



DENTISTRY EXAMINING BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Christian Albouras, (608) 266-2112
November 6, 2019

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

AGENDA

9:00 A.M.

OR IMMEDIATELY FOLLOWING THE LICENSURE FORMS COMMITTEE MEETING

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Pledge of Allegiance

B. Adoption of Agenda (1-3)

C. Approval of Minutes of September 4, 2019 (4-6)

D. Introductions, Announcements and Recognition

E. Conflicts of Interest

F. Administrative Matters

- 1) Department, Staff and Board Updates
- 2) Board Members – Term Expiration Dates

G. 9:00 A.M. PUBLIC HEARING: Clearinghouse Rule 19-132, Relating to Laboratory Work Authorizations, Sedation and Anesthesia (7-30)

- 1) Review and Respond to Clearinghouse Report and Public Hearing Comments

H. Legislative and Policy Matters – Discussion and Consideration

I. Administrative Rule Matters – Discussion and Consideration

- 1) Adoption of CR 18-089, Relating to Preservation of Patient Health Care Records **(31-34)**
- 2) 2017 Act 262 Report
- 3) Pending or Possible Rulemaking Projects

J. Credentialing Matters – Discussion and Consideration

- 1) Review of Application Forms and Creation of Forms Committee

K. Discussion and Consideration of Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Administrative Matters
- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Legislative and Policy Matters
- 10) Administrative Rule Matters
- 11) Liaison Reports
- 12) Board Liaison Training and Appointment of Mentors
- 13) Informational Items
- 14) Division of Legal Services and Compliance (DLSC) Matters
- 15) Presentations of Petitions for Summary Suspension
- 16) Petitions for Designation of Hearing Examiner
- 17) Presentation of Stipulations, Final Decisions and Orders
- 18) Presentation of Proposed Final Decisions and Orders
- 19) Presentation of Interim Orders
- 20) Petitions for Re-Hearing
- 21) Petitions for Assessments
- 22) Petitions to Vacate Orders
- 23) Requests for Disciplinary Proceeding Presentations
- 24) Motions
- 25) Petitions
- 26) Appearances from Requests Received or Renewed
- 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

L. Public Comments

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

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

- 1) **Stipulations, Final Decisions and Orders**
 - a. 18 DEN 012 – Zolya Geller, D.D.S. **(35-44)**
- 2) **Case Closing(s)**
 - a. 18 DEN 026 – R.I.V. **(45-41)**
 - b. 18 DEN 028 – I.R.R. & S.O.K. **(42-47)**

N. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions

- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

ADJOURNMENT

NEXT DATE: JANUARY 8, 2020 (TENTATIVE)

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
SEPTEMBER 4, 2019**

PRESENT: Lisa Bahr, RDH; Debra Beres, RDH; Matthew Bistan, DDS; Leonardo Huck, DDS; Herbert Kaske, DDS (*via Skype, excused at 10:15 a.m.*); Dennis Myers, Wendy Pietz, DDS; Katherine Schrubbe, RDH; and Peter Sheild, DDS

EXCUSED: Shaheda Govani, DDS

STAFF: Christian Albouras, Executive Director; Jameson Whitney, Legal Counsel; Sharon Henes, Administrative Rules Coordinator; Megan Glaeser, Bureau Assistant; and other Department staff

CALL TO ORDER

Matthew Bistan, Chairperson, called the meeting to order at 9:03 a.m. A quorum of nine (9) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda:

MOTION: Dennis Myers moved, seconded by Debra Beres, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JULY 10, 2019

Amendments to the Minutes:

MOTION: Debra Beres moved, seconded by Dennis Meyer, to approve the Minutes of July 10, 2019 as published. Motion carried unanimously.

LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

DE 9 and 11, Relating to Laboratories and Work Authorizations and Anesthesia

MOTION: Leonardo Huck moved, seconded by Peter Sheild, to authorize the Chairperson to approve the preliminary rule draft of DE 9 & 11, relating to laboratories and work authorizations and anesthesia, for posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

(Herbert Kaske was excused at 10:15 a.m.)

CREDENTIALING MATTERS AND CREATION OF FORMS COMMITTEE

MOTION: Leonardo Huck moved, seconded by Dennis Myers, to form an Ad Hoc Licensure Forms Committee to make recommendations on modification of licensure forms for the professions regulated by the Board and to

designate Wendy Pietz as Chairperson with Deb Beres, Lisa Bahr, and Shaheda Govani as members. Motion carried unanimously.

CLOSED SESSION

MOTION: Dennis Myers moved, seconded by Lisa Bahr, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Matthew Bistan, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Lisa Bahr-yes; Debra Beres-yes; Matthew Bistan-yes; Leonardo Huck-yes; Dennis Myers-yes; Wendy Pietz-yes; Katherine Schrubbe-yes; and Peter Sheild-yes. Motion carried unanimously.

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

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Proposed Stipulations, Final Decisions and Orders

17 DEN 085 – Wyn D. Steckbauer, DMD

MOTION: Peter Sheild moved, seconded by Leonardo Huck, to adopt the Finding of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Wyn D. Steckbauer, DMD, DLSC Case Number 17 DEN 085. Motion carried unanimously.

18 DEN 001 – Jeffry A. Rostas, DDS

MOTION: Debra Beres moved, seconded by Peter Sheild, to adopt the Finding of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Jeffry Rostas, DDS, DLSC Case Number 18 DEN 001. Motion carried unanimously.

18 DEN 012 – Zoyla Geller, DDS

MOTION: Debra Beres moved, seconded by Lisa Bahr, to reject the Finding of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Zoyla Geller, DDS, DLSC Case Number 18 DEN 012. Motion carried unanimously.

