (if required)</th>
<th>Date</th>
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<tr>
<th>Executive Director signature (indicates approval to add post agenda deadline item to agenda)</th>
<th>Date</th>
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</table>

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.
PROPOSED ORDER

An order of the Dentistry Examining Board to create DE 13.03 (1m) relating to designating continuing education on the topic of prescribing controlled substances.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 447.056, Stats.

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

Explanation of agency authority:

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 (1) (f) The examining board may promulgate rules governing compliance with continuing education requirements under s. 447.056.

Related statute or rule: ch. DE 13, Wis. Admin. Code

Plain language analysis:

Dentists are required to complete 30 credit hours of continuing education every biennium. This rule will require 2 credit hours, of the 30 credit hours, to be in the topic of responsible prescribing of controlled substances for the treatment of acute dental pain. This requirement will be in place for the next two bienniums.

Summary of, and comparison with, existing or proposed federal regulation: None
Comparison with rules in adjacent states:

**Illinois**: Illinois does not require continuing education in the topic of responsible prescribing of controlled substances for the treatment of acute dental pain or in a topic which is substantially equivalent.

**Iowa**: Iowa does not require continuing education in the topic of responsible prescribing of controlled substances for the treatment of acute dental pain or in a topic which is substantially equivalent.

**Michigan**: Michigan requires 3 continuing education credits, in each 3 year renewal period, in pain and symptom management, which may include courses in behavior management, psychology of pain, pharmacology, behavior medication, stress management, clinical applications and drug interactions.

**Minnesota**: Minnesota does not require continuing education in the topic of responsible prescribing of controlled substances for the treatment of acute dental pain or in a topic which is substantially equivalent.

Summary of factual data and analytical methodologies:

The Dentistry Examining Board is responding to the current opioid epidemic. The Dentistry Examining Board considered the approaches of the Medical Examining Board and the Board of Nursing relating to specific required continuing education addressing the prescribing of controlled substances. In addition, the Dentistry Examining Board evaluated how to best achieve the goal of continuing education on this topic without creating a burden on the dentist.

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

The rule was posted for economic comments and none were received. The rule does not change the number of continuing education credits required, therefore, it has a neutral fiscal impact on licensees.

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 Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.
Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held on July 5, 2017 to be included in the record of rule-making proceedings.

---------------------------------------------------------------------------------------------------------------------

TEXT OF RULE

SECTION 1. DE 13.03 (1m) is created to read:

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

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

---------------------------------------------------------------------------------------------------------------------

(End of Text of Rule)
1. Type of Estimate and Analysis
☑ Original  ☐ Updated  ☐ Corrected

2. Administrative Rule Chapter, Title and Number
DE 13

3. Subject
Designating continuing education on the topic of prescribing controlled substances

4. Fund Sources Affected
☐ GPR  ☐ FED  ☑ PRO  ☐ PRS  ☐ SEG  ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected
20.165(1)(g)

6. Fiscal Effect of Implementing the Rule
☑ No Fiscal Effect  ☐ Increase Existing Revenues  ☐ Increase Costs
☐ Indeterminate  ☐ Decrease Existing Revenues  ☐ Could Absorb Within Agency’s Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State’s Economy  ☐ Specific Businesses/Sectors
☐ Local Government Units  ☐ Public Utility Rate Payers
☐ Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes  ☑ No

9. Policy Problem Addressed by the Rule
In response to the opioid epidemic, dentists will be required to take 2 credits (of the required 30 credits) each biennium in the topic of responsible prescribing of controlled substances.

10. 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.
This rule was posted for economic comments and none were received.

11. Identify the local governmental units that participated in the development of this EIA.
None

12. 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)
There is will not be an economic or fiscal impact. This rule does not change the number of credits of continuing education required.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit is requiring a portion of the biennial continuing education be on the topic of responsible prescribing of controlled substances will address the growing concern with prescription drug abuse.

14. Long Range Implications of Implementing the Rule
The long range implication is dentists are provided with education on the topic of responsible prescribing of controlled substances.

