



**HYBRID (IN-PERSON/VIRTUAL)
DENTISTRY EXAMINING BOARD
N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Will Johnson, (608) 266-2112
May 7, 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. Be advised that board members may attend meetings designated as "Hybrid" in-person or virtually.

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 March 5, 2025 (5-8)

D. Reminders: Conflicts of Interest, Scheduling Concerns

E. Administrative Matters

- 1) Department, Staff and Board Updates
- 2) 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 021-25 for DE 1 and 2 relating to Licensure Requirements (9-13)

G. Administrative Rule Matters – Discussion and Consideration (14-32)

- 1) Discussion of Public Comments on Scope Statement DE 1 and 2 for Licensure Requirements (14)

- 2) Discussion of Rule Drafting for DE 5, 8, and 14 on Informed Consent **(15-19)**
- 3) Discussion of Rule Drafting for DE 1, 5, and 6 on Unprofessional Advertising **(20-31)**
- 4) Discussion of Potential New Scope Statement on Dental Franchising under s. 447.02 (1) (c), Stats
- 5) Pending or possible rulemaking projects **(32)**

H. Dentist and Dental Hygienist Compact – Discussion (33)

I. Legislative and Policy Matters – Discussion and Consideration

J. 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

K. 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.).

L. Credentialing Matters

- 1) **Education Review**

- a. E.M. – Expanded Function Dental Auxiliary (IA 459430) **(34-38)**
- 2) **Application Review**
 - a. K.W. – Expanded Function Dental Auxiliary Initial Certification (IA 449512) **(39-48)**

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

- 1) **Proposed Stipulations, Final Decisions and Orders**
 - a. 23 DEN 032 – Robert E. Monteagudo **(49-56)**
 - b. 23 DEN 172 – Stuart J. Rupp **(57-62)**
 - c. 23 DEN 212 – Thomas J. Peirick **(63-68)**
 - d. 24 DEN 0162– David M. Anderson **(69-74)**
- 2) **Administrative Warnings**
 - a. 23 DEN 029 – M.O.O. **(75-76)**
 - b. 23 DEN 142 – C.S. **(77-78)**
- 3) **Case Closings**
 - a. 23 DEN 088 – F.J.J. **(79-82)**
 - b. 23 DEN 211 – D.K. **(83-86)**
 - c. 24 DEN 016 – F.W. **(87-90)**
 - d. 24 DEN 0036 – M.T.D. **(91-95)**
 - e. 24 DEN 0067 – E.P.L. **(96-102)**
 - f. 24 DEN 0078 – W.J.C. **(103-111)**
 - g. 24 DEN 0138 – C.S. **(112-114)**
 - h. 24 DEN 0163 – V.K. **(115-120)**
 - i. 25 DEN 0009 – C.B.M. **(121-124)**

N. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

ADJOURNMENT

NEXT MEETING: JUNE 25, 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://dsps.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
MARCH 5, 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; Peter Sheild, DDS

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

CALL TO ORDER

Shaheda Govani, Chairperson, called the meeting to order at 9:01 a.m. A quorum was confirmed with eleven (11) members present.

ADOPTION OF AGENDA

MOTION: Peter Sheild moved, seconded by Katherine Schrubbe, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 8, 2025

MOTION: David Gundersen moved, seconded by Joan Fox, to approve the Minutes of January 8, 2025, as published. Motion carried unanimously.

9:00 AM PRELIMINARY PUBLIC HEARING ON SCOPE STATEMENT 004-25 FOR DE 1,5 AND 6 RELATING TO UNPROFESSIONAL ADVERTISING

MOTION: Matthew Bistan moved, seconded by Joan Fox, to affirm the Board has provided an opportunity for public comments on scope statement DE 1, 5, and 6 relating to Unprofessional Advertising. No comments were received, and the board approves the scope statement for implementation. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Presentation of New Scope Statement for DE 1 and 2 for Licensure Requirements

MOTION: Matthew Bistan moved, seconded by David Gundersen, to designate the Chairperson to approve the scope statement revising rules DE 1 and 2 relating to License Requirements for submission to the Governor's Office and for publication in the Register. Additionally, the board authorizes the Chairperson 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 Chairperson is

authorized to approve the required notice of hearing. Motion carried unanimously.

Discussion of Rule Drafting for DE 5, 8, and 14, Relating to Informed Consent

MOTION: Joan Fox moved, seconded by Troy Alton, to authorize Peter Sheild to work with DSPS staff on rule drafting for rule DE 5, 8, and 14 relating to Informed Consent. Motion carried unanimously.

