



**TELECONFERENCE/VIRTUAL
DENTISTRY EXAMINING BOARD**
Virtual, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Will Johnson, (608) 266-2112
March 5, 2025

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 record 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 (1-4)**
- C. Approval of Minutes of January 8, 2024 (5-12)**
- D. Reminders: Conflicts of Interest, Scheduling Concerns**
- E. Administrative Matters**
 - 1) Department, Staff and Board Updates
 - 2) Appointment of Liaisons and Alternates
 - 3) Board Members – Term Expiration Dates
 - a. Alton, Troy – 7/1/2025
 - b. Bahr, Lisa – 7/1/2026
 - c. Bistan, Matthew – 7/1/2025
 - d. Fox, Joan – 7/1/2025
 - e. Govani, Shaheda – 7/1/2026
 - f. Gundersen, David – 7/1/2026
 - g. Jorgenson, Linda – 7/1/2028
 - h. Kenyon, Chris – 7/1/2026
 - i. Kolste, Debra – 7/1/2028
 - j. Schrubbe, Katherine – 7/1/2026
 - k. Sheild, Peter – 7/1/2026
- F. 9:00 A.M. Preliminary Public Hearing on Scope Statement 004-25 for DE 1, 5 and 6 Relating to Unprofessional Advertising (13-16)**
- G. Administrative Rule Matters – Discussion and Consideration (17-59)**
 - 1) Progress Update on Permanent Rule DE 1 to 17 for Dental Therapy
 - 2) Presentation of New Scope Statement on DE 1 and 2 for License Requirements

- 3) Discussion of Rule Drafting for DE 5, 8, and 14 on Informed Consent
- 4) Pending or Possible Rulemaking Projects

H. Board Statement Regarding Ownership of Dental Practices – Status Update (60)

I. Unlicensed Practice – Discussion

J. Expanding Licensure Opportunities – Discussion and Consideration

K. Legislative and Policy Matters – Discussion and Consideration

L. 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) Public Health Emergencies
- 11) Administrative Rule Matters
- 12) Liaison Reports
- 13) Board Liaison Training and Appointment of Mentors
- 14) Informational Items
- 15) Division of Legal Services and Compliance (DLSC) Matters
- 16) Presentations of Petitions for Summary Suspension
- 17) Petitions for Designation of Hearing Examiner
- 18) Presentation of Stipulations, Final Decisions and Orders
- 19) Presentation of Proposed Final Decisions and Orders
- 20) Presentation of Interim Orders
- 21) Petitions for Re-Hearing
- 22) Petitions for Assessments
- 23) Petitions to Vacate Orders
- 24) Requests for Disciplinary Proceeding Presentations
- 25) Motions
- 26) Petitions
- 27) Appearances from Requests Received or Renewed
- 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports

M. 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.).

N. Credentialing Matters

1) Application Review

- a. E.N. – Dentist by Endorsement (IA 466413) **(61-75)**
- b. J.R. – Dentist (IA 471863) **(76-103)**
- c. M.J. – Dentist by Endorsement (IA 461623) **(104-130)**
- d. S.V. – Expanded Function Dental Auxiliary (IA 475593) **(131-138)**

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

1) Proposed Stipulations, Final Decisions and Orders

- a. 22 DEN 189 – Thomas W. Kaczynski **(139-145)**
- b. 23 DEN 011 – Adam J. Meinhardt **(146-157)**
- c. 23 DEN 018 – Joshua E. Leute **(158-163)**
- d. 23 DEN 146 – Kristine L. Osborn **(164-169)**
- e. 23 DEN 215 – Hamdy T. M. Morsy **(170-176)**
- f. 24 DEN 012 & 24 DEN 0085 – Mark J. Greulich **(177-184)**
- g. 24 DEN 018 – James J. Blong **(185-191)**

2) Administrative Warnings

- a. 23 DEN 107 – V.S.O. **(192-193)**
- b. 23 DEN 148 – J.M.L. **(194-195)**

3) Case Closings

- a. 23 DEN 130 – A.L.S. **(196-207)**
- b. 23 DEN 190 – J.R.L. **(208-214)**
- c. 23 DEN 198 – S.S.R. **(215-219)**
- d. 23 DEN 203 – C.S. **(220-225)**
- e. 24 DEN 0042 – D.E.T. **(226-231)**

P. 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

Q. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

- R. Vote on Items Considered or Deliberated Upon in Closed Session if Voting is Appropriate
- S. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING: MAY 7, 2025

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 virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board's agenda, please visit the Department website at <https://dps.wi.gov>. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of any agenda item may be changed by the board for the convenience of the parties. The person credentialed by the board has the right to demand that meeting at which final action may be taken against the credential be held in open session. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer or reach the Meeting Staff by calling 608-267-7213.

**VIRTUAL/TELECONFERENCE
DENTISTRY EXAMINING BOARD
MEETING MINUTES
JANUARY 8, 2025**

PRESENT: Troy Alton, DDS; Lisa Bahr, RDH; Matthew Bistan, DDS; Joan Fox, DDS; Shaheda Govani, DDS; David Gundersen, DDS; Linda Jorgenson, RDH; Christine Kenyon; Debra Kolste; Katherine Schrubbe, RDH

ABSENT: Peter Sheild, DDS

STAFF: Will Johnson, Executive Director; Jameson Whitney, Legal Counsel; Jacob Pelegrin, Administrative Rules Coordinator; Ashley Sarnosky, Board Administration Specialist; and other Department staff

CALL TO ORDER

Matthew Bistan, Chairperson, called the meeting to order at 9:01 a.m. A quorum was confirmed with ten (10) members present.

ADOPTION OF AGENDA

Amendments to the Agenda:

- Amend item P.3.e from 24 DEN 0015 A.A.P. to 24 DEN 0115 A.A.P. – (*Scrivener's Error*)

MOTION: Katherine Schrubbe moved, seconded by Lisa Bahr, to adopt the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF NOVEMBER 6, 2024

MOTION: Linda Jorgenson moved, seconded by Joan Fox, to approve the Minutes of November 6, 2024, as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Election of Officers

Chairperson

NOMINATION: Matthew Bistan nominated Shaheda Govani for the Office of Chairperson. Shaheda Govani accepted the nomination.

Will Johnson, Executive Director, called for nominations three (3) times.

Shaheda Govani was elected as Chairperson by unanimous voice vote.

Vice Chairperson

NOMINATION: Shaheda Govani nominated Troy Alton for the Office of Vice Chairperson. Troy Alton accepted the nomination.

Will Johnson, Executive Director, called for nominations three (3) times.

Troy Alton was elected as Vice Chairperson by unanimous voice vote.

Secretary

NOMINATION: Linda Jorgenson nominated David Gundersen for the Office of Secretary.
David Gundersen accepted the nomination.

Will Johnson, Executive Director, called for nominations three (3) times.

David Gundersen was elected as Secretary by unanimous voice vote.

2025 ELECTION RESULTS	
Chairperson	Shaheda Govani
Vice Chairperson	Troy Alton
Secretary	David Gundersen

Appointment of Liaisons and Alternates

LIAISON APPOINTMENTS	
Credentialing Liaisons	Lisa Bahr (<i>Dental Hygiene</i>), Shaheda Govani (<i>Dentistry</i>) <i>Alternate:</i> Troy Alton
Education and Examination Liaison	David Gundersen, Linda Jorgenson <i>Alternate:</i> Katherine Schrubbe
Monitoring Liaison	Peter Sheild <i>Alternate:</i> Debra Kolste
Professional Assistance Procedure (PAP) Liaison	Peter Sheild, Joan Fox <i>Alternate:</i> Christine Kenyon
Legislative Liaison	Shaheda Govani, Debra Kolste <i>Alternate:</i> David Gundersen
Travel Authorization Liaison	Shaheda Govani <i>Alternate:</i> Katherine Schrubbe
Website Liaison	Matthew Bistan <i>Alternate:</i> Lisa Bahr
PDMP Liaison/ Appointed to Controlled Substances	David Gundersen <i>Alternate:</i> Troy Alton

Board as per Wis. Stats. §15.405(5g)	
Screening Panel Members	Troy Alton, Peter Sheild, Debra Kolste, Katherine Schrubbe <i>Alternate:</i>
Licensure Forms Committee	Lisa Bahr, Shaheda Govani <i>Alternate:</i> Matthew Bistan

Delegation of Authorities

2025 Delegations

Pre-Screening Authority Delegations, Amended

Delegation to Department Attorney to Open Cases

MOTION: Shaheda Govani moved, seconded by Linda Jorgenson to delegate pre-screening decision-making authority to the Department screening attorney for opening cases as outlined below:

1. OWIs of 3 or more that occurred in the last 5 years.
2. Reciprocal discipline cases.
3. Impairment and/or diversion at work that includes a positive drug/alcohol test or admission by respondent.
4. Pending charges, and/or conviction of a misdemeanor or felony that the attorney believes is substantially related and is not otherwise excluded from consideration via Wis. Stat. ch. 111.
5. After three requests from intake to provide a response to the allegations, along with patient records and films, the respondent fails to provide all requested information and/or documentation.
6. Respondent’s response is non-responsive to the complaint and/or does not contain all requested information.
7. X-rays provided are not of diagnostic quality and/or patient notes and records are not legible.
8. Response is provided by someone other than Respondent.
9. Complaint based upon a settlement in a dental malpractice case.
10. Unlicensed practice occurring during the 5-year right to renew period.

Motion carried unanimously.

Delegation to Approve Opioid Abuse Report

MOTION: Matthew Bistan moved, seconded by Joan Fox, to authorize the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving Board member in that succession) to review and approve the opioid abuse report required by Wis. Stat. § 440.035 (2m)(c)1., for filing with the Legislature. Motion carried unanimously.

Delegation to Department Attorneys to Approve Prior Discipline

MOTION: Joan Fox moved, seconded by Matthew Bistan, to delegate authority to Department Attorneys to approve an applicant's prior professional discipline which resulted in a forfeiture/fine/other monetary penalty, remedial education, and/or reprimand, that is 10 years old or older, and the previously disciplined credential is currently in good standing. Motion carried unanimously.

Delegation to Handle Administrative Rule Matters

MOTION: Troy Alton moved, seconded by Shaheda Govani, to delegate authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving Board member in that succession), to act on behalf of the Board regarding administrative rule matters between meetings. Motion carried unanimously.

Review and Approval of 2024 Delegations including new modifications

MOTION: David Gundersen moved, seconded by Shaheda Govani, to reaffirm all delegation motions made in 2024, as reflected in the January 8, 2025 agenda materials, which were not otherwise modified or amended during the January 8, 2025 meeting. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Discussion of Clearinghouse Report and Public Hearing Comments for DE 1 to 17 Rule Relating to Dental Therapy

MOTION: Shaheda Govani moved, seconded by Joan Fox, to affirm the Board has reviewed the public comments received on rule DE 1 to 17 relating to Licensure of Dental Therapists. Motion carried unanimously.