Administrative Warnings

15 DEN 081 – T.J.L.

MOTION: Peter Sheild moved, seconded by Debra Beres, to issue an Administrative Warning in the matter of T.J.L., DLSC Case Number 15 DEN 081. Motion carried unanimously.

19 DEN 017 – J.H.Y.

MOTION: Debra Beres moved, seconded by Katherine Schrubbe, to issue an Administrative Warning in the matter of J.H.Y., DLSC Case Number 19 DEN 017. Motion carried unanimously.

Case Closings

MOTION: Peter Sheild moved, seconded by Debra Beres, to close the DLSC cases for the reasons outlined below:

1. 18 DEN 013 – Unknown – Insufficient Evidence
2. 18 DEN 014 – D.A.P. – No Violation
3. 18 DEN 060 – A.L.B. – Prosecutorial Discretion (P2)
4. 18 DEN 072 – A.M. – Prosecutorial Discretion (P7)
5. 18 DEN 075 – A.M. – Prosecutorial Discretion (P7)
6. 18 DEN 076 – A.M. – Prosecutorial Discretion (P7)
7. 18 DEN 077 – A.M. – Prosecutorial Discretion (P7)
8. 18 DEN 119 – W.A.H. – No Violation
9. 18 DEN 143 – D.J.W. – No Violation
10. 18 DEN 151 – T.W.M. – Prosecutorial Discretion (P2)
11. 19 DEN 013 – P.J.C. – No Violation
12. 19 DEN 016 – D.D.P. – No Violation
13. 19 DEN 024 – R.R. – No Violation
14. 19 DEN 028 – A.E.S. – Prosecutorial Discretion (P2)
15. 19 DEN 043 – B.J.B. – No Violation

Motion carried unanimously.

RECONVENE TO OPEN SESSION

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

The Board reconvened into Open Session at 12:25 p.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

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

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

ADJOURNMENT

MOTION: Lisa Bahr, seconded by Katherine Schrubbe, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:26 p.m.

**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: 25 October 2019 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: 6 November 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 19-132 relating laboratory work authorizations, sedation and anesthesia 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 <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; border-bottom: 1px solid black;"><i>Sharon Henes</i></td> <td style="width: 30%; border-bottom: 1px solid black; text-align: right;"><i>10/25/19</i></td> </tr> <tr> <td style="border-bottom: 1px solid black;">Signature of person making this request</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (if required)</td> <td style="border-bottom: 1px solid black; text-align: right;">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>				<i>Sharon Henes</i>	<i>10/25/19</i>	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	
<i>Sharon Henes</i>	<i>10/25/19</i>										
Signature of person making this request	Date										
Supervisor (if required)	Date										
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date											
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.											

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF 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 11.02(1), (1m), (2), (7), (8), and (9), 11.04, 11.05, 11.06, 11.07, 11.08 and 11.10 (intro.); to renumber DE 11.10 (1), (2), (3), (4), (5), (6), and (7); to amend DE 9.015 (2), 11.02 (1s), (1t), and (1u), 11.02 (3), 11.02 (4), 11.02 (6) and 11.10 (title); to repeal and recreate DE 9.02, 11.025, 11.03 and 11.09; and to create DE 11.02 (1g), (2g), (2r), (3m), (4s), (4m), (4s), (6g) and (6r), 11.035, 11.075, 11.085 and 11.10 (1), (2) and (3)(intro.) relating to laboratory work authorizations, sedation and anesthesia.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 447.02 (2) (b), and 447.03 (3) (f) 1., Stats.

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

Explanation of agency authority:

Each Examining Board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular profession. [s. 15.08 (5) (b), Stats.]

The Examining Board shall promulgate rules specifying the standards, conditions and any educational requirements that are in addition to the requirements specified in s. 447.04 (1) that must be met by a dentist to be permitted to induce general anesthesia or conscious sedation in connection with the practice of dentistry. [s. 447.02 (2) (b), Stats.]

Related statute or rule: N/A

Plain language analysis:

Section 1 simplifies the definition to just an official, signed request from a dentist to a laboratory.

Section 2 eliminates the prescribed format for the dental laboratory work authorization and simplifies the requirements to include the patient's name or id number, the dentist's name and the prescription information.

Sections 3, 5, 7, and 15 repeal definitions no longer utilized in the chapter.

Section 4 defines ASA as the American Society of Anesthesiologists.

Section 6 amends the definitions for Class 1, Class 2 and Class 3 permits. Currently the permits are issued based upon method of sedation and this proposed rule bases the permits on level of sedation which is in line with the American Dental Association's guidelines. A Class 1 is no longer being issued or valid as minimal sedation is being considered as part of the scope of dentistry that does not require a sedation permit. A Class 2 permit allows the dentist to do moderate sedation. A Class 3 permit allows a dentist to do deep sedation or general anesthesia.

Section 8 defines continual to mean repeated regularly and frequently in a steady succession and continual to mean prolonged without interruption.

Section 9 redefines deep sedation as a drug induced depression of consciousness. A patient cannot be easily aroused but respond to repeated painful stimulation. A patient may require assistance in maintaining an airway and spontaneous ventilation may be inadequate. Cardiovascular function usually is maintained.

Section 10 creates a definition for enteral for agents which are absorbed through the gastrointestinal tract or through the oral, rectal or nasal mucous membranes.

Section 11 redefines general anesthesia as a drug-induced loss of consciousness. The patient is not arousable. The patient often requires assistance to maintain an airway and ventilation is required. Cardiovascular function may be impaired.

Section 12 defines immediately available as the person is actually in the dental office or facility and can immediately available to respond.

Minimal sedation is defined as a depressed level of consciousness allowing the patient to maintain an airway and respond to stimulation or command. Ventilatory and cardiovascular functions are unaffected.

