



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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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 **24-094**

AN ORDER to amend DE 1.01, 2.005 (intro.), 2.013, 2.03 (3), (4), (5) (a), (b), and (b) 3. b., and (6), 2.035 (2) and (2) (e), 3.01, 3.02 (1) (b), (c), and (c) 2., and (2) (a) 2., 5.02 (intro.), (5), (9), (14), (14m), (15), (20), and (24), 6.02 (4) (b), 7.04 (3) (b) (Note), 8.02 (1), 8.035, 10.01 (1), 10.02 (1) (b), 1., b., and 2., (2) (c), and (3) (c), 10.045, 11.10 (3m) (g) (Note), 12.01 (intro.), 12.02, 12.03, 13.01, 13.02 (3) and (4), 14.01 (2), 14.02, 14.03, 14.04, and 15.06 (intro.); and to create DE 1.02 (4g) and (4r), 2.01 (3), 2.02 (2m), 2.03 (2m), 2.04 (3), 3.02 (1), (am), (d), and (e), 3.04 (2m), (4), (5), and (6), 5.02 (21m) and (28), 6.03, 7.06 (1), (2), (3), and (4), 12.04, 13.035, 13.05 (1m), and 15.07, and chapter DE 17, relating to dental therapists.

Submitted by **DENTISTRY EXAMINING BOARD**

12-09-2024 RECEIVED BY LEGISLATIVE COUNCIL.

01-07-2025 REPORT SENT TO AGENCY.

MSK:PW



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CLEARINGHOUSE RULE 24-094

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. In the rule caption’s listing of affected provisions for the proposed rule, the agency designation “DE” should be shown only once for each treatment category. For example, the listing of amended provisions should be shown as: “to amend DE 1.01, 2.005 (intro.), 2.013, ...”. Similarly, a rule section number should be shown only once, identifying each of its affected subunits together in one list. For example, the listing of amended subunits in s. DE 2.03 should be shown as: “DE 2.03 (3), (4), (5) (a) (intro.), (b) (intro.) and 3. b., and (6) (intro.)”.

b. In the rule summary’s explanation of agency authority, the final paragraph regarding emergency rulemaking authority may be removed, as the proposed rule is not an emergency rule.

c. In the rule summary’s listing of the deadline to submit comments on the proposed rule, consider identifying how a reader would determine the date of the public hearing.

d. The board should review the treatment clauses throughout the proposed rule and revise where necessary to accurately identify the treated provisions. For example, the treatment clause for SECTION 4 of the proposed rule should be revised to include “(title)”, the treatment clauses for SECTIONS 11, 12, 14, 15, 19, 20, and others, should be revised to include “(intro.)”, and the treatment clause for SECTION 50 should be revised to include “and (Note)”. The rule caption’s listing of affected provisions should be updated to reflect those changes.

e. In SECTION 4 of the proposed rule, the stricken text should be shown before the new, inserted text. [s. 1.04 (4) (a) 2., Manual.]

f. In SECTION 5 of the proposed rule, s. DE 2.01 (3) (intro.) should be revised to include the phrase “all of the following”.

g. In SECTION 27 of the proposed rule, consider further amending the current text to follow the appropriate list format. In particular, add an amendment to sub. (4) (intro.) to insert the phrase “any of the following” after the word “Including”, and amend pars. (a) and (c) to each end in a period. [s. 1.11 (2) and (3), Manual.]

h. In SECTION 29 of the proposed rule, the note should be repealed and recreated, rather than amended, as the entire text of the note is replaced.

i. The following comments relate to SECTION 30 of the proposed rule:

- (1) Consider the structure of the new provisions in relation to the existing structure of s. DE 7.06. The current provision does not include subunits or an introductory statement, and the relationship of the current material to the new subunits should be specified. For example, a new SECTION could be added to the proposed rule to renumber s. DE 7.06 to DE 7.06 (intro.) and amend the material to add an introductory sentence for the subunits created in SECTION 30. Alternatively, a new SECTION could be added to the proposed rule to renumber current s. DE 7.06 as one of the subunits.
- (2) Alternatively, consider whether all of the material proposed to be added to s. DE 7.06 could be placed in proposed ch. DE 17. SECTION 30 could then create a new provision such as: “Delegation by a dental therapist to a dental hygienist to administer local anesthetic is subject to s. DE 17...”.
- (3) Consider whether the proposed material in s. DE 7.06 (4), relating to responsibility for services, could conflict with the responsibility given in current s. DE 7.06, in some circumstances. For example, the responsibility when there is both a treating dentist and a supervising dentist should be specified.

j. In SECTION 38 of the proposed rule, amending s. DE 11.10 (3m) (g) (Note), the entire zip code should be shown with a strike-through and the entire new zip code should be shown with underscoring. [s. 1.04 (4) (b), Manual.]

k. In SECTION 53 of the proposed rule, the designations for s. DE 17.02 (1) (aa) and (bb) should be revised. As a new provision, the paragraph designations could simply follow sequential order, as “(b)” and “(d)”, and the other proposed designations could be adjusted to follow sequentially. After par. (z), continue the designations as “(za)”, “(zb)”, and so on. [s. 1.10 (1) (b) 4., Manual.] If, however, it is intended for some reason to set off those designations outside the standard sequence, the proper inserted designations would be “(am)” and “(bm)”. [s. 1.10 (3) (c), Manual.]

l. In SECTION 53 of the proposed rule, the designation for s. DE 17.02 (1) (L) should be shown as an uppercase “L”. [s. 1.10 (1) (b) 4., Manual.]

m. In SECTION 53 of the proposed rule, consider removing the definition in s. DE 17.04 (3) (a) (note). The term is already defined in proposed s. DE 17.01 (1).

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

a. Various provisions of the proposed rule use the phrase “he or she” or “his or her”. To improve readability, consider revising each of those instances to instead use the pronoun to which it refers. For example, in s. DE 13.035 (7), the phrase “his or her license” could be revised to “the dental therapist’s license”. [s. 1.05 (2), Manual.]

b. In SECTION 5 of the proposed rule, in par. (a), consider including the phrase “has satisfied” after the word “or” and before “other requirements”. Also, in par. (e), remove the word “examining” in order to use the defined term “board”.

c. In SECTION 14 of the proposed rule, add a comma between “surrendered” and “or”.

d. In SECTIONS 23, 30, and 52 of the proposed rule, consider specifying what level of supervision is required when the dental therapist must remain under the supervision of the supervising dentist for the duration of the procedure.

e. In SECTION 52 of the proposed rule, in sub. (2) (b) and (c), consider writing these provisions in the same form as similar provisions in the rule. Compare, for example, proposed s. DE 7.06 (2) (b).

f. In SECTION 53 of the proposed rule, in s. DE 17.03 (2) (a), remove the phrase “be eligible to”. No other eligibility requirements are imposed by the statutes or proposed rule. Also, the format for the reference to “s. DE 17.03 (5)” should be revised to “sub. (5)”.