MOTION: Matthew Bistan moved, seconded by Troy Alton, to reject Clearinghouse comment number 2m, and to accept all remaining Clearinghouse comments for rule DE 1 to 17. Motion carried unanimously.

MOTION: Lisa Bahr moved, seconded by Katherine Schrubbe, to authorize the Chair to approve the Final Rule Draft and Report to the Legislature for rule DE 1 to 17, relating to Licensure of Dental Therapists for submission to the Governor's Office and Legislature. Motion carried unanimously.

Presentation on New Scope Statement for DE 1, 5, and 6 on Unprofessional Advertising

MOTION: Matthew Bistan moved, seconded by Troy Alton, to approve the Scope Statement revising rules DE 1, 5, and 6 relating to Unprofessional Advertising for submission to the Governor’s Office and for publication in the Register. Additionally, the Board authorizes the Chair to approve the Scope Statement for implementation no less than 10 days after publication. If the Board is directed to hold a preliminary public hearing on the Scope Statement, the Chair is authorized to approve the required notice of hearing. Motion carried unanimously.

EXPANDING LICENSURE OPPORTUNITIES – DISCUSSION AND CONSIDERATION

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to request DSPS staff draft a scope statement on DE 1 and 2 relating to Licensure Requirements. Motion carried unanimously.

Discussion of Biennial Rules Report under s. 227.29 (1) Stats., on Board Rules which may be unauthorized, obsolete or duplicative

MOTION: Joan Fox moved, seconded by Matthew Bistan, to authorize the Chair to approve the 2025 Biennial Rules Report under s. 227.29 (1), Stats., on board rules which may be unauthorized, obsolete, or duplicative. Motion carried unanimously.

CLOSED SESSION

MOTION: Troy Alton moved, seconded by Shaheda Govani, 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.). Shaheda Govani, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Troy Alton-yes; Lisa Bahr-yes; Matthew Bistan-yes; Joan Fox-yes; Shaheda Govani-yes; Linda Jorgenson-yes; Christine Kenyon-yes; Debra Kolste-yes; Katherine Schrubbe-yes Motion carried unanimously.

The Board convened into Closed Session at 11:14 a.m.

David Gundersen left at 11:15 a.m.

23 DEN 044 – Sarah J. Weber

MOTION: Joan Fox moved, seconded by Matthew Bistan, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Sarah J. Weber, DLSC Case 23 DEN 044. Motion carried unanimously.

CREREDENTIALING MATTERS

Education Review

M.D.A. – Expanded Function Dental Auxiliary (IA – 392241)

MOTION: Matthew Bistan moved, seconded by Lisa Bahr, to deny the Expanded Function Dental Auxiliary application of M.D.A. **Reason for Denial:** Applicant has not demonstrated to the satisfaction of the examining board that the applicant has successfully completed an accredited instructional program under Wis. Stats. § 447.035 (3)(b)2 and Wis. Admin. Code § DE 16.03(1)(c). Motion carried unanimously.

M.M.E. – Expanded Function Dental Auxiliary (IA 459430)

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to table consideration of application M.M.E. until March meeting and to authorize board counsel to seek more information. Motion Carried Unanimously.

(Lisa Bahr and Linda Jorgenson recused themselves and left the room for deliberation and voting in the matter concerning M.M.E.)

Debra Kolste left at 11:31 a.m.

Shaheda Govani left at 11:34 a.m.

C.J.H. – Expanded Function Dental Auxiliary (IA 162888)

MOTION: Linda Jorgenson moved, seconded by Lisa Bahr, to authorize Board Counsel to send a three-option letter to C.J.H. relating to their application for a credential in Expanded Function Dental Auxiliary. **Reason for Three Option Letter:** Applicant has not demonstrated to the satisfaction of the examining board that the applicant has successfully completed an accredited instructional program under Wis. Stats. § 447.035 (3)(b)2 and Wis. Admin. Code § DE 16.03(1)(c). Motion carried unanimously.

Application Review

V.L.C. – Dental Therapist (IA 466143)

MOTION: Linda Jorgenson moved, seconded by Lisa Bahr, to approve the Dental Therapist application of V.L.C., with the CDCA-WREB-CITA as an approved testing service, once all requirements are met. Motion carried unanimously.

E.K.R. – Dental Therapist (IA 462980)

MOTION: Linda Jorgenson moved, seconded by Katherine Schrubbe, to approve the Dental Therapist application of E.K.R., with the CDCA-WREB-CITA as

an approved testing service, once all requirements are met. Motion carried unanimously.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Proposed Stipulations, Final Decisions and Orders

23 DEN 116 – Chad Schultz

MOTION: Matthew Bistan moved, seconded by Linda Jorgenson, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Chad Schultz, DLSC Case Number 23 DEN 116. Motion carried unanimously.

MOTION: Troy Alton moved, seconded by Joan Fox, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of the following cases:
23 DEN 130 – Matthew J. Oboikovitz
24 DEN 001 – Aaron K. Nisley
Motion carried unanimously.

Administrative Warnings

23 DEN 206 – C.P.M.

MOTION: Matthew Bistan moved, seconded by Troy Alton, to issue an administrative warning in the matter of C.P.M., DLSC Case Number 23 DEN 006. Motion carried unanimously.

Case Closings

MOTION: Lisa Bahr moved, seconded by Joan Fox, to close the following DLSC Cases for the reasons outlined below:
23 DEN 083 – Y.W. – No Violation
23 DEN 143 – J.P. – No Violation
24 DEN 0038 – J.L.P. – Insufficient Evidence
24 DEN 0097 – J.B.T. – No Violation
24 DEN 0115 – A.A.P. – No Violation
Motion carried unanimously.

DELIBERATION ON PROPOSED FINAL DECISION AND ORDERS

Debora A. Herrick – Respondent

(DHA Case Number SPS-23-0081/DLSC Case Number 22 DEN 152)

MOTION: Lisa Bahr moved, seconded by Linda Jorgenson, to adopt the Findings of Fact, Conclusions of Law, and Proposed Decision and Order, in the matter of disciplinary proceedings against Debora A. Herrick, Respondent, DHA Case Number SPS-23-0081/DLSC Case Number 22 DEN 152. Motion carried unanimously.

(Matthew Bistan recused themselves and left the room for deliberation and voting in the matter concerning Debora A. Herrick, Respondent – DHA case number SPS-23-0081/DLSC Case Number 22 DEN 152.)

RECONVENE TO OPEN SESSION

MOTION: Matthew Bistan moved, seconded by Katherine Schrubbe, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 12:27 p.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Linda Jorgenson moved, seconded by Lisa Bahr, 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: Matthew Bistan, seconded by Joan Fox, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:29 p.m.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Jake Pelegrin Administrative Rules Coordinator		2) Date when request submitted: 2/19/25 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: 3/5/25	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 9:00AM Preliminary Public Hearing on Scope Statement 004-25 for DE 1, 5, and 6 relating to Unprofessional Advertising																
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A																
10) Describe the issue and action that should be addressed: Attachments: -Notice of preliminary public hearing and scope																		
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; border-bottom: 1px solid black;">11)</td> <td style="width: 60%; border-bottom: 1px solid black; text-align: center;">Authorization</td> <td style="width: 30%;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;"><i>Jake Pelegrin</i></td> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black; text-align: right;">2/19/25</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Signature of person making this request</td> <td style="border-bottom: 1px solid black;"></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;"></td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</td> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> </table>				11)	Authorization		<i>Jake Pelegrin</i>		2/19/25	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
11)	Authorization																	
<i>Jake Pelegrin</i>		2/19/25																
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.																		

Notice of Preliminary Public Hearing

The Dentistry Examining Board announces that it will hold a preliminary public hearing on the proposed Scope Statement SS 004-25. This proposed scope statement addresses rules DE 1, 5, and 6 relating to Unprofessional Advertising. The hearing will be at the time and place shown below.

Hearing Information

Date: March 5, 2025

Time: 9:00 A.M.

Location: Information concerning the location of the hearing will be available at:

<https://dsps.wi.gov/Pages/BoardsCouncils/Dentistry/Meetings.aspx>

Appearances at the Hearing and Submittal of Written Comments

The rule may be reviewed and comments submitted at:

<http://docs.legis.wisconsin.gov/code/chr/hearings>.

Comments may also be submitted to Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, email to DSPSAdminRules@wisconsin.gov.

Comments must be received at or before the public hearing to be included in the record of rulemaking proceedings.

Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).

Agency Small Business Regulatory Coordinator

The Department's Regulatory Review Coordinator may be contacted by calling (608) 266-2112.

This Notice of Preliminary Hearing on Statement of Scope is approved by:

Chair

Date

STATEMENT OF SCOPE

DENTISTRY EXAMINING BOARD

Rule No.: DE 1, 5, and 6

Relating to: Unprofessional Advertising

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to clarify and add detail to the regulations on unprofessional advertising for dentists, which may include revisions to DE 1, 5, and 6.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Board has identified a need to clarify the rules on unprofessional advertising for dentists. Current rules are unclear if it is allowed for a general dentist to advertise as having a credential for a dental specialty, such as orthodontist or oral surgeon. The Board will consider updating the code to clarify whether this is allowed.

An alternative would be not to revise the code, which would leave the requirements unclear and can create confusion for licensees, patients, and regulators.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall 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.”

Section 227.11 (2) (a), Stats., provides that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 447.07 (3), Stats: “...the examining board may make investigations and conduct hearings in regard to any alleged action of any dentist, dental therapist, dental hygienist, or expanded function dental auxiliary, of a mobile dentistry program registrant, or of any other person it has reason to believe is engaged in or has engaged in the practice of dentistry, dental therapy, or dental hygiene, or the operation of a mobile dentistry program, in this state, and may, on its own motion, or upon complaint in writing, reprimand any dentist, dental therapist, dental hygienist, or expanded function dental auxiliary who is licensed or certified under this subchapter or who holds a compact privilege, or any mobile dentistry program registrant, or deny, limit, suspend, or revoke his or her license, certificate, or compact privilege, or the registration of the mobile dentistry program registrant, if it finds that the dentist, dental therapist, dental hygienist, expanded function dental auxiliary, or mobile dentistry program registrant has done any of the following:

Rev. 3/6/2012

447.07 (3) (m) Made a substantial misrepresentation in the course of practice that was relied upon by a client.

447.07 (3) (o) Advertised by using a statement that tends to deceive or mislead the public.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Approximately 80 hours.

6. List with description of all entities that may be affected by the proposed rule:

Licensed dentists and their patients.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state’s economy as a whole.

Contact Person: Jake Pelegrin, Administrative Rule Coordinator, DSPSAdminRules@wisconsin.gov, (608) 267-0989.