Moderate sedation is defined as a drug-induced depression of consciousness which the patient can respond to oral commands either alone or with a light stimulation. No interventions are necessary to maintain airway or ventilation. Cardiovascular function is maintained. If more than one enteral drug is administered or it is administered at a dosage that exceeds the maximum recommended dose during one appointment, it is considered moderate sedation instead of minimal.

Section 13 revises the term being defined to "nitrous oxide" and defines it as a combination of nitrous oxide and oxygen in a patient.

Section 14 creates a definition for parenteral which means the administration of a drug which bypasses the gastrointestinal tract. It is administered into a muscle, vein, nasal structures, areolar connective tissue lying beneath a mucous membrane, interocular, or under the skin. The definition of a pediatric patient is a patient who is 12 years or younger.

Section 16 indicates a permit is not required for minimal sedation. A Class 2 is required for moderate sedation and a Class 3 is required for moderate or deep sedation or general anesthesia. A person applies for a permit by submitting the following: an application; fee; verification of any permit or credential for anesthesia or sedation held by the application; disclosure of any previous adverse incident involving anesthesia or sedation; evidence of current Wisconsin dentistry licensure; evidence of certification in advanced cardiovascular life support or pediatric advanced life support; and approved education. Class 2 permit requires one of the following: board certification or a candidate for board certification by the American Board of Oral and Maxillofacial Surgery; diplomate or candidate of the American Dental Board of Anesthesiology; or successful completion of a Board approved education program. Class 3 permit requires one of the following: board certification or a candidate for board certification by the American Board of Oral and Maxillofacial Surgery; diplomate or candidate of the American Dental Board of Anesthesiology; or postdoctoral residency in an accredited dental program in dental anesthesiology.

Section 17 clarifies that nitrous oxide when used in combination with a sedative agent may produce minimal, moderate or deep sedation. If a patient enters a deeper level of sedation than the dentist is authorized to provide, the dentist must stop the sedation and procedures until the patient returns to the intended level of sedation.

Section 18 provides the education requirements approved by the Board for Class 2 permit. The program shall be at least 60 hours in administration and management of moderate sedation and include:

- Aspects of anxiety and pain control.
- Patient evaluation and selection based upon review of medical history, physical diagnosis and psychological profiling.
- Use of patient history and examination for ASA classification, risk assessment and fasting instructions.
- Definitions and descriptions of physiological psychological aspects of anxiety and pain.
- Description of the sedation anesthesia continuum.
- Review of adult respiratory and circulatory physiology and related anatomy.
- Pharmacology of local anesthetics and agents used in moderate sedation.
- Indications and contraindications for use of moderate sedation.
- Review of dental procedures possible under moderate sedation.
- Patient monitoring using observation and monitoring equipment.
- Maintaining proper records with accurate chart entries.
- Prevention, recognition and management of complications and emergencies.
- Description, maintenance and use of moderate sedation monitors and equipment.
- Discussion of abuse potential.
- Intravenous access anatomy, equipment and technique.
- Prevention, recognition and management of complications of venipuncture and other parenteral techniques.
- Description and rationale for the technique to be employed.

- Prevention, recognition and management of systemic complications of moderate sedation.
- 20 individually managed cases.

Section 19 repeals the sections on requirements for anxiolysis, conscious sedation-enteral, conscious sedation-parenteral, and deep sedation and general anesthesia due to being obsolete.

Section 20 creates a requirement for a dentist holding a sedation permit must complete 2 hours of continuing education on the topic of sedation and anesthesia each biennium. The continuing education can count toward the general continuing education requirements for dentists.

Section 21 repeals the office facilities and equipment section as it is addressed under the standards of care section.

Section 22 requires auxiliary personnel to be certified in basic life support for the health care provider. A dentist administering moderate sedation must have one additional person present during the procedure and another person on the premises and available to respond to a patient emergency. A dentist administering general anesthesia or deep sedation must have two additional persons present during the procedure. If the dentist is both performing the dental procedures administering moderate or deep sedation, or general anesthesia, then an auxiliary person must be designated to only monitor the patient.

Section 23 delineates the standards of care. A dentist administering anesthesia or sedation must be in the room to continuously monitor the patient until the patient meets the criteria for transfer to recovery. The dentist 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.

Preoperative preparation includes:

- Determine the adequacy of the oxygen supply and equipment necessary.
- Take and record the patient's baseline vital signs.
- Complete medical history and a focused physical evaluation.
- Instruct the patient on specific dietary limitations based upon the sedative and anesthetic technique to be used and patient's physical status.
- Provide pre-operative instructions to the patient.
- Notify and require a patient to arrive and leave with a vested escort.
- Establish and secure, an intravenous line throughout the procedure.
- Advise the patient of fasting requirements.

Utilizing moderate or deep sedation or general anesthesia, a dentist must continuously monitor and evaluate:

- Level of consciousness.
- Oxygenation saturation by pulse oximetry.
- Chest excursions.
- Ventilation monitored by end-tidal carbon dioxide.
- Auscultation of breath sounds by precordial or pretracheal stethoscope.
- Respiration rate.
- Heart rate and rhythm via electrocardiogram.

- Blood pressure.
- Color of mucosa, skin or blood.
- Body temperature whenever triggering agents associated with malignant hyperthermia are administered.

Utilizing minimal sedation, a dentist must continuously monitor and evaluate:

- Level of consciousness.
- Chest excursions.
- Ventilation by either auscultation of breath sounds or by verbal communication with the patient.
- Color of mucosa, skin or blood.
- Blood pressure, heart rate, and oxygenation saturations by pulse oximetry pre-operatively and postoperative and intraoperatively.

