



---

**TELECONFERENCE/VIRTUAL  
DENTISTRY EXAMINING BOARD**  
**Virtual, 4822 Madison Yards Way, Madison**  
**Contact: Will Johnson, (608) 266-2112**  
**March 4, 2026**

*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 7, 2026 (5-9)**
- 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. Kolste, Debra – 7/1/2028
    - i. Schrubbe, Katherine – 7/1/2026
    - j. Sheild, Peter – 7/1/2026
- F. 9:00 A.M. Preliminary Public Hearing on Scope Statement DE 1, 3, 5 Relating to Scope of Practice for Dental Hygienists (10-13)**
- G. 9:00 A.M. Preliminary Public Hearing on Scope Statement DE 11 Relating to Sedation Permits Obsolete Provisions (14-16)**
- H. Administrative Rule Matters – Discussion and Consideration (17-31)**

- 1) Discussion of Public Comments on Scope Statement DE 1, 3, 5
- 2) Discussion of Public Comments on Scope Statement DE 11
- 3) Rule Drafting for 1, 5, 8, 10, 18 – Dental Practice Records Management
- 4) Pending or possible rulemaking projects

**I. Dentist and Dental Hygienist Compact – Discussion**

J. Legislative and Policy Matters – Discussion and Consideration

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

- 1) Introductions, Announcements and Recognition
- 2) Administrative Matters
- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Legislative and Policy Matters
- 10) 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

**L. Public Comments**

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

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

- 1) **Proposed Stipulations, Final Decisions and Orders**
  - a. 23 DEN 205 – Alicia T. Malak (32-38)
  - b. 23 DEN 205 – Christina H. Copoulos-Swanson (39-45)

- c. 24 DEN 0052 – Patrick C.W. Kline **(46-52)**
- d. 25 DEN 0053, 25 DEN 0129 – Chad Schulz **(53-60)**
- 2) Case Closings**
  - a. 23 DEN 144 – S.E.A. **(61-66)**
  - b. 25 DEN 0197 – C.S.S. **(67-71)**

**N. Deliberation on Review of Administrative Warnings**

- 1) WARN 00003979 – 24 DEN 0156 – Q.L. **(72-76)**

**O. 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

**P. Consulting with Legal Counsel**

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

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

**R. Open Session Items Noticed Above Not Completed in the Initial Open Session**

**ADJOURNMENT**

**NEXT MEETING: MAY 6, 2026**

\*\*\*\*\*  
 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.

**TELECONFERENCE/VIRTUAL  
DENTISTRY EXAMINING BOARD  
MEETING MINUTES  
JANUARY 7, 2026**

**PRESENT:** Troy Alton, DDS; Lisa Bahr, RDH; Matthew Bistan, DDS; Joan Fox, DDS; Shaheda Govani, DDS; Linda Jorgenson, RDH; Debra Kolste; Katherine Schrubbe, RDH; Peter Sheild, DDS (*arrived at 9:03 a.m.*)

**ABSENT:** David Gundersen, 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**

Shaheda Govani, Chairperson, called the meeting to order at 9:00 a.m. A quorum was confirmed with eight (8) members present.

*Peter Sheild arrived at 9:03 a.m.*

**ADOPTION OF AGENDA**

**MOTION:** Joan Fox moved, seconded by Troy Alton, to adopt the Agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES OF NOVEMBER 5, 2025**

**MOTION:** Linda Jorgenson moved, seconded by Joan Fox, to approve the Minutes of November 5, 2025, as published. Motion carried unanimously.

**Election of Officers**

*Chairperson*

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

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

Troy Alton was elected as Chairperson by unanimous voice vote.

*Vice Chairperson*

**NOMINATION:** Shaheda Govani nominated Peter Sheild for the Office of Vice Chairperson. Peter Sheild declined the nomination.

**NOMINATION:** Shaheda Govani nominated Joan Fox for the Office of Vice Chairperson. Joan Fox accepted the nomination.

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

Joan Fox was elected as Vice Chairperson by unanimous voice vote.

**Secretary**

**NOMINATION:** Shaheda Govani nominated David Gundersen for the Office of Secretary.

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

David Gundersen was elected as Secretary by unanimous voice vote.

2026 ELECTION RESULTS	
<b>Chairperson</b>	<del>Shaheda Govani</del> Troy Alton
<b>Vice Chairperson</b>	<del>Troy Alton</del> Joan Fox
<b>Secretary</b>	David Gundersen