CLOSED SESSION

MOTION: Peter Sheild moved, seconded by Joan Fox, 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; David Gundersen-yes; Linda Jorgenson-yes; Christine Kenyon-yes; Debra Kolste-yes; Katherine Schrubbe-yes; and Peter Sheild-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:59 a.m.

CREDENTIALING MATTERS

Application Review

E.N. – Dentist by Endorsement (IA 466413)

MOTION: Shaheda Govani moved, seconded by Katherine Schrubbe, to approve the Dentist by Endorsement application of E.N., once all requirements are met. Motion carried unanimously.

J.R. – Dentist (IA 471863)

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to approve the Dentist application of J.R., once all requirements are met. Motion carried unanimously.

M.J. – Dentist by Endorsement (IA 461623)

MOTION: Matthew Bistan moved, seconded by Linda Jorgenson, to approve the Dentist by Endorsement application of M.J., once all requirements are met. Motion carried unanimously.

S.V. – Expanded Function Dental Auxiliary (IA 475593)

MOTION: Matthew Bistan moved, seconded by Lisa Bahr, to deny the Expanded Function Dental Auxiliary application of S.V. **Reason for Denial:** Unprofessional conduct by practicing dentistry without a license, DE 5.02(1), (3), (16), (20), Wis. Stats. s. 447.07 (3) (f). Motion carried unanimously.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Proposed Stipulations, Final Decisions and Orders

MOTION: Linda Jorgenson moved, seconded by Katherine Schrubbe, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of the following cases:

- 22 DEN 189 – Thomas W. Kaczynski
- 23 DEN 011 – Adam J. Meinhardt
- 23 DEN 018 – Joshua E. Leute
- 23 DEN 146 – Kristine L. Osborn
- 23 DEN 215 – Hamdy T. M. Morsy
- 24 DEN 012 & 24 DEN 0085 – Mark J. Greulich
- 24 DEN 018 – James J. Blong

Motion carried unanimously.

Administrative Warnings

MOTION: Troy Alton moved, seconded by Joan Fox, to issue an Administrative Warning in the following DLSC Cases:

1. 23 DEN 107 – V.S.O.
2. 23 DEN 148 – J.M.L.

Motion carried unanimously.

Case Closings

MOTION: David Gundersen moved, seconded by Joan Fox, to close the following DLSC Cases for the reasons outlined below:

- 23 DEN 130 – A.L.S. – No Violation
- 23 DEN 190 – J.R.L. – Insufficient Evidence
- 23 DEN 198 – S.S.R. – Insufficient Evidence
- 23 DEN 203 – C.S. – Insufficient Evidence
- 24 DEN 0042 – D.E.T. – No Violation

Motion carried unanimously.

RECONVENE TO OPEN SESSION

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

The Board reconvened to Open Session at 10:50 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

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

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

ADJOURNMENT

MOTION: Shaheda Govani, seconded by Matthew Bistan, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:51 a.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: 4/23/25 <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: 5/7/25	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 021-25 for DE 1 and 2 relating to Licensure Requirements										
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: none;"> <tr> <td style="width: 60%; border: none;"> 11) <i>Jake Pelegrin</i> </td> <td style="width: 40%; border: none; text-align: right;"> Authorization 4/23/25 </td> </tr> <tr> <td style="border: none;"> <hr/> Signature of person making this request </td> <td style="border: none; text-align: right;"> <hr/> Date </td> </tr> <tr> <td style="border: none;"> <hr/> Supervisor (if required) </td> <td style="border: none; text-align: right;"> <hr/> Date </td> </tr> <tr> <td colspan="2" style="border: none;"> <hr/> Executive Director signature (indicates approval to add post agenda deadline item to agenda) </td> <td style="border: none; text-align: right;"> <hr/> Date </td> </tr> </table>				11) <i>Jake Pelegrin</i>	Authorization 4/23/25	<hr/> Signature of person making this request	<hr/> Date	<hr/> Supervisor (if required)	<hr/> Date	<hr/> Executive Director signature (indicates approval to add post agenda deadline item to agenda)		<hr/> Date
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Notice of Preliminary Public Hearing

The Dentistry Examining Board announces that it will hold a preliminary public hearing on the proposed Scope Statement SS 021-25. This proposed scope statement addresses rules DE 1 and 2 relating to Licensure Requirements. The hearing will be at the time and place shown below.