A dentist shall maintain and implement recovery and discharge procedures which must include:

- Immediate availability of oxygen and suction equipment.
- Monitor and document the patient's blood pressure, heart rate, oxygenation and level of consciousness during recovery.
- Determine and document that blood pressure, heart rate, level of consciousness, oxygenation, ventilation, and circulation are satisfactory for discharge.
- Post-operative verbal and written instructions are provided.
- If a reversal agent is administered before discharge criteria have been met, the patient must be monitored until recover is assured.

A dentist administering anesthesia or sedation shall have immediately available and maintain in good working order the following equipment:

- Alternative light source for use during power failure.
- Automated external defibrillator.
- Disposable syringes in assorted sizes.
- Oxygen in a portable cylinder E tank capable of administering positive pressure ventilation via a bag-valve-mask system.
- Sphygmomanometer and stethoscope for pediatric and adult patients.
- Suction and backup system.
- An operating chair capable of withstanding cardiopulmonary resuscitation or a back board.
- Emergency airway equipment.

A dentist administering sedation or anesthesia shall maintain and properly store drugs in current and unexpired condition (and properly dispose of expired drugs). The emergency drug kit shall include:

- Non-enteric coated aspirin.
- Ammonia inhalants.
- Antihistamine
- Antihypoglycemic agent.
- Bronchodilator.
- Epinephrine.
- Oxygen.
- Nitroglycerin.
- Reversal agents.

- Muscle relaxant.

A dentist administering anesthesia or sedation must be responsible for the management, diagnosis and treatment of emergencies and for ensuring the equipment, drugs and protocols for patient rescue are immediately available.

A dentist must maintain an anesthesia record that documents all events related to the administration of the sedative or anesthetic agent.

Sections 24, 25, 26, and 27 require a dentist to report to the board any anesthesia or sedation related mortality within two business days and any morbidity which may result in permanent physical or mental injury within 30 days.

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

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

Comparison with rules in adjacent states:

Illinois: Illinois does not have rules related to laboratory work authorizations. Illinois does not require a permit for minimal sedation. Moderate sedation requires a Permit A. To receive a Permit A, a dentist must complete an anesthesiology training program that includes 75 hours of didactic and clinical study in moderate sedation (conscious sedation), physical evaluation, venipuncture, advanced airway management, technical administration, recognition and management of complications and emergencies, and monitoring with additionally supervised experience in providing moderate sedation to 20 patients. The following personnel are required to remain in the treatment room for moderate sedation: the dentist who holds the Permit A; a dental hygienist or dental assistant who has completed training; and one additional hygienist or dental assistant. Deep sedation or general anesthesia requires a Permit B. To receive a Permit B, a dentist must be a diplomate of the American board of Oral and Maxillofacial Surgery, or complete 2 years of advanced training in anesthesiology or have a specialty license in oral and maxillofacial surgery. The following equipment is required: sphygmomanometer; stethoscope; oxygen delivery system; emergency drugs; suction equipment; emergency backup lighting system; pulse oximeter; laryngoscope; advanced airway devices; tonsillar or pharyngeal suction tips; nasal and oral airways; defibrillator; equipment for the establishment of an intravenous infusion; operating chair or table; and recovery area with available oxygen, lighting, suction and electrical outlets. Adverse reactions are required to be reported to the Board. Nine hours of continuing education is required per renewal cycle.

Iowa: Iowa does not have rules related to laboratory work authorizations Iowa requires a moderate sedation permit or general anesthesia permit if the dentist is doing moderate sedation, deep sedation or general anesthesia. To qualify for a moderate sedation permit, the applicant shall complete a training program approved by the board that consists of a minimum of 60 hours of instruction and management of at least 20 patients or an accredited residency program that includes: formal training and clinical experiences in moderate sedation; a training that includes rescuing patients from a deeper level of sedation than intended; and if intends to utilize on

pediatric or ASA III or IV patients, an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric or ASA III or IV patients. To qualify for a general anesthesia permit, the applicant shall complete an advanced education program accredited by the Commission on Dental Accreditation that provides training in deep sedation and general anesthesia; a minimum of one year of advanced training in anesthesiology and related academic subjects in a training program approved by the anesthesia credentials committee of the board; formal training in airway management; and current ACLS certification. The dentist must evaluate a patient prior to the start of any sedative procedure. The dentist must not leave the facility until the patient meets the criteria for discharge and the dentist or another designated permit holder or licensed sedation provider must be available for postoperative aftercare for a minimum of 48 hours following the administration of sedation. A dentist who administers moderate sedation, deep sedation or general anesthesia is required to have the following equipment: electrocardiogram monitor; positive pressure oxygen; suction; laryngoscope and blades; endotracheal tubes; magill forceps; oral airways; stethoscope; blood pressure monitoring device; pulse oximeter; emergency drugs; defibrillator; capnography machine to monitor end-tidal carbon dioxide; pretracheal or precordial stethoscope; and any additional equipment necessary to establish intravascular or intraosseous access. Dentists must report any adverse occurrence related to sedation or nitrous oxide within a period of 7 days. Permits expire every 2 years.

Michigan: Michigan does not have rules related to laboratory work authorizations Michigan adopts the standards for advanced training in anesthesia and pain control and training in intravenous conscious sedation and related subjects set forth by the Commission on Dental Education of the American Dental Association in the publication entitled “Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students” (October 2012). Michigan adopts the standards for enteral sedation course as outlined in the Dental Education of the American Dental Association in the publication entitled “Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students” (October 2012). Michigan adopts the standards regarding the equipment within a facility set forth by the American Association of Oral and Maxillofacial Surgeons in the publication entitled “Office Anesthesia Evaluation Manual” (8th edition). Dentists must report morbidity reports within 30 days after the incident and mortality report within 5 days after the incident.