**Appointment of Liaisons and Alternates**

LIAISON APPOINTMENTS	
<b>Credentialing Liaisons</b>	Lisa Bahr ( <i>Dental Hygiene</i> ), Shaheda Govani ( <i>Dentistry</i> ) <i>Alternate:</i> Troy Alton
<b>Education and Examination Liaison</b>	David Gundersen, Linda Jorgenson <i>Alternate:</i> Katherine Schrubbe
<b>Monitoring Liaison</b>	Peter Sheild <i>Alternate:</i> Debra Kolste
<b>Professional Assistance Procedure (PAP) Liaison</b>	Peter Sheild, Joan Fox <i>Alternate:</i> Christine Kenyon
<b>Legislative Liaison</b>	<del>Shaheda Govani</del> , Debra Kolste, Troy Alton <i>Alternate:</i> David Gundersen
<b>Travel Authorization Liaison</b>	<del>Shaheda Govani</del> Troy Alton <i>Alternate:</i> Katherine Schrubbe
<b>Website Liaison</b>	Matthew Bistan <i>Alternate:</i> Lisa Bahr
<b>PDMP Liaison/ Appointed to Controlled Substances Board as per Wis. Stats. §15.405(5g)</b>	David Gundersen <i>Alternate:</i> Troy Alton

<b>Screening Panel Members</b>	Troy Alton, Peter Sheild, Debra Kolste, Katherine Schrubbe <i>Alternate:</i>
<b>Licensure Forms Committee</b>	Lisa Bahr, Shaheda Govani <i>Alternate:</i> Matthew Bistan
<b>Dentist and Dental Hygienist Compact Commissioner</b>	Matthew Bistan <i>Alternate:</i> <b>Linda Jorgenson</b>

**Delegation of Authorities**

**Review and Approval of 2025 Delegations including new modifications**

**MOTION:** Peter Sheild moved, seconded by Katherine Schrubbe, to reaffirm all delegation motions made in 2025, as reflected in the January 7, 2026 agenda materials, which were not otherwise modified or amended during the January 7, 2026 meeting. Motion carried unanimously.

**ADMINISTRATIVE RULE MATTERS**

**Rule Drafting for DE 1, 5, and 6 on Unprofessional Advertising**

**MOTION:** Troy Alton moved, seconded by Joan Fox, to authorize the Chair or Vice Chair to approve the preliminary rule draft of rule DE 1, 5, and 6 relating to Unprofessional Advertising for posting for Economic Impact Analysis comments and submittal to the Clearinghouse. Motion carried unanimously.

**Rule Drafting for DE 1 and 2 on Licensure Requirements**

**MOTION:** Troy Alton moved, seconded by Katherine Schrubbe, to authorize the Chair or Vice Chair to approve the preliminary rule draft of rule DE 1, and 2 relating to Licensure Requirements for posting for Economic Impact Analysis comments and submittal to the Clearinghouse. Motion carried unanimously.

**Rule Drafting for DE 1 to 17 on Dentist and Dental Hygienist Compact**

**MOTION:** Peter Sheild moved, seconded by Joan Fox, to authorize Matthew Bistan to work with DSPS staff on rule drafting for rule DE 1 to 17 relating to Dentist and Dental Hygienist Compact and to approve the preliminary rule draft for posting for Economic Impact Analysis comments and submittal to the Clearinghouse. Motion carried unanimously.

**Scope Statement on DE 1, 3, and 5 on Scope of Practice for Dental Hygienists**

**MOTION:** Lisa Bahr moved, seconded by Peter Sheild, to authorize the Chair or Vice Chair to approve the scope statement revising rules DE 1, 3, and 5 relating to Scope of Practice for Dental Hygienists for submittal to the Governor's Office and for publication in the Register. Additionally, the board authorizes the Chair or Vice 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 or Vice Chair is authorized to approve the required notice of hearing. Motion carried unanimously.

### **Scope Statement on DE 11 on Sedation Permits Obsolete Provisions**

**MOTION:** Troy Alton moved, seconded by Katherine Schrubbe, to authorize the Chair or Vice Chair to approve the scope statement revising rule DE 11 relating to Sedation Permits Obsolete Provisions for submittal to the Governor's Office and for publication in the Register. Additionally, the board authorizes the Chair or Vice 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 or Vice Chair is authorized to approve the required notice of hearing. Motion carried unanimously.

### **Pending or Possible Rulemaking Projects**

**MOTION:** Matthew Bistan moved, seconded by Troy Alton, to authorize Peter Sheild to work with DSPS staff on rule drafting for rule DE 1, 5, 8, 10 and 18 on Dental Practice Record Management and Dental Franchising. Motion carried unanimously.

### **CLOSED SESSION**

**MOTION:** Lisa Bahr moved, seconded by Katherine Schrubbe, 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; Debra Kolste-yes; Katherine Schrubbe-yes; and Peter Sheild-yes. Motion carried unanimously.

The Board convened into Closed Session at 11:04 a.m.

### **DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS**

## **Proposed Stipulations, Final Decisions and Orders**

### ***23 DEN 196 – Parul Ahuja***

**MOTION:** Debra Kolste moved, seconded by Joan Fox, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Parul Ahuja, DLSC Case 23 DEN 196. Motion carried unanimously.

### ***25 DEN 0040 – Robert J. Goeckermann***

**MOTION:** Lisa Bahr moved, seconded by Peter Sheild, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Robert J. Goeckermann, DLSC Case Number 25 DEN 0040. Motion carried unanimously.