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Jake Pelegrin Administrative Rules Coordinator		2) Date when request submitted: 2/19/25 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: 3/5/25	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Progress update on permanent rule DE 1 to 17 for Dental Therapy 2. Presentation of new scope statement on DE 1 and 2 for License Requirements 3. Discussion of rule drafting for DE 5, 8, and 14 on Informed Consent 4. Pending or possible rulemaking projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Attachments: -Final Rule Draft and Report to the Legislature for Dental Therapy rule -New scope statement on DE 1 and 2 for License Requirements -Preliminary rule draft for DE 5, 8, and 14 on Informed Consent -Dentistry Rules Chart			
11) <i>Jake Pelegrin</i>		Authorization 2/19/25	
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 RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 24-094
DENTISTRY EXAMINING BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The objective of the proposed rule is to implement the statutory changes from 2023 Wisconsin Act 87, providing for the licensure and regulation of dental therapists in Wisconsin. The rule integrates dental therapists into the current code chapters DE 1 to 16 and creates chapter DE 17. The rule sets the licensure application requirements and continuing education requirements for dental therapists. It clarifies and specifies their scope of practice. It clarifies and specifies the regulations for supervision from a supervising dentist, and the ability of a dental therapist to supervise other staff.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Dentistry Examining Board held a public hearing on January 8, 2025. The Board received the following comments:

From Matt Crespín, MPH, RDH, FADHA, Executive Director of Children's Health Alliance of Wisconsin:

Good morning Chair and members of the Wisconsin Dentistry Examining Board. I am excited to be here with you today to provide comments regarding the proposed final rule drafts for DE 1 to 17 relating to dental therapists. My name is Matt Crespín and I have the privilege of serving as the executive director for Children's Health Alliance of Wisconsin. For nearly a decade our organization has been leading efforts to advance dental therapy in Wisconsin and we are excited to see the final rule draft and more excited to begin seeing the implementation of dental therapy in our state. We appreciate

the additional clarity given to DE 17.03 (5) regarding the definition of “active practice in this state” as a result of testimony provided at the past hearing on the emergency rule.

The Alliance has long supported workforce models such as dental therapy that has mountains of evidence to support their implementation with no patient safety related concerns. Dental therapists are licensed, highly educated and graduate from CODA accredited institutions. While increasing access to care is not the direct charge of the Dentistry Examining Board, this workforce model also has been proven to increase access to care and lower the burden of preventable dental related emergencies in hospital emergency departments. The Alliance applauds the dental board for focusing on the issues of patient safety through the assurance of accredited education, evidence-based models and those that increase access to safe and quality dental care.

An area of the rules that I’d like to call your attention to is in DE 7.06 (2) (b) regarding a dentist needing to remain on the premise if local anesthetic is administered by a dental hygienist after that procedure was delegated to a dental therapist. Removing these criteria would eliminate an unnecessary barrier to providing ongoing and comprehensive care and does not create any additional risk of safety to the public. This same amendment could be made in DE 15 as it pertains to nitrous oxide administration as this too falls in the scope of a dental therapist. This would require the addition of the term “dental therapist” to DE 7.05 and DE 16.06

Under the current proposed rule DE 17 a dental therapist is able to administer local anesthetic and nitrous oxide under general supervision when a dentist is both on or off premise, if 2,000 clinical hours have been obtained and is part of the collaborative agreement. A dental therapist is also able to supervise a dental hygienist and delegate procedures they have the authority to perform which includes administering local anesthetic and nitrous oxide. If the dental therapist can administer local anesthetic or nitrous when under general supervision and when the dentist is not on the premise it does not seem justified that a dentist needs to be on the premise if the local anesthetic is administered by a dental hygienist that’s been delegated this by a dental therapist. Furthermore, as a work around in this example the dental therapist could simply administer the local anesthetic or nitrous for the dental hygienist, but this creates an inefficiency and doesn’t change the level of safety provided to the patient.

It is our hope that we can continue to work collaboratively to remove barriers to providing safe and quality care to patients using evidence-based models. While we are excited to see this final rule put into place, we wanted to bring this small but important item to your attention for consideration as to not put up any unintended barriers to providing care. Thank you and I’m happy to answer any questions and can be reached at mcrespin@childrenswi.org or (414) 337- 4562 with any additional follow up questions on this matter.

Response: The Board appreciates the support and collaboration but is unable to make any changes in response to this comment. Section 447.06 (2) (e), Stats., allows for the delegation of the administration of local anesthesia and nitrous oxide to a dental hygienist, but only if the dentist remains on the premises. Section 447.065 (2), Stats., allows a dental therapist to delegate the administration of local anesthesia and nitrous oxide to a dental hygienist, but only subject to the

requirements under s. 447.06 (2) (e). The rule was written in accordance with these statutory requirements.

From Richelle Andrae, Associate Director of Government Relations for Wisconsin Primary Health Care Association:

Chair Bistan and members of the Dentistry Examining Board,

On behalf of Wisconsin's Community Health Centers, thank you for the opportunity to provide feedback on the emergency rules governing Dental Therapy in Wisconsin. Community Health Centers served about 300,000 patients in 2023, including providing 382,000 dental visits for about 163,000 patients in Wisconsin. Improving oral health in under-resourced communities is a primary mission for many Community Health Centers. All Community Health Centers are non-profits and offer services to low-income under- and un-insured patients according to a sliding fee scale based on household income, and bill insurance including Medicaid and commercial payers.

We appreciate the DEB's swift action to move the Dental Therapy rules forward and your ongoing dedication to improving the oral health of Wisconsin, balancing safety, access, and quality. WPHCA has already hosted conversations for Community Health Centers interested in integrating Dental Therapists on their teams and made connections with Dental Therapists who are eager to practice in Wisconsin. We support the permanent rule and look forward to continued engagement with the DEB to share success stories and lessons learned as implementation moves forward. Thank you for your continued work to improve safe, high-quality oral health care in Wisconsin. Please reach out to Richelle Andrae, randrae@wphca.org, with any questions.

Response: The Board appreciates the WPHCA's support for the rule and looks forward to working together in the future.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All Legislative Council comments except comment 2m. have been accepted and incorporated into the proposed rules.

Comment: 2m. 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).

Response: The board rejects this comment because the board's desire is to make it clear to the reader that "dental health shortage area" is a defined term, and to make it easier to look up the statutory definition which contains a link with more information.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 24-094)

PROPOSED ORDER

A proposed order of the Dentistry Examining Board to **amend** DE 1.01, 2.005 (title) and (intro.), 2.013, 2.03 (3), (4), (5) (a) (intro.), (b) (intro.), and (b) 3. b., and (6) (intro.), 2.035 (2) (intro.) and (2) (e), 3.01, 3.02 (1) (b), (c) (intro.), (c) 2. (intro.), and (2) (a) 2., 5.02 (intro.), (5), (9), (14), (14m), (15), (20), and (24), 6.02 (4) (intro.), (a), and (b), 8.02 (1), 8.035, 10.01 (1) (intro.), 10.02 (1) (b) (intro.), 1. (intro.), 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) (intro.), 14.01 (2), 14.02, 14.03, 14.04 and (Note), and 15.06 (intro.); to **repeal and recreate** DE 7.04 (3) (b) (Note); 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, 7.07, 12.04, 13.035, 13.05 (1m), 15.07, and chapter DE 17 relating to Licensure of Dental Therapists.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 447.02 (1) (g), Stats.

Statutory authority: Sections 15.08 (5) (b), 447.02 (1) (a), (1) (b), (1) (g), and 447.02 (2) (a), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall 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.”

Section 447.02 (1) (a), Stats., states that the examining board may promulgate rules “[g]overning the reexamination of an applicant who fails an examination specified in s. 447.04 (1) (a) 5., (1m) (e), or (2) (a) 5. The rules may specify additional education requirements for those applicants and may specify the number of times an applicant may be examined.”

Section 447.02 (1) (b), Stats., states that the examining board may promulgate rules “[g]overning the standards and conditions for the use of radiation and ionizing equipment in the practice of dentistry or dental therapy.”

Section 447.02 (1) (g), Stats., states that the examining board may promulgate rules “Specifying services, treatments, or procedures, in addition to those specified under s. 447.06 (3) (b) 1. to 27., that are included within the practice of dental therapy.”

Section 447.02 (2) (a), Stats., states that the examining board shall promulgate rules specifying “[t]he conditions for supervision and the degree of supervision required under ss. 447.03 (3) (a), (am), (b) and (d) 2. and 447.065.”

Related statute or rule:

2023 Wisconsin Act 87.

Plain language analysis:

The objective of the proposed rule is to implement the statutory changes from 2023 Wisconsin Act 87, providing for the licensure and regulation of dental therapists in Wisconsin. The rule integrates dental therapists into the current code chapters DE 1 to 16 and creates chapter DE 17. The rule sets the licensure application requirements and continuing education requirements for dental therapists. It clarifies and specifies their scope of practice. It clarifies and specifies the regulations for supervision from a supervising dentist, and the ability of a dental therapist to supervise other staff.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

Illinois statutes and codes do not provide for licensure of dental therapists.

Iowa:

Iowa statutes and codes do not provide for licensure of dental therapists.

Michigan:

Michigan law provides for licensure and regulation of dental therapists [MCL 333.16651 to 16659]. Their scope of practice includes a list of 27 dental therapy services including identifying conditions, dispensing medications prescribed by a health care professional, teeth cleaning, and other basic dental procedures. Their dental therapists can practice only

under the supervision of a supervising dentist. The supervising dentist and dental therapist must create a written agreement to agree to the services and procedures the dental therapist is allowed to do. This written practice agreement must be fairly detailed and is regulated by a variety of provisions in Michigan law. Essentially, the supervising dentist has a fair amount of authority over what they will allow the dental therapist to do.

Michigan rules further specify a dental therapist's scope of practice and conditions of supervision [Michigan Rules R 338.11415 to 11417]. For supervision, the supervisor does not always need to be physically present in the office, but must be continuously available by telephone or telecommunication. Also, a dental therapist may supervise dental assistants and dental hygienists (to the extent permitted in the written practice agreement).

Minnesota:

Minnesota law provides for licensure and regulation of dental therapists and advanced dental therapists [2023 Minnesota Statutes, parts 150A.105 to 106]. Their scope of practice is limited to a similar list of 30 dental therapy services and procedures. However, in Minnesota's list, 14 of the more intensive procedures are required to be done under a level of supervision where the supervising dentist is physically present in the office (but doesn't need to be in the room). The remaining 16 less-intensive procedures are allowed to be done if the supervising dentist is not present in the office. However, these are minimums and the supervision can be more direct, as agreed on in the collaborative management agreement between the dental therapist and the supervising dentist. Like Michigan, the requirements for their collaborative management agreements specifies a large level of detail to be agreed on in writing between the two parties. Dental therapists may supervise dental assistants, but not dental hygienists.

Advanced dental therapists have increased education requirements but have a slightly wider scope of practice. In addition to the scope of practice described above, they can also perform nonsurgical extractions of permanent teeth. Also, all their services and procedures are allowed to be done under a level of supervision where the supervising dentist is not present in the office.

