



HYBRID (IN-PERSON/VIRTUAL) MEETING
DENTISTRY EXAMINING BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Adam Barr, (608) 266-2112
November 2, 2022

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board. Be advised that board members may attend meetings designated as “Hybrid” in-person or virtually.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Pledge of Allegiance**
- B. Adoption of Agenda (1-4)**
- C. Approval of Minutes of September 7, 2022 (5-8)**
- D. Introductions, Announcements and Recognition – Discussion and Consideration**
 - 1) Introduction: David Gundersen, Dentist Member (Succeeds: Kaske)
- E. Reminders: Conflicts of Interest, Scheduling Concerns**
- F. Administrative Matters**
 - 1) Department, Staff and Board Updates
 - 2) Board Members – Term Expiration Dates
 - a. Alton, Troy – 7/1/2025
 - b. Bahr, Lisa – 7/1/2026
 - c. Bistan, Matthew – 7/1/2025
 - d. Fox, Joan – 7/1/2025
 - e. Govani, Shaheda – 7/1/2026
 - f. Kaske, Herbert – 7/1/2022
 - g. Kenyon, Chris – 7/1/2026
 - h. Kolste, Debra – 7/1/2024
 - i. Schrubbe, Katherine – 7/1/2026
 - j. Sheild, Peter – 7/1/2026
 - k. Whalen, Diana – 7/1/2024
- G. Legislature Agenda Request: Status of Kratom – Discussion and Consideration**
- H. Review of Conscious Sedation Education Program Approval Form Draft – Discussion and Consideration (9-17)**

- I. Legislative and Policy Matters – Discussion and Consideration
- J. Administrative Rule Matters – Discussion and Consideration (18)**
 - 1) Emergence and Preliminary Rule Drafts: DE 1, 5, 6, 13, and 16, Relating to Certification of Expanded Function Dental Auxiliaries **(19-44)**
 - 2) Pending or Possible Rulemaking Projects **(45)**
- K. COVID-19 – Discussion and Consideration
- L. Discussion and Consideration of Items Added After Preparation of Agenda:
 - 1) Introductions, Announcements and Recognition
 - 2) Administrative Matters
 - 3) Election of Officers
 - 4) Appointment of Liaisons and Alternates
 - 5) Delegation of Authorities
 - 6) Education and Examination Matters
 - 7) Credentialing Matters
 - 8) Practice Matters
 - 9) Legislative and Policy Matters
 - 10) Administrative Rule Matters
 - 11) Liaison Reports
 - 12) Board Liaison Training and Appointment of Mentors
 - 13) Informational Items
 - 14) Division of Legal Services and Compliance (DLSC) Matters
 - 15) Presentations of Petitions for Summary Suspension
 - 16) Petitions for Designation of Hearing Examiner
 - 17) Presentation of Stipulations, Final Decisions and Orders
 - 18) Presentation of Proposed Final Decisions and Orders
 - 19) Presentation of Interim Orders
 - 20) Petitions for Re-Hearing
 - 21) Petitions for Assessments
 - 22) Petitions to Vacate Orders
 - 23) Requests for Disciplinary Proceeding Presentations
 - 24) Motions
 - 25) Petitions
 - 26) Appearances from Requests Received or Renewed
 - 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

M. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

N. Division of Legal Services and Compliance (DLSC) Matters

- 1) **Administrative Warnings**
 - a. 22 DEN 002 – Ethan E. Lawler, DDS **(46-47)**

- 2) **Case Closing(s)**
 - a. 21 DEN 108 – J.S.S. **(48-55)**
 - b. 22 DEN 078 – M.P.C., E.J.A. **(56-62)**
- 3) **Proposed Stipulations, Final Decisions and Orders**
 - a. 20 DEN 126 – Joshua M. Davis, DDS **(63-73)**
 - b. 21 DEN 056 – Michael L. Schmidt, DDS **(74-79)**
 - c. 21 DEN 086 – Nabeel A. Khan, DDS **(80-86)**
 - d. 21 DEN 091 – Kristi L. Wichman, RDH **(87-97)**
 - e. 21 DEN 103 – Gregory A. Nyffeler, DDS **(98-104)**

O. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

P. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

Q. Vote on Items Considered or Deliberated Upon in Closed Session if Voting is Appropriate

R. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING: JANUARY 4, 2023 (TENTATIVE)

 MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In

order to confirm a meeting or to request a complete copy of the board's agenda, please visit the Department website at <https://dsps.wi.gov>. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer at 608-266-2112, or the Meeting Staff at 608-266-5439.

**DENTISTRY EXAMINING BOARD
MEETING MINUTES
SEPTEMBER 7, 2022**

PRESENT: Troy Alton, DDS (*via Zoom*); Lisa Bahr, RDH; Matthew Bistan, DDS; Shaheda Govani, DDS (*via Zoom*); Herbert Kaske (*arrived at 9:29 a.m.*), DDS; Christine Kenyon, Debra Kolste (*via Zoom*); Katherine Schrubbe, RDH; Peter Sheild, DDS

EXCUSED: Diana Whalen, RDH; Joan Fox (*joined the via Zoom but was unable to connect audio, she was excused at 9:40 a.m.*)

STAFF: Adam Barr, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Kimberly Wood, Program Assistant Supervisor-Adv.; Dialah Azam, Bureau Assistant; and other Department staff

CALL TO ORDER

Matthew Bistan, Chairperson, called the meeting to order at 9:05 a.m. A quorum was confirmed with eight (8) members present.

ADOPTION OF AGENDA

MOTION: Peter Sheild moved, seconded by Lisa Bahr, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JULY 6, 2022

MOTION: Christine Kenyon moved, seconded by Peter Sheild, to approve the Minutes of July 6, 2022 as published. Motion carried unanimously.

PUBLIC HEARING:

CLEARINGHOUSE RULE 20-055 (DE 11) RELATING TO DEFINITIONS

Review Public Hearing Comments and Respond to Clearinghouse Report

MOTION: Peter Sheild moved, seconded by Matthew Bistan, to accept the Clearinghouse comment for Clearinghouse Rule CR 20-055 (DE 11), relating to definitions. Motion carried unanimously.

MOTION: Matthew Bistan moved, seconded by Lisa Bahr, to authorize the Vice Chairperson (or in absence of the Vice Chairperson, the highest-ranking officer or longest serving board member in that succession) to approve the Legislative Report and Draft for Clearinghouse Rule CR 20-055 (DE 11), relating to definitions, for submission to the Governor's Office and Legislature. Motion carried unanimously.

**AGENDA REQUEST:
STATUS OF KRATOM - DISCUSSION AND CONSIDERATION**

(Herbert Kaske arrived at 9:29 a.m.)

MOTION: Matthew Bistan moved, seconded by Peter Sheild, to designate Troy Alton to review current information regarding the subject of whether kratom should be a scheduled controlled substance and to report back to the Board at the next meeting. Motion carried unanimously.

(Joan Fox was excused from the meeting at 9:40 a.m. as she could not connect audio.)

ADMINISTRATIVE RULE MATTERS

Scope Statement: DE 2 and 11, Relating to Certification in Advanced Cardiovascular Life Support (ACLS) or Pediatric Advanced Life Support (PALS)

MOTION: Herbert Kaske moved, seconded by Matthew Bistan, to approve the Scope Statement revising DE 2 and 11, relating to Certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chairperson to approve the Scope Statement for implementation no less than 10 days after publication. If the Board is directed to hold a preliminary public hearing on the Scope Statement, the Chairperson is authorized to approve the required notice of hearing. Motion carried unanimously.

Emergency and Preliminary Rule Drafts: DE 11, Relating to Pre-Certification Sedation Education Requirements

MOTION: Peter Sheild moved, seconded by Debra Kolste, to authorize the Vice Chairperson to approve the emergency rule on DE 11, relating to Pre-Certification Sedation Education Requirements, for emergency rule submission to the Governor, publication in an official newspaper and for the permanent rule posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Preliminary Rule Draft: DE 13, Relating to Controlled Substances Prescribing Continuing Education Requirements

MOTION: Matthew Bistan moved, seconded by Herbert Kaske, to approve the preliminary rule draft of DE 13, relating to Controlled Substances Prescribing Continuing Education Requirements, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

CLOSED SESSION

MOTION: Lisa Bahr moved, seconded by Peter Sheild, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Matthew Bistan, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Troy Alton-yes; Lisa Bahr-yes; Matthew Bistan-yes; Shaheda Govani-yes; Herbert Kaske-yes; Christine Kenyon-yes; Debra Kolste-yes; Katherine Schrubbe-yes; and Peter Sheild-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:23 a.m.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Proposed Stipulations, Final Decisions and Orders

MOTION: Herbert Kaske moved, seconded by Lisa Bahr, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings of the following cases:

1. 21 DEN 015 – Thomas C. Kelley, DDS
2. 21 DEN 021 – Robert J. Asp, DDS
3. 21 DEN 032 – Dan L. Beaupre, DDS
4. 21 DEN 043 – Jean E. Leconte, DDS
5. 21 DEN 127 – Clarence E. Kusik, DDS

Motion carried unanimously.

