

**STATE OF WISCONSIN  
DENTISTRY EXAMINING BOARD**

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**IN THE MATTER OF RULEMAKING** :  
**PROCEEDINGS BEFORE THE** : **REPORT TO THE LEGISLATURE**  
**DENTISTRY EXAMINING BOARD** : **CR 22-087**  
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**I. THE PROPOSED RULE:**

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

**II. REFERENCE TO APPLICABLE FORMS: N/A**

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA is attached.

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

The objective of this proposed rule is to extend the 2 hour-controlled substances prescribing continuing education requirement outlined in DE 13.03 (1m) that was previously only in effect for the 2019 and 2021 license renewal periods. The Board also removed the word “responsible” from the requirement, as all controlled substances prescribing should be done responsibly, so there is no need to specify. In addition, the Board removed the word “acute” from the requirement, because patients may also receive care for chronic pain as well as care for acute pain.

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

The Dentistry Examining Board held a public hearing on January 4, 2023. The following people either testified at the hearing, or submitted written comments:

- Mark Paget, Executive Director, Wisconsin Dental Association, Inc.

The Dentistry Examining Board summarizes the comments received either by hearing testimony or by written submission as follows:

- The Wisconsin Dental Association requested clarification on the licensing biennium, if the rule is going to be effective on October 1, 2023.

The Dentistry Examining Board explains modifications to its rule-making proposal prompted by public comments as follows:

- No modifications to the rule were made based on public comments.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

All of recommendations suggested in the Clearinghouse Report have been accepted in whole.

**VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A**

STATE OF WISCONSIN  
DENTISTRY EXAMINING BOARD

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IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD  
DENTISTRY EXAMINING BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 22-087)

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PROPOSED ORDER

An order of the Dentistry Examining Board to amend DE 13.03 (1m), relating to controlled substances prescribing continuing education requirements.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** ss. 440.035 (2) and 447.056, Stats.

**Statutory authority:** ss. 15.08 (5) (b) and 447.02 (1) (f), Stats.

**Explanation of agency authority:**

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

Section 447.02 (1) (f), Stats., provides “[the examining board may promulgate rules] governing compliance with continuing education requirements under s. 447.056.”

**Related statute or rule:** None

**Plain language analysis:**

The objective of this proposed rule is to extend the 2 hour-controlled substances prescribing continuing education requirement outlined in DE 13.03 (1m) that was previously only in effect for the 2019 and 2021 license renewal periods. The Board also removed the word “responsible” from the requirement, as all controlled substances prescribing should be done responsibly, so there is no need to specify. In addition, the Board removed the word “acute” from the requirement, because patients may also receive care for chronic pain as well as care for acute pain.

**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:** 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 continuing education. Illinois does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [225 Illinois Compiled Statutes ch. 25; Illinois Administrative Code Title 68, Chapter 8, Subchapter b, Part 1220, Section 1220.440].

**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 continuing education. Iowa requires each licensed dentist who has prescribed opioids during a renewal period to complete at least 1 hour of continuing education on the topic of opioids, which can count toward the 30 required hours for that renewal period. This 1 hour of continuing education content needs to include “guidelines for prescribing opioids, including recommendations on limitations of dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacological therapy options.” [650 Iowa Administrative Code ch. 25].

**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. These regulations include requirements for continuing education. Michigan does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [Michigan Compiled Laws s. 333.166].

**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 continuing education. Minnesota does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [Minnesota Administrative Rules part 3100.5100].

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

The Board reviewed Wisconsin Administrative Code chapter DE 13 to determine what changes were needed to update the controlled substances prescribing continuing education requirement.

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

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

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis is attached.

**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) 266-6795.

**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 January 4, 2023, to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1 DE 13.03 (1m) is amended to read:

**DE 13.03 (1m)** ~~RESPONSIBLE PRESCRIBING~~ PRESCRIBING CONTROLLED SUBSTANCES CONTINUING EDUCATION. The 30 credit hours of continuing education shall include 2 hours in the topic of ~~responsible~~ prescribing of controlled substances for the treatment of acute dental pain. ~~This subsection applies to the bienniums ending in 2019 and 2021.~~

SECTION 2 EFFECTIVE DATE. The rules adopted in this order shall take effect on October 1, 2023.

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(END OF TEXT OF RULE)  
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This Proposed Order of the Dentistry Examining Board is approved for submission to the Governor and Legislature.

Dated 04/07/2023

Agency



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Chairperson  
Dentistry Examining Board

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date December 6, 2022
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DE 13	
4. Subject Controlled Substances Prescribing Continuing Education Requirements	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input checked="" type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected s. 20.165 (1) (g)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The objective of the proposed rule is to extend the 2 hour-controlled substances prescribing continuing education requirement outlined in DE 13.03 (1m) that was only in effect for the 2019 and 2021 license renewal periods.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule was posted for 14 days on the Department of Safety and Professional Services' website to solicit comments on the potential economic impact. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole. The Department estimates a total of \$470 in one-time administrative costs, which may be absorbed in the agency budget.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefits of implementing this rule is ongoing continuing education for Dentists on prescribing controlled substances.	
16. Long Range Implications of Implementing the Rule The long range implications of implementing this rule are improved practice for Dentists in the area of prescribing controlled substances in Wisconsin and better overall patient care.	
17. Compare With Approaches Being Used by Federal Government None.	
18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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 continuing education. Illinois does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [225 Illinois Compiled Statutes ch. 25; Illinois Administrative Code Title 68, Chapter 8, Subchapter b, Part 1220, Section 1220.440].

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19. Contact Name Nilajah Hardin, Administrative Rules Coordinator	20. Contact Phone Number 608-267-7139
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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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