15. Compare With Approaches Being Used by Federal Government
None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
Michigan requires 3 continuing education credits, in each 3 year renewal period, in pain and symptom management. Illinois, Iowa and Minnesota do not require continuing education in the topic of responsible prescribing of controlled substances for the treatment of acute dental pain or in a topic which is substantially equivalent.
<table>
<thead>
<tr>
<th>17. Contact Name</th>
<th>18. Contact Phone Number</th>
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<tbody>
<tr>
<td>Sharon Henes</td>
<td>(608) 261-2377</td>
</tr>
</tbody>
</table>

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

1) **Name and Title of Person Submitting the Request:**
   Sharon Henes  
   Administrative Rules Coordinator

2) **Date When Request Submitted:**
   21 June 2017

   Items will be considered late if submitted after 12:00 p.m. on the deadline date:
   - 8 business days before the meeting

3) **Name of Board, Committee, Council, Sections:**
   Dentistry Examining Board

4) **Meeting Date:**
   5 July 2017

5) **Attachments:**
   - Yes
   - No

6) **How should the item be titled on the agenda page:**
   Legislation and Rule Matters – Discussion and Consideration
   1. DE 2, 3 Relating to licensure and practice of dental hygiene
   2. Update on Pending Legislation and Pending and Possible Rulemaking

7) **Place Item in:**
   - Open Session
   - Closed Session
   - Both

8) **Is an appearance before the Board being scheduled:**
   - Yes (Fill out Board Appearance Request)
   - No

9) **Name of Case Advisor(s), if required:**

10) **Describe the issue and action that should be addressed:**

11) **Authorization**

   **Sharon Henes**  
   21 June 2017

   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.
TEXT OF RULE

SECTION 1. DE 2.01 (1) (d) (g) is amended to read:

DE 2.01 (1) (d) Evidence of successful completion of an examination on provisions in ch. 447, Stats, and chs. DE 1 to 9 the statutes and rules relating to dentistry.

(g) Verification from the central regional dental testing service or other board-approved testing services of successful completion of an examination in clinical and laboratory demonstrations taken within the 5 1 year period immediately preceding application. In this paragraph, “successful completion” means an applicant has passed all parts of the examination in no more than 3 attempts on any one part, as required in s. DE 2.09.

SECTION ?. DE 2.01 (1) (h) is created to read:

DE 2.01 (1) (h) Submits evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved by the Wisconsin department of health services.

SECTION ?. DE 2.01 (1m) (e) is created to read:

DE 2.01 (1m) (e) Submits evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved by the Wisconsin department of health services.

SECTION ?. DE 2.01 (2) (b) is amended to read:

DE 2.01 (2) (b) Verification from the central regional dental hygiene testing service or other board-approved testing service of successful completion of an examination in clinical and laboratory demonstrations taken within the 5 1 year period immediately preceding application.

SECTION ?. DE 2.01 (2) (c) and (d) are created to read:

DE 2.01 (2) (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.
DE 2.015 (1) (d) Submits to an initial interview and any other interview that the board may require that demonstrates, to the board’s satisfaction, that the applicant is competent to practice dentistry.

SECTION ?. DE 2.015 (1) (f) is created to read:

DE 2.015 (1) (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.

SECTION ?. DE 2.03 (5) (title) is amended to read:

DE 2.03 (5) REQUIREMENTS FOR LATE RENEWAL; REINSTATEMENT.

SECTION ?. DE 2.03 (5) (a) 2. Is amended to read:

DE 2.03 (5) (a) 2. The fee authorized by s. 440.08 (2) 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.

SECTION ?. DE 2.03 (5) (b) is repealed and recreated to read:

DE 2.03 (5) (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 renewal late fee.
2. 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 central regional dental testing service examination, or other board approved testing service examination.
   c. If a dental hygienist, successful completion of a central regional dental hygiene testing service examination
   d. Completion of a 1 year general practice residency.
   e. Completion of a clinical education program approved by the Board.