Case Closings

MOTION: Matthew Bistan moved, seconded by Peter Sheild, to close the following DLSC Cases for the reasons outlined below:

1. 21 DEN 079 – L.V. – Prosecutorial Discretion (P2)
2. 21 DEN 084 – R.R.C. – Insufficient Evidence
3. 21 DEN 129 – P.M.M. – No Violation
4. 22 DEN 015 – A.B.A. – No Violation

Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Lisa Bahr moved, seconded by Christine Kenyon, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 10:47 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Matthew Bistan moved, seconded by Herbert Kaske, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the Closed Session motions stand for the purposes of the affirmation vote.)

ADJOURNMENT

MOTION: Lisa Bahr moved, seconded by Herbert Kaske, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:50 a.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Kristin Carlton, License Exam Specialist-Sr.		2) Date when request submitted: 10/18/22 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 11/2/2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Conscious Sedation Education Program Approval Form Draft final approval	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Submission of final drafts of Conscious Sedation Education Program Approval forms that include new Case definitions for Enteral and Parental education programs. Forms are in DSPS style and have been assigned a form# - Board will choose which form will be used along with re-approval timeframe.			
11) Authorization			
Kristin A. Carlton		10/18/2022	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Wisconsin Department of Safety and Professional Services

Mail To: P.O. Box 8366
 Madison, WI 53708 8366
Fax #: (608) 251-3018
Phone #: (608) 266-2112

Office Location: 4822 Madison Yards Way
 Madison, WI 53705
E-Mail: DSPSExaminationsOffice@wisconsin.gov
Website: <http://dsps.wi.gov>

OFFICE OF EDUCATION AND EXAMINATIONS

APPLICATION FOR PRE-APPROVAL AS A CONSCIOUS SEDATION EDUCATION PROVIDER

Education providers: Complete this form in its entirety to request Dentistry Examining Board pre-approval of Class II-conscious sedation education programs. Programs must meet current Wis. Admin Code ch. [DE 11](#) anesthesia requirements published August 1, 2020. **Be as specific as possible when providing course materials for Board review. There are two parts to this form.** Questions can be directed to the Office of Education and Exams, DSPSExaminationsOffice@wisconsin.gov or (608) 266-2112.

Course Type (Enteral or Parenteral) Sought (select <u>one</u>)	
<input type="checkbox"/>	Class II Permit – Enteral A Board-approved program shall consist of comprehensive training consisting of a minimum of 18 hours in administration and management of moderate sedation, including all the course content listed in Wis. Admin. Code § DE 11.035(1) .
<input type="checkbox"/>	Class II Permit – Parenteral A Board-approved program shall consist of comprehensive training consisting of a minimum of 60 hours in administration and management of moderate sedation, including all the course content listed in Wis. Admin. Code § DE 11.035(2) .

Name, Role, and Contact Information for the individual completing this form:

Name and Address of Education Provider:

Course Administrator (if different than individual completing this form):

Course Title (required):

By signing this application below, you are indicating that the proposed education program complies with Wis. Admin. Code § DE 11.035 and that you will notify the Dentistry Examining Board in writing of any changes to program administration/education content and agree to submit intended education content changes for approval prior to implementation to maintain Board-approved education program status.											
Signature of Conscious Sedation Education Program Administrator:	Date:										
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Wisconsin Department of Safety and Professional Services

PART ONE: Alignment of Conscious Sedation Education Program Content with Wis. Admin. Code § DE 11.035 Standards
 Please provide descriptions of educational program content used and student learning outcomes and time allocated (hrs/min) for each required content area. **Supplemental materials (syllabi, lesson plans, course content) may be submitted as supplemental documentation.**

Conscious Sedation Education Program Course Content Areas	Descriptions and Outcomes (Attach additional sheets, if needed.)
Historical, philosophical, and psychological aspects of anxiety and pain control.	
Patient evaluation and selection through review of medical history taking, physical diagnosis, and psychological profiling.	
Use of patient history and examination for ASA classification, risk assessment, and pre-procedure fasting instruction.	
Definitions and descriptions of physiological and psychological aspects of anxiety and pain.	
Description of the sedation-anesthesia continuum, with special emphasis on the distinction between the conscious and unconscious state.	
Review of adult respiratory and circulatory physiology and related anatomy.	
Pharmacology of local anesthetics and agents used in moderate sedation, including drug interactions and contraindications.	
Indications and contraindications for use of moderate sedation.	
Review of dental procedures possible under moderate sedation.	
Patient monitoring using observation and monitoring equipment with particular attention to vital signs, ventilation, breathing, and reflexes related to consciousness.	

Wisconsin Department of Safety and Professional Services

PART ONE: Alignment of Conscious Sedation Education Program Content with Wis. Admin. Code § DE 11.035 Standards (CONTINUED)	
Conscious Sedation Education Program Course Content Areas	Descriptions and Outcomes (Attach additional sheets, if needed.)
Maintaining proper records: accurate chart entries; recording medical history; physical examination; informed consent; time-oriented anesthesia record; drugs (and doses) administered; and monitored physiological parameters.	
Prevention, recognition, and management of complications and emergencies.	
Description, maintenance, and use of moderate sedation monitors and equipment.	
Discussion of abuse potential.	
Description and rationale for the technique to be employed.	
Prevention, recognition, and management of systemic complications of moderate sedation, with particular attention to airway maintenance and support of the respiratory and cardiovascular systems.	
Intravenous access anatomy, equipment, and technique (parenteral education program only).	
Prevention, recognition, and management of complications of venipuncture and other parenteral techniques (parenteral education program only).	

Wisconsin Department of Safety and Professional Services

PART TWO: Educational program content used and student learning outcomes for 20 Required Cases

Please submit all case study materials for the required type of cases, (group observation or individually managed, depending on education program type) to be used for educational purposes that illustrate proper/improper use of moderate sedation and related standards of care.

- **Enteral Case Study Requirements**

- 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; and
- 5) Patient and any anesthesia monitors shall be in full view of the applicant.

- **Parenteral Case Study Requirements**

- 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; and
- 6) Anesthesia monitors shall be in full view of the applicant.

Wisconsin Department of Safety and Professional Services

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OFFICE OF EDUCATION AND EXAMINATIONS

APPLICATION FOR PRE-APPROVAL AS A CONSCIOUS SEDATION EDUCATION PROVIDER

Education providers: Complete this form in its entirety to request Dentistry Examining Board pre-approval of Class II-conscious sedation education programs. Programs must meet current Wis. Admin Code ch. [DE 11](#) anesthesia requirements published August 1, 2020. **Be as specific as possible when providing course materials for Board review. There are two parts to this form.** Questions can be directed to the Office of Education and Exams, DSPSExaminationsOffice@wisconsin.gov or (608) 266-2112.

Course Type Sought (Enteral or Parenteral) Sought (select <u>one</u>)	
<input type="checkbox"/>	<u>Class II Permit – Enteral</u> A Board-approved program shall consist of comprehensive training consisting of a minimum of 18 hours in administration and management of moderate sedation, including all the course content listed in Wis. Admin. Code § DE 11.035(1) .
<input type="checkbox"/>	<u>Class II Permit – Parenteral</u> A Board-approved program shall consist of comprehensive training consisting of a minimum of 60 hours in administration and management of moderate sedation, including all the course content listed in Wis. Admin. Code § DE 11.035(2) .

Name, Role, and Contact Information for the individual completing this form:

Name and Address of Education Provider:

Course Administrator (if different than individual completing this form):

Course Title (required):

By signing this application below, you are indicating that the proposed education program complies with Wis. Admin. Code § [DE 11.035](#) and that you will notify the Dentistry Examining Board in writing of any changes to program administration/education content and agree to submit intended education content changes for approval **prior to** implementation to maintain Board-approved education program status.

