Wisconsin Department of Safety and Professional Services
Division of Policy Development
4822 Madison Yards Way
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Scott Walker, Governor
Laura Gutiérrez, Secretary

DENTISTRY EXAMINING BOARD
Room N208, 4822 Madison Yards Way, Madison
Contact: Erin Karow (608) 266-2112
September 5, 2018

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. **Adoption of Agenda (1-4)**

B. **Approval of Minutes of May 9, 2018 (5-7)**

C. **Administrative Matters**
   1. Board and Staff Updates
   2. Department Updates

D. **9:00 A.M. Public Hearing: Clearinghouse Rule 18-063, Relating to Delegation of Functions to Unlicensed Persons (8-14)**

E. **Legislation and Rule Matters – Discussion and Consideration (15-31)**
   1. DE 2 and 3, Relating to Licensure and the Practice of Dental Hygiene
   2. DE 8, Relating to Relating to Preservation and Transfer of Patient Health Care Records (2017 Wisconsin Act 116)
   3. DE 9, 11 Relating to Lab & Work Authorization and Anesthesia
      a. DE 11 Relating to Anesthesia
   4. 2017 Wisconsin Act 262 Report
   5. 2017 Wisconsin Act 108 Report
   6. Update on Legislation and Pending and Possible Rulemaking Projects

F. **Speaking Engagement(s), Travel, or Public Relation Request(s) (32)**
   1. Travel Report from Debra Beres on the 2018 Annual CRDTS Meeting on July 24-25, 2018 in Kansas City, Missouri

G. Education and Examination Matters – Discussion and Consideration

H. **Prescription Drug Monitoring Program (PDMP) Referral Criteria from Controlled Substances Board – Discussion and Consideration (33-40)**

I. 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)

J. 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),).

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

1. **Deliberation on Review of Administrative Warning**
   a. **10:00 A.M. APPEARANCE: 16 DEN 090 – P.K.M. (41-45)**
2. **Deliberation on Proposed Final Decision and Orders**
   a. Jeffrey T. Slavik, D.D.S., Respondent – DHA Case Number SPS-18-0020/DLSC Case Number 16 DEN 086 **(46-56)**
3. **Proposed Stipulations, Final Decisions and Orders**
   a. 17 DEN 001 – Mark J. Greulich, D.D.S. **(57-63)**

b. 17 DEN 035 – Robert G. Moulton, D.D.S. **(64-70)**
c. 17 DEN 079 – Michael S. LaFratta, D.D.S. **(71-82)**

4. **Case Closings**
   a. 17 DEN 034 – M.M. **(83-88)**
   b. 17 DEN 037 – S.T.T. **(89-94)**
   c. 17 DEN 065 – J.D.G. **(95-100)**
   d. 17 DEN 071 – S.M. **(101-104)**
   e. 17 DEN 102 – A.J.S. **(105-110)**
   f. 17 DEN 105 – H.A. **(111-116)**
   g. 18 DEN 032 – A.L.E. **(117-120)**
   h. 18 DEN 036 – A.M. **(121-123)**

L. Consulting with Legal Counsel

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

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

ADJOURNMENT

NEXT MEETING DATE: NOVEMBER 7, 2018

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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 4822 Madison Yards Way, 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.

DENTISTRY EXAMINING BOARD
MEETING MINUTES
May 9, 2018

PRESENT: Debra Beres, R.D.H.; Matthew Bistan, D.D.S.; Mark Braden, D.D.S.; Christopher J. Callen; Eileen Donohoo, R.D.H. *(arrived at 9:32 a.m.)*; Lyndsay Knoell, D.D.S.; Wendy Pietz, D.D.S.; Carrie Stempski, R.D.H.; and Beth Welter, D.D.S.

EXCUSED: Leonardo Huck, D.D.S; and Dennis Myers

STAFF: Erin Karow, Executive Director; Sharon Henes, Administrative Rules Coordinator; Kate Stolarzyk, Bureau Assistant; and other Department staff

CALL TO ORDER

Debra Beres, Chair, called the meeting to order at 9:01a.m. A quorum of eight (8) members was confirmed.

ADOPTION OF AGENDA

MOTION: Beth Welter moved, seconded by Carrie Stempski, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Matthew Bistan moved, seconded by Christopher J. Callen, to approve the minutes as published. Motion carried unanimously.

1. March 7, 2018
2. March 9, 2018
3. March 29, 2018

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS – DISCUSSION AND CONSIDERATION

(Eileen Donohoo, R.D.H. arrived at 9:32 a.m.)

DE 12, Relating to Unlicensed Persons

MOTION: Lyndsay Knoell moved, seconded by Matthew Bistan, to authorize the Chair to approve the preliminary rule draft of DE 12, relating to unlicensed persons, for posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Update on Legislation and Pending and Possible Rulemaking Projects

MOTION: Lyndsay Knoell moved, seconded by Mark Braden, to request DSPS staff draft a Scope Statement relating to Act 116. The Board authorizes the Chair to approve the scope for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chair to approve the Scope Statement for implementation no less than 10 days after publication. Motion carried unanimously.

COMPARISON DOCUMENT OF REGIONAL EXAMINATION CONTENT

MOTION: Eileen Donohoo moved, seconded by Mark Braden, to accept the following Dental Testing Services for initial licensure:

1. Council of Interstate Testing Agency (CITA)
2. The Commission on Dental Competency Assessments (CDCA)
3. Western Regional Examining Board (WREB)
4. Central Regional Dental Testing Service (CRDTS)
5. Southern Regional Testing Agency (SRTA)

Motion carried unanimously.

CLOSED SESSION

MOTION: Beth Welter moved, seconded by Eileen Donohoo, 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; Matthew Bistan-yes; Mark Braden-yes; Christopher J. Callen-yes; Eileen Donohoo-yes; Lyndsay Knoell-yes; Wendy Pietz-yes; Carrie Stempski-yes; Beth Welter-yes. Motion carried unanimously.

The Board convened into Closed Session at 12:41 p.m.