Minnesota administrative rules further specify licensure requirements for dental therapists but make minimal other additions to the regulations already in Minnesota statute [Minnesota Rules parts 3100.1170 to 1180].

Summary of factual data and analytical methodologies:

The board reviewed code chapters DE 1 to 16 to determine what changes need to be made due to 2023 Wisconsin Act 87. Additionally, the board decided to create chapter DE 17 to further specify practice requirements for dental therapists.

Fiscal Estimate:

The Fiscal Estimate and Economic Impact are attached.

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 at Jennifer.Garrett@wisconsin.gov or (608) 266-2112.

Agency contact person:

Jake Pelegrin, 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 608-267-0989; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. DE 1.01 is amended to read:

DE 1.01 Authority. The provisions in chs. DE 1 to ~~46~~17 are adopted pursuant to authority in ss. 15.08 (5) and 227.11 (2) (a), Stats., and ch. 447, Stats.

SECTION 2. DE 1.02 (4g) is created to read:

DE 1.02 (4g) "Dental therapist" means an individual who practices dental therapy.

SECTION 3. DE 1.02 (4r) is created to read:

DE 1.02 (4r) "Dental therapy" means the limited practice of dentistry, consisting of the services, treatments, and procedures specified in s. 447.06 (3) (b), Stats., and s. DE 17.02 (1).

SECTION 4. DE 2.005 (title) and (intro.) are amended to read:

DE 2.005 ~~Dental testing service and dental hygiene testing~~ Testing service requirements. A ~~dental testing service, dental therapy,~~ or dental hygiene testing service may be approved if all the testing service's exams meet all of the following requirements:

SECTION 5. DE 2.01 (3) is created to read:

DE 2.01 (3) An applicant for license as a dental therapist shall meet the requirements in sub. (1) (a) and (c) and shall also submit to the board all of the following:

(a) Evidence satisfactory to the board that the applicant has graduated from an accredited dental therapy education program or has satisfied other requirements in s. 447.04 (1m) (c), Stats.

Note: For all acceptable education requirements, see s. 447.04 (1m) (c), Stats.

(b) Evidence satisfactory to the board that the applicant has passed a national board dental therapy examination and a dental therapy clinical examination administered by a regional testing service that has been approved by the board to administer clinical examinations for dental professionals. If a national board examination or a regional testing service examination for dental therapy does not exist, the board shall accept evidence of passing an alternative examination administered by another entity or testing service that is approved by the board.

(c) Evidence of successful completion of an examination administered by the board on the statutes and rules relating to dental therapy.

(d) Evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide such instruction.

(e) If applicable, information relating to the applicant's licensure in other jurisdictions as required by the board.

SECTION 6. DE 2.013 is amended to read:

DE 2.013 Student supervision. A dental student under s. 447.03 (3) (a), Stats., a dental therapy student under s. 447.03 (3) (am), Stats., or a dental hygiene student under s. 447.03 (3) (b), Stats., is required to practice under the supervision of a dentist who is present in the facility in which the practice occurs.

SECTION 7. DE 2.02 (2m) is created to read:

DE 2.02 (2m) Every person granted a license as a dental therapist shall be deemed licensed for the current biennial license period.

SECTION 8. DE 2.03 (2m) is created to read:

DE 2.03 (2m) REQUIREMENTS FOR RENEWAL; DENTAL THERAPISTS. A dental therapist shall by October 1 of the odd-numbered year following initial licensure and every 2 years thereafter, meet the requirements for renewal specified in sub. (1) (a) to (d).

SECTION 9. DE 2.03 (3) is amended to read:

DE 2.03 (3) FAILURE TO MEET REQUIREMENTS. A dentist, dental therapist, or dental hygienist who fails to meet the requirements under subs. (1) (a) to (d), ~~and (2)~~, and (2m) by the renewal date shall cease and desist from dental, dental therapy, or dental hygiene practice.

SECTION 10. DE 2.03 (4) is amended to read:

DE 2.03 (4) NEW LICENSEES. Dentists, dental therapists, and dental hygienists are not required to satisfy the continuing education requirements under sub. (1) (d) for the first renewal period following the issuance of their initial licenses.

SECTION 11. DE 2.03 (5) (a) (intro.) is amended to read:

DE 2.03 (5) (a) A dentist, dental therapist, or dental hygienist who files an application for renewal of a license within 5 years after the renewal date may renew the ~~his or her~~ license by filing with the board all of the following:

SECTION 12. DE 2.03 (5) (b) (intro.) is amended to read:

DE 2.03 (5) (b) This paragraph does not apply to dentists, dental therapists, or dental hygienists who have unmet disciplinary requirements. A dentist, dental therapist, or dental hygienist renewing the license after 5 years shall do all of the following:

SECTION 13. DE 2.03 (5) (b) 3. b. is amended to read:

DE 2.03 (5) (b) 3. b. If a dentist or dental therapist, successful completion of a board approved testing service examination within one year of renewal.

SECTION 14. DE 2.03 (6) (intro.) is amended to read:

DE 2.03 (6) REINSTATEMENT. A dentist, dental therapist, or dental hygienist who has unmet disciplinary requirements and failed to renew the license within 5 years or whose license has been denied at renewal, surrendered, or revoked may apply to have the license reinstated following submission of all of the following:

SECTION 15. DE 2.035 (2) (intro.) and (2) (e) are amended to read:

DE 2.035 (2) Each applicant for reciprocal licensure as a dentist, dental therapist, or dental hygienist shall submit all of the following:

(e) Evidence that the applicant is in good standing with the governmental authorities in every jurisdiction outside this state that have granted the applicant a license, certification,

registration, or permit that qualifies the individual to perform acts authorized under a dentist, dental therapist, or dental hygienist license granted by the board.

SECTION 16. DE 2.04 (3) is created to read:

DE 2.04 (3) The board may grant a license as a dental therapist to an applicant who holds a valid license in good standing issued by the proper authorities of any other jurisdiction of the United States or Canada upon payment of the fee as determined by the department under s. 440.03 (9) (a), Stats., and submission of evidence satisfactory to the board that all of the following conditions are met:

- (a) The applicant has graduated from an accredited dental therapy education program.
- (b) The applicant submits a certificate from each jurisdiction in which the applicant is or has ever been licensed stating that no disciplinary action is pending against the applicant or the license, and detailing all discipline, if any, which has ever been imposed against the applicant or the license.
- (c) The applicant has successfully completed a licensing examination that, in the board's judgment, is substantially equivalent to an examination administered by a board approved testing service.
- (d) The applicant has successfully completed a jurisprudence examination on the provisions of Wisconsin statutes and administrative rules relating to dental therapy.
- (e) The applicant possesses a current certificate of proficiency in cardiopulmonary resuscitation from a course provider approved by the Wisconsin department of health services.
- (f) The applicant has disclosed all discipline which has ever been taken against the applicant in any jurisdiction shown in reports from the national practitioner data bank and the American Association of Dental Boards.
- (g) The applicant has presented satisfactory responses during any personal interview with the board which may be required to resolve conflicts between the licensing standards and the applicant's application.

SECTION 17. DE 3.01 is amended to read:

DE 3.01 Supervision. A dental hygienist shall practice under the supervision of a licensed dentist or dental therapist in a dental facility or a facility specified in s. 447.06 (2), Stats., if applicable.

SECTION 18. DE 3.02 (1) (b) is amended to read:

DE 3.02 (1) (b) A dental hygienist may practice dental hygiene or perform remediable procedures only as authorized by a licensed dentist or dental therapist who is present in the facility in which those practices or procedures are performed, except as provided in par. (c).

SECTION 19. DE 3.02 (1) (c) (intro.) is amended to read:

DE 3.02 (1) (c) A dental hygienist may practice dental hygiene or perform remediable procedures if a licensed dentist or dental therapist is not present in the facility in which those practices or procedures are performed only if all of the following conditions are met:

SECTION 20. DE 3.02 (1) (c) 2. (intro.) is amended to read:

DE 3.02 (1) (c) 2. The dentist or dental therapist who made the written or oral prescription has examined the patient at least once during the 12-month period immediately preceding all of the following:

SECTION 21. DE 3.02 (1) (am), (d), and (e) are created to read:

DE 3.02 (1) (am) In this subsection:

1. “Direct supervision” has the meaning given in s. DE 17.01 (2).
2. “Supervising dentist” has the meaning given in s. DE 17.01 (6).

DE 3.02 (1) (d) Pursuant to the requirements under s. 447.065 (2), Stats., and subject to the requirements under this subsection, a dental therapist may delegate to a dental hygienist the performance of remediable procedures only if all of the following conditions are met:

1. The supervising dentist has allowed the dental therapist to perform the specific remediable procedure within the dental therapist’s collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.
2. The supervising dentist has expressly allowed the dental therapist to delegate the specific remediable procedure within the dental therapist’s collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.
3. The dental therapist has the authority to perform the specific remediable procedure personally, pursuant to the requirements under s. 447.06 (3) (bm) 1. and 2., Stats.
4. The dental hygienist remains under the direct supervision of the dental therapist for the duration of the procedure.

(e) The dental therapist and the dental therapist's supervising dentist shall be responsible for any services, treatments, or procedures delegated and performed under par. (d).

SECTION 22. DE 3.02 (2) (a) 2. is amended to read:

DE 3.02 (2) (a) 2. For a school for the education of dentists, dental therapists, or dental hygienists.

SECTION 23. DE 3.04 (2m), (4), (5), and (6) are created to read:

DE 3.04 (2m) In this section, "supervising dentist" has the meaning given in s. DE 17.01 (6).

DE 3.04 (4) Pursuant to the requirements under ss. 447.06 (2) (e) and 447.065 (2), Stats., a dental therapist may delegate to a dental hygienist the administration of oral systemic premedications and subgingival sustained release chemotherapeutic agents to patients only if all of the following conditions are met:

(a) The administration is performed pursuant to a treatment plan for the patient approved by a dentist.

(b) A dentist remains on the premises in which the administration is performed and is available to the patient throughout the completion of the appointment.

(c) The dental therapist has the authority to perform the activity personally, pursuant to the requirements under s. 447.06 (3) (bm) 1. and 2., Stats.

(d) The dental therapist remains under the supervision of the supervising dentist for the duration of the procedure. The dental therapist's level of supervision shall be the level agreed upon for the procedure, as specified in the dental therapist's collaborative management agreement described in s. DE 17.03 (5).

(e) The supervising dentist has allowed the dental therapist to perform the administration personally within the dental therapist's collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

(f) The supervising dentist has expressly allowed the dental therapist to delegate the administration within the dental therapist's collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

(5) In sub. (4), the dentist who approves the treatment plan and remains available to the patient may be a different dentist than the supervising dentist for the dental therapist.

(6) The dental therapist, the dental therapist's supervising dentist, and the dentist who approves the treatment plan shall be responsible for any services, treatments, or procedures delegated and performed under sub. (4).