## **Case Closings**

**MOTION:** Linda Jorgenson moved, seconded by Joan Fox, to close the following DLSC Cases for the reasons outlined below:  
24 DEN 0149 – T.W.S. – No Violation  
25 DEN 0031 – H.M.N. – No Violation  
25 DEN 0084 – B.J.B. and M.T.D. – Insufficient Evidence  
25 DEN 0123 – S.J.W. – No Violation  
Motion carried unanimously.

## **RECONVENE TO OPEN SESSION**

**MOTION:** Lisa Bahr moved, seconded by Matthew Bistan, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 11:10 a.m.

## **VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION**

**MOTION:** Shaheda Govani moved, seconded by Joan Fox, 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:** Peter Sheild, seconded by Joan Fox, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:12 a.m.

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> Jake Pelegrin Administrative Rules Coordinator		<b>2) Date when request submitted:</b> 2/20/26 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting													
<b>3) Name of Board, Committee, Council, Sections:</b> Dentistry Examining Board															
<b>4) Meeting Date:</b> 3/4/26	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> 9:00AM Preliminary Public Hearing on Scope Statement DE 1, 3, 5 relating to Scope of Practice for Dental Hygienists  9:00AM Preliminary Public Hearing on Scope Statement DE 11 relating to Sedation Permits Obsolete Provisions													
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b> N/A													
<b>10) Describe the issue and action that should be addressed:</b>  Attachments: -Notices of public hearings and scope statements															
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; border-bottom: 1px solid black;">11) <i>Jake Pelegrin</i></td> <td style="width: 40%; border-bottom: 1px solid black; text-align: center;">Authorization</td> <td style="width: 30%; border-bottom: 1px solid black; text-align: right;">2/20/26</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 colspan="2" 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; text-align: right;">Date</td> </tr> </table>				11) <i>Jake Pelegrin</i>	Authorization	2/20/26	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) <i>Jake Pelegrin</i>	Authorization	2/20/26													
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													
<b>Directions for including supporting documents:</b> 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 010-26. This proposed scope statement addresses rules DE 1, 3, and 5 relating to Scope of Practice for Dental Hygienists. The hearing will be at the time and place shown below.

### Hearing Information

Date: March 4, 2026

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:

[Statements of Scope](#)

Comments may also be submitted to Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Office of Chief Legal Counsel, P.O. Box 14497, Madison, WI 53708-0497, email at [DSPSAdminRules@wisconsin.gov](mailto: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 at

[Jennifer.Garrett@wisconsin.gov](mailto:Jennifer.Garrett@wisconsin.gov) or 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, 3, and 5

**Relating to:** Scope of Practice for Dental Hygienists

**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 scope of practice and prohibited practices for dental hygienists, which may include revisions to DE 1, 3, and 5.

### 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:

Current regulations on scope of practice and prohibited practices for dental hygienists are in Wis. Stats. ss. 447.01 (3), 447.06 (2) (d), and Wis. Admin. Code ch. DE 3, Practice of Dental Hygiene. The Board has identified a need to clarify the regulations on these topics in the Board's code in ch. DE 3 and ch. DE 5, Unprofessional Conduct. Specifically, the Board would like to discuss and consider whether dental hygienists are allowed to administer botox (botulinum toxin). The Board will consider updating the code to clarify whether this is allowed and may consider other potential updates.

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 447.01 (3), Stats., provides the definition of dental hygiene. "'Dental hygiene' means the performance of educational, preventive or therapeutic dental services. 'Dental hygiene' includes any of the following:

(a) Removing supragingival or subgingival calcareous deposits, subgingival cement or extrinsic stains from a natural or restored surface of or a fixed replacement for a human tooth.

(b) Deep scaling or root planing a human tooth.

(c) Conditioning a human tooth surface in preparation for the placement of a sealant and placing a sealant.

(d) Conducting a substantive medical or dental history interview or preliminary examination of a dental patient's oral cavity or surrounding structures, including the preparation of a case history or recording of clinical findings.

(e) Conducting an oral screening without the written prescription of a dentist.

(f) Participating in the development of a dental patient's dental hygiene treatment plan.

(g) Any other practice specified in the rules promulgated under s. 447.02 (1) (d)."

Section 447.06 (2) (d), Stats.: "A dental hygienist may not diagnose a dental disease or ailment, determine any treatment or any regimen of any treatment outside of the scope of dental hygiene, prescribe or order medication or perform any procedure that involves the intentional cutting of soft or hard tissue of the mouth by any means."

**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, dental hygienists, 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](mailto:DSPSAdminRules@wisconsin.gov), (608) 267-0989.

Approved for publication:

Approved for implementation:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date Submitted

\_\_\_\_\_  
Date Submitted

## Notice of Preliminary Public Hearing

The Dentistry Examining Board announces that it will hold a preliminary public hearing on the proposed Scope Statement SS 011-26. This proposed scope statement addresses rule DE 11 relating to Sedation Permits Obsolete Provisions. The hearing will be at the time and place shown below.