RECONVENE TO OPEN SESSION

MOTION: Eileen Donohoo moved, seconded by Christopher J. Callen, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 1:41 p.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Eileen Donohoo moved, seconded by Mark Braden, 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

<u>Administrative Warning</u>

16 DEN 090 – P.K.M.

MOTION: Christopher J. Callen moved, seconded by Eileen Donohoo, to issue an Administrative Warning in the matter of P.K.M., DLSC Case Number 16 DEN 090. Motion carried unanimously.

DRAFT

Stipulations, Final Decisions and Orders

16 DEN 063 – Randall C. Pack, D.D.S.

MOTION: Matthew Bistan moved, seconded by Eileen Donohoo, to adopt the Finding of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Randall C. Pack, D.D.S., DLSC Case Number 16 DEN 063. Motion carried unanimously.

Case Closings

16 DEN 090 – S.P.

MOTION: Mark Braden moved, seconded by Debra Beres, to close DLSC Case Number 16 DEN 090, against S.P., for No Violation. Motion carried unanimously.

16 DEN 104 – S.R.

MOTION: Mark Braden moved, seconded by Matthew Bistan, to close DLSC Case Number 16 DEN 104, against S.R., for No Violation. Motion carried unanimously.

17 DEN 093 – T.N.

MOTION: Mark Braden moved, seconded by Eileen Donohoo, to close DLSC Case Number 17 DEN 093, against T.N., for Insufficient Evidence. Motion carried unanimously.

17 DEN 102 – A.J.S.

MOTION: Eileen Donohoo moved, seconded by Matthew Bistan, to not close DLSC Case Number 17 DEN 102, against A.J.S. and refer the case back to the DLSC for further review. Motion carried unanimously.

ADJOURNMENT

MOTION: Carrie Stempski, seconded by Matthew Bistan, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 1:42 p.m.

DRAFT

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sharon Henes Administrative Rules Coordinator	2) Date When Request Submitted: 22 August 2018 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) Attachments:	6) How should the item be titled on the agenda page?
5 September 2018	☒ Yes ☐ No	Public Hearing on Clearinghouse Rule 18-063 relating to delegation of functions to unlicensed persons. Review and respond to Clearinghouse Report and Public Hearing comments

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session ☐ Both	☐ Yes (Fill out Board Appearance Request) ☐ No	

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

Hold Public Hearing at 9:00 a.m.

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

11) Authorization

Sharon Henes

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.

Revised 8/13

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 12.04 and to amend DE 12.01 (3), and 12.02, relating to delegation of functions to unlicensed persons.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 447.065, Stats.

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

Explanation of agency authority:

s. 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.

s. 447.02 (2) (a) The Examining Board shall promulgate rules specifying the conditions for supervision and the degree of supervision required under ss. 447.03 (3) (a), (b) and (d) 2. and 447.065.

Related statute or rule: N/A

Plain language analysis:

Section 1 clarifies the nondelegated functions to include functions which are intended, interpreted or represented to be preliminary assessments, dental hygiene treatment planning, oral screenings and calculus removal (both above and below the gumline).

Section 2 updates the provision to allow a dentist to verify the competency of the person who is performing the remediable dental procedure or function instead of providing training to a person who is already trained on the procedure or function.

Section 3 repeals the provision allowing the removal of plaque and material alba with a mechanical device only if the delegation of the function complies with ss. DE 12.01 and 12.02. This provision is unnecessary as any function that complies with ss. DE 12.01 and 12.02 is allowed.

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

Comparison with rules in adjacent states:

Illinois: Illinois does not allow for the delegation to unlicensed persons.

Iowa: Iowa does not allow for the delegation to unlicensed persons.

Michigan: Michigan does not allow for the delegation to unlicensed persons.

Minnesota: Minnesota allows assistants without a license or permit to do the following:

- Perform all those duties not directly related with performing dental treatment or services on patients.
- Retract a patient's cheek, tongue, or other parts of tissue during a dental operation.
- Assist with the placement or removal of a rubber dam and accessories used for its placement and retention, as directed by an operating dentist during the course of a dental operation.
- Remove debris by the use of vacuum devices, compressed air, mouthwash, and water that is normally created or accumulated during the course of treatment rendered by a licensed dentist.
- Provide any assistance in response to a specific direction by a licensed dentist who is physically engaged in performing a dental operation and is physically in a position to give personal supervision to the assistant.
- Aid dental hygienists and licensed dental assistants in the performance of their duties.
- Apply fluoride varnish in a community setting under the authorization and direction of a licensed practitioner with prescribing authority such as a dentist or physician, as long as the licensed practitioner authorizing the service or the facility at which the fluoride varnish is administered maintains appropriate patient records of the treatment.

An unlicensed assistant may not perform any dental treatment tor procedure on patients not otherwise authorized above.

Summary of factual data and analytical methodologies:

The Dentistry Examining Board reviewed the chapter to ensure it was statutorily compliant and current with professional standards and practices.

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.

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, 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 Development, 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 September 5, 2018 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 12.01 (3) is amended to read:

DE 12.01 (3) Intended, interpreted, or represented to be preliminary assessments, dental hygiene treatment planning, oral screenings, ~~oral prophylaxes, scaling or root planning, or dental sealants,~~ or ~~any portion of an oral prophylaxis other than~~ supragingival ~~rubber cup and air polishing after~~ or subgingival calculus ~~is removed if necessary~~ removal.

SECTION 2. DE 12.02 is amended to read:

DE 12.02 Training. A dentist 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 3. DE 12.04 is repealed.

SECTION 4. 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)

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R09/2016)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Date
6 August 2018

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
DE 12

4. Subject
Delegation of functions to unlicensed persons

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

6. Chapter 20, Stats. Appropriations Affected

7. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs ☐ Decrease Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget

8. 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)**

9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).
$0.00

10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be $10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?
☐ Yes ☐ No

11. Policy Problem Addressed by the Rule
The Board conducted a review of the chapter to ensure statutory compliance and that it is current with professional standards and practices.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.
This rule was posted for economic comments and none were received.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.
None

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This rule will not have an economic or fiscal impact.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit of implementing the rule is to create clarity regarding the delegation of functions to unlicensed persons.