Hearing Information

Date: May 7, 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 scope may be reviewed and comments submitted at:

[Scope Statements with Public Hearings Pending](#)

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 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 and dental hygienists, 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 and dental hygienists. Current rules for dentists require a DDS or DMD degree or equivalent from a CODA-accredited dental school and an examination. Current rules for dental hygienists require graduation from a CODA-accredited dental hygiene school and an examination. 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.”

Section 447.04 (2) (a), Stats.: “The examining board shall grant a license to practice dental hygiene 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 hygiene school.

4. Submits evidence satisfactory to the examining board that he or she has passed the national dental hygiene examination and the examination of a dental hygiene testing service approved by the examining board.

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

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 (2) (b), Stats.: “The examining board may grant a license to practice dental hygiene to an individual who is licensed in good standing to practice dental hygiene 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 dental hygienists and those looking to enter the professions.

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**

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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 create DE 5.02 (29), 14.02 (1), and 14.03 (1) 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 create a requirement for a written, signed informed consent document for all dental treatment plans that are intended to result in permanent changes to the oral cavity. The dentist or dental therapist must present the document to the patient and the patient must sign before the treatment plan is started. The document may be written and signed physically or electronically. Current rules do not require a written informed consent for any dental treatment plan or procedure. The board believes this rule is important for patient safety and protection.

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 5.02 (29) is created to read:

DE 5.02 (29) A dentist or dental therapist failing to provide a written informed consent document to the patient for any treatment plan intended to result in permanent changes to the oral cavity, as described in s. DE 14.02 (1).

SECTION 2. DE 14.02 (1) is created to read:

DE 14.02 (1) For all treatment plans that are intended to result in permanent changes to the oral cavity, the dentist or dental therapist 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 before the treatment plan is started.

(a) In the event of unanticipated changes to a treatment plan that is intended to result in permanent changes to the oral cavity, verbal or written informed consent is allowed. The dentist or dental therapist shall document how the consent was obtained.

Note: The informed consent document may be written and signed physically or electronically.

What is the current industry practice for unanticipated changes to a treatment plan? Is it the current practice that the dentist has to get verbal informed consent for that?

If the board thinks this is an issue, we can add a sub. (2) to clarify that all unanticipated changes to a treatment plan need informed consent. (For treatment plans not intended to result in permanent changes, those can be verbal or written.)

AND

SECTION 3. DE 14.03 (1) is created to read:

DE 14.03 (1) A dentist's or dental therapist's patient record shall include the written, signed informed consent document for all treatment plans that are intended to result in permanent changes to the oral cavity.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

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

Dated _____

Chair
Dentistry Examining Board

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 1, 5, and 6 relating to unprofessional advertising.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 447.07 (3), (3) (m), and (3) (o), Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2) (a), and 447.07 (3), (3) (m), and (3) (o), 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.”

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:

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

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

Related statute or rule: None.

Plain language analysis:

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. 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.

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:

The Dentistry Examining Board held a preliminary public hearing on the statement of scope for this rule on March 5, 2025. The following written comment was received, from the American Association of Orthodontists and the Wisconsin Society of Orthodontists:

Names: Adam Braundmeier, Dr. Dave Kennedy

Organizations: American Association of Orthodontists and the Wisconsin Society of Orthodontists

Dear Members of the Wisconsin Dentistry Examining Board,

On behalf of the American Association of Orthodontists (AAO) and the Wisconsin Society of Orthodontists (WSO), we write to express our significant concerns relating to any changes to the current unprofessional advertising rules, which are the best safeguard for Wisconsinites’ health and safety. The AAO is the world’s oldest and largest dental specialty organization, created in 1900. It represents more than 19,000 orthodontists throughout the United States, Canada, and abroad, and over 230 orthodontists in Wisconsin, who are members of the of the Wisconsin Society of Orthodontists (WSO). As a professional organization, the AAO is dedicated to, among other goals: (a) ethically advancing the art and science of orthodontics and dentofacial orthopedics worldwide; (b) improving the health of the public by promoting quality orthodontic care, the importance of overall oral healthcare, and advocating for the public interest; and (c) educating the

public about the benefits of orthodontic treatment and the educational qualifications of orthodontic specialists.

We support the current rules without modification or diminished professionalism, as they provide clarity and necessary consumer protections by ensuring that only those who have completed an accredited specialty program may advertise as specialists. We appreciate the opportunity to provide this feedback and make comments on this important matter. We understand that the proposed change to the current rule, Chapter DE 6, by the Wisconsin Dentistry Examining Board is to clarify for general dentists if they are allowed to advertise as having a credential for a dental specialty. The current rule is already clear on this – only those who have completed a post-doctoral program accredited by the Commission on Dental Accreditation (CODA) in a recognized specialty can advertise as having a credential for the dental specialty, or a “specialist.”