Minnesota: Minnesota does not have rules related to laboratory work authorizations Minnesota requires the following education for deep sedation or general anesthesia: a didactic and clinical program at a dental school, hospital, or graduate medical or dental program accredited by the Commission on Dental Accreditation equivalent to a program for advanced specialty education in oral and maxillofacial surgery or a one year residency in general anesthesia at an institution certified by the American Society of Anesthesiology, the American Medical Association, or the Joint Commission on Hospital Accreditation consisting of a minimum of 390 hours of didactic study, 1, 040 hours of clinical anesthesiology and 260 cases of administration of general anesthesia to an ambulatory outpatient. The dentist has ACLS or PALS certification and CPR certification. Minnesota requires the following education for moderate sedation: a course consisting of a minimum of 60 hours of didactic education in both enteral and parenteral administration, personally administering and managing at least 10 individual supervised cases of parenteral moderate sedation (5 may be on a simulated manikin); ACLS or PALS certification

and CPR certification. A dentist who is administering general anesthesia, deep sedation, or moderate sedation, or is administering nitrous oxide inhalation analgesia shall inform the board of that fact on forms provided by the board. A dentist who has a current license to practice dentistry in Minnesota may administer minimal sedation or analgesia. Adverse incidents must be reported to the board. Dentists administering general anesthesia, deep sedation, or moderate sedation need the following equipment: defibrillator; positive pressure oxygen delivery system; suction device; auxiliary lighting; a gas storage facility; recovery area; a method to monitor respiratory function; and board approved emergency cart or kit.

Summary of factual data and analytical methodologies: The Dentistry Examining Board conducted a comprehensive review of chapters DE 9 and 11 to ensure the chapters are statutorily compliant, current with professional standards and practices and removed obsolete or unnecessary provisions. The Dentistry Examining Board reviewed the American Dental Association Guidelines for the Use of Sedation and General Anesthesia by Dentists (October 2016) and other state requirements.

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

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 Daniel.Hereth@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, 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 November 6, 2019 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 9.015 (2) is amended to read:

DE 9.015 (2) “Work authorization” means an official, signed request to a ~~dental workroom or laboratory from a licensed dentist that clearly and thoroughly transmits at least the date of request, the doctor’s name, license number, and contact information, the patient information, choice of base material, choice of metal alloy or type of porcelain to be used for the prosthesis, choice of margin and pontic design of the prosthesis, impressions or measurements, and shade description.~~

SECTION 2. DE 9.02 is repealed and recreated to read:

DE 9.02 Work authorizations. Work authorizations shall include all of the following:

- (1) The patient’s name or identification number.
- (2) The dentist’s name.
- (3) Prescription information.

SECTION 3. DE 11.02 (1) is repealed.

SECTION 4. DE 11.02 (1g) is created to read:

DE 11.02 (1g) “ASA” means American Society of Anesthesiologists.

SECTION 5. DE 11.02 (1m) is repealed.

SECTION 6. DE 11.02 (1s), (1t) and (1u) are amended to read:

DE 11.02 (1s) “Class I permit” means a sedation permit ~~enabling a dentist to administer oral conscious sedation enteral~~ issued prior to [LRB insert effective date]. This permit is no longer valid.

(1t) “Class II permit” means a sedation permit enabling a dentist to administer ~~conscious sedation-parenteral and conscious sedation enteral~~ moderate sedation.

(1u) “Class III permit” means a sedation permit enabling a dentist to administer moderate or deep sedation, or general anesthesia, ~~conscious sedation-parenteral, and conscious sedation enteral.~~

SECTION 7. DE 11.02 (2) is repealed.

SECTION 8. DE 11.02 (2g) and (2r) are created to read:

DE 11.02 (2g) “Continual” means repeated regularly and frequently in a steady succession.

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

SECTION 9. DE 11.02 (3) is amended to read:

DE 11.02 (3) “Deep sedation” means a ~~controlled state~~ drug-induced depression of depressed consciousness, ~~accompanied by partial loss of protective reflexes, including the ability to independently and continuously maintain an airway and to respond purposefully to verbal~~

~~command, produced by during which a pharmacologic patient cannot be easily aroused but respond purposefully following repeated or non-pharmacologic method, or a combination of pharmacologic and non-pharmacologic methods painful stimulation. The ability to independently maintain ventilatory function may be impaired. A patient may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function in usually maintained.~~

SECTION 10. DE 11.02 (3m) is created to read:

DE 11.02 (3m) “Enteral” means administration by which the agent is absorbed through the gastrointestinal tract or through the oral, rectal, or nasal mucosa.

SECTION 11. DE 11.02 (4) is amended to read:

DE 11.02 (4) “General anesthesia” means ~~a controlled state of unconsciousness accompanied by partial or complete drug-induced loss of protective reflexes, including the ability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by consciousness during which a pharmacologic or non-pharmacologic method, or a combination of pharmacologic and non-pharmacologic methods patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. A patient often requires assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.~~

SECTION 12. DE 11.02 (4e) (4m) and (4s) are created to read:

DE 11.02 (4e) “Immediately available” means physically located in the dental office or facility and ready for immediate use or response.

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

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

SECTION 13. DE 11.02 (6) is amended to read:

DE 11.02 (6) “Nitrous oxide ~~inhalation~~” means ~~analgesia by administration of a combination of nitrous oxide and oxygen in a patient.~~

SECTION 14. DE 11.02 (6g) and (6r) are created to read:

DE 11.02 (6g) “Parenteral” means administration by which the drug bypasses the gastrointestinal tract through intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular methods.

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

SECTION 15. DE 11.02 (7), (8) and (9) are repealed.

SECTION 16. DE 11.025 is repealed and recreated to read:

DE 11.025 Permit to administer anesthesia. (1) Minimal sedation does not require a permit.

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

(a) Class 2 is for the administration of moderate sedation.

(b) Class 3 is for the administration of moderate or deep sedation, or general anesthesia.

