

STATEMENT OF SCOPE

DENTISTRY EXAMINING BOARD

Rule No.: DE 1, 5, and 6

Relating to: Unprofessional Advertising

Rule Type: Permanent

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

N/A

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

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

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

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

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

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

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

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

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

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

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

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

Approximately 80 hours.

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

Licensed dentists and their patients.

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

None.

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

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

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Approved for publication:

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Date Submitted

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