SECTION 24. DE 5.02 (intro.), (5), (9), (14), (14m), (15), (20), and (24) are amended to read:

DE 5.02 Unprofessional conduct. Unprofessional conduct by a dentist, dental therapist, dental hygienist, or expanded function dental auxiliary includes:

(5) Practicing in a manner which substantially departs from the standard of care ordinarily exercised by a dentist, dental therapist, dental hygienist, or expanded function dental auxiliary which harms or could have harmed a patient.

(9) Impersonating another dentist, dental therapist, dental hygienist, or expanded function dental auxiliary.

(14) Having a license, certificate, permit, or registration granted by another state to practice as a dentist, dental therapist, or dental hygienist limited, suspended or revoked, or subject to any other disciplinary action.

(14m) Surrendering, while under investigation, a license, certificate, permit, or registration granted by another state to practice as a dentist, dental therapist, dental hygienist, or expanded function dental auxiliary.

(15) Violating any law or being convicted of a crime the circumstances of which substantially relate to the practice of a dentist, dental therapist, or dental hygienist.

(20) Violating, or aiding or abetting the violation of any law substantially related to the practice of dentistry, dental therapy, dental hygiene, or the practice of an expanded function dental auxiliary.

(24) Failing to hold a current certificate in cardiopulmonary resuscitation unless the ~~licensee or certified individual~~ credential holder has obtained a waiver from the board based on a medical evaluation documenting physical inability to comply. A waiver shall be issued by the board only if it is satisfied that another person with current certification in CPR is immediately available to the ~~licensee~~ credential holder when patients are present.

SECTION 25. DE 5.02 (21m) is created to read:

DE 5.02 (21m) Aiding or abetting or permitting unlicensed persons in the practice of dental therapy, as defined in s. 447.01 (6r), Stats.

SECTION 26. DE 5.02 (28) is created to read:

DE 5.02 (28) A dental therapist practicing outside of a practice area or setting described in s. 447.06 (3) (e), Stats., and s. DE 17.04 (3).

SECTION 27. DE 6.02 (4) (intro.), (a), and (b) are amended to read:

DE 6.02 (4) Including any of the following in an advertisement:

(a) A patient's identity or any identifiable fact, datum or information, without the patient's permission;

(b) A name of a dentist or dental therapist who has not been associated with the advertising dentist or dental therapist for the past year or longer;

SECTION 28. DE 6.03 is created to read:

DE 6.03 Advertising limitations for dental therapists. (1) A dental therapist may not advertise as a dentist or as providing services other than dental therapy.

(2) A dentist supervising a dental therapist under a collaborative management agreement retains full responsibility for advertising by the dental therapist.

SECTION 29. DE 7.04 (3) (b) (Note) is repealed and recreated to read:

Note: Instructions for applications are available on the department's website at <http://dsps.wi.gov>.

SECTION 30. DE 7.07 is created to read:

DE 7.07 Dental therapist delegation to a dental hygienist the administration of local anesthetic. (1) In this section, "supervising dentist" has the meaning given in s. DE 17.01 (6).

(2) Pursuant to the requirements under ss. 447.06 (2) (e) and 447.065 (2), Stats., a dental therapist may delegate to a dental hygienist the administration of local anesthetic only if all of the following conditions are met:

(a) The administration is performed pursuant to a treatment plan for the patient approved by a dentist.

(b) The dentist remains on the premises in which the administration is performed and is available to the patient throughout the completion of the appointment.

(c) The dental therapist has the authority to perform the activity personally, pursuant to the requirements under s. 447.06 (3) (bm) 1. and 2., Stats.

(d) The dental therapist remains under the supervision of the supervising dentist for the duration of the procedure. The dental therapist's level of supervision shall be the level agreed upon for the procedure, as specified in the dental therapist's collaborative management agreement described in s. DE 17.03 (5).

(e) The supervising dentist has allowed the dental therapist to administer local anesthetic within the dental therapist's collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

(f) The supervising dentist has expressly allowed the dental therapist to delegate the administration of local anesthetic within the dental therapist's collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

(3) In sub. (2), the dentist who approves the treatment plan and remains available to the patient may be a different dentist than the supervising dentist for the dental therapist.

(4) The dental therapist, the dental therapist's supervising dentist, and the dentist who approves the treatment plan shall be responsible for any services, treatments, or procedures delegated and performed under sub. (2).

SECTION 31. DE 8.02 (1) is amended to read:

DE 8.02 (1) "Patient" means a person who receives dental services from a licensed dentist, dental therapist, or dental hygienist.

SECTION 32. DE 8.035 is amended to read:

DE 8.035 Preservation of patient health care records. A person who manages or controls a business that offers dental, dental therapy, or dental hygiene services, including management or control of a business through which the person allows another person to offer dental, dental therapy, or dental hygiene services, shall preserve patient health care records for at least 10 years from the date of the last entry.

SECTION 33. DE 10.01 (1) (intro.) is amended to read:

DE 10.01 (1) "Mobile dentistry program" means a program providing dental hygiene as defined by s. 447.01 (3), Stats., dental therapy as defined by s. 447.01 (6r), Stats., or dentistry as defined by s. 447.01 (8), Stats., excluding a health practitioner practicing within the scope of a license not governed by ch. 447, Stats., in one of the following:

SECTION 34. DE 10.02 (1) (b) (intro.), 1. (intro.), b., and 2. are amended to read:

DE 10.02 (1) (b) A program providing dental, dental therapy, or dental hygiene care is not required to register if one of the following requirements is satisfied:

1. The dental, dental therapy, or dental hygiene care is provided within a 50 mile radius of their main or satellite facility and all of the following:

b. The dentist, dental therapist, or dental hygienist provides any necessary follow-up care to the patient.

2. The dental, dental therapy, or dental hygiene care is being provided to a new or established patient of record of the main or satellite dental facility and no more than 2 patients per day are being treated using portable equipment or a self-contained, intact facility that can be moved.

SECTION 35. DE 10.02 (2) (c) is amended to read:

DE 10.02 (2) (c) A list of all employees, contractors, or volunteers who are providing dental, dental therapy, or dental hygiene care in Wisconsin. The list shall include the Wisconsin license number for each person providing dental, dental therapy, or dental hygiene care.

SECTION 36. DE 10.02 (3) (c) is amended to read:

DE 10.02 (3) (c) A list of all employees, contractors or volunteers who are providing dental, dental therapy, or dental hygiene care in Wisconsin. The list shall include the Wisconsin license number for each person providing dental care.

SECTION 37. DE 10.045 is amended to read:

DE 10.045 Notification to department. The mobile dentistry program shall notify the department within 30 days of new employees, contractors or volunteers providing dental, dental therapy, or dental hygiene services in Wisconsin.

SECTION 38. DE 11.10 (3m) (g) (Note) is amended to read:

Note: Forms are available on the department's website at <http://dsps.wi.gov> ~~at the office of the Dentistry Examining Board located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.~~

SECTION 39. DE 12.01 (intro.) is amended to read:

DE 12.01 Nondelegated functions. A dentist or dental therapist may not delegate any dental procedure of any description to an unlicensed person if the procedure or function to be delegated is any of the following:

SECTION 40. DE 12.02 is amended to read:

DE 12.02 Training. A dentist or dental therapist who delegates any remediable dental procedure or function to an unlicensed person shall first provide training to or verify competency of the person in the performance of the procedure or function.

SECTION 41. DE 12.03 is amended to read:

DE 12.03 Reporting violations. (1) A licensee shall report to the board any dentist or dental therapist who is improperly delegating the performance of any dental or dental therapy procedure or function to an unlicensed person, or is delegating to a person performing any dental or dental therapy procedure or function in a manner which is less than minimally competent.

(2) A licensee who fails to report the circumstances as specified in sub. (1) constitutes aiding and abetting the violation of a law substantially related to the practice of dentistry, dental therapy, or dental hygiene, and shall be in violation of s. DE 5.02 (20), (21), (21m), or (22).

SECTION 42. DE 12.04 is created to read:

DE 12.04 Dental therapist delegation to unlicensed persons. (1) In this section:

(a) “Direct supervision” has the meaning given in s. DE 17.01 (2).

(b) “Supervising dentist” has the meaning given in s. DE 17.01 (6).

(2) A dental therapist may delegate to an unlicensed person only the performance of remediable procedures, and only if all of the following conditions are met:

(a) The unlicensed individual performs the remediable procedures in accordance with a treatment plan approved by the dentist or dental therapist.

(b) The unlicensed individual remains under the direct supervision of the dental therapist for the duration of the procedure.

(c) The unlicensed individual's performance of the remediable procedures is subject to inspection by the dentist or dental therapist.

(d) The dental therapist has the authority to perform the activity personally, pursuant to the requirements under s. 447.06 (3) (bm) 1. and 2., Stats.

(e) The supervising dentist has allowed the dental therapist to perform the specific remediable procedure within the dental therapist’s collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

(f) The supervising dentist has expressly allowed the dental therapist to delegate the specific remediable procedure within the dental therapist’s collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

(3) In sub. (2), the dentist who approves the treatment plan and may inspect the performance of the remediable procedures may be a different dentist than the supervising dentist for the dental therapist.

(4) The dental therapist, the dental therapist's supervising dentist, and the dentist who approves the treatment plan shall be responsible for any services, treatments, or procedures delegated and performed under sub. (2).

SECTION 43. DE 13.01 is amended to read:

DE 13.01 Authority. The rules in this chapter are adopted by the dentistry examining board under the authority of ss. 227.11 (2), 447.02 (1) (f), 447.055, ~~and~~ 447.056, and 447.057, Stats.

SECTION 44. DE 13.02 (3) and (4) (intro.) are amended to read:

DE 13.02 (3) "Professional organization" means an organization that seeks to further the dental, dental therapy, dental hygiene, or medical professions, the interests of licensees engaged in those professions, and the public interests. "Professional organization" includes a study group, as defined in sub. (4).

(4) "Study group" means a group of 2 or more dentists, dental therapists, or dental hygienists who discuss continuing education topics relating to the practice of dentistry, dental therapy, or medicine, or the clinical practice of dental hygiene, and that satisfies all of the following:

SECTION 45. DE 13.035 is created to read:

DE 13.035 Continuing education requirements for dental therapists. (1) COMPLETION OF CONTINUING EDUCATION CREDIT HOURS. Except as provided under sub. (5), during the 2-year period immediately preceding the renewal date specified under s. 440.08 (2) (a), Stats., a dental therapist shall complete 12 credit hours of continuing education related to the practice of dental therapy. No more than 2 of the 12 credit hours may be satisfied by training related to basic life support or cardiopulmonary resuscitation. Not less than 2 of the 12 credit hours shall include training in infection control.

(2) **PRESCRIBING CONTROLLED SUBSTANCES CONTINUING EDUCATION.** If a dental therapist has a federal drug enforcement administration registration number, the 12 credit hours of continuing education shall include 2 hours in the topic of prescribing of controlled substances for the treatment of dental pain.

