

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : NOTICE OF TIME PERIOD
PROCEEDINGS BEFORE THE : FOR COMMENTS FOR THE
DENTISTRY EXAMINING BOARD : ECONOMIC IMPACT ANALYSIS

NOTICE IS HEREBY GIVEN of the time period for public comment on the economic impact of this proposed rule of the Dentistry Examining Board, including how this proposed rule may affect businesses, local government units and individuals. The comments will be considered when the Department of Safety and Professional Services prepares the Economic Impact Analysis pursuant to § 227.137. Written comments may be submitted to:

Jake Pelegrin, Administrative Rules Coordinator
Office of Chief Legal Counsel
Department of Safety and Professional Services
PO Box 14497
Madison, WI 53708-0497
DSPSAdminRules@wisconsin.gov

The deadline for submitting economic impact comments is February 2, 2026.

PROPOSED ORDER

A proposed order of the Dentistry Examining Board to **renumber and amend** DE 6.02 (1) and (4) (c); to **amend** DE 6.02 (4) (intro.); and to **create** DE 6.02 (1) (a) to (f) and (Note), and (4) (c) 1. to 3. and (Note) relating to unprofessional advertising.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

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

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

Explanation of agency authority:

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

Section 227.11 (2) (a), Stats., provides that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the

agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

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

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

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

Related statute or rule: None.

Plain language analysis:

The proposed rule clarifies and adds detail to the regulations on dental advertising, especially in the area of dental specialty advertising. In various places, the rule clarifies language to specify that these regulations apply to advertising or communications in any media. The rule creates a detailed list of information, statements, or claims that may be considered false, misleading, fraudulent or deceptive. The rule does allow dentists to describe training or credentials they have in a specific branch of dental practice, but they may not claim to be a specialist in a non-American Dental Association specialty, and must give a disclaimer that they are a general dentist if they are not officially certified in an ADA specialty. Lastly, the rule creates a requirement that a dentist who advertises as a specialist must avoid implying that other dentists associated with the same practice are also specialists unless the other dentists are also officially certified in an American Dental Association specialty.

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 March 5, 2025. The following written comment was received, from the American Association of Orthodontists and the Wisconsin Society of Orthodontists:

Names: Adam Braundmeier, Dr. Dave Kennedy

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

“Dear Members of the Wisconsin Dentistry Examining Board,

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

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

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

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

goal of providing patients with information from which to make informed treatment decisions is met.

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

For all these reasons, the AAO and WSO support the current rule on unprofessional advertising, Chapter DE 6. If the Board has any further information or has questions for the AAO, please feel free to contact me at abraundmeier@aaortho.org. Thank you for your time and attention to this matter.

Sincerely,

American Association of Orthodontists, Adam Braundmeier, AAO General Counsel

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

Comparison with rules in adjacent states:

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

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

Iowa: Iowa law sets regulations on dentistry advertising that are detailed and thorough for ensuring that advertising is honest and ethical [650 Iowa Administrative Code 26]. “Communications by inclusion or omission to the public must be accurate. They must not convey false, untrue, deceptive, or misleading information through statements, testimonials, photographs, graphics or other means. Communications must not appeal to an individual’s anxiety in an excessive or unfair way; and they must not create unjustified expectations of

results. If communications refer to benefits or other attributes of dental procedures or products that involve significant risks, realistic assessments of the safety and efficacy of those procedures or products must also be included, as well as the availability of alternatives and, where necessary to avoid deception, descriptions or assessments of the benefits or other attributes of those alternatives. Communications must not misrepresent a dentist's credentials, training, experience or ability, and must not contain material claims of superiority that cannot be substantiated."

Specifically for dental specialties, like Illinois, Iowa regulations are quite detailed on what words are allowed to be used in advertisements: "The use of the terms "specialist," "specializes," "orthodontist," "oral and maxillofacial surgeon," "oral and maxillofacial radiologist," "periodontist," "pediatric dentist," "prosthodontist," "endodontist," "oral pathologist," "public health dentist," "dental anesthesiologist," or other similar terms which imply that the dentist is a specialist may only be used by a licensed dentist meeting the requirements of this rule. A dentist who advertises as a specialist must avoid any implication that other dentists associated with the same practice are specialists unless the dentists also meet all of the requirements of this rule."

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

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

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

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

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

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Office of Chief Legal Counsel, 4822 Madison Yards Way, P.O. Box 14497, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Office of Chief Legal Counsel, 4822 Madison Yards Way, P.O. Box 14497, Madison, WI 53708-0497, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 6.02 (1) is renumbered to 6.02 (1) (intro.) and amended to read:

(1) Publishing or communicating information, statements, or claims in any media which are false, misleading, fraudulent or deceptive. This may include information or communications that do any of the following:

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

(a) Contain a misrepresentation of fact or omit a material fact required to prevent deception.

(b) Guarantee favorable results or create false or unjustified expectations of favorable results.

(c) Represent a dentist as having credentials, training, experience or ability equal to being certified in an American Dental Association specialty when the dentist does not meet the requirements for that specialty in sub. (4) (c).

Note: A dentist may describe credentials, training, experience, or ability that he or she has in an area of practice, but if the dentist does not meet the requirements for an American Dental Association specialty in sub. (4) (c), the dentist may not use the terms prohibited in sub. (4) (c) 1., and shall give the disclaimer required in sub. (4) (c) 2.

(d) Contain exaggerations pertaining to the quality of dental care.

(e) Describe as available products or services that are not permitted by the laws or rules of this state or that are not permitted by federal laws or rules.

(f) Advertise professional services that the credential holder is not licensed to render.

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

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

SECTION 4. DE 6.02 (4) (c) is renumbered to 6.02 (4) (c) (intro.) and amended to read:

DE 6.02 (4) (c) Notice of a practice or implying practice as a specialist in a dental specialty unless the dentist has successfully completed a post-doctoral educational training program approved by the Commission on Dental Accreditation of the American Dental Association in a specialty recognized by the American Dental Association. Advertising or implying practice as a specialist in a non-American Dental Association-recognized specialty is prohibited. All of the following provisions also apply to dental advertising:

SECTION 5. DE 6.02 (4) (c) 1. to 3. and (Note) are created to read:

DE 6.02 (4) (c) 1. Terms such as "specialist", "specialty", or "limited to specialty of", with the name of the branch of dentistry practiced as a specialty, shall be evidence that a dentist is holding himself or herself out to the public as a specialist.

2. A general dentist who advertises or communicates in any media regarding a specific branch of dentistry, but who does not meet the requirements of par. (c), shall include in the advertisement or communication a prominent disclaimer that he or she is a general dentist.

3. A dentist who advertises as a specialist shall avoid implying that other dentists associated with the same practice or clinic are also specialists unless the other dentists also meet all of the requirements of par. (c).

Note: Recognized American Dental Association specialties are dental anesthesiology, dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, oral medicine, orofacial pain, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, and prosthodontics.

SECTION 6. 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)