Signature of Conscious Sedation Education Program Administrator:	Date:								
	<table style="border: none; margin: auto;"> <tr> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: none; padding: 0 5px;">/</td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: none; padding: 0 5px;">/</td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> </tr> </table>		/		/				
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Wisconsin Department of Safety and Professional Services

PART ONE: Alignment of Conscious Sedation Education Program Content with Wis. Admin. Code § DE 11.035 Standards	
Conscious Sedation Education Program Course Content Areas	Time Allocation
Historical, philosophical, and psychological aspects of anxiety and pain control.	___ Hrs ___ Min
Patient evaluation and selection through review of medical history taking, physical diagnosis, and psychological profiling.	___ Hrs ___ Min
Use of patient history and examination for ASA classification, risk assessment, and pre-procedure fasting instruction.	___ Hrs ___ Min
Definitions and descriptions of physiological and psychological aspects of anxiety and pain.	___ Hrs ___ Min
Description of the sedation-anesthesia continuum, with special emphasis on the distinction between the conscious and unconscious state.	___ Hrs ___ Min
Review of adult respiratory and circulatory physiology and related anatomy.	___ Hrs ___ Min
Pharmacology of local anesthetics and agents used in moderate sedation, including drug interactions and contraindications.	___ Hrs ___ Min
Indications and contraindications for use of moderate sedation.	___ Hrs ___ Min
Review of dental procedures possible under moderate sedation.	___ Hrs ___ Min
Patient monitoring using observation and monitoring equipment with particular attention to vital signs, ventilation, breathing, and reflexes related to consciousness.	___ Hrs ___ Min
Maintaining proper records: accurate chart entries; recording medical history; physical examination; informed consent; time-oriented anesthesia record; drugs (and doses) administered; and monitored physiological parameters.	___ Hrs ___ Min
Prevention, recognition, and management of complications and emergencies.	___ Hrs ___ Min
Description, maintenance, and use of moderate sedation monitors and equipment.	___ Hrs ___ Min
Discussion of abuse potential.	___ Hrs ___ Min
Description and rationale for the technique to be employed.	___ Hrs ___ Min
Prevention, recognition, and management of systemic complications of moderate sedation, with particular attention to airway maintenance and support of the respiratory and cardiovascular systems.	___ Hrs ___ Min
Twenty (20) case studies: group observation or individually managed, (depending on education program type) to be used for educational purposes that illustrate proper/improper use of moderate sedation and related standards of care.	___ Hrs ___ Min
Intravenous access anatomy, equipment, and technique (parenteral education program only).	___ Hrs ___ Min
Prevention, recognition, and management of complications of venipuncture and other parenteral techniques (parenteral education program only).	___ Hrs ___ Min
TOTAL COURSE TIME	___ Hrs ___ Min

PART TWO: Descriptions of educational program content used and student learning outcomes for each required content area	
Education materials (syllabi, lesson plans, course content) may be submitted as supplemental documentation.	
Conscious Sedation Education Program Course Content Areas	Descriptions and Outcomes (Attach additional sheets, if needed.)
Historical, philosophical, and psychological aspects of anxiety and pain control.	
Patient evaluation and selection through review of medical history taking, physical diagnosis, and psychological profiling.	
Use of patient history and examination for ASA classification, risk assessment, and pre-procedure fasting instruction.	

Wisconsin Department of Safety and Professional Services

PART TWO: Descriptions of educational program content used and student learning outcomes for each required content area Education materials (syllabi, lesson plans, course content) may be submitted as supplemental documentation. (CONTINUED)

Conscious Sedation Education Program Course Content Areas	Descriptions and Outcomes (Attach additional sheets, if needed.)
Definitions and descriptions of physiological and psychological aspects of anxiety and pain.	
Description of the sedation-anesthesia continuum, with special emphasis on the distinction between the conscious and unconscious state.	
Review of adult respiratory and circulatory physiology and related anatomy.	
Pharmacology of local anesthetics and agents used in moderate sedation, including drug interactions and contraindications.	
Indications and contraindications for use of moderate sedation.	
Review of dental procedures possible under moderate sedation.	
Patient monitoring using observation and monitoring equipment with particular attention to vital signs, ventilation, breathing, and reflexes related to consciousness.	
Maintaining proper records: accurate chart entries; recording medical history; physical examination; informed consent; time-oriented anesthesia record; drugs (and doses) administered; and monitored physiological parameters.	
Prevention, recognition, and management of complications and emergencies.	
Description, maintenance, and use of moderate sedation monitors and equipment.	

Wisconsin Department of Safety and Professional Services

PART TWO: Descriptions of educational program content used and student learning outcomes for each required content area (CONTINUED)

Conscious Sedation Education Program Course Content Areas	Descriptions and Outcomes (Attach additional sheets, if needed.)
Discussion of abuse potential.	
Description and rationale for the technique to be employed.	
Prevention, recognition, and management of systemic complications of moderate sedation, with particular attention to airway maintenance and support of the respiratory and cardiovascular systems.	
Please submit all required case study materials for enteral or parenteral cases, (group observation or individually managed, depending on education program type) to be used for educational purposes that illustrate proper/improper use of moderate sedation and related standards of care.	<p><u>Enteral Case Study Requirements:</u></p> <ol style="list-style-type: none"> 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; and 5. Patient and any anesthesia monitors shall be in full view of the applicant.
	<p><u>Parenteral Case Study Requirements:</u></p> <ol style="list-style-type: none"> 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; and 6. Anesthesia monitors shall be in full view of the applicant.
Intravenous access anatomy, equipment, and technique (parenteral education program only).	
Prevention, recognition, and management of complications of venipuncture and other parenteral techniques (parenteral education program only).	

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 10/21/22 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 11/02/22	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Emergency and Preliminary Rule Drafts – DE 1, 5, 6, 13, and 16 relating to Certification of Expanded Function Dental Auxiliaries 2. Pending or Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Act on a Scope Statement and Drafting of Rules; Review Board’s Current Rule Projects Attachments: <ul style="list-style-type: none"> • DE 1, 5, 6, 13, and 16 (Emergency Rule Draft, Preliminary (Permanent) Rule Draft, Redlined Code Text, 2021 Wisconsin Act 254) • Rule Projects Chart Copies of current Board Rule Projects Can be Viewed Here: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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 065-22, was approved by the Governor on July 21, 2022, published in Register 800A1 on August 1, 2022, and approved by the Dentistry Examining Board on August 15, 2022. This emergency rule as approved by the Governor on (date)

ORDER

An order of the Dentistry Examining Board to amend DE 1.01, 5.02 (intro.), (5), (9), (14m), (18), (20), (24), and (25); and create DE 5.02 (22m), 13.045, 13.05 (3), and chapter DE 16, relating to Certification of Expanded Function Dental Auxiliaries.

Analysis prepared by the Department of Safety and Professional Services.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature by section 17 (1) in 2021 Wisconsin Act 254 provides an exemption from a finding of emergency for the adoption of the rule.

ANALYSIS

Statutes interpreted: s. 447.04 (3), Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.035 (3) (a), 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 447.035 (3) (a), Stats. provides that “the examining board shall, subject to pars. (b) and (c), promulgate rules for the certification and practice of dental auxiliaries.”

2021 Wisconsin Act 254, Section 17 provides that “(1) EMERGENCY RULES. Using the procedure under s. 227.24, the dentistry examining board shall promulgate the rules for the certification and practice of expanded function dental auxiliaries required under s. 447.035 (3).”

Related statute or rule: 2021 Wisconsin Act 254

Plain language analysis: The objective of the proposed rule is to implement the statutory changes from 2021 Wisconsin Act 254.

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 the practice of Dentistry 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 Expanded Function Dental Assistants. These requirements include supervised practice, and performance of specific functions. In Illinois, Expanded Function Dental Assistants are allowed to perform digital scans for impressions, pulp vitality tests, placing and carving of amalgam restorations, placing and finishing of composite restorations, and coronal polishing, among other functions. The supervising dentist is required to remain onsite and is responsible for all functions performed by the dental assistant. Education and training for Expanded Function Dental Assistants must be completed through either an approved continuing education sponsor or a dental assistant training program approved by the Commission on Dental Accreditation of the American Dental Association. [225 Illinois Compiled Statutes ch. 25 s. 17.1].

Iowa: The Iowa Dentistry Board is responsible for the licensure and regulation of the practice of dentistry in Iowa. Listed in the Iowa Administrative Code are the requirements for dental practice, including practice for Expanded Function Dental Assistants and Hygienists. Iowa has two levels of expanded function procedures that Dental Hygienists and Assistants can operate under. Level 1 expanded functions for Dental Assistants include taking occlusal registrations, placement of gingival retraction material, fabrication and removal of provisional restorations, applying cavity lines and bonding systems, placement of orthodontic brackets, adjustment of nitrous oxide inhalation analgesia, and taking impressions. Level 2 expanded functions for Dental Assistants or Hygienists includes placing and shaping of amalgam and restorative materials, polishing of adhesive restorative materials, and placement of intracoronal temporary fillings, among other procedures. In order to qualify for Level 1, each Dental Assistant or Hygienist must have either an active dental assistant registration or dental hygiene license, be certified by the Dental Assistant National Board, or at least one year of clinical practice as a registered dental assistant. Each Dental Assistant or Hygienist must also complete an approved expanded function training program approved by the Iowa Board. [650 Iowa Administrative Code ch. 23].

Michigan: The Michigan Board of Dentistry is responsible for the licensure and regulation of the practice of dentistry in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for the practice dentistry in Michigan, among several other occupations. In Michigan, Dental Assistants may perform expanded functions under either direct or general supervision of a Dentist upon completion of a

course in that area of practice that is offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Michigan Department of Licensing and Regulatory Affairs. Expanded functions that require direct supervision include placing and condensing amalgam restorations and taking final impressions for indirect restorations. Expanded functions that require general supervision include pulp vitality testing, placing matrices and wedges, applying cavity liners, placing non-epinephrine retraction cords, applying desensitizing agents and taking impressions for orthodontic appliances, among other functions. [Michigan Compiled Laws Act 368, Article 15, Part 166, Section 333.16611 (11) to (13)].