(3) **CREDIT FOR COLLEGE LEVEL COURSES.** One credit hour of a college level course is equivalent to 6 credit hours of continuing education. A licensee may substitute credit hours of college level courses related to the practice of dentistry, dental therapy, or medicine for the required continuing education credit hours.

(4) **CREDIT FOR DISTANCE EDUCATION.** The credit hours required under sub. (1) may be satisfied by independent study, correspondence, or internet programs or courses.

(5) EXEMPTION FOR NEW LICENSEES. Subsection (1) does not apply to an applicant for renewal of a license that expires on the first renewal date after the date on which the applicant is licensed.

(6) CERTIFICATION STATEMENT. At the time of each renewal, each licensee shall sign a statement certifying that, within the 2 years immediately preceding the renewal date specified under s. 440.08 (2) (a), Stats., the licensee has completed the continuing education credit hours required under sub. (1).

(7) FAILURE TO COMPLETE CONTINUING EDUCATION HOURS. A licensee who fails to complete the continuing education requirements by the renewal date specified under s. 440.08 (2) (a), Stats., shall not practice dental therapy until the license is restored under s. DE 2.03 (5).

(8) TIME LIMITS ON OBTAINING CREDITS. Credit hours completed before the 2-year period immediately preceding renewal of a license to practice dental therapy may not be applied to fulfill the credit hours required under sub. (1).

(9) RECORDKEEPING. Every licensee shall maintain a written record of the continuing education hours required under sub. (1) for not less than 6 years after completion of each credit.

(10) WAIVER OF CONTINUING EDUCATION HOURS. The board may waive the continuing education requirements under sub. (1) if it finds that exceptional circumstances such as prolonged illness, disability, or other similar circumstances have prevented a licensee from meeting the requirements.

SECTION 46. DE 13.05 (1m) is created to read:

DE 13.05 (1m) DENTAL THERAPISTS. The board accepts continuing education programs for dental therapists that satisfy the following criteria:

(a) The subject matter of the continuing education program relates to the practice of dental therapy or the practice of medicine.

(b) The continuing education program is one of the following:

1. Sponsored or recognized by a local, state, regional, national, or international dental, dental therapy, dental hygiene, dental assisting, or medical related professional organization.

2. A college level course that is offered by a postsecondary institution accredited by the American Dental Association Commission on Dental Accreditation or a successor agency, or by another recognized accrediting body.

3. A study group as specified in s. DE 13.02 (4).

SECTION 47. DE 14.01 (2) is amended to read:

DE 14.01 (2) PURPOSE. The purpose of the rules is to define the obligation of a dentist or dental therapist to communicate alternate modes of treatment to a patient.

SECTION 48. DE 14.02 is amended to read:

DE 14.02 Informed consent. Any dentist or dental therapist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments prior to treating the patient. The reasonable dentist standard is the standard for informing a patient under this section. The reasonable dentist standard requires disclosure only of information that a reasonable dentist would know and disclose under the circumstances.

SECTION 49. DE 14.03 is amended to read:

DE 14.03 Recordkeeping. A dentist's or dental therapist's patient record shall include documentation that alternate modes of treatment have been communicated to the patient and informed consent has been obtained from the patient.

SECTION 50. DE 14.04 and (Note) are amended to read:

DE 14.04 Exceptions to communication of alternate modes of treatment. A dentist or dental therapist is not required to disclose the types of information listed in ss. 447.40 (1) to (6), Stats.

Note: Section 447.40, Stats., reads: "Any dentist or dental therapist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable dentist standard is the standard for informing a patient under this section. The reasonable dentist standard requires disclosure only of information that a reasonable dentist would know and disclose under the circumstances. The dentist's or dental therapist's duty to inform the patient under this section does not require disclosure of any of the following: (1) Detailed technical information that in all probability a patient would not understand. (2) Risks apparent or known to the patient. (3) Extremely remote possibilities that might falsely or detrimentally alarm the patient. (4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment. (5) Information in cases where the patient is incapable of consenting. (6) Information about alternate modes of treatment for any condition the dentist or dental therapist has not included in his or her diagnosis, assessment, or treatment plan at the time the dentist or dental therapist informs the patient.

SECTION 51. DE 15.06 (intro.) is amended to read:

DE 15.06 Dentist responsibility for the administration of nitrous oxide inhalation analgesia. A dentist may delegate to a dental hygienist ~~may administer~~ the administration of nitrous oxide inhalation analgesia only if all of the following requirements are met:

SECTION 52. DE 15.07 is created to read:

DE 15.07 Dental therapist delegation to a dental hygienist the administration of nitrous oxide inhalation analgesia. (1) In this section, “supervising dentist” has the meaning given in s. DE 17.01 (6).

(2) Pursuant to the requirements under ss. 447.06 (2) (e) and 447.065 (2), Stats., a dental therapist may delegate to a dental hygienist the administration of nitrous oxide inhalation analgesia only if all of the following requirements are met:

(a) The nitrous oxide inhalation analgesia is administered pursuant to a treatment plan approved by the dentist.

(b) The dentist remains on the premises in which the administration is performed and is available to the patient throughout the completion of the appointment.

(c) The dental therapist has the authority to perform the activity personally, pursuant to the requirements under s. 447.06 (3) (bm) 1. and 2., Stats.

(d) The dental therapist remains under the supervision of the supervising dentist for the duration of the procedure. The dental therapist’s level of supervision shall be the level agreed upon for the procedure, as specified in the dental therapist’s collaborative management agreement described in s. DE 17.03 (5).

(e) The supervising dentist has allowed the dental therapist to administer nitrous oxide inhalation analgesia within the dental therapist’s collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

(f) The supervising dentist has expressly allowed the dental therapist to delegate the administration of nitrous oxide inhalation analgesia within the dental therapist’s collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

(3) In sub. (2), the dentist who approves the treatment plan and remains available to the patient may be a different dentist than the supervising dentist for the dental therapist.

(4) The dental therapist, the dental therapist’s supervising dentist, and the dentist who approves the treatment plan shall be responsible for any services, treatments, or procedures delegated and performed under sub. (2).

SECTION 53. Chapter DE 17 is created to read:

Chapter DE 17

PRACTICE OF DENTAL THERAPY

DE 17.01 Definitions. In this chapter:

- (1) “Dental health shortage area” has the meaning given in s. 36.60 (1) (ad), Stats.
- (2) “Direct supervision” means that the supervising dentist or supervising dental therapist is present in the dental office or other practice setting, personally diagnoses the condition to be treated, personally authorizes each procedure, and before dismissal of the patient, evaluates the performance of the supervised dental personnel.
- (3) “General supervision” means that the supervising dentist is not present in the dental office or other practice setting or on the premises at the time tasks or procedures are being performed by the supervised dental personnel, but that the tasks or procedures performed by the supervised dental personnel are being performed with the prior knowledge and consent of the dentist.
- (4) “Indirect supervision” means that the supervising dentist is present in the dental office or other practice setting, authorizes each procedure, and remains in the office while the procedures are being performed by the supervised dental personnel.
- (5) “Medical Assistance patient” means a patient who is a recipient of services under the Medical Assistance program under subch. IV of ch. 49, Stats.
- (6) “Supervising dentist” means a licensed dentist supervising a dental therapist under a collaborative management agreement described in s. DE 17.03 (5).
- (7) “Uninsured patient” means a patient who lacks dental health coverage, either through a public health care program or private insurance, and has an annual gross family income equal to or less than 200 percent of the federal poverty guidelines.

DE 17.02 Scope of Practice. (1) The scope of practice of a dental therapist shall, subject to the terms of a collaborative management agreement, be limited to providing the following services, treatments, and procedures:

- (a) Oral evaluation and assessment of dental disease and formulation of an individualized treatment plan.
- (b) Identification of oral and systemic conditions requiring evaluation or treatment by dentists, physicians, or other health care providers and managing referrals.
- (c) Comprehensive charting of the oral cavity.

- (d)** Oral health instruction and disease prevention education, including nutritional counseling and dietary analysis.
- (e)** Exposure and evaluation of radiographic images.
- (f)** Dental prophylaxis, including subgingival scaling and polishing procedures.
- (g)** Dispensing and administration via the oral or topical route of nonnarcotic analgesic, anti-inflammatory, and antibiotic medications as prescribed by a licensed health care provider.
- (h)** Application of topical preventive or prophylactic agents, including fluoride varnish, antimicrobial agents, caries arresting medicaments, and pit and fissure sealants.
- (i)** Pulp vitality testing.
- (j)** Application of desensitizing medications or resins.
- (k)** Fabrication of athletic mouth guards and soft occlusal guards.
- (L)** Changing of periodontal dressings.
- (m)** Administration of local anesthetic and nitrous oxide.
- (n)** Simple extraction of erupted primary teeth.
- (o)** Nonsurgical extraction of periodontally diseased permanent teeth with tooth mobility of +3 to +4 to the extent authorized in the dental therapist's collaborative management agreement, except for the extraction of a tooth that is unerupted, impacted, or fractured or that needs to be sectioned for removal.
- (p)** Emergency palliative treatment of dental pain limited to the procedures in this paragraph.
- (q)** Preparation and placement of direct restoration in primary and permanent teeth.
- (r)** Fabrication and placement of single-tooth temporary crowns.
- (s)** Preparation and placement of preformed crowns on primary teeth.
- (t)** Indirect and direct pulp capping on permanent teeth.
- (u)** Indirect pulp capping on primary teeth.
- (v)** Intraoral suture placement and removal.

(w) Minor adjustment and repair of removable prostheses.

(x) Placement and removal of space maintainers.

(y) Pulpotomy on primary teeth.

(z) Tooth reimplantation and stabilization.

(za) Recementing of a permanent crown.

(zb) The performance of dental hygiene, as defined in s. 447.01 (3), Stats.

(2) Notwithstanding sub. (1), a dental therapist shall, except as provided in sub. (3), limit his or her practice of dental therapy to providing the services, treatments, and procedures covered by his or her dental therapy education program.

(3) If any service, treatment, or procedure under sub. (1) was not covered by a dental therapist's dental therapy education program, the dental therapist may provide that service, treatment, or procedure if the dental therapist has subsequently received additional dental therapy educational training to provide that service, treatment, or procedure.

DE 17.03 Dentist supervision of dental therapists. (1) Except as provided in sub. (2), a dental therapist licensed under ch. DE 2 may provide dental therapy services in this state only under the direct supervision or indirect supervision of a supervising dentist.

(2) (a) Once a dental therapist licensed under ch. DE 2 has provided dental therapy services for at least 2,000 hours under direct supervision or indirect supervision, the dental therapist may provide dental therapy services in this state under the general supervision of a supervising dentist, subject to the terms of a collaborative management agreement described in sub. (5).

(b) For purposes of the 2,000 hours requirement under par. (a), hours may include hours of providing dental therapy services in this state under direct supervision or indirect supervision of a supervising dentist as described in sub. (1) or hours of providing dental therapy services under direct supervision or indirect supervision while licensed as a dental therapist outside this state, but may not include any hours completed prior to graduating from the dental therapy education program.