16. Long Range Implications of Implementing the Rule
The long range implication is to have rules whicl reflect the standards of the profession..

17. Compare With Approaches Being Used by Federal Government
None

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
Illinios, Iowa and Michigan do not allow for the delegation of unlicensed persons.
Minnesota allows assistants without a license or permit to do the following:
- Perform all those duties not directly related with performing dental treatment or services on patients.
- Retract a patient's cheek, tongue, or other parts of tissue during a dental operation.

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

o Assist with the placement or removal of a rubber dam and accessories used for its placement and retention, as directed by an operating dentist during the course of a dental operation.
o Remove debris by the use of vacuum devices, compressed air, mouthwash, and water that is normally created or accumulated during the course of treatment rendered by a licensed dentist.
o Provide any assistance in response to a specific direction by a licensed dentist who is physically engaged in performing a dental operation and is physically in a position to give personal supervision to the assistant.
o Aid dental hygienists and licensed dental assistants in the performance of their duties.
o Apply fluoride varnish in a community setting under the authorization and direction of a licensed practitioner with prescribing authority such as a dentist or physician, as long as the licensed practitioner authorizing the service or the facility at which the fluoride varnish is administered maintains appropriate patient records of the treatment.
An unlicensed assistant may not perform any dental treatment tor procedure on patients not otherwise authorized above.

19. Contact Name	20. Contact Phone Number
Sharon Henes	608-261-2377

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

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

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

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

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

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

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

5. Describe the Rule's Enforcement Provisions

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

☐ Yes ☐ No

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Sharon Henes Administrative Rules Coordinator	22 August 2018 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) Attachments:	6) How should the item be titled on the agenda page?
5 September 2018	☐ Yes ☐ No	Legislation and Rule Matters – Discussion and Consideration 1. DE 2, 3 Relating to Licensure and the Practice of Dental Hygiene 2. DE 8 Relating to Relating to Preservation and Transfer of Patient Health Care Records (Act 116) 3. DE 9, 11 Relating to Lab & Work Authorization and Anesthesia • DE 11 Relating to Anesthesia 4. Act 262 Report 5. Act 108 Report 6. Update on Legislation and Pending and Possible Rulemaking Projects

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session ☐ Both	☐ Yes (Fill out Board Appearance Request) ☐ No	

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

11) Authorization

Sharon Henes

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.

Revised 8/13

TEXT OF RULE

SECTION 1. DE 1.02 (1m), (2) and (4) are repealed.

SECTION 2. DE 2.005 is created to read:

DE 2.005 **Dental testing service and dental hygiene testing service requirements.** A dental testing service or dental hygiene testing service may be approved if all the testing service's exams meet all of the following requirements:
(1) Test clinical knowledge.
(2) Practical component on application of the basic principles utilizing live human patients or simulated patients.

SECTION 1. DE 2.01 (1) (d), (f), and (g) are 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.

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

(g) Verification from ~~the central regional dental testing service or other~~ a board-approved testing ~~services~~ service 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 2. 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 3. 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 4. DE 2.01 (2) (a) and (b) are amended to read:

DE 2.01 (2) (a) Verification from the ~~commission on national examinations of the American dental association~~ Joint Commission on National Dental Examinations or other board-approved professional testing service of successful completion of an examination on the basic principles of the practice of dental hygiene~~; and~~:

(b) Verification from the ~~central regional dental hygiene testing service or other~~ a 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 5. 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.

SECTION 6. DE 2.015 (1) (d) is amended to read:

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 7. 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 8. DE 2.03 (5) (title) is amended to read:

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

SECTION 9. 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 10. 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. 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.
3. Provide evidence of one of the following:
    a. An active license in good standing in another state.
    b. If a dentist, successful completion of a board approved testing service examination within the 1 year of renewal.
    c. If a dental hygienist, successful completion of a board approved testing service examination within 1 year of renewal.
    d. Completion of a 1 year general practice residency within 1 year of renewal.
    e. Completion of a clinical education program approved by the Board.

SECTION 11. 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 12. DE 2.03 (7) is repealed.

SECTION 13. 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 14. DE 2.04 (1) (a) is repealed and recreated to read:

DE 2.04 (1) (a) The applicant has graduated from an accredited school of dentistry or the applicant has graduated from a foreign dental school and holds one of the following:

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

SECTION 14. DE 2.04 (1) (c) and (d) is repealed.

SECTION 15. DE 2.04 (1) (e) and (g) are amended to read:

DE 2.04 (1) (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~~ an examination administered by a board approved testing service, or, alternative, has successfully completed a board specialty certification examination in a dental specialty recognized by the American Dental Association.

(g) The applicant possesses a current certificate of current proficiency in cardiopulmonary resuscitation, ~~from a course provider~~ 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 16. 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 a~~uthorized 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 17. DE 2.04 (2) (c) is repealed.

SECTION 18. DE 2.04 (2) (d) are amended to read:

DE 2.04 (2) (d) The applicant has successfully completed ~~a clinical and laboratory demonstration~~ an examination ~~on a human subject~~ which, in the board's judgment, is substantially equivalent to ~~the clinical and laboratory demonstration~~ an examination administered by ~~the central regional dental testing service~~ a board approved testing service.

SECTION 19. DE 2.04 (2) (f) is repealed.

SECTION 20. DE 2.05 is amended to read:

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

SECTION 21. DE 2.06, 2.07, 2.08 and 2.09 are repealed.

SECTION 22. DE 3.02 and 3.03 are 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 in a dental office.

(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 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.

4. For a local health department, as defined in s. 250.01(4), Stats.

5. For a charitable institution open to the general public or to members of a religious sect or order.

6. For a nonprofit home health care agency.

7. For a nonprofit dental care program serving primarily indigent, economically disadvantaged or migrant worker populations.

