



DENTISTRY EXAMINING BOARD
Room N206, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
January 9, 2019

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 of November 7, 2018 (4-6)

D. Administrative Matters (7-13)

1. Board and Staff Updates
2. Department Updates
3. Board Member Recognition and Appreciation
4. Election of Officers
5. Appointment of Liaison(s)
6. Delegation of Authorities

E. 9:00 A.M. PUBLIC HEARING: Clearinghouse Rule 18-089, Relating to Preservation of Patient Health Care Records (14-22)

1. Review and Respond to Clearinghouse Report and Public Hearing Comments

F. Legislation and Rule Matters – Discussion and Consideration (23)

1. Update on Legislation and Pending or Possible Rulemaking Projects

G. Items Added After Preparation of Agenda

1. Introductions, Announcements and Recognition
2. Election of 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. Division of Legal Services and Compliance (DLSC) 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)

H. 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),).

I. Credentialing Matters

1. **Application Review**
 - a. Jorge Velasquez **(24-88)**

J. Deliberation on DLSC Matters

1. **Proposed Stipulations, Final Decisions and Orders**
 - a. 16 DEN 083 – Timothy W. Stevens, D.D.S. **(89-95)**
2. **Case Closings**
 - a. 17 DEN 038 – T.J.M. & E.M. **(96-108)**

K. Deliberation on Proposed Final Decisions and Orders

1. Lance Kisby, D.M.D. – DHA Case Number SPS-18-0028/ DLSC Case Number 18 DEN 037 **(109-117)**

L. Deliberation on Matters Relating to Costs/Orders Fixing Costs

1. Jeffrey Slavik, D.D.S. – DHA Case Number SPS-18-0020/ DLSC Case Number 16 DEN 086 **(118-137)**

M. Consulting with Legal Counsel

N. Deliberation of Items Received After Preparation of the Agenda

1. Education and Examination Matters
2. Credentialing Matters
3. DLSC 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

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

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

ADJOURNMENT

NEXT MEETING DATE: MARCH 6, 2019

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
NOVEMBER 7, 2018**

PRESENT: Lisa Bahr, RDH; Debra Beres, RDH; Matthew Bistan, DDS; Mark Braden, DDS; Christopher J. Callen; Leonardo Huck, DDS; Lyndsay Knoell, DDS; Dennis Myers, Wendy Pietz, DDS; and Katherine Schrubbe, RDH; Beth Welter, DDS

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 10:06 a.m. A quorum of eleven (11) members was confirmed.

ADOPTION OF AGENDA

MOTION: Mark Braden moved, seconded by Dennis Myers, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF SEPTEMBER 5, 2018

MOTION: Mark Braden moved, seconded by Beth Welter, to approve the minutes of September 5, 2018 as published. Motion carried unanimously.

ADMINISTRATIVE UPDATES

Board Member Recognition and Appreciation

MOTION: Dennis Myers moved, seconded by Wendy Pietz, to honor and thank Carrie Stempski for her years of service to the Dentistry Examining Board. Motion carried unanimously.

Appointment of Board Liaison(s)

2018 LIAISON APPOINTMENTS	
Screening Panel Members	Dennis Myers, Matthew Bistan, and Katherine Schrubbe

10:00 A.M. PUBLIC HEARING: CLEARINGHOUSE RULE 17-068, RELATING TO DENTAL LICENSURE AND THE PRACTICE OF DENTAL HYGIENE

Review and Respond to Public Hearing Comments

MOTION: Lyndsay Knoell moved, seconded by Beth Welter, to reject making any modifications to Clearinghouse Rule 17-068 based on public comments on the basis that doing so would go beyond statutory authority. Motion carried unanimously.

MOTION: Mark Braden moved, seconded by Beth Welter, to authorize the Chair to approve the Legislative Report and Draft for Clearinghouse Rule 17-068, relating to Dental Licensure and the practice of Dental Hygiene, for submission to the Governor's Office and Legislature. Motion carried unanimously.

CLOSED SESSION

MOTION: Christopher Callen moved, seconded by Dennis Myers, 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: Lisa Bahr-yes; Debra Beres-yes; Matthew Bistan-yes; Mark Braden-yes; Christopher J. Callen-yes; Leonardo Huck-yes; Lyndsay Knoell-yes; Dennis Myers-yes; Wendy Pietz-yes; Katherine Schrubbe-yes; Beth Welter-yes. Motion carried unanimously.

The Board convened into Closed Session at 12:11 p.m.

RECONVENE TO OPEN SESSION

MOTION: Beth Welter moved, seconded by Christopher Callen, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 12:45 p.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Dennis Myers 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

Administrative Warnings

17 DEN 092 – A.M.P.

MOTION: Dennis Myers moved, seconded by Matthew Bistan, to issue an Administrative Warning in the matter of A.M.P., DLSC Case Number 17 DEN 092. Motion carried unanimously.

17 DEN 114 – M.H.

MOTION: Matthew Bistan moved, seconded by Mark Braden, to issue an Administrative Warning in the matter of M.H., DLSC Case Number 17 DEN 114. Motion carried unanimously.