### Hearing Information

Date: March 4, 2026

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:

[Statements of Scope](#)

Comments may also be submitted to Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Office of Chief Legal Counsel, P.O. Box 14497, Madison, WI 53708-0497, email at [DSPSAdminRules@wisconsin.gov](mailto: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 at

[Jennifer.Garrett@wisconsin.gov](mailto:Jennifer.Garrett@wisconsin.gov) or 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 11

Relating to: Sedation Permits Obsolete Provisions

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 discuss and consider modifying obsolete provisions related to sedation permits for dentists, which may include revisions to DE 11.

### 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:

Current rules that allow for licensed dentists to induce anesthesia or sedation are in Wis. Admin. Code ch. DE 11, Anesthesia. Specifically, dentists may be issued sedation permits that allow them to induce different levels of sedation or anesthesia. A previous rule removed the requirement to hold a Class I permit to induce minimal sedation. It also allowed dentists who held a Class I permit as of August 31, 2020 to receive the new class II permit – enteral under specific conditions. As of September 1, 2025, it is no longer possible to meet those conditions. The Board would like to discuss and consider revising or removing this provision and may consider revisions to other obsolete provisions.

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 447.02 (2), Stats.: “The examining board shall promulgate rules specifying all of the following:

(b) The standards, conditions and any educational requirements that are in addition to the requirements specified in s. 447.04 (1) that must be met by a dentist to be permitted to induce general anesthesia or conscious sedation in connection with the practice of dentistry.”

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

Rev. 3/6/2012

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](mailto: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**

<b>1) Name and title of person submitting the request:</b> Jake Pelegrin Administrative Rules Coordinator		<b>2) Date when request submitted:</b> 2/20/26 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b> Dentistry Examining Board			
<b>4) Meeting Date:</b> 3/4/26	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> <b>Administrative Rule Matters – Discussion and Consideration</b> 1. Discussion of public comments on scope statement DE 1, 3, 5 2. Discussion of public comments on scope statement DE 11 3. Rule drafting for DE 1, 5, 8, 10, 18 - Dental Practice Records Management 4. Pending or possible rulemaking projects	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b> N/A	
<b>10) Describe the issue and action that should be addressed:</b>  Attachments: -Rule drafting materials for DE 1, 5, 8, 10, 18 -Dentistry Rules Chart			
<b>11)</b> <i>Jake Pelegrin</i>		<b>Authorization</b> 2/20/26	
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	
<b>Directions for including supporting documents:</b> 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.			

*For this rule project, the biggest limiting factor is the below statute:*

447.02(5)(5) Except as provided in ss. 447.058 and 447.063, nothing in this subchapter may be construed as authorizing the examining board to regulate business or administrative support functions or services, that do not constitute the practice of dentistry, dental therapy, or dental hygiene, provided to a business that provides dental or dental hygiene services.

*The 2 exceptions listed are:*

447.058, Mobile Dentistry Programs

*and:*

**447.063 Preservation and transfer of patient health care records.**

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

**(2)** 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, upon request of a patient or person authorized by the patient, as defined in s. 146.81 (5), transfer the patient health care records, as defined in s. 146.81 (4), of the patient to another person that the patient or person authorized by the patient specifies to receive the patient health care records.

*The above 2 statutes are used in the rule draft. Also, there are several other statutes that do help the board's goals for the rule. These are mostly in ch. 146, Stats., relating to health care records. Those are cited frequently in the rule draft below.*

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 ; and to create DE relating to dental practice record management and dental franchising.

Analysis prepared by the Department of Safety and Professional Services.

---

ANALYSIS

**Statutes interpreted:** Sections 146.819, 146.82, 146.83, 447.02 (4), and 447.063, Stats.

**Statutory authority:** Sections 15.08 (5) (b), 227.11 (2) (a), 447.02 (1) (c), (2) (f), and 447.063 (1), 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 447.02 (1), Stats.: “The examining board may promulgate rules: (c) Subject to ch. 553 and s. 447.06 (1), governing dental franchising.”

Section 447.02 (2), Stats.: “The examining board shall promulgate rules specifying all of the following: (f) A requirement that a mobile dentistry program registrant establish procedures for a patient treated in the mobile dentistry program to access his or her patient records.”

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

**Related statute or rule:** None.

**Plain language analysis:**

The objective of the proposed rule is to consider updating and clarifying regulations on dental practice record management and dental franchising, which may include revisions to chs. DE 1, 5, 8, and 10. The board may also consider creating a new ch. DE 18 on dental franchising. Wis. Admin. Code ch. DE 8 governs patient dental record retention. The chapter requires patient records to be preserved for at least 10 years from the date of last entry. Section 447.02 (1) (c), Stats., allows the board to promulgate rules governing dental franchising, although currently there are no rules promulgated under this authority on this topic. The board has identified a need to consider updating and clarifying regulations on dental practice record management and dental franchising to protect patient health, safety, and access to records. The board has identified gaps in the current regulations that allow for situations where patients have difficulty getting access to their dental records, or where patients have difficulty getting recourse after adverse situations in dental franchise clinics. The board would like to update and clarify regulations on patient dental record retention in ch. DE 8, and this could also include updates to ch. DE 5, Unprofessional Conduct. The board may also consider creating a new ch. DE 18 on dental franchising, and this could also include updates to ch. DE 5, Unprofessional Conduct.