8. At a facility, as defined in s. 50.01 (1m) , Stats., an adult family home certified under s. 50.032, Stats. or licensed under s. 50.033, Stats., an adult day care center, as defined in s. 49.45 (47) (a) , Stats., a community rehabilitation program, a hospital, as defined in s. 50.33 (2) , Stats., or a facility that is primarily operated to provide outpatient medical services.

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

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 or radiograph.
(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 23. DE 3.04 (2) is amended to read:

DE 3.04 (2) "Subgingival sustained release chemotherapeutic agents" means ~~medications~~ antibiotics that are applied ~~under the gum tissue~~ in periodontal pockets to treat periodontal ~~or gum~~ disease.

SECTION 24. 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)

TEXT OF RULE

SECTION 1. DE 8.035 is created to read:

DE 8.035 Preservation of patient health care records. A person who manages or controls a business that offers dental 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 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)

DE 11.02 Definitions. In this chapter:
(1g) "ASA" means American Society of Anaesthesiologists.
(1s) "Class 1 permit" means a sedation permit enabling a dentist to administer minimal sedation.
(1t) "Class 2 - enteral permit" means a sedation permit enabling a dentist to administer moderate sedation by enteral route.
(1u) "Class 2 – paraenteral permit" means a sedation permit enabling a dentist to administer moderate sedation by enteral or paraenteral route.
(1v) "Class 3 permit" means a sedation permit enabling a dentist to administer deep sedation, moderate, or general anesthesia.
(2m) "Continual" means repeated regularly and frequently in a steady succession.
(2r) "Continuous" means prolonged without any interruption at any time.
(3) "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function maybe impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.
(em) "Enteral" means administration by which the agent is absorbed through the gastrointestinal tract or through the oral, rectal or nasal mucosa.
(4) "General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug induced depression of neuromuscular function. Cardiovascular function may be impaired.
(4d) "Immediately available" means physically located in the dental office or facility and ready for immediate use or response.
(4h) "Inhalation" means administration by which a gaseous or volatile agent is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed.
(4p) "Minimal sedation" means a minimally depressed level of consciousness, produced by a pharmacological method that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. Minimal sedation may be achieved by the administration of a drug, either singly or in divided doses, by the enteral route to achieve the desired clinical effect, not to exceed the maximum recommended dose.
(4t) "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. If more than one enteral drug is administered or if an enteral drug is administered at a dosage that exceeds the maximum recommended dose during a single appointment, such administration is considered moderate sedation.
(7g) "Parenteral" means administration by which the drug bypasses the gastrointestinal tract through intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular methods.
(7r) "Pediatric patient" means a patient who is 12 years old and under.

DE 11.025 Permit to administer anesthesia. (1) The board may issue an anesthesia permit at the following levels:

(a) Class 1 is for the administration of minimal sedation.

(b) Class 2 - enteral is for the enteral administration of moderate sedation.

(c) Class 2 – paraenteral is for the administration of moderate sedation by enteral or paraenteral route.

(d) Class 3 is for the administration of deep sedation or general anesthesia.

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

(a) Application and fee.

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

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

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

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

(f) If applying for a Class 3 Permit, evidence of one of the following:

1. Current board certification or a candidate for board certification by the American Board of Oral and Maxillofacial Surgery.
2. Diplomate of the American Dental Board of Anesthesiology.

(g) If applying for a Class 1 or 2 Permit, evidence of one of the following:

1. Current board certification or a candidate for board certification by the American Board of Oral and Maxillofacial Surgery.
2. Diplomate of the American Dental Board of Anesthesiology.
3. Successful completion of a Board approved education program that provides comprehensive training meeting the requirements in 11.035.

(h) If applying for a Class 2 – Enteral and applicant held a Class 1 Permit issued prior to [effective date], evidence of 20 individually managed cases within the last five years.

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

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

DE 11.35 Board approved education program content. (1) Board approved education program that provides comprehensive training for a Class 1 Permit shall consist of a minimum of 20 hours in administration and management of minimal sedation, including the following course contact:

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

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

(c) Definitions and descriptions of physiological and psychological aspects of anxiety and pain.
(d) Description of the stages of drug-induced central nervous system depression through all levels of consciousness and unconsciousness, with special emphasis on the distinction between the conscious and unconscious state.
(e) Review of adult respiratory and circulatory physiology and related anatomy.
(f) Pharmacology of agents used in enteral and combination inhalation-enteral minimal sedation, including drug interactions and incompatibilities.
(g) Indications and contraindications for use of enteral inhalation-enteral minimal sedation.
(h) Review of dental procedures possible under enteral and combination inhalation-enteral minimal sedation.
(i) Patient monitoring using observation, monitoring equipment, with particular attention to vital signs and reflexes related to consciousness.
(j) Maintaining proper records with accurate chart entries recording medical history, physical examination, informed consent, time oriented anesthesia record, including the names of all drugs administered, doses and monitored physiological parameters.
(k) Prevention, recognition and management of complications and life-threatening situations.
(L) Administration of local anesthesia in conjunction with enteral and combination inhalation-enteral minimal sedation techniques.
(m) Description, maintenance and use of inhalation sedation equipment.
(n) Introduction to potential health hazards of trace anesthetics and proposed techniques for limiting occupational exposure.
(o) Discussion of abuse potential.

(2) Board approved education program that provides comprehensive training for a Class 2 Permit shall consist of a minimum of 60 hours in administration and management of minimal sedation, including the following course contact:
(a) Historical, philosophical and psychological aspects of anxiety and pain control.
(b) Patient evaluation and selection through review of medical history taking, physical diagnosis and psychological profiling.
(c) Use of patient history and examination for ASA classification, risk assessment and pre-procedure fasting instruction.
(d) Definitions and descriptions of physiological and psychological aspects of anxiety and pain.
(e) Description of the sedation anesthesia continuum, with special emphasis on the distinction between the conscious and the unconscious state.
(f) Review of adult respiratory and circulatory physiology and related anatomy.
(g) Pharmacology of local anesthetics and agents used in moderate sedation, including drug interactions and contraindications.
(h) Indications and contraindications for use of moderate sedation
(i) Review of dental procedures possible under moderate sedation.
(j) Patient monitoring using observation, monitoring equipment, with particular attention to vital signs, ventilation, breathing and reflexes related to consciousness.