Minnesota: The Minnesota Board of Dentistry is responsible for the licensure and regulation of dentistry in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for licensed Dental Assistants. Minnesota requires more coursework or in-office training for any procedure delegated that indicates the need for more coursework. Procedures that Dental Assistants can perform under general supervision of a Dentist include working on orthodontic appliances, placing temporary fillings, taking radiographs and impressions. Procedures that Dental Assistants can perform under indirect supervision, or while the supervising Dentist remains on-site, include applying topical medications, placing devices for isolation purposes, performing mechanical polishing of crowns, placing periodontal dressings, and removing sutures, among other procedures. Procedures that Dental Assistants can perform under direct supervision include removing bond material from teeth with rotary instruments after removal of orthodontic appliances, etching enamel surfaces before bonding, fabrication and placement of temporary crowns and restorations, placing matrix systems and wedges, and administration of nitrous oxide inhalation analgesia, among other procedures. [Minnesota Administrative Rules s. 3100.8500]

Summary of factual data and analytical methodologies: The Board reviewed Wisconsin Administrative Code DE 1, 5, 6, and 13 to determine what changes need to be made due to 2021 Wisconsin Act 254. Additionally, the Board decided to create chapter DE 16 to outline practice requirements for Expanded Function Dental Auxiliaries.

Fiscal Estimate: The Fiscal Estimate 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) 266-6795.

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 608-26-7139; 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 1.01 is amended to read:

DE 1.01 Authority. The provisions in chs. DE 1 to ~~1216~~ are adopted pursuant to authority in ss. 15.08 (5) and 227.11 (2) (a), Stats., and ch. 447, Stats.

SECTION 2 DE 5.02 (intro.), (5), (9), (14m), (18), (20), (24), and (25) are amended to read:

DE 5.02 (intro.) Unprofessional conduct by a dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary includes:

DE 5.02 (5) Practicing in a manner which substantially departs from the standard of care ordinarily exercised by a dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary which harms or could have harmed a patient.

DE 5.02 (9) Impersonating another dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary.

DE 5.02 (14m) Surrendering, while under investigation, a license, certificate, permit, or registration granted by another state to practice as a dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary.

DE 5.02 (18) Failing to maintain records and inventories as required by the United States department of justice drug enforcement administration, and under ch. 961, Stats., and s. ~~Phar 8-02~~ 8.05, Wis. Adm. Code.

DE 5.02 (20) Violating, or aiding or abetting the violation of any law substantially related to the practice of dentistry, ~~or dental hygiene,~~ or expanded function dental auxiliary.

DE 5.02 (24) Failing to hold a current certificate in cardiopulmonary resuscitation unless the licensee or certified individual has obtained a waiver from the board based on a medical evaluation documenting physical inability to comply. A waiver shall be issued by the board only if it is satisfied that another person with current certification in CPR is immediately available to the licensee when patients are present.

DE 5.02 (25) After a request by the board, failing to cooperate in a timely manner with the board's investigation of complaints filed against the applicant, certified individual, or licensee. There is a rebuttable presumption that a licensee, certified individual, or applicant who takes longer than 30 days to respond to a request of the board has not acted in a timely manner under this subsection.

SECTION 3 DE 5.02 (22m) is created to read:

DE 5.02 (22m) Aiding or abetting or permitting persons who are not certified in the practice of an expanded function dental auxiliary under s. 447.035, Stats.

SECTION 4 DE 13.045 and 13.05 (3) are created to read:

DE 13.045 Continuing education requirements for expanded function dental auxiliaries.

- (1) **COMPLETION OF CONTINUING EDUCATION CREDIT HOURS.** Except as provided in sub. (5), in each two-year period following certification, an expanded function dental auxiliary shall complete 12 credit hours of continuing education related to the clinical practice of expanded function dental auxiliaries or the practice of medicine. No more than 2 of the 12 credit hours may be satisfied by training related to basic life support or cardiopulmonary resuscitation. Not less than 2 of the 12 credit hours shall include training in infection control.
- (2) **CREDIT FOR TEACHING OR PREPARING A PROGRAM.** One hour of teaching or preparing a professional dental or medical program is equivalent to one credit hour of continuing education. A certified individual who teaches or prepares a professional dental or medical program may obtain credit for the program only once every two-year period.
- (3) **CREDIT FOR COLLEGE LEVEL COURSES.** One credit hour of a college level course is equivalent to 6 credit hours of continuing education. A certified individual may substitute credit hours of college level courses related to the practice of expanded function dental auxiliaries or the practice of medicine for the required continuing education credit hours.
- (4) **CREDIT FOR DISTANCE EDUCATION.** The credit hours required under sub. (1) may be satisfied by independent study, correspondence, or internet programs or courses.
- (5) **EXEMPTION FOR NEW CERTIFIED INDIVIDUALS.** Subsection (1) does not apply to an applicant who has had their certification for two years or less.
- (6) **CERTIFICATION STATEMENT.** Every two years, each certified individual shall sign a statement certifying that within the two years immediately preceding that time, they have completed the continuing education credit hours required under sub. (1).
- (7) **FAILURE TO COMPLETE CONTINUING EDUCATION HOURS.** A certified individual who fails to meet the continuing education requirements every two years may be subject to discipline for unprofessional conduct under DE 5.02 (16).
- (8) **TIME LIMITS ON OBTAINING CREDITS.** Credit hours completed outside of each two-year time period may not count towards the requirements in sub. (1).
- (9) **RECORDKEEPING.** Every certified individual shall maintain a written record of the continuing education hours required under sub. (1) for not less than 6 years after completion of each credit.

(10) WAIVER OF CONTINUING EDUCATION HOURS. The board may waive the continuing education requirements under sub. (1) if it finds that exceptional circumstances such as prolonged illness, disability, or other similar circumstances have prevented a certified individual from meeting the requirements.

DE 13.05 (3) EXPANDED FUNCTION DENTAL AUXILIARIES. The board accepts continuing education programs for dental hygienists that satisfy the following criteria:

- (a) The subject matter of the continuing education program relates to the clinical practice of an expanded function dental auxiliary or the practice of medicine.
- (b) The continuing education program is one of the following:
 1. Sponsored or recognized by a local, state, regional, national, or international dental, dental hygiene, dental assisting, or medical related professional organization.
 2. A study group as specified in s. DE 13.02 (4).

SECTION 5 Chapter DE 16 is created to read:

Chapter DE 16

CERTIFICATION OF EXPANDED FUNCTION DENTAL AUXILIARIES

DE 16.01 Authority. The rules in this chapter are adopted pursuant to authority in s.447.035 (3) (a), Stats.

DE 16.02 Definitions. In this chapter:

- (1) “Auxiliary” means an expanded function dental auxiliary certified under s. 447.04 (3), Stats.

DE 16.03 Certification. (1) Each applicant for an expanded function dental auxiliary certification shall complete the following:

- (a) Submit a completed application form as specified by the Department.
Note: Instructions for applications are available on the department of safety and professional services’ website at <http://dsps.wi.gov>.
- (b) Pay the fee as required by s. 440.05 (1), Stats.
- (c) Submit proof of completion of an accredited educational program specified under s. 447.035 (3) (b) 2., Stats.
- (d) Evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved by the Wisconsin department of health services.

(2) Pursuant to s. 447.05 (1) (b), once granted, a certification to practice as an expanded function dental auxiliary is permanent unless revoked and is not subject to periodic renewal.

DE 16.04 Education Requirements. In order to enroll in an educational program specified under s. 447.035 (3) (b) 2., Stats., each applicant shall complete one of the following:

- (1) Has completed at least 1,000 hours of practice as a dental assistant and holds a certified dental assistant credential from the Dental Assisting National Board, Inc. or a successor organization approved by the Board.
- (2) Has completed at least 2,000 hours of practice as a dental assistant, verified by a supervising licensed dentist.

DE 16.05 Supervised Practice. (1) An auxiliary certified under s. 447.04 (3), Stats. may perform any of the functions listed in s. 447.035 (2), Stats. under the supervision of a Wisconsin licensed dentist.

(2) The supervising licensed dentist who has delegated a procedure to an auxiliary certified under s. 447.04 (3), Stats. shall remain on site for the duration and verify that the procedure has been performed correctly.

SECTION 6 Pursuant to 2021 Wisconsin Act 254 section 17 (1), this emergency rule shall take effect upon publication in the official state newspaper and remain in effect for one year or until permanent rules are promulgated, whichever is sooner.

(END OF TEXT OF RULE)

Dated _____ Agency _____
Chairperson
Dentistry Examining Board

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

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

PROPOSED ORDER

An order of the Dentistry Examining Board to amend DE 1.01, 5.02 (intro.), (5), (9), (14m), (18), (20), (24), and (25); and create DE 5.02 (22m), 13.045, 13.05 (3), and chapter DE 16, relating to Certification of Expanded Function Dental Auxiliaries.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 447.04 (3), Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.035 (3) (a), 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 447.035 (3) (a), Stats. provides that “the examining board shall, subject to pars. (b) and (c), promulgate rules for the certification and practice of dental auxiliaries.”

Related statute or rule: 2021 Wisconsin Act 254

Plain language analysis: The objective of the proposed rule is to implement the statutory changes from 2021 Wisconsin Act 254.