The AAO supports regulations like Chapter DE 6, that require those who are advertising as a “specialist” to have successfully completed a post-doctoral advanced dental educational program of at least two full-time years and which is CODA accredited. As you know, CODA is the only nationally recognized accrediting body for dentistry and the related dental fields, receiving its accreditation authority from the acceptance of all stakeholders within the dental community and recognition by the United States Department of Education.

CODA accreditation offers Wisconsin patients the reassurance of a rigorous set of qualifications enacted and assessed by an independent organization operating under the oversight of the U.S. Department of Education. An accreditation standard backed by the U.S. Department of Education best assures Wisconsin citizens that an individual who truthfully holds themselves out as a specialist has met high standards for education and training. CODA accreditation provides Wisconsin citizens with a standardized benchmark against which claims of specialization can be assessed, thus assuring that the goal of providing patients with information from which to make informed treatment decisions is met.

Allowing a dentist to advertise as a “specialist” without completing a multi-year accredited program back by the US department of Education allows providers, who have not had years of supervised and didactic training or who have not satisfied extensive criteria, to advertise on par with those providers who have long-term, comprehensive education and training through U.S. Department of Education accredited programs. This threatens the health and safety of patients by obscuring important distinctions between dental professionals as well as their respective educational and training backgrounds. We believe these concerns underscore why the Wisconsin Dentistry Examining Board originally established the current unprofessional advertising rules. The rules in their current form are in the interest of patient health and safety for Wisconsin and its citizens.

For all these reasons, the AAO and WSO support the current rule on unprofessional advertising, Chapter DE 6. If the Board has any further information or has questions for

the AAO, please feel free to contact me at abraundmeier@aaortho.org. Thank you for your time and attention to this matter.

Sincerely,

American Association of Orthodontists, Adam Braundmeier, AAO General Counsel

Wisconsin Society of Orthodontists, Dr. Dave Kennedy, WSO President

Comparison with rules in adjacent states:

Illinois: Illinois has regulations on advertising for dentists that are broadly similar to those of Wisconsin, but that go into much greater detail [Illinois Administrative Code Title 68, Chapter VII, Subchapter b, Section 1220.421]. “Persons licensed to practice dentistry in the State of Illinois may advertise in any medium or other form of public communication in a manner that is truthful, and that is not fraudulent, deceptive, inherently misleading or proven to be misleading in practice. The advertising shall contain all information necessary to make the communication not misleading and shall not contain any false or misleading statement or otherwise operate to deceive.”

Specifically on advertising for dental specialties, Illinois administrative code goes into detail on regulations and which words are and are not allowed. “When words relating to specialty practice are used in an advertisement, the advertisement must not imply that the dentist offering those services is licensed as a specialist unless he holds a specialty license issued by the Division.”

Iowa: Iowa law sets regulations on dentistry advertising that are detailed and thorough for ensuring that advertising is honest and ethical [650 Iowa Administrative Code 26]. “Communications by inclusion or omission to the public must be accurate. They must not convey false, untrue, deceptive, or misleading information through statements, testimonials, photographs, graphics or other means. Communications must not appeal to an individual’s anxiety in an excessive or unfair way; and they must not create unjustified expectations of results. If communications refer to benefits or other attributes of dental procedures or products that involve significant risks, realistic assessments of the safety and efficacy of those procedures or products must also be included, as well as the availability of alternatives and, where necessary to avoid deception, descriptions or assessments of the benefits or other attributes of those alternatives. Communications must not misrepresent a dentist’s credentials, training, experience or ability, and must not contain material claims of superiority that cannot be substantiated.”

Specifically for dental specialties, like Illinois, Iowa regulations are quite detailed on what words are allowed to be used in advertisements: “The use of the terms “specialist,” “specializes,” “orthodontist,” “oral and maxillofacial surgeon,” “oral and maxillofacial radiologist,” “periodontist,” “pediatric dentist,” “prosthodontist,” “endodontist,” “oral pathologist,” “public health dentist,” “dental anesthesiologist,” or other similar terms which imply that the dentist is a specialist may only be used by a licensed dentist meeting

the requirements of this rule. A dentist who advertises as a specialist must avoid any implication that other dentists associated with the same practice are specialists unless the dentists also meet all of the requirements of this rule.”