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

**Summary of public comments received on statement of scope:**

The Dentistry Examining Board held a preliminary public hearing on the statement of scope for this rule on November 5, 2025. The following written comment was received:

Name: Timothy Bonson  
Organization: None.

I am writing to express my strong opposition to the proposed scope statement SS 056-25, concerning dental practice record management and dental franchising. This proposal, as outlined, poses a significant threat to the autonomy of dental professionals, the viability of small, independent dental practices, and the quality of patient care across Wisconsin.

Here are my primary concerns:

- **Burdensome and Unnecessary Regulations:** The proposed changes to record management are likely to impose significant and unnecessary administrative and financial burdens on dental practices, particularly smaller, independent clinics. These new regulations could mandate costly software upgrades, extensive staff training, and an increase in non-clinical administrative tasks, diverting valuable resources away from direct patient care.
- **Negative Impact on Small Businesses:** Encouraging dental franchising threatens the existence of traditional, locally-owned dental practices that have served our communities for generations. This shift towards a corporate model of dentistry prioritizes profits over the personalized, patient-centered care that is the hallmark of independent practitioners. It

will create an uneven playing field, making it difficult for small practices to compete with the resources of large, corporate-backed franchises.

- **Detrimental to the Dentist-Patient Relationship:** The franchising of dental practices risks depersonalizing the dentist-patient relationship. When corporate interests and profit margins become the primary drivers, the focus can shift from the individual needs of the patient to a more standardized, one-size-fits-all approach to treatment. This is fundamentally at odds with the trust and personalized care that is essential for good dental health.
- **Government Overreach:** This proposal represents an unnecessary government intrusion into the dental profession. Dentists are highly trained and capable professionals who are already subject to extensive regulation and ethical guidelines. These proposed new rules will only add another layer of bureaucracy without any clear benefit to patient safety or care.

For these reasons, I urge you to reject SS 056-25. This proposal is a step in the wrong direction for the dental profession in Wisconsin. It will harm small businesses, compromise patient care, and add unnecessary regulatory burdens. We should be supporting our local dental practices, not creating a regulatory environment that favors large corporate interests.

#### **Comparison with rules in adjacent states:**

**Illinois:** In Illinois, dental patient records are subject to the following: “Every dentist shall make a record of all dental work performed for each patient” and “Dental records are the property of the office in which dentistry is practiced. Dental records required by this Section shall be maintained for 10 years. Dental records required to be maintained under this section, or copies of those dental records, shall be made available upon request to the patient or the patient's guardian” [225 Illinois Compiled Statutes 25/50].

In the past, Illinois dentistry code had a section on Employment by Corporation [68 Illinois Administrative Code 1220.431], but this section has been repealed. Illinois has no other regulations on dental clinics specifically or dental franchising. Franchise businesses in general are governed by the Illinois Franchise Disclosure Act [815 ILCS 705].

**Iowa:** Iowa has very comprehensive regulations around dental patient record management [650 Iowa Administrative Code 27.10 and 27.11]. “Dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Records shall be permanent, timely, accurate, legible, and easily understandable.” A comprehensive list is given of information the records must contain. Records must be maintained for a minimum of 6 years. Additionally, Iowa has a section on records management in the instance of a licensee’s retirement or discontinuance of practice [650 Iowa Administrative Code 27.10]. It requires a licensee to give notice to active patients if they plan to discontinue practice and to encourage them to seek the services of another licensee. It also requires the licensee to “make reasonable arrangements with active patients for the transfer of patient records, or copies thereof, to the succeeding licensee.”

Iowa has minimal regulations on dental clinics or dental franchising. Under 650 IAC 29.8, “Facility and Equipment Requirements for Moderate Sedation, Deep Sedation or General

Anesthesia”, the dental facility must be properly equipped to provide such services and the board may conduct facility inspections. However, this is presumed to be only in relation to sedation and anesthesia practices. Iowa has no other regulations on dental clinics specifically or dental franchising. However, franchise businesses in general are governed by Chapter 523H, Iowa Administrative Code.

**Michigan:** Michigan administrative code has basic requirements on dental treatment records. The dentist or dental therapist is responsible for creating a record for each patient with a prescribed list of information that must be in the record. The record must be retained for at least 10 years [Michigan Administrative Rules R 338.11120].

Michigan has minimal regulations on dental clinics and no regulations on dental franchising specifically. Under Michigan Compiled Laws section R 333.16627, “Establishment of Dental Clinic by Nonprofit Corporation”, the board is prohibited from making rules that prohibit the establishment of a dental clinic by a nonprofit corporation or by trustees of a health and welfare fund, as long as certain conditions are met. Franchise businesses in general are governed by the Michigan Franchise Investment Law [Michigan Compiled Laws R 445.1501 to 445.1546].