(k) Maintaining proper records with accurate chart entries recording medical history, physical examination, informed consent, time oriented anesthesia record, including the names of all drugs administered, doses and monitored physiological parameters.
(L) Prevention, recognition and management of complications and emergencies.
(m) Description, maintenance and use of moderate sedation monitors and equipment.
(n) Discussion of abuse potential.
(o) Intravenous access anatomy, equipment and technique.
(p) Prevention, recognition and management of complications of venipuncture and other parenteral techniques.
(q) Description and rationale for the technique to be employed.
(r) Prevention, recognition and management of systemic complications of moderate sedation, with particular attention to airway maintenance and support of the respiratory and cardiovascular systems.
(s) 20 individually managed cases. A Class 2 – enteral requires 5 of the 20 individually managed cases to involve a live patient. A Class 2 – parenteral requires all 20 individually managed parenteral cases to involve a live patient.

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

DE 11.85 Auxiliary Personnel. (1) Auxiliary personnel shall be certified in basic life support for the health care provider.
(2) A dentist administering general anesthesia, deep sedation or moderate sedation shall have two additional individuals present during the procedure.
(3) If a dentist both administering general anesthesia, deep sedation or moderate sedation and performing the dental procedure, one of the two auxiliary personnel must be designated to only monitor the patient.
(3) A dentist administering minimal sedation shall have one individual present during the procedure who is not the administering dentist.

DE 11.09 Standards of Care. (1) GENERAL. A dentist administering anesthesia or sedation shall remain in the room to continuously monitor the patient until the patient meets the criteria for transfer to recovery and may not leave the dental office or facility until the patient meets the criteria for discharge and is discharged from the dental office or facility.
(2) PREOPERATIVE PREPARATION. Pre-operative preparation for the administration of anesthesia or sedation shall include all of the following:
(a) Determine the adequacy of the oxygen supply and equipment necessary to deliver oxygen under positive pressure.
(b) Take and record the patient record baseline vital signs, including blood pressure, respiratory rate and heart rate. For the administration of general anesthesia and deep and moderate sedation, baseline vital signs include weight, height, blood pressure, heart rate, respiratory rate, blood oxygen saturation by pulse oximetry, and body temperature when appropriate. The inability to take vital signs due to the patient's behavior or condition shall be documented in the patient record.

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

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

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

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

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

(h) Advise the patient of fasting requirements.

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

(a) Level of consciousness.

(b) Oxygenation saturation by pulse oximetry.

(c) Chest excursions continually.

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

(e) Auscultation of breath sounds with precordial or pretrachial stethoscope.

(f) Respiration rate.

(g) Heart rate and rhythm via electrocardiogram (ECG).

(h) Blood pressure.

(i) Color of mucosa, skin or blood

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

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

(a) Level of consciousness.

(b) Chest excursions.

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

(d) Color of mucosa, skin or blood

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

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

(a) Immediate availability of oxygen and suction equipment.

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

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

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

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

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

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

(b) Automated external defibrillator
(c) Disposable syringes in assorted sizes.
(d) Oxygen in a portable cylinder E tank capable of administering positive pressure ventilation via a bag-valve-mask system.
(e) Sphygmomanometer and stethoscope for pediatric and adult patients.
(f) Suction and backup system.
(g) An operating chair capable of withstanding cardiopulmonary resuscitation or a back board.
(h) Emergency airway equipment including oral and nasal airway and advanced airway devices for appropriate patient populations being served.

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

(a) Non-enteric coated aspirin.
(b) Ammonia inhalants.
(c) Antihistamine.
(d) Antihypoglycemic agent.
(e) Bronchodilator.
(f) Epinephrine preloaded syringes for pediatric and adult.
(g) Oxygen.
(h) Nitroglycerin
(i) Reversal agents
(j) If Class 2 and Class 3, muscle relaxant.

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

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

(a) Time-oriented anesthesia record that includes the date, names of all drugs administered, dosages, methods of administration and monitored physiological parameters.
(c) Heart rate, respiratory rate, blood pressure, pulse oximetry, and end-tidal carbon dioxide measurements shall be recorded in five-minute intervals for general anesthesia, deep and moderate sedation.
(d) Heart rate, respiratory rate, blood pressure, and pulse oximetry shall be recorded in fifteen-minute intervals for minimal sedation.
(e) The duration of the procedure
(f) The individuals present during the procedure.

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

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

Debra Beres
Chairperson

Wendy Pietz
Vice Chairperson

Matthew Bistan
Secretary

DENTISTRY EXAMINING BOARD

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REPORT ON OPIOID ABUSE

Proactive Efforts Taken by the Dentistry Examining Board to Address Opioid Abuse

1. **Controlled Substances Prescribing Guidelines –** The Dentistry Examining Board adopted Best Practices for Prescribing Controlled Substances Guidelines (Guidelines) on April 12, 2017. The Guidelines were developed using the following:
   - Centers for Disease Control's *Guideline for Prescribing Opioids for Chronic Pain.*
   - Colorado Department of Regulatory Agencies' *Policy for Prescribing and Dispensing Opioids.*
   - Carr, Gouda's article *Acute Pain* published in Lancet.
   - Continuing Education by Figueroa and Alford, *Safe Opioid Prescribing for Acute Dental Pain.*
   - Wisconsin Medical Examining Board's *Opioid Prescribing Guideline.*
   - National Transportation Safety Board recommendations for advising patients of the effect controlled substances may have on their ability to safely operate a vehicle.

   The Dentistry Examining Board provided a copy of the Guidelines to every dentist with an active license and an email on file with the Department of Safety and Professional Services. A copy of the Guidelines is available at https://dsps.wi.gov/Documents/BoardCouncils/DEN/DENGuidelinesApril2017.pdf.