Michigan: Michigan law provides basic consumer protections on truth in advertising [Michigan Compiled Law 445.903]. Michigan Administrative Code further specifies regulations on advertising as a dental specialist [Michigan Administrative Rules R 338.11525]. “A dentist who is not licensed as a specialist by the board shall not announce or hold himself or herself out to the public as limiting his or her practice to, as being specially qualified in, or as giving special attention to, a branch of dentistry that is listed as a specialty in R 338.11501.”

Minnesota: Minnesota administrative rules provide a general prohibition on false or misleading advertising by dentists: “A person shall not, on behalf of the person, a partner, an associate, or any other dentist with whom the person is affiliated through a firm or association, use or participate in the use of any form of public communication containing a false, fraudulent, misleading, or deceptive statement or claim.” [Minnesota Administrative Rules 3100.6500].

To advertise as being a dental specialist: “A licensed dentist may advertise as a specialist in an area if the dentist has evidence of graduating from a postdoctoral specialty program accredited by the Commission on Dental Accreditation in any of the designated specialty areas of subpart 1.” [Minnesota Administrative Rules 3100.7000].

Summary of factual data and analytical methodologies: The Board reviewed Wisconsin Administrative Code chapters DE 1, 5, and 6 to determine where changes were needed to update regulations on unprofessional advertising.

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 6.02 (1) (intro.) is amended to read:

(1) Publishing or communicating statements or claims in any media which are false, fraudulent or deceptive. This includes information which does any of the following:

SECTION 2. DE 6.02 (1) (a) to (f) are created to read:

(a)

SECTION 3. DE 6.02 (4) (intro.) is amended to read:

DE 6.02 (4) Including in an advertisement or any media:

DE 6.01 Authority. The rules in this chapter are adopted pursuant to authority in s. 447.07 (3) (o), Stats.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; am., Register, April, 1999, No. 520, eff. 5-1-99.

DE 6.02 Unprofessional advertising. The following, without limitation because of enumeration, constitute unprofessional advertising:

- (1)** Publishing or communicating statements or claims in any media which are false, fraudulent or deceptive.
- (2)** Compensating or giving anything of value to media representatives in anticipation of or in return for professional publicity, unless the payment or receipt of an object of value is disclosed to the public.
- (3)** Refusing to honor payment in the amount of an advertised price for a service during the period of time stated in the advertisement.
- (4)** Including 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 who has not been associated with the advertising dentist for the past year or longer,
 - (c)** Notice of a practice as a specialist in a dental specialty unless the dentist has successfully completed a post-doctoral educational training program approved by the Commission on Dental Accreditation of the American Dental Association in a specialty recognized by the American Dental Association. Advertising as a specialist in a non-American Dental Association-recognized specialty is prohibited.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; r. (3), (4), (6), (7) (a) to (d) and (g), renum. (5), (7) (intro.), (e), (f) and (h) to be (3), (4) (intro.), (a), (b) and (c) and am. (4) (a) to (c), Register, April, 1986, No. 364, eff. 5-1-86; CR 02-138: am. (4) (c), Register November 2003 No. 575, eff. 12-1-03; CR 11-035: am. (4) (c) Register July 2012 No. 679, eff. 8-1-12.

ADMINISTRATIVE CODE

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS
PART 1220 ILLINOIS DENTAL PRACTICE ACT
SECTION 1220.421 ADVERTISING

Section 1220.421 Advertising

- a) Persons licensed to practice dentistry in the State of Illinois may advertise in any medium or other form of public communication in a manner that is truthful, and that is not fraudulent, deceptive, inherently misleading or proven to be misleading in practice. The advertising shall contain all information necessary to make the communication not misleading and shall not contain any false or misleading statement or otherwise operate to deceive.

- b) Information that may be contained in the advertising includes:
 - 1) Dentist's name, address, office hours and telephone number;
 - 2) Schools attended;
 - 3) Announcement of the opening of, change of, or return to practice;
 - 4) *Announcement of additions to or deletions from professional dental staff* (Section 45 of the Act);
 - 5) Dentist's hospital affiliations;
 - 6) Any specialty licenses held, Board certification, professional society memberships and any limitations or concentrations of practice;
 - 7) Credit arrangements and/or acceptance of Medicare/Medicaid patients;
 - 8) Foreign language ability;
 - 9) Usual and customary fees for routine professional services that must include a statement that fees may be adjusted due to complications or unforeseen circumstances unless the fees do not vary under any circumstances;
 - 10) Description of offices in which dentist practices, e.g., accessibility to the handicapped, laboratory facilities on the premises, convenience of parking; and
 - 11) *Other information about the dentist, the dentist's practice, or the types of practice in which the dentist will accept employment, which a reasonable*

person might regard as relevant in determining whether to seek the dentist's services. (Section 45 of the Act)

- c) If an advertisement is communicated to the public over television, radio or the Internet, it shall be prerecorded and approved for broadcast by the dentist, and a recording of the actual transmission, including videotape, shall be retained by the dentist for a period of at least 3 years. Upon a written request from the Division, a dentist shall provide the Division with a copy of any such advertisement within 7 working days after receipt of the request (e.g., upon initiation of any investigation, receipt of a complaint, inquiry from the public, etc.).