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

(a) Application and fee.

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

(c) Disclosure of any previous anesthesia or sedation related incident, morbidity, 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 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 or candidate 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.

(g) 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 or candidate of the American Dental Board of Anesthesiology.

3. Postdoctoral residency in an accredited dental program in dental anesthesiology.

(h) Notwithstanding par. (f) or (g), a dentist holding a Class I Permit on [effective date of rule to be inserted by LRB] shall be granted a Class 2 Permit upon evidence of 20 cases within the last 5 years of providing moderate sedation.

NOTE: As of [LRB insert effective date], a Class 1 Permit is no longer valid and moderate sedation requires a Class 2 Permit.

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

SECTION 17. DE 11.03 is repealed and recreated to read:

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

SECTION 18. DE 11.035 is created to read:

DE 11.035 Board approved education program content. (1) 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 moderate sedation, including the following course content:

- (a) Historical, philosophical and psychological aspects of anxiety and pain control.
- (b) Patient evaluation and selection through review of medical history taking, physical diagnosis and psychological profiling.
- (c) Use of patient history and examination for ASA classification, risk assessment and pre-procedure fasting instruction.
- (d) Definitions and descriptions of physiological and psychological aspects of anxiety and pain.
- (e) Description of the sedation anesthesia continuum, with special emphasis on the distinction between the conscious and the unconscious state.
- (f) Review of adult respiratory and circulatory physiology and related anatomy.
- (g) Pharmacology of local anesthetics and agents used in moderate sedation, including drug interactions and contraindications.
- (h) Indications and contraindications for use of moderate sedation
- (i) Review of dental procedures possible under moderate sedation.
- (j) Patient monitoring using observation, monitoring equipment, with particular attention to vital signs, ventilation, breathing and reflexes related to consciousness.
- (k) Maintaining proper records with accurate chart entries recording medical history, physical examination, informed consent, time oriented anesthesia record, including the names of all drugs administered, doses and monitored physiological parameters.
- (L) Prevention, recognition and management of complications and emergencies.
- (m) Description, maintenance and use of moderate sedation monitors and equipment.
- (n) Discussion of abuse potential.
- (o) Intravenous access anatomy, equipment and technique.
- (p) Prevention, recognition and management of complications of venipuncture and other parenteral techniques.
- (q) Description and rationale for the technique to be employed.
- (r) Prevention, recognition and management of systemic complications of moderate sedation, with particular attention to airway maintenance and support of the respiratory and cardiovascular systems.
- (s) 20 individually managed cases.

SECTION 19. DE 11.04, 11.05, 11.06 and 11.07 are repealed.

SECTION 20. DE 11.075 is created to read:

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

SECTION 21. DE 11.08 is repealed

SECTION 22. DE 11.085 is created to read:

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

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

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

(4) If a dentist is both performing the dental procedure and administering moderate or deep sedation, or general anesthesia, one auxiliary personnel must be designated to only monitor the patient.

SECTION 23. DE 11.09 is repealed and recreated to read:

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

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

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

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

(e) Provide 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.
 - (d) Ventilation monitored by end-tidal carbon dioxide.
 - (e) Auscultation of breath sounds by precordial or pretracheal stethoscope.
 - (f) Respiration rate.
 - (g) Heart rate and rhythm via electrocardiogram.
 - (h) Blood pressure.
 - (i) Color of mucosa, skin or blood
 - (j) Body temperature whenever triggering agents associated with malignant hyperthermia are administered.
- (4) MONITORING AND EVALUATION OF MINIMAL SEDATION.** A dentist administering minimal sedation shall continuously monitor and evaluate all of the following:
- (a) Level of consciousness.
 - (b) Chest excursions.
 - (c) Ventilation by either auscultation of breath sounds or by verbal communication with the patient.
 - (d) Color of mucosa, skin or blood
 - (e) Blood pressure, heart rate, and oxygenation saturation by pulse oximetry pre-operatively and post-operative and intraoperatively.
- (5) RECOVERY AND DISCHARGE.** A dentist shall maintain and implement recovery and discharge procedures which include all of the following:
- (a) Immediate availability of oxygen and suction equipment.
 - (b) Monitor and document the patient's blood pressure, heart rate, oxygenation and level of consciousness during recovery.
 - (c) Determine and document that blood pressure, heart rate, level of consciousness, oxygenation, ventilation, and circulation are satisfactory for discharge.
 - (d) Post-operative verbal and written instructions provided.
 - (e) If a reversal agent is administered before discharge criteria have been met, the patient must be monitored until recovery is assured.
- (6) EQUIPMENT.** A dentist administering anesthesia or sedation shall have immediately available and maintain equipment, appropriate for patients served, in good working order according to manufacturer's directions all the following equipment:
- (a) Alternative light source for use during power failure.
 - (b) Automated external defibrillator
 - (c) Disposable syringes in assorted sizes.
 - (d) Oxygen in a portable cylinder E tank capable of administering positive pressure ventilation via a bag-valve-mask system.
 - (e) Sphygmomanometer and stethoscope for pediatric and adult patients.
 - (f) Suction and backup system.
 - (g) An operating chair capable of withstanding cardiopulmonary resuscitation or a back board.

- (h) Emergency airway equipment including oral and nasal airway and advanced airway devices for appropriate patient populations being served.
- (7) Drugs. A dentist administering anesthesia or sedation shall be responsible to maintain and properly store drugs in current and unexpired condition and properly dispose of expired drugs. The following drugs shall be maintained in an emergency drug kit:
 - (a) Non-enteric coated aspirin.
 - (b) Ammonia inhalants.
 - (c) Antihistamine.
 - (d) Antihypoglycemic agent.
 - (e) Bronchodilator.
 - (f) Epinephrine.
 - (g) Oxygen.
 - (h) Nitroglycerin
 - (i) Reversal agents
 - (j) Muscle relaxant.