**Minnesota:** Minnesota has very comprehensive regulations around dental patient record management [Minnesota Administrative Rules 3100.9600]. A comprehensive list is given of information the record on each patient must contain, including personal data, reason for visit, dental and medical history, diagnosis, treatment plan, and progress notes. Records must be maintained for a minimum of 7 years. Additionally, Minnesota statutes have a Health Records Act that applies to dental patient records [Minnesota Statutes sections 144.291 to 144.298]. They codify basic rights for a patient’s access to their own records and the requirement of a health care provider to transfer the records to a subsequent provider. Compliance with the Health Records Act is required under Minnesota dentistry rules section 3100.6200, Conduct Unbecoming A Licensee.

Minnesota statutes contain some details on regulation of dental corporations. “No corporation shall practice dentistry or engage in it, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentists or dental surgeons or equivalent title. No corporation shall furnish dental advice, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service, dentists, or dental surgeons, or solicit, through itself, or its agents, officers, employees, directors or trustees, dental patronage for any dentist or dental surgeon” [Minnesota Statutes section 150A.11]. Additionally, Minnesota dentistry rules go into some detail on requirements for safety and sanitation of dental offices [Minnesota Administrative Rules 3100.6300]. Franchise businesses in general are governed by the Minnesota Franchise Act [Minnesota Statutes chapter 80C].

**Summary of factual data and analytical methodologies:**

The Board reviewed Wis. Stats. chapter 447 and Wis. Admin. Code chapters DE 1, 5, 8, 10, and 18 to determine where changes were needed to update regulations on dental practice record management and dental franchising.

**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 will 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](mailto:Jennifer.Garrett@wisconsin.gov), or by calling (608) 266-2112.

**Agency contact person:**

Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Office of Chief Legal Counsel, 4822 Madison Yards Way, P.O. Box 14497, Madison, Wisconsin 53708-0497; email at [DSPSAdminRules@wisconsin.gov](mailto: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, Office of Chief Legal Counsel, 4822 Madison Yards Way, P.O. Box 14497, Madison, WI 53708-0497, or by email to [DSPSAdminRules@wisconsin.gov](mailto: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) to (33) are created to read:

**(29)** A dentist or dental therapist failing to create or to maintain patient health care records as required in s. DE 8.03.

**(30)** A dentist or dental therapist failing to maintain confidentiality of patient health care records as required in s. 146.82, Stats., and s. DE 8.04.

**(31)** A dentist or dental therapist failing to provide for the preservation, transfer, or destruction of his or her patient health care records if he or she ceases practice or business, as required in s. 146.819, Stats., and s. DE 8.05.

**(a)** If a person who manages or controls a business that offers dental, dental therapy, or dental hygiene services fails to provide for the preservation, transfer, or destruction of patient health care records after ceasing practice or business, a dentist or dental therapist associated with the business is responsible for ensuring the preservation, transfer, or destruction of his or her patient health care records as required in s. 146.819, Stats.

(32) A dentist or dental therapist failing to provide patient health care records to a patient or a patient's representative upon request, as required in s. 146.83 (1c) or (3f) (a), Stats., and s. DE 8.035.

(a) If a person who manages or controls a business that offers dental, dental therapy, or dental hygiene services fails to provide patient health care records to a patient or a patient's representative upon request, the dentist or dental therapist responsible for the records is responsible for providing the records as required in s. 146.83 (1c) or (3f) (a), Stats.

(33) A dentist or dental therapist failing to transfer patient health care records to a subsequent health care provider upon request, as required in s. 146.83 (1m) (a) Stats., and s. DE 8.035.

(a) If a person who manages or controls a business that offers dental, dental therapy, or dental hygiene services fails to transfer patient health care records to a subsequent health care provider upon request, as required in s. 447.063 (2), Stats., the dentist or dental therapist responsible for the records is responsible for transferring the records as required in s. 146.83 (1m) (a), Stats.

SECTION 2. DE 8.03 is amended to read:

**DE 8.03 Minimum standards for patient health care record retention.** Patient health care records on every patient administered shall be maintained for a period of at least 10 years after the date of the last entry, unless otherwise required by state or federal law. The treating dentist or dental therapist is responsible for creating and maintaining the patient health care records.

SECTION 3. DE 8.035 (Title) is amended to read:

**DE 8.035 Preservation of and access to patient health care records.**

SECTION 4. DE 8.035 is renumbered to 8.035 (1).

SECTION 5. DE 8.035 (2) to (4) are created to read:

(2) A person who manages or controls a business that offers dental, dental therapy, or dental hygiene services shall, upon request of a patient or representative of the patient, transfer the patient health care records of the patient to another person that the patient or representative of the patient specifies to receive the patient health care records, as required in s. 447.063 (2), Stats. *The (2) above is directly from the statute (the language is simplified for readability). I think it greatly helps the goal of the rule. The current DE 8.035 is almost exactly the (1) from the statute above it. At first glance, the language in the (2) looks redundant to that in the (3) below, but if you look closely, they are saying slightly different things. For now I would recommend keeping it in. Let me know with any feedback.*

*Also, the (2) above is one of the narrow ways the board is able to regulate business or administrative support functions that do not constitute the practice of dentistry. For this reason as well, it is important to have it in code.*

(3) During the record retention time required in s. DE 8.03 and sub. (1), the patient health care records shall be available to the patient or a representative of the patient as required in s. 146.83 (1c) or (3f) (a), Stats., or shall be transferred to a patient's subsequent health care provider upon request, as required in ss. 146.83 (1m) (a) and 447.063 (2), Stats. The responsibility to ensure access to records falls on both the dentist or dental therapist responsible for the records and on the person who manages or controls the business that offers dental, dental therapy, or dental hygiene services.