(3) Notwithstanding subs. (1) and (2), the level of supervision for a dental therapist may be further limited under the terms of a collaborative management agreement under sub. (5).

(4) A supervising dentist shall accept responsibility for all services performed by a dental therapist pursuant to a collaborative management agreement described in sub. (5). If services needed by a patient are beyond the dental therapist's scope of practice or

authorization under the collaborative management agreement, the dental therapist shall, to the extent required under the collaborative management agreement, consult with the supervising dentist as needed to arrange for those services to be provided by a dentist or another qualified health care provider.

(5) Prior to providing any dental therapy services, a dental therapist shall enter into a written collaborative management agreement with a licensed dentist who will serve as a supervising dentist under the requirements of this chapter. The dentist must be licensed in this state and must be actively involved in direct patient care in this state, to the satisfaction of the board. The agreement must be signed by the dental therapist and the supervising dentist and address all of the following:

(a) The practice settings where services may be provided and the patient populations that may be served.

(b) Consistent with and subject to s. DE 17.02 and subs. (1) to (4), any conditions or limitations on the services that may be provided by the dental therapist, the level of supervision required, and any circumstances requiring consultation with the supervising dentist prior to performing services.

(c) Age-specific and procedure-specific practice protocols.

(d) Dental record-keeping procedures.

(e) Plans for managing dental or medical emergencies.

(f) A quality assurance plan for monitoring care provided by the dental therapist.

(g) Protocols for administering and dispensing medications.

(h) Criteria or protocols relating to the provision of care to patients with specific medical conditions, treatments, or medications.

(i) Policies relating to supervision of dental hygienists and other staff.

(j) A plan for the referral of patients to other dental or health care providers or clinics when services needed are beyond the scope of practice or authorization of the dental therapist.

(k) Whether and to what extent the dental therapist may perform services described in s. DE 17.02 (1) (m).

(6) A collaborative management agreement shall be limited to covering one supervising dentist and one dental therapist.

(7) A dental therapist may enter into multiple collaborative management agreements.

(8) No supervising dentist may have collaborative management agreements with more than 4 dental therapists at any time.

DE 17.04 Dental therapist employment. (1) A dental therapist may, subject to sub. (3), provide dental therapy services only as an employee of one or more of the following that satisfies sub. (2):

(a) A dentist with whom the dental therapist has entered into a collaborative management agreement.

(b) A dental practice.

(c) A school district or the operator of a private school, as defined in s. 115.001 (3r), Stats., or a tribal school, as defined in s. 115.001 (15m), Stats.

(d) The operator of a school for the education of dentists or dental hygienists.

(e) A state or federal prison, a county jail, or other federal, state, county, or municipal correctional or detention facility, or a facility established to provide care for terminally ill patients.

(f) A local health department, as defined in s. 250.01 (4), Stats.

(g) A charitable institution open to the general public or to members of a religious sect or order.

(h) A nonprofit home health care agency.

(i) The operator of a nonprofit dental care program serving primarily indigent, economically disadvantaged, or migrant worker populations.

(j) A health care employer, as defined in s. 440.094 (1) (b), Stats.

(2) A dentist may not enter into a collaborative management agreement with a dental therapist unless the dentist directly employs the dental therapist as provided in sub. (1) (a) or the dentist is employed by or contracts with the dental therapist's employer described in sub. (1) (b) to (j).

(3) A dental therapist shall at all times comply with at least one of the following:

(a) Limit his or her practice to practicing in one or more dental health shortage areas. If a dental therapist begins practicing in a dental health shortage area, and that area loses its designation as a dental health shortage area while the dental therapist continues to practice in that area, the dental therapist is considered to satisfy this paragraph as long as the dental therapist continues to practice in that area.

Note: “Dental health shortage area” has the meaning given in s. 36.60 (1) (ad), Stats.

(b) Practice in one or more settings in which at least 50 percent of the total patient base of the dental therapist consists of patients who are any of the following:

1. Medical Assistance patients.
2. Uninsured patients.
3. Patients receiving dental care at free and charitable clinics.

Note: Free and charitable clinics can be found at: <https://www.wafclinics.org/find-a-clinic.html>.

4. Patients receiving dental care at federally qualified health centers.

Note: Federally qualified health centers can be found at: <https://www.wphca.org/who-we-serve/find-a-community-health-center>.

5. Patients who reside in long-term care facilities.
6. Veterans.
7. Patients who are members of a federally recognized Indian tribe or band.
8. Patients receiving dental care at clinics or facilities located on tribal lands.
9. Patients with medical disabilities or chronic conditions that create barriers of access to dental care.

(4) A dental therapist is responsible for verifying and proving that his or her practice areas comply with the practice areas and settings described in sub. (3).

DE 17.05 Dental therapist supervision of other dental staff. (1) DENTAL THERAPIST SUPERVISION OF DENTAL HYGIENISTS.

(a) A dental therapist may authorize a dental hygienist to practice dental hygiene under the requirements of s. 447.06 (2), Stats., and ch. DE 3.

(b) A dental therapist may delegate to a dental hygienist the performance of remediable procedures under the requirements of ss. 447.06 (2) and 447.065 (2), Stats., and ch. DE 3 only if all of the following conditions are met:

1. The supervising dentist has allowed the dental therapist to perform the specific remediable procedure within the dental therapist's collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

2. The supervising dentist has expressly allowed the dental therapist to delegate the specific remediable procedure within the dental therapist's collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

3. The dental therapist has the authority to perform the specific remediable procedure personally, pursuant to the requirements under s. 447.06 (3) (bm) 1. and 2., Stats.

4. The dental hygienist remains under the direct supervision of the dental therapist for the duration of the procedure.

(c) The dental therapist and the dental therapist's supervising dentist shall be responsible for any services, treatments, or procedures delegated and performed under par. (b).

(d) A dental therapist may delegate to a dental hygienist the administration of oral systemic premedications, local anesthesia, subgingival sustained release chemotherapeutic agents, and nitrous oxide inhalation analgesia under the requirements of ss. 447.06 (2) (e) and 447.065 (2), Stats., and chs. DE 3, DE 7, and DE 15 only if all of the following conditions apply:

1. The administration is performed pursuant to a treatment plan for the patient approved by a dentist.

2. The dentist remains on the premises in which the administration is performed and is available to the patient throughout the completion of the appointment.

3. The dental therapist has the authority to perform the activity personally, pursuant to the requirements under s. 447.06 (3) (bm) 1. and 2., Stats.

4. The dental therapist remains under the supervision of the supervising dentist for the duration of the procedure. The dental therapist's level of supervision shall be the level agreed upon for the procedure, as specified in the dental therapist's collaborative management agreement described in s. DE 17.03 (5).

5. The supervising dentist has allowed the dental therapist to perform the administration personally within the dental therapist's collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

6. The supervising dentist has expressly allowed the dental therapist to delegate the administration within the dental therapist's collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

(e) In par. (d), the dentist who approves the treatment plan and remains available to the patient may be a different dentist than the supervising dentist for the dental therapist.

(f) The dental therapist, the dental therapist's supervising dentist, and the dentist who approves the treatment plan shall be responsible for any services, treatments, or procedures delegated and performed under par. (d).

(2) DENTAL THERAPIST SUPERVISION OF UNLICENSED STAFF. (a) A dental therapist may delegate to an unlicensed person the performance of remediable procedures under the requirements of s. 447.065 (1), Stats., and ch. DE 12 only if all of the following conditions apply:

- 1.** The unlicensed individual performs the remediable procedures in accordance with a treatment plan approved by the dentist or dental therapist.
- 2.** The unlicensed individual remains under the direct supervision of the dental therapist for the duration of the procedure.
- 3.** The unlicensed individual's performance of the remediable procedures is subject to inspection by the dentist or dental therapist.
- 4.** The dental therapist has the authority to perform the activity personally, pursuant to the requirements under s. 447.06 (3) (bm) 1. and 2., Stats.
- 5.** The supervising dentist has allowed the dental therapist to perform the specific remediable procedure within the dental therapist's collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.
- 6.** The supervising dentist has expressly allowed the dental therapist to delegate the specific remediable procedure within the dental therapist's collaborative management agreement, pursuant to the requirements under s. 447.06 (3) (d) 1., Stats.

(b) In par. (a), the dentist who approves the treatment plan and may inspect the performance of the remediable procedures may be a different dentist than the supervising dentist for the dental therapist.

(c) The dental therapist, the dental therapist's supervising dentist, and the dentist who approves the treatment plan shall be responsible for any services, treatments, or procedures delegated and performed under par. (a).

(3) DENTAL THERAPIST SUPERVISION OF EXPANDED FUNCTION DENTAL AUXILIARIES. Pursuant to the requirements under s. 447.035, Stats., a dental therapist may not supervise or delegate procedures to expanded function dental auxiliaries.

(4) LIMITATION BY COLLABORATIVE MANAGEMENT AGREEMENT. Notwithstanding subs. (1) and (2), a dental therapist's authorization to supervise or delegate procedures to other

dental staff is subject to further limitation by the collaborative management agreement described in s. DE 17.03 (5).

(5) DENTAL THERAPIST RESPONSIBILITY FOR DELEGATED PROCEDURES. A dental therapist who delegates to another individual the performance of any practice or procedure is responsible for that individual's performance of that delegated practice or procedure.

SECTION 54. 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)

This Proposed Order of the Dentistry Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chairperson
Dentistry Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date November 8, 2024</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DE 1 to 17</p>	
<p>4. Subject Dental Therapists</p>	
<p>5. 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</p>	<p>6. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" 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</p>	
<p>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)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>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 checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule The objective of the proposed rule is to implement the statutory changes from 2023 Wisconsin Act 87, providing for the licensure and regulation of dental therapists in Wisconsin. The rule integrates dental therapists into the current code chapters DE 1 to 16 and creates chapter DE 17. The rule sets the licensure application requirements and continuing education requirements for dental therapists. It clarifies and specifies their scope of practice. It clarifies and specifies the regulations for supervision from a supervising dentist, and the ability of a dental therapist to supervise other staff.</p>	
<p>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. The rule will be posted to the public for Economic Impact Analysis comments as required, and will be subject to an official public hearing, along with other steps of the rule process.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.</p>	
<p>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) DSPTS estimates a total of \$28,855.00 in one-time costs and \$98,400.00 in ongoing costs for implementing this rule. The one-time staff costs support 0.7 limited term employee to undertake tasks such as rule drafting, creating forms, training, renewals, and updating LicensE. The Ongoing costs support 0.9 full-time equivalents for tasks such as rule change implementation, handling inquiries processing renewal applications, intaking and processing complaints, paralegal duties and monitoring of disciplined licensees.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of this rule is that it will bring the dentistry code in line with new statutes that allow for the licensure and practice of dental therapists in the state. The rule specifies and adds detail to the statutory requirements for licensure and</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

practice of dental therapists. It will help grow the dentistry industry, fill dental care shortage areas, and help the state's economy. If the rule does not go forward, the dentistry code will remain outdated from the statutes and miss the opportunity to add detail to the statutory requirements on this subject.