- d) Information that may be untruthful, fraudulent, deceptive, inherently misleading, or that has proven to be misleading in practice includes that which:
 - 1) Contains a misrepresentation of fact or omits a material fact required to prevent deception;
 - 2) Guarantees favorable results or creates false or unjustified expectations of favorable results;
 - 3) Takes advantage of the potential client's fears, anxieties, vanities, or other emotions;
 - 4) Contains exaggerations pertaining to the quality of dental care;
 - 5) Describes as available products or services that are not permitted by the laws of this State and/or applicable Federal laws; and
 - 6) Advertises professional services that the dentist is not licensed to render.

- e) A dentist may incorporate as a professional service corporation or other business entity permitted to provide dental services under a fictitious or an assumed name; however, all advertisements for dental services to be performed by members or employees of the corporation or other business entity must comply with the following conditions:
 - 1) A dentist licensed and practicing in Illinois shall be designated at each practice location for the corporation or other business entity who shall assume responsibility for all advertising in Illinois.
 - 2) The name, office address and office phone number of the designated dentists shall appear in all advertising for the corporation or other business entity.
 - 3) The names of the owners of the corporation or other business entity, if other than the designated dentists, shall appear in all advertising for the corporation or other business entity.
 - 4) A list of all dentists employed by the corporation or other business entity who perform dental services shall be prominently displayed at the location where they practice.
 - 5) If the corporation or other business entity offers to practice both general dentistry and any licensed specialty, all advertising for the specialty shall include the name of the licensed dental specialists who performs the

specialty services.

- f) When words relating to specialty practice are used in an advertisement, the advertisement must not imply that the dentist offering those services is licensed as a specialist unless he holds a specialty license issued by the Division. Words that cannot be used by a dentist unless licensed in that specialty are Endodontist, Pedodontist, Pediatric Dentist, Periodontist, Prosthodontist, Orthodontist, Dentist Anesthesiologist, Oral and Maxillofacial Radiologist, or Oral and Maxillofacial Surgeon. Terms such as "Specialist", "Practice Limited To" or "Limited To Specialty Of", with the name of the branch of dentistry practiced as a specialty, (endodontics, pedodontics (pediatric dentistry), periodontics, prosthodontics, orthodontics, oral and maxillofacial radiology, oral and maxillofacial surgery, and dental anesthesiology) shall be prima facie evidence that such dentist is holding himself out to the public as a specialist. A general dentist who advertises, in any media, using words or phrases customarily used by a specialist, except those prohibited above, but who does not hold a specialty license, shall include in the advertisement a prominent disclaimer that he or she is licensed only as a general dentist.
- g) Any advertisements offering the availability of those recognized dental specialties specified in Section 1220.310, or offering the availability of some other "specialty" practice not specifically recognized by the Division shall contain a prominent disclaimer in the form of a statement setting forth the specialties in which the dentist is licensed in Illinois and/or a statement that the dentist is licensed to practice as a general dentist in Illinois.
- h) Advertising shall not use language suggesting a dental specialty that is not specified in Section 1220.310 unless it contains the disclaimer required in subsection (g). Examples of language requiring disclaimer: family dentistry, cosmetic dentistry, restorative dentistry, preventive dentistry, hospital dentistry, implant dentistry, TMJ, cranio mandibular dentistry.

(Source: Amended at 48 Ill. Reg. 14138, effective September 10, 2024)

CHAPTER 26 ADVERTISING

[Prior to 5/18/88, Dental Examiners, Board of [320]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

650—26.1(153) General. Communications by inclusion or omission to the public must be accurate. They must not convey false, untrue, deceptive, or misleading information through statements, testimonials, photographs, graphics or other means. Communications must not appeal to an individual's anxiety in an excessive or unfair way; and they must not create unjustified expectations of results. If communications refer to benefits or other attributes of dental procedures or products that involve significant risks, realistic assessments of the safety and efficacy of those procedures or products must also be included, as well as the availability of alternatives and, where necessary to avoid deception, descriptions or assessments of the benefits or other attributes of those alternatives. Communications must not misrepresent a dentist's credentials, training, experience or ability, and must not contain material claims of superiority that cannot be substantiated.