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

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

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

SECTION 24. DE 11.10 (title) is amended to read:

DE 11.10 Reporting of adverse occurrences related to sedation or anesthesia administration.

SECTION 25. DE 11.10 (intro.) is repealed.

SECTION 26. DE 11.10 (1), (2), (3), (4), (5), (6), and (7) are renumbered to DE 11.10 (3) (a), (b), (c), (d), (e), (f) and (g).

SECTION 27. DE 11.10 (1), (2) and (3) (intro.) are created to read:

DE 11.10 (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.

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

SECTION 28. 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
 Original Updated Corrected

2. Administrative Rule Chapter, Title and Number
DE 9, 11

3. Subject
Lab & Work Authorization and Anesthesia

4. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	5. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)
--	---

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

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

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

9. Policy Problem Addressed by the Rule
The objective of the review is a comprehensive review of DE 9 and 11 chapters to ensure statutory compliance, current with professional standards and practices and remove obsolete provisions.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
This rule was posted for economic impact comments and none were received.

11. Identify the local governmental units that participated in the development of this EIA.
None. This rule does not impact local governmental units.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units and the State.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit of implementing the rule is to have chapters which are statutorily compliant and reflective of current practices, including compatible with the current American Dental Association Guidelines for the Use of Sedation and General Anesthesia by Dentists. In addition, the rule removes burdensome or obsolete provisions.

14. Long Range Implications of Implementing the Rule
The long range implication is clear and concise rules.

15. Compare With Approaches Being Used by Federal Government
None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
Illinois: Illinois does not have rules related to laboratory work authorizations. Illinois does not require a permit for minimal sedation. Moderate sedation requires a Permit A. To receive a Permit A, a dentist must complete an anesthesiology training program that includes 75 hours of didactic and clinical study in moderate

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

sedation (conscious sedation), physical evaluation, venipuncture, advanced airway management, technical administration, recognition and management of complications and emergencies, and monitoring with additionally supervised experience in providing moderate sedation to 20 patients. The following personnel are required to remain in the treatment room for moderate sedation: the dentist who holds the Permit A; a dental hygienist or dental assistant who has completed training; and one additional hygienist or dental assistant. Deep sedation or general anesthesia requires a Permit B. To receive a Permit B, a dentist must be a diplomate of the American board of Oral and Maxillofacial Surgery, or complete 2 years of advanced training in anesthesiology or have a specialty license in oral and maxillofacial surgery. The following equipment is required: sphygmomanometer; stethoscope; oxygen delivery system; emergency drugs; suction equipment; emergency backup lighting system; pulse oximeter; laryngoscope; advanced airway devices; tonsillar or pharyngeal suction tips; nasal and oral airways; defibrillator; equipment for the establishment of an intravenous infusion; operating chair or table; and recovery area with available oxygen, lighting, suction and electrical outlets. Adverse reactions are required to be reported to the Board. Nine hours of continuing education is required per renewal cycle.

Iowa: Iowa does not have rules related to laboratory work authorizations Iowa requires a moderate sedation permit or general anesthesia permit if the dentist is doing moderate sedation, deep sedation or general anesthesia. To qualify for a moderate sedation permit, the applicant shall complete a training program approved by the board that consists of a minimum of 60 hours of instruction and management of at least 20 patients or an accredited residency program that includes: formal training and clinical experiences in moderate sedation; a training that includes rescuing patients from a deeper level of sedation than intended; and if intends to utilize on pediatric or ASA III or IV patients, an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric or ASA III or IV patients. To qualify for a general anesthesia permit, the applicant shall complete an advanced education program accredited by the Commission on Dental Accreditation that provides training in deep sedation and general anesthesia; a minimum of one year of advanced training in anesthesiology and related academic subjects in a training program approved by the anesthesia credentials committee of the board; formal training in airway management; and current ACLS certification. The dentist must evaluate a patient prior to the start of any sedative procedure. The dentist must not leave the facility until the patient meets the criteria for discharge and the dentist or another designated permit holder or licensed sedation provider must be available for postoperative aftercare for a minimum of 48 hours following the administration of sedation. A dentist who administers moderate sedation, deep sedation or general anesthesia is required to have the following equipment: electrocardiogram monitor; positive pressure oxygen; suction; laryngoscope and blades; endotracheal tubes; magill forceps; oral airways; stethoscope; blood pressure monitoring device; pulse oximeter; emergency drugs; defibrillator; capnography machine to monitor end-tidal carbon dioxide; pretracheal or precordial stethoscope; and any additional equipment necessary to establish intravascular or intraosseous access. Dentists must report any adverse occurrence related to sedation or nitrous oxide within a period of 7 days. Permits expire every 2 years.

Michigan: Michigan does not have rules related to laboratory work authorizations Michigan adopts the standards for advanced training in anesthesia and pain control and training in intravenous conscious sedation and related subjects set forth by the Commission on Dental Education of the American Dental Association in the publication entitled "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students" (October 2012). Michigan adopts the standards for enteral sedation course as outlined in the Dental Education

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

of the American Dental Association in the publication entitled “Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students” (October 2012). Michigan adopts the standards regarding the equipment within a facility set forth by the American Association of Oral and Maxillofacial Surgeons in the publication entitled “Office Anesthesia Evaluation Manual” (8th edition). Dentists must report morbidity reports within 30 days after the incident and mortality report within 5 days after the incident.