**Note:** Section 146.83 (1c), Stats., reads: "Except as provided in s. 51.30 or 146.82 (2), any patient or person authorized by the patient may, upon submitting a statement of informed consent, inspect the health care records of a health care provider pertaining to that patient at any time during regular business hours, upon reasonable notice."

Section 146.83 (3f) (a), Stats., reads: "Except as provided in sub. (1f) or s. 51.30 or 146.82 (2), if a person requests copies of a patient's health care records, provides informed consent, and pays the applicable fees under par. (b), the health care provider shall provide the person making the request copies of the requested records."

Section 146.83 (1m) (a), Stats., reads: "A patient's health care records shall be provided to the patient's health care provider upon request and, except as provided in s. 146.82 (2), with a statement of informed consent."

**Note 2:** Any person who negligently violates s. 146.83, Stats., is liable as described in s. 146.84 (1) (bm), Stats.

(4) In the course of investigating a violation of ch. 447, Stats., or a violation of rules of the examining board, the examining board may require, by order or subpoena, that a person who manages or controls a business that offers dental or dental hygiene services produce patient health care records.

*The (4) above is basically directly out of the statutes, but it is expanded a bit to say that it may happen during investigation of a violation of ch. 447 or rules of the board.*

SECTION 6. DE 8.04 is amended to read:

**DE 8.04 Confidentiality of patient health care records.** All patient health care records shall remain confidential as provided in s. 146.82, Stats. The responsibility to ensure confidentiality falls on both the dentist or dental therapist responsible for the records and on the person who manages or controls the business that offers dental, dental therapy, or dental hygiene services.

SECTION 7. DE 8.04 (Note) is created to read:

**DE 8.04 Note:** Any person who negligently violates s. 146.82, Stats., is liable as described in s. 146.84 (1) (bm), Stats.

SECTION 8. DE 8.05 is amended to read:

**DE 8.05 Preservation, transfer, or destruction of patient health care records.** ~~The preservation or destruction of patient health care records shall be in compliance with s. 146.819, Stats. A dentist or dental therapist, upon ceasing practice or business, shall provide for the preservation, transfer, or destruction of his or her patient health care records as required in s. 146.819, Stats. If a person who manages or controls a business that offers dental, dental therapy, or dental hygiene services fails to provide for the preservation, transfer, or destruction of patient health care records after ceasing practice or business, a dentist or dental therapist associated with the business is responsible for ensuring the preservation, transfer, or destruction of his or her patient health care records as required in s. 146.819, Stats.~~

SECTION 9. DE 8.06 is created to read:

**DE 8.06 Dentist or dental therapist responsibility for ensuring compliance.** A dentist or dental therapist associated with a dental practice or clinic is responsible for ensuring the practice or clinic is operating in compliance with state and federal law and code pertaining to health care records.

*Minor question: does the board also want to draw attention to the below 2 subsections of the statutes, and write them into code also? The first is about the mandatory disclaimer to patients about their rights under s. 146.83, Stats. (the rights to access their records).*

**146.83(2)(2)** The health care provider shall provide each patient with a statement paraphrasing the provisions of this section either upon admission to an inpatient health care facility, as defined in s. [50.135 \(1\)](#), or upon the first provision of services by the health care provider.

**(3)** The health care provider shall note the time and date of each request by a patient or person authorized by the patient to inspect the patient's health care records, the name of the inspecting person, the time and date of inspection and identify the records released for inspection.

*Also, if the board wants, we can look at updating [DE 10.03](#), which is on mobile dentistry programs' records management. I think those rules are already pretty robust, and they already require compliance with ch. DE 8.*

SECTION 10. 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

*If there is time during this meeting, we can do some deeper questions into the current s. 146.819, Stats., and its implementation. If not, we can always leave these questions for the next meeting or offline conversations.*

**146.819 146.819 Preservation or destruction of patient health care records.**

**(1)** Except as provided in sub. (4), any health care provider who ceases practice or business as a health care provider or the personal representative of a deceased health care provider who was an independent practitioner shall do one of the following for all patient health care records in the possession of the health care provider when the health care provider ceased business or practice or died:

**(a)** Provide for the maintenance of the patient health care records by a person who states, in writing, that the records will be maintained in compliance with ss. 146.81 to 146.835.

**(b)** Provide for the deletion or destruction of the patient health care records.

**(c)** Provide for the maintenance of some of the patient health care records, as specified in par. (a), and for the deletion or destruction of some of the records, as specified in par. (b).