There are several areas that the board believes to be susceptible to deceptive or misleading statements. While the board does not intend to discourage dentists from engaging in any form of truthful, nondeceptive advertising, dentists engaging in the type of advertising listed below shall take special care to ensure that their ads are consistent with these rules.

26.1(1) Claims that the service performed or the materials used are professionally superior to that which is ordinarily performed or used or that convey the message that one licensee is better than another when superiority of service or materials cannot be substantiated.

26.1(2) The use of an unearned or nonhealth degree in general announcements to the public.

26.1(3) The use of attainment of an honorary fellowship in an advertisement. An honorary fellowship does not include an award based on merit, study or research. However, the attainment of the fellowship status may be indicated in scientific papers, curriculum vitae, third party payment forms, and letterhead and stationery which is not used for the direct solicitation of patients.

26.1(4) Promotion of a professional service which the dentist knows or should know is beyond the dentist's ability to perform.

26.1(5) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective patient.

26.1(6) The use of any personal testimonial attesting to a quality of competence of a service or treatment offered by a licensee that is not reasonably verifiable.

26.1(7) Utilizing any statistical data or other information based on past performance or predication of future success, which creates an unjustified expectation about results that the dentist can achieve.

26.1(8) The communication of personally identifiable facts, data, or information about a patient without first obtaining patient consent.

26.1(9) Any misrepresentation of a material fact.

26.1(10) The knowing suppression, omission or concealment of any material fact or law without which the communication would be deceptive.

26.1(11) Any communication which creates an unjustified expectation concerning the potential result of any dental treatment.

26.1(12) Where the circumstances indicate "bait and switch" advertising, the board may require the advertiser to furnish to the board data or other evidence pertaining to those sales at the advertised price as well as other sales. Where the circumstances indicate deceptive advertising, the board will initiate an investigation or disciplinary action as warranted.

650—26.2(153) Requirements. The board may require a dentist to substantiate the truthfulness of any assertion or representation of material fact set forth in an advertisement.

26.2(1) At the time an advertisement is placed, the dentist must possess and rely upon information which, when produced, would substantiate the truthfulness of any assertion, omission, or representation of material fact set forth in the advertisement.

26.2(2) The failure to possess and rely upon the information required in subrule 26.2(1) at the time the advertisement is placed shall be deemed professional misconduct.

26.2(3) The failure or refusal to provide the factual substantiation to support a representation or assertion when requested by the board shall be deemed professional misconduct.

650—26.3(153) Fees. Advertising that states a fee must clearly define the professional service being offered in the advertisement. Advertised offers shall be presumed to include everything ordinarily required for such a service.

650—26.4(153) Public representation. All advertisements and public representations shall contain the name and address or telephone number of the practitioner who placed the ad.

26.4(1) If one's practice is referred to in the advertisement, the ad may state either "general/family practice" or "specialist," "specializes," or "specializing." A dentist advertising or representing oneself as a specialist must comply with the other provisions of this rule.

26.4(2) A dentist may advertise as a specialist if the dentist meets the standards set forth in this rule.

a. The dentist wishing to advertise as a specialist must be a diplomate of, or board-eligible for, a national certifying board of a specialty recognized by the American Dental Association (ADA), or a diplomate of a board recognized by the American Board of Dental Specialties (ABDS); and

b. The indicated area of specialty must be board-approved. Board-approved ADA specialties are as follows: dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial surgery, orofacial pain, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics and oral and maxillofacial radiology. Board-approved ABDS specialties are as follows: oral implantology/implant dentistry, oral medicine, orofacial pain, and anesthesiology.

26.4(3) A certifying board may apply for a new area of specialty to become board-approved by submitting information regarding the area of specialty, including an explanation of how the proposed specialty is within the scope of practice of dentistry in Iowa, and proof of the following:

a. The proposed specialty is separate and distinct from any preexisting specialty recognized by the board or combination of board-recognized dental specialties;

b. The proposed specialty is a distinct and well-defined field which requires unique knowledge and skills beyond those commonly possessed by dental school graduates;

c. The certifying board is an independent entity that is comprised of licensed dentists, whose membership is reflective of the proposed specialty, and that is incorporated and governed solely by the licensed dentists/board members;

d. The certifying board has a permanent headquarters and staff;

e. The certifying board has issued diplomate certificates to licensed dentists for at least five years;

f. The certifying board requires passing an oral and written examination based on psychometric principles that tests the applicant's knowledge and skill in the proposed specialty;

g. The certifying board requires all dentists who seek certification in the proposed specialty to have successfully completed a specified, objectively verifiable amount of post-DDS or -DMD education and experience that is appropriate for the proposed specialty area, as determined by the board; and

h. The certifying board's website that includes online resources for the consumer to verify the certifying board's certification requirements and a list of the names and addresses of the dentists who have been awarded certification by the board shall be made available for public access.