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 the practice of Dentistry 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 Expanded Function Dental Assistants. These requirements include supervised practice, and performance of specific functions. In Illinois, Expanded Function Dental Assistants are allowed to perform digital scans for impressions, pulp vitality tests, placing and carving of amalgam restorations, placing and finishing of composite restorations, and coronal polishing, among other functions. The supervising dentist is required to remain onsite and is responsible for all functions performed by the dental assistant. Education and training for Expanded Function Dental Assistants must be completed through either an approved continuing education sponsor or a dental assistant training program approved by the Commission on Dental Accreditation of the American Dental Association. [225 Illinois Compiled Statutes ch. 25 s. 17.1].

Iowa: The Iowa Dentistry Board is responsible for the licensure and regulation of the practice of dentistry in Iowa. Listed in the Iowa Administrative Code are the requirements for dental practice, including practice for Expanded Function Dental Assistants and Hygienists. Iowa has two levels of expanded function procedures that Dental Hygienists and Assistants can operate under. Level 1 expanded functions for Dental Assistants include taking occlusal registrations, placement of gingival retraction material, fabrication and removal of provisional restorations, applying cavity lines and bonding systems, placement of orthodontic brackets, adjustment of nitrous oxide inhalation analgesia, and taking impressions. Level 2 expanded functions for Dental Assistants or Hygienists includes placing and shaping of amalgam and restorative materials, polishing of adhesive restorative materials, and placement of intracoronal temporary fillings, among other procedures. In order to qualify for Level 1, each Dental Assistant or Hygienist must have either an active dental assistant registration or dental hygiene license, be certified by the Dental Assistant National Board, or at least one year of clinical practice as a registered dental assistant. Each Dental Assistant or Hygienist must also complete an approved expanded function training program approved by the Iowa Board. [650 Iowa Administrative Code ch. 23].

Michigan: The Michigan Board of Dentistry is responsible for the licensure and regulation of the practice of dentistry in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for the practice dentistry in Michigan, among several other occupations. In Michigan, Dental Assistants may perform expanded functions under either direct or general supervision of a Dentist upon completion of a course in that area of practice that is offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Michigan Department of Licensing and Regulatory Affairs. Expanded functions that require direct supervision include placing and condensing amalgam restorations and taking final impressions for indirect restorations. Expanded functions that require general supervision include pulp vitality testing, placing matrices and wedges, applying cavity liners, placing non-epinephrine retraction cords, applying desensitizing agents and taking impressions for orthodontic appliances, among other functions. [Michigan Compiled Laws Act 368, Article 15, Part 166, Section 333.16611 (11) to (13)].

Minnesota: The Minnesota Board of Dentistry is responsible for the licensure and regulation of dentistry in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for licensed Dental Assistants. Minnesota requires more coursework or in-office training for any procedure delegated that indicates the need for more coursework. Procedures that Dental Assistants can perform under general supervision of a Dentist include working on orthodontic appliances, placing temporary fillings, taking radiographs and impressions. Procedures that Dental Assistants can perform under indirect supervision, or while the supervising Dentist remains on-site, include applying topical medications, placing devices for isolation purposes, performing mechanical polishing of crowns, placing periodontal dressings, and removing sutures, among other procedures. Procedures that Dental Assistants can perform under direct supervision include removing bond material from teeth with rotary instruments after removal of orthodontic appliances, etching enamel surfaces before bonding, fabrication and placement of temporary crowns and restorations, placing matrix systems and wedges, and administration of nitrous oxide inhalation analgesia, among other procedures. [Minnesota Administrative Rules s. 3100.8500]

Summary of factual data and analytical methodologies: The Board reviewed Wisconsin Administrative Code DE 1, 5, 6, and 13 to determine what changes need to be made due to 2021 Wisconsin Act 254. Additionally, the Board decided to create chapter DE 16 to outline practice requirements for Expanded Function Dental Auxiliaries.

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) 266-6795.

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 608-26-7139; 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 1.01 is amended to read:

DE 1.01 Authority. The provisions in chs. DE 1 to ~~42~~16 are adopted pursuant to authority in ss. 15.08 (5) and 227.11 (2) (a), Stats., and ch. 447, Stats.

SECTION 2 DE 5.02 (intro.), (5), (9), (14m), (18), (20), (24), and (25) are amended to read:

DE 5.02 (intro.) Unprofessional conduct by a dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary includes:

DE 5.02 (5) Practicing in a manner which substantially departs from the standard of care ordinarily exercised by a dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary which harms or could have harmed a patient.

DE 5.02 (9) Impersonating another dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary.

DE 5.02 (14m) Surrendering, while under investigation, a license, certificate, permit, or registration granted by another state to practice as a dentist, ~~or dental hygienist,~~ or expanded function dental auxiliary.

DE 5.02 (18) Failing to maintain records and inventories as required by the United States department of justice drug enforcement administration, and under ch. 961, Stats., and s. ~~Phar 8.02~~ 8.05, Wis. Adm. Code.

DE 5.02 (20) Violating, or aiding or abetting the violation of any law substantially related to the practice of dentistry, ~~or dental hygiene,~~ or expanded function dental auxiliary.

DE 5.02 (24) Failing to hold a current certificate in cardiopulmonary resuscitation unless the licensee or certified individual has obtained a waiver from the board based on a medical evaluation documenting physical inability to comply. A waiver shall be issued by the board only if it is satisfied that another person with current certification in CPR is immediately available to the licensee when patients are present.

DE 5.02 (25) After a request by the board, failing to cooperate in a timely manner with the board's investigation of complaints filed against the applicant, certified individual, or licensee. There is a rebuttable presumption that a licensee, certified individual, or applicant who takes longer than 30 days to respond to a request of the board has not acted in a timely manner under this subsection.

SECTION 3 DE 5.02 (22m) is created to read:

DE 5.02 (22m) Aiding or abetting or permitting persons who are not certified in the practice of an expanded function dental auxiliary under s. 447.035, Stats.

SECTION 4 DE 13.045 and 13.05 (3) are created to read:

DE 13.045 Continuing education requirements for expanded function dental auxiliaries.

- (1) COMPLETION OF CONTINUING EDUCATION CREDIT HOURS. Except as provided in sub. (5), in each two-year period following certification, an expanded function dental auxiliary shall complete 12 credit hours of continuing education related to the clinical practice of expanded function dental auxiliaries or the practice of medicine. No more than 2 of the 12 credit hours may be satisfied by training related to basic life support or cardiopulmonary resuscitation. Not less than 2 of the 12 credit hours shall include training in infection control.
- (2) CREDIT FOR TEACHING OR PREPARING A PROGRAM. One hour of teaching or preparing a professional dental or medical program is equivalent to one credit hour of continuing education. A certified individual who teaches or prepares a professional dental or medical program may obtain credit for the program only once every two-year period.
- (3) CREDIT FOR COLLEGE LEVEL COURSES. One credit hour of a college level course is equivalent to 6 credit hours of continuing education. A certified individual may substitute credit hours of college level courses related to the practice of expanded function dental auxiliaries or the practice of medicine for the required continuing education credit hours.
- (4) CREDIT FOR DISTANCE EDUCATION. The credit hours required under sub. (1) may be satisfied by independent study, correspondence, or internet programs or courses.
- (5) EXEMPTION FOR NEW CERTIFIED INDIVIDUALS. Subsection (1) does not apply to an applicant who has had their certification for two years or less.
- (6) CERTIFICATION STATEMENT. Every two years, each certified individual shall sign a statement certifying that within the two years immediately preceding that time, they have completed the continuing education credit hours required under sub. (1).
- (7) FAILURE TO COMPLETE CONTINUING EDUCATION HOURS. A certified individual who fails to meet the continuing education requirements every two years may be subject to discipline for unprofessional conduct under DE 5.02 (16).
- (8) TIME LIMITS ON OBTAINING CREDITS. Credit hours completed outside of each two-year time period may not count towards the requirements in sub. (1).
- (9) RECORDKEEPING. Every certified individual shall maintain a written record of the continuing education hours required under sub. (1) for not less than 6 years after completion of each credit.

- (10) **WAIVER OF CONTINUING EDUCATION HOURS.** The board may waive the continuing education requirements under sub. (1) if it finds that exceptional circumstances such as prolonged illness, disability, or other similar circumstances have prevented a certified individual from meeting the requirements.

DE 13.05 (3) EXPANDED FUNCTION DENTAL AUXILIARIES. The board accepts continuing education programs for dental hygienists that satisfy the following criteria:

- (a) The subject matter of the continuing education program relates to the clinical practice of an expanded function dental auxiliary or the practice of medicine.
- (b) The continuing education program is one of the following:
 - 1. Sponsored or recognized by a local, state, regional, national, or international dental, dental hygiene, dental assisting, or medical related professional organization.
 - 2. A study group as specified in s. DE 13.02 (4).

SECTION 5 Chapter DE 16 is created to read:

Chapter DE 16

CERTIFICATION OF EXPANDED FUNCTION DENTAL AUXILIARIES

DE 16.01 Authority. The rules in this chapter are adopted pursuant to authority in s.447.035 (3) (a), Stats.