2. **Controlled Substances Continuing Education** - The Dentistry Examining Board requires each dentist to complete 2 hours of continuing education in the topic of responsible prescribing of controlled substances for the treatment of acute dental pain each biennium in order to renew the license. This continuing education requirement applies to the bienniums ending in 2019 and 2021.

Goals for Addressing the Issue of Opioid Abuse as it Relates to the Practice of Dentistry

1. **Increase the Number of Dentists Registered with the Prescription Drug Monitoring Program (PDMP) –** Currently 49% of licensed dentists are registered with the PDMP. The Dentistry Examining Board recognizes one of the best ways to increase the utilization of the PDMP is for a dentist to be registered with the PDMP. Therefore, the Dentistry Examining Board will strive to increase the percentage of licensed dentists registered with the PDMP to ___%.

2. **Number of Licensed Dentists using the PDMP –** Currently approximately 37% of licensed dentists registered with the PDMP are checking PDMP (with approximately 25% checking before every controlled substance prescription). The Dentistry Examining Board recognizes the value of checking the PDMP regardless of whether the prescription written legally requires checking the PDMP. Therefore, the Dentistry Examining Board will strive to increase the percentage of licensed dentists registered with the PDMP checking the PDMP to ___%.

3. **Education Regarding the Utilization of PDMP –** The Dentistry Examining Board recognizes that many dentists are still unaware of the PDMP and the functions it provides practitioners. Therefore, the Dentistry Examining Board will work with PDMP staff to provide and promote education regarding the utilization of PDMP, including how to check border states.

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Kate Stolarzyk	2) Date When Request Submitted: 8/24/18 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

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
9/5/18	☐ Yes ☐ No	Travel Report from Debra Beres on the 2018 Annual CRDTS Meeting on July 24-25, 2018 in Kansas City, Missouri

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	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.

Revised 12/2016

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Andrea Magermans and Sarah Bradley	**2) Date When Request Submitted:** 08/24/2018 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:
Medical Examining Board

4) Meeting Date: 9/5/18	**5) Attachments:** ☒ Yes ☐ No	**6) How should the item be titled on the agenda page?** Prescription Drug Monitoring Program (PDMP) Referral Criteria from Controlled Substances Board – Discussion and Consideration

7) Place Item in: ☒ Open Session ☐ Closed Session	**8) Is an appearance before the Board being scheduled?** ☒ Yes, by PDMP Staff ☐ No	**9) Name of Case Advisor(s), if required:**

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

1. Discussion of reports based on PDMP data presented to CSB Workgroup for potential referrals to professional licensing boards
2. Consideration of detail to include in prescriber-level reports

11) Authorization

Signature of person making this request **Date**

Andrea Magermans 8/24/18

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.

Revised 12/2016

Analysis of Monitored Prescription Drug Dispensings: Dentistry

Prepared for:
Dentistry Examining Board
September 2018 Meeting

The following report, prepared by the Wisconsin Department of Safety and Professional Services, is being provided as the result of the Controlled Substances Board Workgroup's effort to identify potentially suspicious or critically dangerous conduct or practices of a practitioner prescribing monitored prescription drugs.

Unless otherwise stated, the data in the report covers dispensing data submitted to the Wisconsin Prescription Drug Monitoring Program (PDMP) from December 1, 2017 – May 31, 2018.

Section 1: Prescribing of Opioids - Dentistry

Profession: Dentistry	
Total Number of Monitored Prescription Drugs Dispensed:	104,309
Total Number of Opioid Dispensings:	96,385
Total Number of Unique DEA Numbers Associated with Opioid Dispensings:	3,011

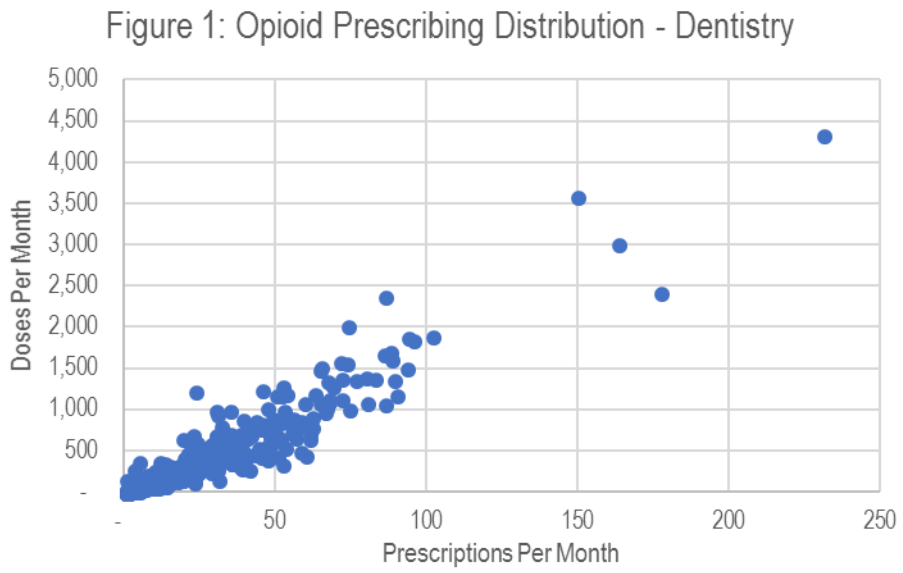

Figure 1: Opioid Prescribing for all dentistry prescribers. n = 3,011.