26.4(4) The use of the terms "specialist," "specializes," "orthodontist," "oral and maxillofacial surgeon," "oral and maxillofacial radiologist," "periodontist," "pediatric dentist," "prosthodontist," "endodontist," "oral pathologist," "public health dentist," "dental anesthesiologist," or other similar terms which imply that the dentist is a specialist may only be used by a licensed dentist meeting the requirements of this rule. A dentist who advertises as a specialist must avoid any implication that other dentists associated with the same practice are specialists unless the dentists also meet all of the requirements of this rule.

26.4(5) The term "diplomate" or "board-certified" may only be used by a dentist who has successfully completed the qualifying examination of the appropriate certifying board of one or more of the specialties recognized by the ADA or the ABDS, or as otherwise permitted pursuant to these rules.

26.4(6) A dentist advertising as a specialist pursuant to these rules shall include the name of the national certifying board and the name of the entity which recognizes the board in the advertisement.

26.4(7) A dentist may advertise the areas in which the dentist practices, including, but not limited to, specialty services, using other descriptive terms such as “emphasis on _____” or other similar terms, as long as all other provisions of these rules regarding advertising are met.

[ARC 4099C, IAB 10/24/18, effective 11/28/18; ARC 6674C, IAB 11/16/22, effective 12/21/22]

650—26.5(153) Responsibility. Each professional who is a principal partner, officer, or licensed professional employee, acting as an agent of the firm or entity identified in the advertisement, is jointly and severally responsible for the form and content of any advertisement offering services or materials.

650—26.6(153) Advertisement records. A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media indicating the date and place of the advertisement shall be retained by the dentist for a period of two years and be made available for review upon request by the board or its designee.

These rules are intended to implement Iowa Code sections 153.33 and 153.34.

[Filed 4/9/79, Notice 10/4/78—published 5/2/79, effective 6/6/79¹]

[Filed emergency 6/5/79—published 6/27/79, effective 6/5/79]

[Filed 10/11/79, Notice 6/27/79—published 10/31/79, effective 12/5/79]

[Filed emergency 11/30/84—published 12/19/84, effective 11/30/84]

[Filed 12/12/85, Notice 9/11/85—published 1/1/86, effective 2/5/86]

[Filed 4/28/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

[Filed 1/19/01, Notice 11/15/00—published 2/7/01, effective 3/14/01]

[Filed ARC 4099C (Notice ARC 3901C, IAB 7/18/18), IAB 10/24/18, effective 11/28/18]

[Filed ARC 6674C (Notice ARC 6513C, IAB 9/7/22), IAB 11/16/22, effective 12/21/22]

¹ Effective date of Chapter 26 delayed by the Administrative Rules Review Committee 70 days.

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	Legislative review.	Adoption Order.
	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	3/7/2025	7/27/2027	DE 1, 5, and 6	Unprofessional Advertising	Rule drafting.	Board approval of prelim rule draft.
	021-25		10/7/2027	DE 1 and 2	Licensure Requirements	Preliminary public hearing on scope statement.	Implementation of scope statement.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Will Johnson, Executive Director		2) Date When Request Submitted: 04/25/25 <div style="border: 1px solid black; padding: 5px;"> Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others </div>																
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board																		
4) Meeting Date: 05/07/25	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Dentist and Dental Hygienist Compact – Discussion																
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:															
10) Describe the issue and action that should be addressed: Please keep this as a standing agenda item going forward.																		
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">11)</td> <td style="width: 40%; text-align: center;">Authorization</td> <td style="width: 50%;"></td> </tr> <tr> <td></td> <td>Will Johnson</td> <td style="text-align: right;">04/25/25</td> </tr> <tr> <td></td> <td style="border-top: 1px solid black;">Signature of person making this request</td> <td style="text-align: right; border-top: 1px solid black;">Date</td> </tr> <tr> <td></td> <td style="border-top: 1px solid black;">Supervisor (if required)</td> <td style="text-align: right; border-top: 1px solid black;">Date</td> </tr> <tr> <td></td> <td colspan="2" style="border-top: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				11)	Authorization			Will Johnson	04/25/25		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	
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Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Board Admin Specialist prior to the start of a meeting.																		