DE 16.02 Definitions. In this chapter:

- (1) “Auxiliary” means an expanded function dental auxiliary certified under s. 447.04 (3), Stats.

DE 16.03 Certification. (1) Each applicant for an expanded function dental auxiliary certification shall complete the following:

- (a) Submit a completed application form as specified by the Department.
Note: Instructions for applications are available on the department of safety and professional services’ website at <http://dsps.wi.gov>.
- (b) Pay the fee as required by s. 440.05 (1), Stats.
- (c) Submit proof of completion of an accredited educational program specified under s. 447.035 (3) (b) 2., Stats.
- (d) Evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved by the Wisconsin department of health services.

(2) Pursuant to s. 447.05 (1) (b), once granted, a certification to practice as an expanded function dental auxiliary is permanent unless revoked and is not subject to periodic renewal.

DE 16.04 Education Requirements. In order to enroll in an educational program specified under s. 447.035 (3) (b) 2., Stats., each applicant shall complete one of the following:

- (1) Has completed at least 1,000 hours of practice as a dental assistant and holds a certified dental assistant credential from the Dental Assisting National Board, Inc. or a successor organization approved by the Board.
- (2) Has completed at least 2,000 hours of practice as a dental assistant, verified by a supervising licensed dentist.

DE 16.05 Supervised Practice. (1) An auxiliary certified under s. 447.04 (3), Stats. may perform any of the functions listed in s. 447.035 (2), Stats. under the supervision of a Wisconsin licensed dentist.

(2) The supervising licensed dentist who has delegated a procedure to an auxiliary certified under s. 447.04 (3), Stats. shall remain on site for the duration and verify that the procedure has been performed correctly.

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)

DENTISTRY EXAMINING BOARD
Chapter DE 1
AUTHORITY AND DEFINITIONS

DE 1.01 Authority.

DE 1.02 Definitions.

Note: Chapter DE 1 as it existed on February 28, 1982 was repealed and a new chapter DE 1 was created effective March 1, 1982.

DE 1.01 Authority. The provisions in chs. DE 1 to ~~4216~~ are adopted pursuant to authority in ss. 15.08 (5) and 227.11 (2) (a), Stats., and ch. 447, Stats.

DE 1.02 Definitions. As used in rules of the dentistry examining board:

(1) “Accredited” means accredited by the American dental association commission on dental accreditation or its successor agency.

(3) “Board” means the dentistry examining board.

(5) “Department” means the department of safety and professional services.

(7) “Practice of dental hygiene” means the application of skills to render educational, preventive and therapeutic services not in conflict with the practice of dentistry as defined in s. 447.01 (8), Stats.

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Chapter DE 5 STANDARDS OF CONDUCT

DE 5.01 Authority.

DE 5.02 Unprofessional conduct.

Note: Chapter DE 5 as it existed on February 28, 1982, was repealed and a new chapter DE 5 was created effective March 1, 1982.

DE 5.01 Authority. The rules in this chapter are adopted pursuant to ss. 15.08 (5), 227.11 and 447.07 (3), Stats.

DE 5.02 Unprofessional conduct. Unprofessional conduct by a dentist, ~~or~~ dental hygienist, or expanded function dental auxiliary includes:

- (1) Engaging in any practice which constitutes a substantial danger to the health, welfare or safety of a patient or the public.
- (2) Practicing or attempting to practice when unable to do so with reasonable skill and safety to patients.
- (3) Practicing or attempting to practice beyond the scope of any license or certificate.
- (4) Practicing or attempting to practice while the ability to perform services is impaired by physical, mental or emotional disorder, drugs or alcohol.
- (5) Practicing in a manner which substantially departs from the standard of care ordinarily exercised by a dentist, ~~or~~ dental hygienist, or expanded function dental auxiliary which harms or could have harmed a patient.
- (6) Administering, dispensing, prescribing, supplying or obtaining controlled substances as defined in s. 961.01 (4), Stats., other than in the course of legitimate practice, or as otherwise prohibited by law.
- (7) Intentionally falsifying patient records.
- (8) Obtaining or attempting to obtain any compensation by fraud.
- (9) Impersonating another dentist, ~~or~~ dental hygienist, or expanded function dental auxiliary.
- (10) Exercising undue influence on or taking unfair advantage of a patient.
- (11) Participating in rebate or fee-splitting arrangements with health care practitioners, unless the arrangements are disclosed to the patient.
- (13) Refusing to render services to a person because of race, gender, or religion.
- (14) Having a license, certificate, permit, or registration granted by another state to practice as a dentist or dental hygienist limited, suspended or revoked, or subject to any other disciplinary action.
- (14m) Surrendering, while under investigation, a license, certificate, permit, or registration granted by another state to practice as a dentist, ~~or~~ dental hygienist, or expanded function dental auxiliary.
- (15) Violating any law or being convicted of a crime the circumstances of which substantially relate to the practice of a dentist or dental hygienist.
- (16) Violating any provision of ch. 447, Stats., or any valid rule of the board.
- (17) Violating any provision of any order of the board.
- (18) Failing to maintain records and inventories as required by the United States department of justice drug enforcement administration, and under ch. 961, Stats., and s. ~~Phar-8.02~~ 8.05, Wis. Adm. Code.
- (20) Violating, or aiding or abetting the violation of any law substantially related to the practice of dentistry, ~~or~~ dental hygiene, or expanded function dental auxiliary.
- (21) Aiding or abetting or permitting unlicensed persons in the practice of dentistry, as defined in s. 447.01 (8), Stats.
- (22) Aiding or abetting or permitting unlicensed persons in the practice of dental hygiene, as defined in s. 447.01 (3), Stats.
- (22m) Aiding or abetting or permitting persons who are not certified in the practice of an expanded**

function dental auxiliary under s. 447.035, Stats.

(23) Obtaining, prescribing, dispensing, administering or supplying a controlled substance designated as a schedule II, III or IV stimulant in s. 961.16 (5), 961.18 (2m) or 961.20 (2m), Stats., unless the dentist has submitted, and the board has approved, a written protocol for use of a schedule II, III or IV stimulant for the purpose of clinical research, prior to the time the research is conducted.

(24) Failing to hold a current certificate in cardiopulmonary resuscitation unless the licensee or certified individual has obtained a waiver from the board based on a medical evaluation documenting physical inability to comply. A waiver shall be issued by the board only if it is satisfied that another person with current certification in CPR is immediately available to the licensee when patients are present.

(25) After a request by the board, failing to cooperate in a timely manner with the board's investigation of complaints filed against the applicant, certified individual, or licensee. There is a rebuttable presumption that a licensee, certified individual, or applicant who takes longer than 30 days to respond to a request of the board has not acted in a timely manner under this subsection.

(26) Practicing under an expired certificate of registration.

(27) Engaging in irregularities in billing a third party for services rendered to a patient.

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Chapter DE 6

UNPROFESSIONAL ADVERTISING

DE 6.01 Authority.

DE 6.02 Unprofessional advertising.

DE 6.01 Authority. The rules in this chapter are adopted pursuant to authority in s. 447.07 (3) (o), Stats.

DE 6.02 Unprofessional advertising. The following, without limitation because of enumeration, constitute unprofessional advertising:

(1) Publishing or communicating statements or claims in any media which are false, fraudulent or deceptive.

(2) Compensating or giving anything of value to media representatives in anticipation of or in return for professional publicity, unless the payment or receipt of an object of value is disclosed to the public.

(3) Refusing to honor payment in the amount of an advertised price for a service during the period of time stated in the advertisement. Including in an advertisement:

(a) A patient's identity or any identifiable fact, datum or information, without the patient's permission,

(b) A name of a dentist who has not been associated with the advertising dentist for the past year or longer,

(c) Notice of a 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 as a specialist in a non-American Dental Association-recognized specialty is prohibited.

Chapter DE 13

CONTINUING EDUCATION

DE 13.01 Authority.
DE 13.02 Definitions.
DE 13.03 Continuing education requirements for dentists.

DE 13.04 Continuing education requirements for dental hygienists.
DE 13.05 Criteria for acceptance of continuing education programs.

DE 13.01 Authority. The rules in this chapter are adopted by the dentistry examining board under the authority of ss. 227.11 (2), 447.02 (1) (f), 447.055 and 447.056, Stats.

DE 13.02 Definitions. In this chapter:

(1) “Accredited” means accredited by the American Dental Association Commission on Dental Accreditation or its successor agency.

(2) “Credit hour” means 60 minutes, of which at least 50 minutes are instruction attended by the student.

(3) “Professional organization” means an organization that seeks to further the dental, dental hygiene, or medical professions, the interests of licensees engaged in those professions, and the public interests. “Professional organization” includes a study group, as defined in sub. (4).

(4) “Study group” means a group of 2 or more dentists or dental hygienists who discuss continuing education topics relating to the practice of dentistry or medicine, or the clinical practice of dental hygiene, and that satisfies all of the following:

(a) Has been in existence as a group for at least one year.