Proposed Stipulations, Final Decisions and Orders

17 DEN 067 – Sally Jo McCall, RDH

MOTION: Christopher Callen moved, seconded by Lyndsay Knoell, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Sally Jo McCall, RDH, DLSC Case Number 17 DEN 067. Motion carried unanimously.

ADJOURNMENT

MOTION: Lisa Bahr moved, seconded by Lyndsay Knoell, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:48 p.m.

DRAFT

DENTISTRY EXAMINING BOARD

**2018 ELECTION RESULTS, LIAISON APPOINTMENTS, AND DELEGATED
AUTHORITIES**

****Denotes Liaison Appointments updated at the 11/7/2018 meeting.**

2018 ELECTION RESULTS	
Board Chair	Debra Beres
Vice Chair	Wendy Pietz
Secretary	Matthew Bistan

Appointment of Liaisons and Alternates

2018 LIAISON APPOINTMENTS	
Credentialing Liaisons	Debra Beres (<i>Dental Hygiene</i>), Wendy Pietz (<i>Dentistry</i>) Alternate: Leo Huck
Office of Education and Exams Liaison	Eileen Donohoo
Monitoring and Professional Assistance Procedure (PAP) Liaison	Beth Welter
Legislative Liaison	Debra Beres
Travel Liaison	Debra Beres
PDMP Liaison/ Appointed to Controlled Substances Board as per Wis. Stats. §15.405(5g)	Leonardo Huck
**Screening Panel Members	Lyndsay Knoell, Debra Beres, Dennis Myers, Matthew Bistan, Katherine Schrubbe (<i>Observers: Matthew Bistan and -Carrie Stempski</i>)

Delegation of Authorities

Document Signature Delegation

MOTION: Eileen Donohoo moved, seconded by Wendy Pietz, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director, or designee, to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Eileen Donohoo moved, seconded by Carrie Stempski, that, in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chair (or, in the absence of the Chair, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

Monitoring Delegations

MOTION: Dennis Myers moved, seconded by Eileen Donohoo, to adopt the “Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor” as presented. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison (Generic)

MOTION: Eileen Donohoo moved, seconded by Carrie Stempski, to delegate authority to the Credentialing Liaisons to make all credentialing decisions. Motion carried unanimously.

Delegation of Authority to DSPS When Rule and Statute Criteria is Met

MOTION: Eileen Donohoo moved, seconded by Dennis Myers, to delegate credentialing authority to DSPS to act upon applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Delegation of OWI/Underage Drinking Determinations

MOTION: Eileen Donohoo moved, seconded by Beth Welter, to delegate authority to DSPS Attorneys and Paralegals to review and approve applicants with one OWI or underage drinking violation which do not substantially relate to the practice of Dentistry or Dental Hygiene. Motion carried unanimously.

Delegation of Faculty License Credentialing Decisions

MOTION: Eileen Donohoo moved, seconded by Carrie Stempski, to delegate all faculty license credentialing decisions to the Board's Credentialing Liaisons. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Eileen Donohoo moved, seconded by Leonardo Huck, that the Board Counsel or another department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin Code § SPS 1.08(1). Motion carried unanimously.

Voluntary Surrenders

MOTION: Eileen Donohoo moved, seconded by Dennis Myers, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender of a license by a licensee who has a pending complaint or disciplinary matter per Wis. Stat. § 440.19. Motion carried unanimously.

Continuing Education Delegation or Education Delegations

MOTION: Eileen Donohoo moved, seconded by Wendy Pietz, to delegate authority to the Office of Education and Examination Liaison(s) to address all issues related to CE, education and examinations. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Bodies

MOTION: Eileen Donohoo moved, seconded by Beth Welter, to authorize Department staff to provide national regulatory bodies with all Board member contact information that the Department retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: Lyndsay Knoell moved, seconded by Dennis Myers to designate the highest-ranking officer to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Eileen Donohoo moved, seconded by Matthew Bistan, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Travel Delegation

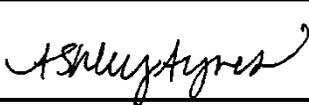
MOTION: Eileen Donohoo moved, seconded by Matthew Bistan, to delegate authority to the Travel Liaison to approve any Board Member travel. Motion carried unanimously.

Occupational Licensure Study Liaison

MOTION: Eileen Donohoo moved, seconded by Leonardo Huck, to designate a Board Officer as the Board's liaison to represent and speak on behalf of the Board regarding occupational license review and related matters. Motion carried unanimously.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Ashley Ayres Monitoring and Intake Supervisor Division of Legal Services and Compliance		2) Date When Request Submitted: December 20, 2018	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: January 9, 2019	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Appointment of Monitoring Liaison and Delegated Authority Motion	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Adopt or reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet.			
11) Authorization			
		December 20, 2018	
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.			

Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.
8. Grant or deny a request to appear before the Board/Section in closed session.
9. Board Monitoring Liaison may determine whether Respondent’s petition is eligible for consideration by the full Board/Section.
10. (*Except Pharmacy*) Accept Respondent’s written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review.
11. (*Except Pharmacy*) Grant Respondent’s petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison.
 - a. Year 1: 49 screens (including 1 hair test, if required by original order)
 - b. Year 2: 36 screens (plus 1 hair test, if required by original order)
 - c. Year 3: 28 screens plus 1 hair test
 - d. Year 4: 28 screens plus 1 hair test
 - e. Year 5: 14 screens plus 1 hair test

12. (*Dentistry only*) – Ability to approve or deny all requests from a respondent.
13. (*Except Nursing*) – Board Monitoring Liaison may approve or deny Respondent's request to be excused from drug and alcohol testing for work, travel, etc.

Current Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
 2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.
 3. Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.
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**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: 20 December 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: Dentistry Examining Board									
4) Meeting Date: 9 January 2019	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Public Hearing on Clearinghouse Rule 18-089 Relating to Preservation of Patient Health Care Records a. Review and respond to Clearinghouse Report and Public Hearing comments							
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:							
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 <div style="border-bottom: 1px solid black; padding-bottom: 5px;"> <i>Sharon Henes</i> </div> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; border-bottom: 1px solid black;">Signature of person making this request</td> <td style="width: 30%; border-bottom: 1px solid black;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (if required)</td> <td style="border-bottom: 1px solid black;">Date</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				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	
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Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.									

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF 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 create DE 8.035 relating to preservation of patient health care records.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 447.063, Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.063 (1), Stats.

Explanation of agency authority:

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. [15.08 (5) (b), Stats.]

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, as defined in s. 146.81 (4), for an amount of time determined by the examining board by rule. [447.063 (1), Stats.]

Related statute or rule: DE 8

Plain language analysis:

A dental practice is required to preserve patient records for at least 10 years from the date of the last entry.

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

Comparison with rules in adjacent states:

Illinois: Illinois requires dental records to be maintained for 10 years.

Iowa: Iowa requires dentists to maintain a patient's dental record for a minimum of 6 years after the date of last examination, prescription, or treatment. Records for minors shall be maintained for a minimum of either one year after the patient reaches 18 years of age or 6 years, whichever is longer.

Michigan: Michigan requires all dental treatment record to be maintained for not less than 10 years from the date of the last treatment provided.

Minnesota: Minnesota requires a dentist to maintain dental records for at least 7 years beyond the time the dentist last treated the patient. In the case of a minor patient, a dentist shall maintain the record for at least 7 years past the age of majority.

Summary of factual data and analytical methodologies:

The Dentistry Examining Board implemented 2017 Act 116 in a manner which maintains consistency with other patient dental record requirements.

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

The rule was posted for economic impact comments and none were received. The board already requires dentists to maintain patient records for 10 years. The proposed rule requiring a person who manages or controls a business that offers dental or dental hygiene services to maintain patient records for 10 years is not anticipated to create an additional 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, 4822 Madison Yards Way, 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, 4822 Madison Yards Way, 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 January 9, 2018 to be included in the record of rule-making proceedings.

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)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 3 December 2018
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DE 8.035	
4. Subject Preservation of patient health care records	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
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)? <input type="checkbox"/> Yes <input type="checkbox"/> No	
11. Policy Problem Addressed by the Rule 2017 Act 116 requires 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, to preserve patient health care records for an amount of time determined by the Dentistry Examining Board. The Dentistry Examining Board is implementing 2017 Act 116 to be consistent with current patient dental record retention requirements.	
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 impact comments and none were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None. The rule does not impact local governmental units.	
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 this rule is to comply with 2017 Act 116 in designating a time period for dental record preservation. This rule is consistent with the dental record keeping requirements already in place for dentists to preserve dental records.	
16. Long Range Implications of Implementing the Rule The long range implications are consistent rules and the ability for patients to access their dental records.	
17. Compare With Approaches Being Used by Federal Government None	

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
Illinois and Michigan require dental records to be maintained for 10 years from the date of the last treatment provided. Iowa requires dental records to be maintained for a minimum of 6 years after last examination, prescription, or treatment and records for minors to be maintained for a minimum of either one year after the patient reaches 18 years of age or 6 years, whichever is longer. Minnesota requires dental records to be maintained for at least 7 years after the dentist last treated the patient and for minors at least 7 years past the age of majority.

19. Contact Name

Sharon Henes

20. Contact Phone Number

608-261-2377

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

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

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

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

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

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

5. Describe the Rule's Enforcement Provisions

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

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit S. Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Acting Director

CLEARINGHOUSE REPORT TO AGENCY

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

CLEARINGHOUSE RULE **18-089**

AN ORDER to create DE 8.035, relating to preservation of patient health care records.

Submitted by **DENTISTRY EXAMINING BOARD**

12-03-2018 RECEIVED BY LEGISLATIVE COUNCIL.

12-12-2018 REPORT SENT TO AGENCY.

SG:JN

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

**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: 20 December 2019 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 9 January 2019	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Administrative Rule Matters 1. Updates on Legislation and Pending or Possible Rulemaking Projects	
7) Place Item in: <input type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Sharon Henes</i>		12/20/18	
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.			