SECTION ?. DE 2.03 (6) is repealed and recreated to read:

DE 2.03 (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 surrendered or revoked may apply to have the license reinstated in accordance with all of the following:

(a) Evidence of completion of the requirements in DE 2.03 (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.

SECTION ?. DE 2.03 (7) is repealed.

SECTION ?. DE 2.04 (1) is amended to read:

DE 2.04 (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 authorized by s. 440.05 (2) 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:

SECTION ?. DE 2.04 (1) (c) is amended to read:

DE 2.04 (1) (c) The applicant has not failed the central regional dental testing service clinical and laboratory demonstration examination, or any other dental licensing examination, within the previous 3 years.

SECTION ?. DE 2.04 (1) (d) is repealed.

SECTION ?. DE 2.04 (1) (e) is amended to read:

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

SECTION ?. DE 2.04 (2) is amended to read:

DE 2.04 (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 authorized by s. 440.05 (2) 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:

SECTION ?. DE 2.04 (2) (c), and (d) are amended to read:

DE 2.04 (2) (c) The applicant has not failed the central regional dental testing service clinical and laboratory demonstration examination, or any other dental hygiene licensing examination, within the previous 3 years.

(d) The applicant has successfully completed a clinical and laboratory demonstration examination on a human subject which, in the board’s judgment, is substantially equivalent to
the clinical and laboratory demonstration examination administered by the central regional dental testing service.

SECTION 2. DE 2.04 (2) (f) is repealed.

SECTION 2. DE 2.05 is amended to read:

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

SECTION 2. DE 2.06, 2.07, 2.08 and 2.09 are repealed.

SECTION 2. DE 3.02 is repealed and recreated to read:

DE 3.02 Practice of dental hygiene. (1) (a) This subsection applies to a dental hygienist who is practicing dental hygiene or performing remediable procedures as an employee or as an independent contractor as follows:

1. In a dental office.
2. For a facility, as defined in s. 50.01 (1m), Stats., a hospital, as defined in s. 50.33 (2), Stats., a state or federal prison, county jail or other federal, state, county or municipal correctional or detention facility, or a facility established to provide care for terminally ill patients.
3. For a charitable institution open to the general public or to members of a religious sect or order.
4. For a nonprofit home health care agency.
5. For a nonprofit dental care program serving primarily indigent, economically disadvantaged or migrant worker populations.

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

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

1. The dental hygiene practices or remediable procedures are performed under a written or oral prescription.
2. The dentist who made the written or oral prescription has examined the patient at least once during the 12-month period immediately preceding all of the following:
   a. The date on which the written or oral prescription was made.
   b. The date on which the dental hygiene practices or remediable procedures are performed.
3. The written or oral prescription specifies the practices and procedures that the dental hygienist may perform with the informed consent of the patient or, if applicable, the patient's parent or legal guardian.

(2) (a) This subsection applies to a dental hygienist who is practicing dental hygiene or performing remediable procedures as an employee or as an independent contractor as follows:
   1. For a school board, a governing body of a private school, as defined in s. 115.001(3d), Stats., or a governing body of a tribal school, as defined in s. 115.001 (15m), Stats..
   2. For a school for the education of dentists or dental hygienists.
   3. For a local health department, as defined in s. 250.01(4), Stats..

   (b) A dental hygienist only practice dental hygiene as defined in s. 447.01 (3), Stats. or perform remediable procedures as defined by s. 447.01 (12), Stats.

SECTION ?. DE 3.03 is repealed and recreated to read:

DE 3.03 Prohibited practices. A dental hygienist may not do any of the following:
(1) Diagnose a dental disease or ailment.
(2) Determine any treatment or any regimen of any treatment outside of the scope of dental hygiene.
(3) Prescribe or order medication.
(4) Perform any procedure that involves the intentional cutting of soft or hard tissue of the mouth by any means.
(5) Administer nitrous oxide inhalation, except as provided in ch. DE 15.
(6) Administer local anesthesia, except as provided in ch. DE 7.

SECTION ?. [NEED TO DISCUSS DE 3.04]

SECTION ?. 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.

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(END OF TEXT OF RULE)
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