(b) Meets face-to-face at least once each year to discuss issues.

(c) Has adopted by-laws governing the operation of the group.

DE 13.03 Continuing education requirements for dentists. (1) COMPLETION OF CONTINUING EDUCATION CREDIT HOURS. Except as provided under sub. (6), during the 2-year period immediately preceding the renewal date specified under s. 440.08 (2) (a), Stats., a dentist shall complete 30 credit hours of continuing education related to the practice of dentistry or the practice of medicine. The 30 credit hours of continuing education shall include not less than 25 credit hours of instruction in clinical dentistry or clinical medicine.

(1m) RESPONSIBLE 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.

(2) CREDIT FOR TEACHING OR PREPARING A PROGRAM. One hour of teaching or preparing a professional dental or medical program is equivalent to one credit hour of continuing education. A licensee who teaches or prepares a professional dental or medical program may obtain credit for the program only once during a biennium. Not more than 4 of the 30 hours may be from teaching.

(3) CREDIT FOR COLLEGE LEVEL COURSES. One credit hour of a college level course is equivalent to 6 credit hours of continuing education. A licensee may substitute credit hours of college level courses related to the practice of dentistry or medicine for the required continuing education credit hours.

(4) CREDIT FOR DISTANCE EDUCATION. The credit hours required under sub. (1) may be satisfied by independent study, correspondence, or internet programs or courses.

(5) CREDIT FOR ACCREDITED RESIDENCY TRAINING PROGRAM. Active enrollment in an accredited post-doctoral dental residency training program for at least 12 months of the current licensure cycle will be accepted as meeting the required 30 credit hours of continuing education.

(6) EXEMPTION FOR NEW LICENSEES. Subsection (1) does not apply to an applicant for renewal of a license that expires on the first renewal date after the date on which the applicant is licensed.

(7) CERTIFICATION STATEMENT. At the time of each renewal, each licensee shall sign a statement certifying that, within the 2 years immediately preceding the renewal date specified under s. 440.08 (2) (a), Stats., he or she has completed the continuing education credit hours required under sub. (1).

- (8) **FAILURE TO COMPLETE CONTINUING EDUCATION HOURS.** A licensee who fails to complete the continuing education requirements by the renewal date specified under s. 440.08 (2) (a), Stats., shall not practice dentistry until his or her license is restored under s. DE 2.03 (5).
- (9) **TIME LIMITS ON OBTAINING CREDITS.** Credit hours completed before the 2-year period immediately preceding renewal of a license to practice dentistry may not be applied to fulfill the credit hours required under sub. (1).
- (10) **RECORDKEEPING.** Every licensee shall maintain a written record of the continuing education hours required under sub. (1) for not less than 6 years after completion of each credit.
- (11) **WAIVER OF CONTINUING EDUCATION HOURS.** The board may waive the continuing education requirements under sub. (1) if it finds that exceptional circumstances such as prolonged illness, disability, or other similar circumstances have prevented a licensee from meeting the requirements.

DE 13.04 Continuing education requirements for dental hygienists. (1) **COMPLETION OF CONTINUING EDUCATION CREDIT HOURS.** Except as provided in sub. (5), during the 2-year period immediately preceding the renewal date, a dental hygienist shall complete 12 credit hours of continuing education related to the clinical practice of dental hygiene or the practice of medicine. No more than 2 of the 12 credit hours may be satisfied by training related to basic life support or cardiopulmonary resuscitation. Not less than 2 of the 12 credit hours shall include training in infection control.

- (2) **CREDIT FOR TEACHING OR PREPARING A PROGRAM.** One hour of teaching or preparing a professional dental or medical program is equivalent to one credit hour of continuing education. A licensee who teaches or prepares a professional dental or medical program may obtain credit for the program only once during a biennium.
- (3) **CREDIT FOR COLLEGE LEVEL COURSES.** One credit hour of a college level course is equivalent to 6 credit hours of continuing education. A licensee may substitute credit hours of college level courses related to the practice of dental hygiene or the practice of medicine for the required continuing education credit hours.
- (4) **CREDIT FOR DISTANCE EDUCATION.** The credit hours required under sub. (1) may be satisfied by independent study, correspondence, or internet programs or courses.
- (5) **EXEMPTION FOR NEW LICENSEES.** Subsection (1) does not apply to an applicant for renewal of a license that expires on the first renewal date after the date on which the applicant is licensed.
- (6) **CERTIFICATION STATEMENT.** At the time of each renewal, each licensee shall sign a statement certifying that within the 2 years immediately preceding the renewal date specified under s. 440.08 (2) (a), Stats., he or she has completed the continuing education credit hours required under sub. (1).
- (7) **FAILURE TO COMPLETE CONTINUING EDUCATION HOURS.** A licensee who fails to meet the continuing education requirements by the renewal date specified under s. 440.08 (2) (a), Stats., shall not practice dental hygiene until his or her license is restored under s. DE 2.03 (5).
- (8) **TIME LIMITS ON OBTAINING CREDITS.** Credit hours completed before the 2-year period immediately preceding renewal of a license to practice dental hygiene may not be applied to fulfill the credit hours required under sub. (1).
- (9) **RECORDKEEPING.** Every licensee shall maintain a written record of the continuing education hours required under sub. (1) for not less than 6 years after completion of each credit.
- (10) **WAIVER OF CONTINUING EDUCATION HOURS.** The board may waive the continuing education requirements under sub. (1) if it finds that exceptional circumstances such as prolonged illness, disability, or other similar circumstances have prevented a licensee from meeting the requirements.

DE 13.045 Continuing education requirements for expanded function dental auxiliaries.

- (1) **COMPLETION OF CONTINUING EDUCATION CREDIT HOURS.** Except as provided in sub. (5), in each two-year period following certification, an expanded function dental auxiliary shall complete 12 credit hours of continuing education related to the clinical practice of expanded function dental auxiliaries or the practice of medicine. No more than 2 of the 12 credit hours may be satisfied by training related to basic life support or cardiopulmonary resuscitation. Not less than 2 of the 12 credit hours shall include training in infection control.

- (2) CREDIT FOR TEACHING OR PREPARING A PROGRAM. One hour of teaching or preparing a professional dental or medical program is equivalent to one credit hour of continuing education. A certified individual who teaches or prepares a professional dental or medical program may obtain credit for the program only once every two-year period.
- (3) CREDIT FOR COLLEGE LEVEL COURSES. One credit hour of a college level course is equivalent to 6 credit hours of continuing education. A certified individual may substitute credit hours of college level courses related to the practice of expanded function dental auxiliaries or the practice of medicine for the required continuing education credit hours.
- (4) CREDIT FOR DISTANCE EDUCATION. The credit hours required under sub. (1) may be satisfied by independent study, correspondence, or internet programs or courses.
- (5) EXEMPTION FOR NEW CERTIFIED INDIVIDUALS. Subsection (1) does not apply to an applicant who has had their certification for two years or less.
- (6) CERTIFICATION STATEMENT. Every two years, each certified individual shall sign a statement certifying that within the two years immediately preceding that time, they have completed the continuing education credit hours required under sub. (1).
- (7) FAILURE TO COMPLETE CONTINUING EDUCATION HOURS. A certified individual who fails to meet the continuing education requirements every two years may be subject to discipline for unprofessional conduct under DE 5.02 (16).
- (8) TIME LIMITS ON OBTAINING CREDITS. Credit hours completed outside of each two-year time period may not count towards the requirements in sub. (1).
- (9) RECORDKEEPING. Every certified individual shall maintain a written record of the continuing education hours required under sub. (1) for not less than 6 years after completion of each credit.
- (10) WAIVER OF CONTINUING EDUCATION HOURS. The board may waive the continuing education requirements under sub. (1) if it finds that exceptional circumstances such as prolonged illness, disability, or other similar circumstances have prevented a certified individual from meeting the requirements.

DE 13.05 Criteria for acceptance of continuing education programs. (1) DENTISTS. The board accepts continuing education programs for dentists that satisfy the following criteria:

- (a) The subject matter of the continuing education program relates to the practice of dentistry or the practice of medicine.
- (b) The continuing education program is one of the following:
 1. Sponsored or recognized by a local, state, regional, national, or international dental or medical professional organization.
 2. A college level course that is offered by a postsecondary institution accredited by the American Dental Association Commission on Dental Accreditation or a successor agency, or by another recognized accrediting body.
 3. A study group as specified in s. [DE 13.02 \(4\)](#).

(2) DENTAL HYGIENISTS. The board accepts continuing education programs for dental hygienists that satisfy the following criteria:

- (a) The subject matter of the continuing education program relates to the clinical practice of dental hygiene or the practice of medicine.
- (b) The continuing education program is one of the following:
 1. Sponsored or recognized by a local, state, regional, national, or international dental, dental hygiene, dental assisting, or medical related professional organization.
 2. A study group as specified in s. [DE 13.02 \(4\)](#).

(3) EXPANDED FUNCTION DENTAL AUXILIARIES. The board accepts continuing education programs for dental hygienists that satisfy the following criteria:

- (a) The subject matter of the continuing education program relates to the clinical practice of an expanded function dental auxiliary or the practice of medicine.