Minnesota: Minnesota does not have rules related to laboratory work authorizations Minnesota requires the following education for deep sedation or general anesthesia: a didactic and clinical program at a dental school, hospital, or graduate medical or dental program accredited by the Commission on Dental Accreditation equivalent to a program for advanced specialty education in oral and maxillofacial surgery or a one year residency in general anesthesia at an institution certified by the American Society of Anesthesiology, the American Medical Association, or the Joint Commission on Hospital Accreditation consisting of a minimum of 390 hours of didactic study, 1, 040 hours of clinical anesthesiology and 260 cases of administration of general anesthesia to an ambulatory outpatient. The dentist has ACLS or PALS certification and CPR certification. Minnesota requires the following education for moderate sedation: a course consisting of a minimum of 60 hours of didactic education in both enteral and parenteral administration, personally administering and managing at least 10 individual supervised cases of parenteral moderate sedation (5 may be on a simulated manikin); ACLS or PALS certification and CPR certification. A dentist who is administering general anesthesia, deep sedation, or moderate sedation, or is administering nitrous oxide inhalation analgesia shall inform the board of that fact on forms provided by the board. A dentist who has a current license to practice dentistry in Minnesota may administer minimal sedation or analgesia. Adverse incidents must be reported to the board. Dentists administering general anesthesia, deep sedation, or moderate sedation need the following equipment: defibrillator; positive pressure oxygen delivery system; suction device; auxiliary lighting; a gas storage facility; recovery area; a method to monitor respiratory function; and board approved emergency cart or kit.

17. Contact Name Sharon Henes	18. Contact Phone Number (608) 261-2377
----------------------------------	--

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



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

Jessica Karls-Rupfnger
Legislative Council Deputy 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 19-132

AN ORDER to repeal DE 11.02 (1), (1m), (2), (7), (8), and (9), 11.04, 11.05, 11.06, 11.07, 11.08, and 11.10 (intro.); to renumber DE 11.10 (1), (2), (3), (4), (5), (6), and (7); to amend DE 9.015 (2), 11.02 (1s), (1t), and (1u), 11.02 (3), (4), and (6), and 11.10 (title); to repeal and recreate DE 9.02, 11.025, 11.03, and 11.09; and to create DE 11.02 (1g), (2g), (2r), (3m), (4e), (4m), (4s), (6g), and (6r), 11.035, 11.075, 11.085, and 11.10 (1), (2), and (3) (intro.), relating to laboratory work and authorizations, sedation and anesthesia.

Submitted by **DENTISTRY EXAMINING BOARD**

10-08-2019 RECEIVED BY LEGISLATIVE COUNCIL.

10-29-2019 REPORT SENT TO AGENCY.

MSK:BL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 19-132

Comments

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

2. Form, Style and Placement in Administrative Code

a. In the analysis for the proposed rule, an entry should be inserted to describe the analysis and supporting documents used to determine the effect on small business.

b. In s. DE 11.02 (3), the period after the phrase “painful stimulation” should be underscored, and the final period at the end of the provision should not be underscored.

c. In s. DE 11.02 (4), the final period at the end of the provision should not be underscored.

d. In s. DE 11.025 (3) (f) 3., the source designation “s. DE” should be inserted before the reference to “11.035”.

e. In s. DE 11.025, the designation for sub. (3) occurs twice. The numbering for the second occurrence of sub. (3) should be corrected to follow sequentially.

f. In s. DE 11.035, only one subsection is created. When creating rule subunits, at least two subunits must be created. Consider removing the designation for sub. (1) from the introductory material and revising the designations for the paragraphs to subsections. [s. 1.03 (1), Manual.]

g. In each of the following subunits, a final period should be inserted: ss. DE 11.035 (1) (h) and 11.09 (3) (i), (4) (d), (6) (b), (7) (h) and (i), and (9) (c).

h. In s. DE 11.075, the abbreviation “s.” should be inserted before the reference to “DE 13.03”.

- i. In ss. DE 11.085 (3) and 11.10 (1), each instance of the number “two” should be revised to the Arabic numeral “2”. [s. 1.01 (5), Manual.]
- j. In s. DE 11.09 (7), the title should be formatted in small capital letters.
- k. In s. DE 11.09 (9) (b), the phrase “five-minute” should be revised to “5-minute”.
- l. In s. DE 11.10, rather than creating subs. (1) and (2) and renumbering the current provisions to sub. (3), the board should create subs. (1m) and (2m) and renumber the current provisions to sub. (3m). It is generally best to avoid reuse of a previously existing number, as reuse can cause confusion and may lead to erroneous cross-references. [s. 1.03 (5) (a), Manual.]

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

- a. In s. DE 11.035 (1) (intro.), the beginning of the sentence should be revised from “Board” to “A board”. Also, the word “any” or “all” should be inserted after the word “including”.
- b. In s. DE 11.075, the beginning of the first sentence should be revised from “Each dentist” to “A dentist”.
- c. In s. DE 11.085 (3), the comma should be removed.
- d. In s. DE 11.085 (4), is the required auxiliary personnel in addition to the individuals required under sub. (2) or (3), or may the auxiliary personnel be one of the individuals required under sub. (2) or (3)? This should be specified.
- e. In s. DE 11.09 (2) (intro.) and (e), both instances of the hyphenated word “pre-operative” should be revised to “preoperative”, without a hyphen, for consistency with the current rule and the title for sub. (2).
- f. In s. DE 11.09 (2), consider revising the grammatical structure of either the introductory material or the subunits to improve readability of each subunit when read with the introduction. For example, inserting the word “steps” in the introduction after “all of the following” may improve the verb congruity with the subunits.
- g. In s. DE 11.09 (3) (intro.), a comma should be inserted after the phrase “deep sedation”.

**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: 25 October 2019 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: 6 November 2019	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters 1. Adopt CR 18-089 Relating to Preservation of Patient Health Care Records 2. Updates on 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>		<i>10/25/19</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)			
Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 18-089)

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 Daniel.Hereth@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.

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)

Dated _____

Agency _____

Chairperson
Dentistry Examining Board