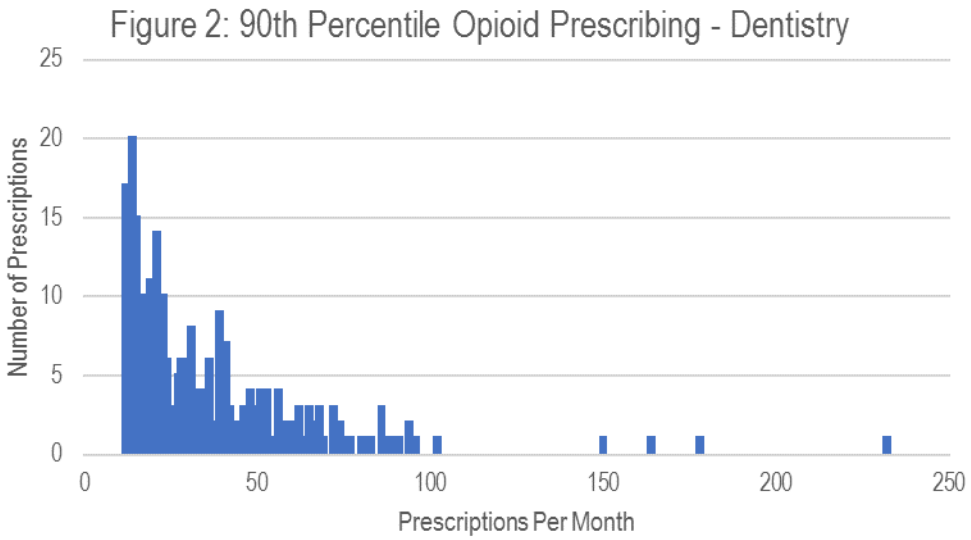

Figure 2: Top 10% of dentistry prescribers, based on average number of prescriptions filled/month. n = 312. Top 5% n = 147. Top 1% n = 31.

Section 2: Detail on Top Percentile

Top 1% of dentistry prescribers based on opioid prescriptions filled per month, December 1st, 2017 to May 31st, 2018, cutoff at average of approximately 66 opioid prescription dispensings/month.

Table 1: Top Percentile Dentistry

	All Dentistry Prescribers		Monthly Average				
			Opioid Orders		Opioid Doses	Avg Doses/ Opioid Script	
	State Median		1.3		20.3		
	State Mean (Truncated)*		9		84.6		
	Avg Doses/Opioid Script					16	
	Prescriber Detail Top 1%		Monthly Average				
	Profession	Specialty	Opioid Orders	Percentile	Opioid Doses	Percentile	Avg Doses/ Opioid Script
1.	Dentistry		231.0	100.00%	4,341.3	100.00%	18.8
2.	Dentistry	Dentistry-Surgery	177.3	99.96%	2,432.5	99.90%	13.7
3.	Dentistry	Dentistry-Surgery	163.3	99.93%	3,013.8	99.93%	18.5
4.	Dentistry	Dentistry-Surgery	149.7	99.90%	3,592.7	99.96%	24.0
5.	Dentistry	Surgery- Maxillofacial	101.7	99.86%	1,893.3	99.80%	18.6
6.	Dentistry		95.2	99.83%	1,842.8	99.73%	19.4
7.	Dentistry	Dentistry-Surgery	93.5	99.80%	1,876.7	99.76%	20.1
8.	Dentistry	Dentistry-Surgery	93.2	99.76%	1,502.8	99.50%	16.1
9.	Dentistry	Dentistry-Surgery	90.0	99.73%	1,186.2	99.03%	13.2
10.	Dentistry	Dentistry-Surgery	89.2	99.70%	1,368.7	99.30%	15.3
11.	Dentistry	Surgery- Maxillofacial	88.3	99.66%	1,619.5	99.63%	18.3
12.	Dentistry	Dentistry-Surgery	87.7	99.63%	1,707.0	99.70%	19.5
13.	Dentistry	Dentistry-Surgery	85.8	99.56%	2,379.5	99.86%	27.7
14.	Dentistry	Dentistry-General	85.8	99.56%	1,071.7	98.73%	12.5
15.	Dentistry	Surgery- Maxillofacial	85.7	99.53%	1,678.3	99.66%	19.6
16.	Dentistry	Dentistry-Surgery	82.5	99.50%	1,388.8	99.40%	16.8
17.	Dentistry	Dentistry-Surgery	80.2	99.46%	1,095.0	98.83%	13.7
18.	Dentistry	Dentistry-Surgery	79.5	99.43%	1,396.7	99.43%	17.6
19.	Dentistry	Dentistry-Surgery	76.2	99.40%	1,369.3	99.33%	18.0
20.	Dentistry	Surgery- Maxillofacial	74.0	99.36%	1,009.8	98.63%	13.6
21.	Dentistry	Dentistry-Surgery	73.7	99.33%	2,027.0	99.83%	27.5
22.	Dentistry	Surgery- Maxillofacial	73.2	99.30%	1,569.5	99.56%	21.5
23.	Dentistry		71.7	99.26%	1,379.3	99.36%	19.2
24.	Dentistry	Dentistry-General	71.5	99.23%	1,141.0	98.93%	16.0
25.	Dentistry	Dentistry-Surgery	71.0	99.20%	1,589.0	99.60%	22.4
26.	Dentistry		68.5	99.16%	1,295.5	99.23%	18.9
27.	Dentistry	Dentistry-Surgery	67.3	99.13%	1,097.7	98.87%	16.3
28.	Dentistry	Surgery- Maxillofacial	67.2	99.10%	1,140.7	98.90%	17.0
29.	Dentistry	Dentistry-General	67.0	99.06%	1,347.5	99.26%	20.1
30.	Dentistry	Surgery- Maxillofacial	66.3	99.03%	1,026.0	98.70%	15.5
31.	Dentistry	Surgery- Maxillofacial	66.2	99.00%	973.7	98.50%	14.7

*State Mean (Truncated) eliminates the highest volume prescriber and all prescribers with a monthly average of 1 or fewer opioid orders.