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is that it will help grow the dentistry industry, help improve dental care in the state, and help the state's economy.

17. Compare With Approaches Being Used by Federal Government

None.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

Illinois statutes and codes do not provide for licensure of dental therapists.

Iowa:

Iowa statutes and codes do not provide for licensure of dental therapists.

Michigan:

Michigan law provides for licensure and regulation of dental therapists [MCL 333.16651 to 16659]. Their scope of practice includes a list of 27 dental therapy services including identifying conditions, dispensing medications prescribed by a health care professional, teeth cleaning, and other basic dental procedures. Their dental therapists can practice only under the supervision of a supervising dentist. The supervising dentist and dental therapist must create a written agreement to agree to the services and procedures the dental therapist is allowed to do. This written practice agreement must be fairly detailed and is regulated by a variety of provisions in Michigan law. Essentially, the supervising dentist has a fair amount of authority over what they will allow the dental therapist to do.

Michigan rules further specify a dental therapist's scope of practice and conditions of supervision [Michigan Rules R 338.11415 to 11417]. For supervision, the supervisor does not always need to be physically present in the office, but must be continuously available by telephone or telecommunication. Also, a dental therapist may supervise dental assistants and dental hygienists (to the extent permitted in the written practice agreement).

Minnesota:

Minnesota law provides for licensure and regulation of dental therapists and advanced dental therapists [2023 Minnesota Statutes, parts 150A.105 to 106]. Their scope of practice is limited to a similar list of 30 dental therapy services and procedures. However, in Minnesota's list, 14 of the more intensive procedures are required to be done under a level of supervision where the supervising dentist is physically present in the office (but doesn't need to be in the room). The remaining 16 less-intensive procedures are allowed to be done if the supervising dentist is not present in the office. However, these are minimums and the supervision can be more direct, as agreed on in the collaborative management agreement between the dental therapist and the supervising dentist. Like Michigan, the requirements for their collaborative management agreements specifies a large level of detail to be agreed on in writing between the two parties. Dental therapists may supervise dental assistants, but not dental hygienists.

Advanced dental therapists have increased education requirements but have a slightly wider scope of practice. In addition to the scope of practice described above, they can also perform nonsurgical extractions of permanent teeth.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

Also, all their services and procedures are allowed to be done under a level of supervision where the supervising dentist is not present in the office.

Minnesota administrative rules further specify licensure requirements for dental therapists but make minimal other additions to the regulations already in Minnesota statute [Minnesota Rules parts 3100.1170 to 1180].

19. Contact Name	20. Contact Phone Number
Jake Pelegrin, Administrative Rules Coordinator	(608) 267-0989

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

STATEMENT OF SCOPE

DENTISTRY EXAMINING BOARD

Rule No.: DE 1 and 2

Relating to: Licensure Requirements

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to reexamine and to consider modifying, clarifying, or adding detail to the licensure requirements for dentists, which may include revisions to DE 1 and 2.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Board has identified a need to reexamine and discuss the current licensure requirements for dentists. Current rules require a DDS or DMD degree or equivalent from a CODA-accredited dental school. The Board will consider modifying, clarifying, or adding detail to this or other licensure requirements.

An alternative would be not to implement the scope to open the discussion, which could cause opportunities for licensure to be missed.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall 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.”

Section 227.11 (2) (a), Stats., provides that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 447.04 (1) (a), Stats.: “The examining board shall grant a license to practice dentistry to an individual who does all of the following:

1. Submits an application for the license to the department on a form provided by the department.
2. Pays the fee specified in s. 440.05 (1).
3. Submits evidence satisfactory to the examining board that he or she has graduated from an accredited dental school.
4. Submits evidence satisfactory to the examining board that he or she has passed the national dental examination and the examination of a dental testing service approved by the examining board.

5. Passes an examination administered by the examining board on the statutes and rules relating to dentistry.

5m. Submits evidence satisfactory to the examining board that he or she has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

6. Completes any other requirements established by the examining board by rule.”

Section 447.04 (1) (b), Stats.: “Except as provided in par. (c), the examining board may grant a license to practice dentistry to an individual who is licensed in good standing to practice dentistry in another state or territory of the United States or in another country if the applicant complies with all of the following requirements:

1. Meets the requirements for licensure established by the examining board by rule.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Approximately 80 hours.

6. List with description of all entities that may be affected by the proposed rule:

Licensed dentists and those looking to enter the profession.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state’s economy as a whole.

Contact Person: Jake Pelegrin, Administrative Rule Coordinator, DSPSAdminRules@wisconsin.gov, (608) 267-0989.

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

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

PROPOSED ORDER

A proposed order of the Dentistry Examining Board to amend DE 5, 8, and 14 relating to informed consent.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 447.40, Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2) (a), 447.02 (2), 447.02 (2) (i), and 447.40, Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall 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.”

Section 227.11 (2) (a), Stats., provides that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Sections 447.02 (2) and 447.02 (2) (i), Stats.: “The examining board shall promulgate rules specifying all of the following: (i) Provisions implementing s. 447.40.”

Section 447.40, Stats.: “Informed consent. Any dentist or dental therapist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable dentist standard is the standard for informing a patient under this section. The reasonable dentist standard requires disclosure only of information that a reasonable dentist would know and disclose under the circumstances. The dentist's or dental therapist's duty to inform the patient under this section does not require disclosure of any of the following:

(1) Detailed technical information that in all probability a patient would not understand.

- (2) Risks apparent or known to the patient.
- (3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.
- (4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.
- (5) Information in cases where the patient is incapable of consenting.
- (6) Information about alternate modes of treatment for any condition the dentist or dental therapist has not included in his or her diagnosis, assessment, or treatment plan at the time the dentist or dental therapist informs the patient.”

Related statute or rule: None.

Plain language analysis:

The objective of the proposed rule is to clarify the regulations on informed consent for dental patients, which may include revisions to DE 5, 8, and 14. The Board has identified a need to clarify the rules on informed consent for dental patients. Current rules are unclear on whether a verbal informed consent or a written, signed informed consent is required for various procedures. The Board will consider updating the code to clarify when a signed informed consent is required, and when a verbal informed consent is acceptable.

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: In Illinois, medical patients have “The right of each patient to care consistent with sound nursing and medical practices, to be informed of the name of the physician responsible for coordinating his or her care, to receive information concerning his or her condition and proposed treatment, to refuse any treatment to the extent permitted by law, and to privacy and confidentiality of records except as otherwise provided by law” [410 Illinois Compiled Statutes 50/3(a)]. This applies to dental patients.

Iowa: Iowa law requires informed consent as follows: “*Informed consent.* Dental records shall include, at a minimum, documentation of informed consent that includes discussion of procedure(s), treatment options, potential complications and known risks, and patient's consent to proceed with treatment” [650 Iowa Administrative Code 27.11 (1) (e)]. It does not specify whether verbal or written informed consent is required, so it is presumed that verbal informed consent is allowed.

Michigan: In Michigan, at the inception of care for a patient, both of the following must occur: “Each dentist, dental therapist, dental assistant, registered dental assistant, and registered dental hygienist shall identify himself or herself to the patient as a dentist, dental therapist, dental assistant, registered dental assistant, or registered dental hygienist,” and “the patient shall be provided with a written consent for treatment” [Michigan Administrative Rules R 338.11103].

Minnesota: In Minnesota, the dental records for each patient must include a notation that: “the dentist, advanced dental therapist, dental therapist, dental hygienist, or licensed dental assistant discussed with the patient the treatment options and the prognosis, benefits, and risks of each treatment that is within the scope of practice of the respective licensee” and “the patient has consented to the treatment chosen” [Minnesota Administrative Rules 3100.9600]. It does not specify whether verbal or written informed consent is required, so it is presumed that verbal informed consent is allowed.

Summary of factual data and analytical methodologies: The Board reviewed Wisconsin Administrative Code chapters DE 5, 8, and 14 to determine where changes were needed to update regulations on informed consent.

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

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Jake Pelegrin, 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 608-267-0989; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Jake Pelegrin, 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 on or before the public hearing to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 14.02 (1) is created to read:

DE 14.02 (1) For **tooth extraction procedures**, the dentist shall present to the patient a written informed consent document for the patient's **informed consent to the procedure** and containing the information required under this section. The patient shall sign the document.

OR

SECTION 1. DE 14.02 (1) is created to read:

DE 14.02 (1) For **all treatment plans**, the dentist shall present to the patient a written informed consent document for the patient's **informed consent to the treatment plan** and containing the information required under this section. The patient shall sign the document.

AND

SECTION 2. DE 14.03 (1) is created to read:

DE 14.03 (1) A dentist's patient record shall include the written, signed informed consent document for any tooth extraction procedures.

OR

SECTION 2. DE 14.03 (1) is created to read:

DE 14.03 (1) A dentist's patient record shall include the written, signed informed consent document for all treatment plans.

AND

SECTION 3. DE 14.03 is amended to read:

DE 14.03 Recordkeeping. A dentist's patient record shall include documentation that alternate modes of treatment have been communicated to the patient **in writing** and **documentation that the patient has signed the document to indicate their** informed consent ~~has been obtained from the patient.~~

SECTION 3. 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)

This Proposed Order of the Dentistry Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Chair
Dentistry Examining Board

**Dentistry Examining Board
Rule Projects**

Clearinghouse Rule Number	Scope #	Scope Implementation	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
EmR 2410	031-24	3/29/2024	9/18/2026	DE 1 to 17	Dental Therapists (Emergency)	Emergency rule effective on 7/26/24, first published in the Register on 8/12/24.	Emergency rule effective until permanent rule goes into effect.
24-094	031-24	3/29/2024	9/18/2026	DE 1 to 17	Dental Therapists	Final rule draft is with Governor for approval.	Legislative review of final rule draft.
	053-24	7/16/2024	11/20/2026	DE 1 to 17	Dentist and Dental Hygienist Compact	Rule drafting.	Board approval of prelim rule draft.
	054-24	7/16/2024	11/20/2026	DE 5, 8, and 14	Informed Consent	Rule drafting.	Board approval of prelim rule draft.
	004-25		7/27/2027	DE 1, 5, and 6	Unprofessional Advertising	Preliminary public hearing on scope statement.	Implementation of scope statement.
				DE 1 and 2	License Requirements	Presentation of new scope statement to the board.	Approval of scope statement and next steps for scope implementation.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Jameson Whitney, Board Counsel		2) Date When Request Submitted: 10/25/24 <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: 11/06/24	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Board Statement Regarding Ownership of Dental Practices – status update	
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 (<u>Fill out Board Appearance Request</u>) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Board legal counsel will provide a brief update regarding the board's request to draft a statement on the subject of ownership of dental clinics and practices.			
11) Signature of person making this request Jameson Whitney		Authorization Date 10/25/24	
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.			