

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD : ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 023-22, was approved by the Governor on March 31, 2022, published in Register 796A2 on April 11, 2022, and approved by the Dentistry Examining Board on June 3, 2022. This emergency rule as approved by the Governor on October 13, 2022.

ORDER

An order of the Dentistry Examining Board to amend DE 11.025 (2) (e); 11.035 (1) (q), and 11.035 (2) (s); and create DE 11.035 (1) (q) 1. to 5. and 11.035 (2) (s) 1. to 6.; relating to precertification sedation education requirements.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Dentistry Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Clearinghouse rule 19-132 went into effect on September 1, 2020. Among the provisions created, DE 11.035 was established to outline the board approved education criteria for Class II Enteral and Parenteral sedation permits. Upon further review, the Board has determined that changes to DE 11.035 are needed in order to properly implement these criteria. As currently written, the requirements are not specific enough for the Board to issue Class II sedation permits to their licensees in a timely manner. Therefore, emergency rules are needed to ensure that these permits can be issued safely and in line with the Board's expectations for sedation training until permanent rules can be promulgated.

ANALYSIS

Statutes interpreted: s. 447.02 (2) (b), Stats.

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

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

Related statute or rule: s. 447.04 (1), Stats.

Plain language analysis:

The objective of the proposed rule is to update and add details to the requirements listed in DE 11.035. The Board will also review and update DE 11.025 (3) to align it with the expectations of the Board for courses certified by the American Heart Association.

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

Comparison with rules in adjacent states:

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Dentists in Illinois, with input from the Illinois Board of Dentistry. The Illinois Board is also responsible for the promulgation of rules to implement certain sections of the Illinois Dental Practice Act. This Act contains requirements for dental practice, including dentistry done under anesthesia or sedation [225 Illinois Compiled Statutes ch. 25]. The rules in the Illinois Administrative Code require a Dentist applying for a moderate sedation permit to complete 75 hours of didactic and clinical study and supervised experience in providing moderate sedation to 20 or more patients [Illinois Administrative Code s. 1220.510].

Iowa: The Iowa Dentistry Board is responsible for the licensure and regulation of Dentists in Iowa. Listed in the Iowa Administrative Code are the requirements for dental practice, including dentistry done under anesthesia or sedation. Iowa requires a Dentist applying for a moderate sedation permit to complete a training program that includes a minimum of 60 hours of instruction and management of at least 20 patients or an accredited residency program that includes clinical experience in moderate sedation [650 Iowa Administrative Code ch. 29].

Michigan: The Michigan Board of Dentistry is responsible for the licensure and regulation of Dentists in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for dentistry in Michigan, among several other occupations. [Michigan Compiled Laws s. 333.166] The Michigan Department of Licensing and Regulatory Affairs has administrative rules that include requirements for anesthesia and sedation dentistry. These rules require a Dentist who administers intravenous conscious sedation to have completed at least 60 hours of training in intravenous conscious sedation including a minimum of 40 hours of supervised clinical instruction where they have sedated not less than 20 cases [Michigan Administrative Rules R 338.11602].

Minnesota: The Minnesota Board of Dentistry is responsible for the licensure and regulation of Dentists in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for anesthesia and sedation dentistry. Minnesota requires a Dentist applying for initial certification for moderate sedation to have completed at least 60 hours of didactic education in enteral and parenteral sedation including at least 10 individual supervised cases of parenteral moderate sedation. No more than 5 of those cases may be performed on a patient simulation manikin. [Minnesota Administrative Rules part 3100.3600]

Summary of factual data and analytical methodologies:

The Board reviewed Wisconsin Administrative Code DE 11 to determine which case requirements are necessary for safe training of Dentists for anesthesia permits.

Fiscal Estimate:

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, 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, held on a date to be determined, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 11.025 (2) (e), 11.035 (1) (q), and 11.035 (2) (s) are amended to read:

DE 11.025 (2) (e). Evidence of certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support through a course that ~~follows~~ is certified by the American Heart Association ~~guidelines~~.

DE 11.035 (1) (q). 20 cases, which may include group observation cases, that each meet the following requirements:

DE 11.035 (2) (s). 20 individually managed cases, that each meet the following requirements:

SECTION 2. DE 11.035 (1) (q) 1. to 5. and DE 11.035 (2) (s) 1. to 6. are created to read:

- DE 11.035(1) (q) 1. Must occur in person;
2. Include full review of patient medical history, including pertinent lab values;
3. Applicant shall be in the room for the duration of the case, including recovery and discharge of the patient;
4. Applicant shall observe the administration of medicines;
5. Patient and any anesthesia monitors shall be in full view of the applicant.

- DE 11.035 (2) (s) 1. Must occur in person;
2. Include full review of patient medical history, including pertinent lab values;
3. Applicant shall be in the room for the duration of the case;
4. Applicant shall supervise recovery and discharge of the patient;
5. Applicant shall have full view of the patient and access to the patient's airway;
6. Anesthesia monitors shall be in full view of the applicant.

SECTION 3. EFFECTIVE DATE. This emergency rule shall take effect upon publication in the official state newspaper.

(END OF TEXT OF RULE)

Dated 9/26/2022

Agency

Shahade Gowari

Vice Chairperson
Dentistry Examining Board