Section 3: Prescriber Detail

Prescriber A			
Profession:	Dentistry	Registered with the WI ePDMP:	No
Specialty (self-reported):	N/A	Estimated ePDMP Usage:	0.0%

Prescribing Summary: 12/1/2017 - 5/31/2018					
Dispensing Data	# of scripts	% of overall			
Opioids (includes buprenorphine)	1,465	99.93%	Number of Patients Prescribed Opioids by Prescriber:	1,367	
Stimulants	N/A	N/A			
Benzodiazepines	N/A	N/A			
Other	1	0.07%			
Opioid Dispensing	Prescriber	Peer %	State Median	State Mean (Truncated)	Doses/ Prescription
Avg. Opioid Orders/Month	231	100%	1.3	9	
Avg. Opioid Doses/Month	4,341.3	100%	20.3	84.6	
Avg. Doses/Prescription	18.8				16
	3 days or less	More than 3 days ≤ 10 days	More than 10 days ≤ 30 days	More than 30 days	
Days Supply Opioid Orders	1,241	220	4	0	

Top 5 Monitored Prescription Drugs Ordered by Prescriber (All Drug Classes)	Drug Name	Number of Dispensing	% of all Dispensing
	Acetaminophen w/ Codeine	1,095	74.69%
	Hydrocodone-Acetaminophen	183	12.48%
	Loratadine & Pseudoephedrine	164	11.19%
	Oxycodone HCl	21	1.43%
	Oxycodone w/ Acetaminophen	2	0.14%

Data Driven Alerts: As of 6/1/2018 (preceding 100 days)		
	Alert Type	Number of Alerts
Concerning Patient History	Concurrent Opioid/Benzo	63
	High MME	41

Prescriber B

Profession:	Dentistry	Registered with the WI ePDMP:	Yes
Specialty (self-reported):	Dentistry-Surgery	Estimated ePDMP Usage:	0.0%

Prescribing Summary: 12/1/2017 - 5/31/2018

Dispensing Data	# of scripts	% of overall		
Opioids (includes buprenorphine)	1,313	99.77%	Number of Patients Prescribed Opioids by Prescriber:	1,209
Stimulants	N/A	N/A		
Benzodiazepines	3	0.23%		
Other	N/A	N/A		

Opioid Dispensing	Prescriber	Peer %	State Median	State Mean (Truncated)	Doses/ Prescription
Avg. Opioid Orders/Month	177.3	99.96%	1.3	9	
Avg. Opioid Doses/Month	2,432.5	99.90%	20.3	84.6	
Avg. Doses/Prescription	13.7				16

	3 days or less	More than 3 days ≤ 10 days	More than 10 days ≤ 30 days	More than 30 days
Days Supply Opioid Orders	1,238	76	2	0

Top 5 Monitored Prescription Drugs Ordered by Prescriber (All Drug Classes)	Drug Name	Number of Dispensing	% of all Dispensing
	Hydrocodone-Acetaminophen	603	45.82%
	Acetaminophen w/ Codeine	532	40.43%
	Oxycodone w/ Acetaminophen	176	13.37%
	Diazepam	3	0.23%
	Tramadol HCl	1	0.08%

Data Driven Alerts: As of 6/1/2018 (preceding 100 days)

	Alert Type	Number of Alerts
Concerning Patient History	Concurrent Opioid/Benzo	11
	High MME	39

Prescriber C

Profession:	Dentistry	Registered with the WI ePDMP:	Yes
Specialty (self-reported):	Dentistry-Surgery	Estimated ePDMP Usage:	0.0%

Prescribing Summary: 12/1/2017 - 5/31/2018

Dispensing Data	# of scripts	% of overall		
Opioids (includes buprenorphine)	1,032	99.81%	Number of Patients Prescribed Opioids by Prescriber:	960
Stimulants	N/A	N/A		
Benzodiazepines	2	0.19%		
Other	N/A	N/A		

Opioid Dispensing	Prescriber	Peer %	State Median	State Mean (Truncated)	Doses/ Prescription
Avg. Opioid Orders/Month	163.3	99.93%	1.3	9	
Avg. Opioid Doses/Month	3,013.8	99.93%	20.3	84.6	
Avg. Doses/Prescription	18.5				16

	3 days or less	More than 3 days ≤ 10 days	More than 10 days ≤ 30 days	More than 30 days
Days Supply Opioid Orders	908	124	1	1

Top 5 Monitored Prescription Drugs Ordered by Prescriber (All Drug Classes)	Drug Name	Number of Dispensing	% of all Dispensing
	Hydrocodone-Acetaminophen	577	55.80%
	Oxycodone w/ Acetaminophen	424	41.01%
	Acetaminophen w/ Codeine	27	2.61%
	Diazepam	2	0.19%
	Oxycodone HCl	2	0.19%

Data Driven Alerts: As of 6/1/2018 (preceding 100 days)

	Alert Type	Number of Alerts
Concerning Patient History	Concurrent Opioid/Benzo	30
	High MME	33

Prescriber D

Profession:	Dentistry	Registered with the WI ePDMP:	Yes
Specialty (self-reported):	Dentistry-Surgery	Estimated ePDMP Usage:	0.0%

Prescribing Summary: 12/1/2017 - 5/31/2018

Dispensing Data	# of scripts	% of overall		
Opioids (includes buprenorphine)	1,042	99.43%	Number of Patients Prescribed Opioids by Prescriber:	993
Stimulants	N/A	N/A		
Benzodiazepines	5	0.48%		
Other	1	0.10%		

Opioid Dispensing	Prescriber	Peer %	State Median	State Mean (Truncated)	Doses/ Prescription
Avg. Opioid Orders/Month	149.7	99.90%	1.3	9	
Avg. Opioid Doses/Month	3,592.7	99.96%	20.3	84.6	
Avg. Doses/Prescription	24.0				16

	3 days or less	More than 3 days ≤ 10 days	More than 10 days ≤ 30 days	More than 30 days
Days Supply Opioid Orders	981	56	11	0

Top 5 Monitored Prescription Drugs Ordered by Prescriber (All Drug Classes)	Drug Name	Number of Dispensing	% of all Dispensing
	Hydrocodone-Acetaminophen	755	72.04%
	Acetaminophen w/ Codeine	266	25.38%
	Tramadol HCl	13	1.24%
	Oxycodone w/ Acetaminophen	8	0.76%
	Alprazolam	3	0.29%

Data Driven Alerts: As of 6/1/2018 (preceding 100 days)

	Alert Type	Number of Alerts
Concerning Patient History	Concurrent Opioid/Benzo	23
	High MME	11