

**STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
DENTISTRY EXAMINING BOARD : CR 18-089**

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 purpose of the proposed rule is to implement 2017 Act 116 in a manner which maintains consistency with other patient dental record requirements. This proposed rule requires a dental practice to preserve patient records for at least 10 years from the date of the last entry. The Dentistry Examining Board currently requires dentists to maintain patient records for 10 years and this proposed rule extends that requirement to persons who manage or control a business that offers dental or dental hygiene services.

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

The Board held a public hearing on January 9, 2019. No one testified or provided written comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

The Legislative Council Staff did not make any recommendations.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

This proposed rule does not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats.

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 18-089)

PROPOSED ORDER

An order of the Dentistry Examining Board to create DE 8.035 relating to preservation of patient health care records.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 447.063, Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.063 (1), Stats.

Explanation of agency authority:

Each Examining Board shall 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. [15.08 (5) (b), Stats.]

A person who manages or controls a business that offers dental or dental hygiene services, including management or control of a business through which the person allows another person to offer dental 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. [447.063 (1), Stats.]

Related statute or rule: DE 8

Plain language analysis:

A dental practice is required to preserve patient records for at least 10 years from the date of the last entry.

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

Comparison with rules in adjacent states:

Illinois: Illinois requires dental records to be maintained for 10 years.

Iowa: Iowa requires dentists to maintain a patient’s dental record for a minimum of 6 years after the date of last examination, prescription, or treatment. Records for minors shall be maintained for a minimum of either one year after the patient reaches 18 years of age or 6 years, whichever is longer.

Michigan: Michigan requires all dental treatment record to be maintained for not less than 10 years from the date of the last treatment provided.

Minnesota: Minnesota requires a dentist to maintain dental records for at least 7 years beyond the time the dentist last treated the patient. In the case of a minor patient, a dentist shall maintain the record for at least 7 years past the age of majority.

Summary of factual data and analytical methodologies:

The Dentistry Examining Board implemented 2017 Act 116 in a manner which maintains consistency with other patient dental record requirements.

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

The rule was posted for economic impact comments and none were received. The board already requires dentists to maintain patient records for 10 years. The proposed rule requiring a person who manages or controls a business that offers dental or dental hygiene services to maintain patient records for 10 years is not anticipated to create an additional economic impact.

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

Agency contact person:

Sharon Henes, 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 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. DE 8.035 is created to read:

DE 8.035 Preservation of patient health care records. A person who manages or controls a business that offers dental or dental hygiene services, including management or control of a business through which the person allows another person to offer dental or dental hygiene services, shall preserve patient health care records for at least 10 years from the date of the last entry.

SECTION 2. 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

05/28/2019

Agency



Chairperson

Dentistry Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date 3 December 2018</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DE 8.035</p>	
<p>4. Subject Preservation of patient health care records</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>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 (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0.00</p>	
<p>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 type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule 2017 Act 116 requires a person who manages or controls a business that offers dental or dental hygiene services, including management or control of a business through which the person allows another person to offer dental or dental hygiene services, to preserve patient health care records for an amount of time determined by the Dentistry Examining Board. The Dentistry Examining Board is implementing 2017 Act 116 to be consistent with current patient dental record retention requirements.</p>	
<p>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. This rule was posted for economic impact comments and none were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None. The rule does not impact local governmental units.</p>	
<p>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) This rule will not have an economic or fiscal impact.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing this rule is to comply with 2017 Act 116 in designating a time period for dental record preservation. This rule is consistent with the dental record keeping requirements already in place for dentists to preserve dental records.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implications are consistent rules and the ability for patients to access their dental records.</p>	
<p>17. Compare With Approaches Being Used by Federal Government None</p>	

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
Illinois and Michigan require dental records to be maintained for 10 years from the date of the last treatment provided. Iowa requires dental records to be maintained for a minimum of 6 years after last examination, prescription, or treatment and records for minors to be maintained for a minimum of either one year after the patient reaches 18 years of age or 6 years, whichever is longer. Minnesota requires dental records to be maintained for at least 7 years after the dentist last treated the patient and for minors at least 7 years past the age of majority.

19. Contact Name Sharon Henes	20. Contact Phone Number 608-261-2377
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