**(2)** If the health care provider or personal representative provides for the maintenance of any of the patient health care records under sub. (1), the health care provider or personal representative shall also do at least one of the following:

**(a)** Provide written notice, by 1st class mail, to each patient or person authorized by the patient whose records will be maintained, at the last-known address of the patient or person, describing where and by whom the records shall be maintained.

**(b)** Publish, under ch. 985, a class 3 notice in a newspaper that is published in the county in which the health care provider's or decedent's health care practice was located, specifying where and by whom the patient health care records shall be maintained.

**(3)** If the health care provider or personal representative provides for the deletion or destruction of any of the patient health care records under sub. (1), the health care provider or personal representative shall also do at least one of the following:

**(a)** Provide notice to each patient or person authorized by the patient whose records will be deleted or destroyed, that the records pertaining to the patient will be deleted or destroyed. The notice shall be provided at least 35 days prior to deleting or destroying the records, shall be in writing and shall be sent, by 1st class mail, to the last-known address of the patient to whom the records pertain or the last-known address of the person authorized by the patient. The notice shall inform the patient or person authorized by the patient of the date on which the records will be deleted or destroyed, unless the patient or person retrieves them before that date, and the location where, and the dates and times when, the records may be retrieved by the patient or person.

(b) Publish, under ch. [985](#), a class 3 notice in a newspaper that is published in the county in which the health care provider's or decedent's health care practice was located, specifying the date on which the records will be deleted or destroyed, unless the patient or person authorized by the patient retrieves them before that date, and the location where, and the dates and times when, the records may be retrieved by the patient or person.

(4) This section does not apply to a health care provider that is any of the following:

(a) A community-based residential facility or nursing home licensed under s. [50.03](#).

(b) A hospital approved under s. [50.35](#).

(c) A hospice licensed under s. [50.92](#).

(d) A home health agency licensed under s. [50.49 \(4\)](#).

(f) A local health department, as defined in s. [250.01 \(4\)](#), that ceases practice or business and transfers the patient health care records in its possession to a successor local health department.

*“Health care provider” is defined as a dentist or dental therapist. It is not defined as a dental clinic, a person who manages or controls a dental business, etc. Therefore, the treating dentist or dental therapist has responsibilities under this statute, if they cease practice or business.*

***Is there any discussion on this? How strongly does the board want to use this statute in the rule? The current code [DE 8.05](#) cites this statute, but the language is fairly vague and not as strict as it could be.***

*Ultimately it is up to the board how strictly you want to use this statute in the rule. The current rule draft is using 146.819 as strongly as possible to help the board's goals for the rule. (i. e. adding it unprofessional conduct, etc.) Let me know with any desired changes on how strongly the board wants to use this statute in your goals for the rule.*

**Dentistry Examining Board  
Rule Projects**

Clearinghouse Rule Number	Scope #	Scope Implementation	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
25-052	054-24	7/16/2024	11/20/2026	DE 5, 8, and 14	Informed Consent	Rule effective 1/1/26.	Rule effective 1/1/26.
	053-24	7/16/2024	11/20/2026	DE 1 to 17	Dentist and Dental Hygienist Compact	Clearinghouse review.	Hold public hearing and discuss Clearinghouse comments.
	004-25	3/7/2025	7/27/2027	DE 1, 5, and 6	Unprofessional Advertising	EIA comment period finished and waiting for internal Fiscal Estimate.	Send for Clearinghouse review.
	021-25	5/7/2025	10/7/2027	DE 1 and 2	Licensure Requirements	EIA comment period.	Send for Clearinghouse review.
	056-25	11/6/2025	2/25/2028	DE 1, 5, 8, 10, and 18	Dental Practice Record Management and Dental Franchising	Rule drafting.	Board approval of prelim rule draft.
				DE 1, 3, and 5	Scope of Practice for Dental Hygienists	Hold public hearing on scope statement.	Scope implementation and rule drafting.
				DE 11	Sedation Permits Obsolete Provisions	Hold public hearing on scope statement.	Scope implementation and rule drafting.

## Additional Materials for Dentistry Rules Discussion – Three Topics

1 – Definition of “person” under current law: “[990.01\(26\)](#) Person. “Person” includes all partnerships, associations and bodies politic or corporate.”

Therefore, this applies to current [447.063\(1\)](#) and (2), “A person who manages or controls a business that offers dental, dental therapy, or dental hygiene services...”

However, “person” is not defined in the dentistry code. The law still applies even though it is not defined in dentistry code.

Possible code updates: [DE 8.035](#) ~~A person who~~ **Any entity that** manages or controls a business that offers dental, dental therapy, or dental hygiene services...

DE 8.035 (2) being created: Any entity that manages or controls a business that offers dental, dental therapy, or dental hygiene services...

2 – In the Unprofessional Conduct part of this rule, there are arguments for and against adding these records-related topics to unprofessional conduct. The board will need to discuss and decide whether and to what extent these topics should be considered unprofessional conduct.

3 – For patient access to records, is there any desire to say that access to the records should be “timely”, “delivered in a timely fashion”, or “within 30 days”, etc.? Or is the language in proposed DE 8.035 (2) and (3) adequate? It might be tricky to put a limit of an exact number of days.