(b) The continuing education program is one of the following:

1. Sponsored or recognized by a local, state, regional, national, or international dental, dental hygiene, dental assisting, or medical related professional organization.
2. A study group as specified in s. DE 13.02 (4).

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Chapter DE 16

CERTIFICATION OF EXPANDED FUNCTION DENTAL AUXILIARIES

DE 16.01 Authority. The rules in this chapter are adopted pursuant to authority in s.447.035 (3) (a), Stats.

DE 16.02 Definitions. In this chapter:

(1) “Auxiliary” means an expanded function dental auxiliary certified under s. 447.04 (3), Stats.

DE 16.03 Certification. (1) Each applicant for an expanded function dental auxiliary certification shall complete the following:

(a) Submit a completed application form as specified by the Department.

Note: Instructions for applications are available on the department of safety and professional services’ website at <http://dsps.wi.gov>.

(b) Pay the fee as required by s. 440.05 (1), Stats.

(c) Submit proof of completion of an accredited educational program specified under s. 447.035 (3) (b) 2., Stats.

(d) Evidence satisfactory to the board the applicant has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved by the Wisconsin department of health services.

(2) Pursuant to s. 447.05 (1) (b), once granted, a certification to practice as an expanded function dental auxiliary is permanent unless revoked and is not subject to periodic renewal.

DE 16.04 Education Requirements. In order to enroll in an educational program specified under s. 447.035 (3) (b) 2., Stats., each applicant shall complete one of the following:

(1) Has completed at least 1,000 hours of practice as a dental assistant and holds a certified dental assistant credential from the Dental Assisting National Board, Inc. or a successor organization approved by the Board.

(2) Has completed at least 2,000 hours of practice as a dental assistant, verified by a supervising licensed dentist.

DE 16.05 Supervised Practice. (1) An auxiliary certified under s. 447.04 (3), Stats. may perform any of the functions listed in s. 447.035 (2), Stats. under the supervision of a Wisconsin licensed dentist.

(2) The supervising licensed dentist who has delegated a procedure to an auxiliary certified under s. 447.04 (3), Stats. shall remain on site for the duration and verify that the procedure has been performed correctly.

State of Wisconsin



2021 Senate Bill 392

Date of enactment: April 15, 2022
Date of publication*: April 16, 2022

2021 WISCONSIN ACT 254

AN ACT to renumber and amend 447.05; to amend 440.08 (2) (a) (intro.), 447.04 (title), 447.07 (3) (intro.), 447.07 (3) (e), 447.07 (3) (f), 447.07 (3) (g), 447.07 (3) (h), 448.03 (2) (a), 448.21 (1) (a), 450.03 (1) (e) and 462.02 (2) (d); and to create 440.03 (13) (b) 28m., 447.035, 447.04 (3) and 447.05 (1) (b) of the statutes; relating to: certification of expanded function dental auxiliaries, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 440.03 (13) (b) 28m. of the statutes is created to read:

440.03 (13) (b) 28m. Expanded function dental auxiliary.

SECTION 2. 440.08 (2) (a) (intro.) of the statutes, as affected by 2021 Wisconsin Act 22, is amended to read:

440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04, 444.03, 444.11, 447.04 (2) (c) 2., 447.05 (1) (b), 449.17 (1m) (d), 449.18 (2) (e), 455.06 (1) (b), 463.10, 463.12, and 463.25 and subch. II of ch. 448, the renewal dates for credentials are as follows:

SECTION 3. 447.035 of the statutes is created to read:

447.035 Certification; expanded function dental auxiliaries. (1) In this section, "auxiliary" means an expanded function dental auxiliary.

(2) Notwithstanding s. 447.03 (1) and (2), a certification to practice as an auxiliary granted under s. 447.04 (3) shall permit the holder to perform all of the following as delegated and supervised by a dentist:

(a) Placement and finishing of restoration material after the dentist prepares a tooth for restoration.

(b) Application of sealants.

- (c) Coronal polishing.
 - (d) Impressions.
 - (e) Temporizations.
 - (f) Packing cord.
 - (g) Removal of cement from crowns.
 - (h) Adjustment of dentures and other removable oral appliances.
 - (i) Removal of sutures and dressings.
 - (k) Application of topical fluoride, fluoride varnish, or similar dental topical agent.
- (3) (a) The examining board shall, subject to pars. (b) and (c), promulgate rules for the certification and practice of auxiliaries.
- (b) The rules promulgated under par. (a) shall do all of the following:
1. Require an applicant to the accredited instructional program described in subd. 2. to demonstrate in his or her application that the individual satisfies one of the following criteria in order to be permitted to enroll in the instructional program:
 - a. Has completed at least 1,000 hours practicing as a dental assistant and holds the certified dental assistant credential issued by the Dental Assisting National Board, Inc., or its successor.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

b. Has completed at least 2,000 hours practicing as a dental assistant, as verified by the supervising licensed dentist.

2. Require an applicant for certification under s. 447.04 (3) to demonstrate to the satisfaction of the examining board that the applicant has successfully completed an accredited instructional program that provides training in practice as an auxiliary and requires no fewer than 70 hours of classroom instruction.

3. Require a dentist who delegates a procedure to an auxiliary certified under s. 447.04 (3) to remain on the premises where the auxiliary is performing the procedure until the procedure is complete and the dentist has verified that the procedure has been performed successfully.

4. Require each auxiliary to maintain current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

(c) The rules promulgated under par. (a) may not permit an auxiliary to perform any of the following:

1. Cutting of hard or soft tissue.
2. Diagnosis.
3. Treatment planning.

SECTION 4. 447.04 (title) of the statutes is amended to read:

447.04 (title) Licensure; certification.

SECTION 5. 447.04 (3) of the statutes is created to read:

447.04 (3) EXPANDED FUNCTION DENTAL AUXILIARIES. The examining board shall grant a certification to practice as an expanded function dental auxiliary to an individual who does all of the following:

- (a) Pays the fee specified in s. 440.05 (1).
- (b) Submits evidence satisfactory to the examining board that he or she has completed the accredited instructional program required under s. 447.035 (3) (b) 2.

(c) Submits evidence satisfactory to the examining board that he or she has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

SECTION 6. 447.05 of the statutes is renumbered 447.05 (1) (a) and amended to read:

447.05 (1) (a) ~~Renewal Except as provided in par. (b), renewal applications shall be submitted to the department on a form provided by the department on or before the applicable renewal date specified under s. 440.08 (2) (a) and shall include the applicable renewal fee determined by the department under s. 440.03 (9) (a).~~

(2) The examining board may not renew a license to practice dentistry unless the applicant for renewal attests that he or she has complied with s. 447.056, that he or she

has current proficiency in cardiopulmonary resuscitation, ~~including and that he or she has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.~~

(3) The examining board may not renew a license to practice dental hygiene unless the applicant for renewal attests that he or she has complied with s. 447.055 and any rules promulgated by the examining board under s. 447.055, that he or she has a current certification in cardiopulmonary resuscitation, and that he or she has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

SECTION 7. 447.05 (1) (b) of the statutes is created to read:

447.05 (1) (b) A certification to practice as an expanded function dental auxiliary granted under s. 447.04 (3) is permanent unless revoked and not subject to periodic renewal.

SECTION 8. 447.07 (3) (intro.) of the statutes is amended to read:

447.07 (3) (intro.) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings in regard to any alleged action of any dentist ~~or 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 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 ~~or dental hygienist, or expanded function dental auxiliary~~ who is licensed or certified under this chapter, or any mobile dentistry program registrant, or deny, limit, suspend, or revoke his or her license or certificate, or the registration of the mobile dentistry program registrant, if it finds that the dentist, dental hygienist, expanded function dental auxiliary, or mobile dentistry program registrant has done any of the following:

SECTION 9. 447.07 (3) (e) of the statutes is amended to read:

447.07 (3) (e) Subject to ss. 111.321, 111.322, and 111.335, been convicted of a crime, the circumstances of which substantially relate to the practice of dentistry or dental hygiene, ~~the practice of an expanded function dental auxiliary~~, or the operation of a mobile dentistry program.

SECTION 10. 447.07 (3) (f) of the statutes is amended to read:

447.07 (3) (f) Violated this chapter or any federal or state statute or rule that relates to the practice of dentistry

or, dental hygiene, or an expanded function dental auxiliary, or the operation of a mobile dentistry program.

SECTION 11. 447.07 (3) (g) of the statutes is amended to read:

447.07 (3) (g) Subject to ss. 111.321, 111.322 and 111.34, practiced dentistry or dental hygiene or as an expanded function dental auxiliary while his or her ability was impaired by alcohol or other drugs.

SECTION 12. 447.07 (3) (h) of the statutes is amended to read:

447.07 (3) (h) Engaged in conduct that indicates a lack of knowledge of, an inability to apply or the negligent application of, principles or skills of dentistry or dental hygiene or the practice of an expanded function dental auxiliary.

SECTION 13. 448.03 (2) (a) of the statutes, as affected by 2021 Wisconsin Acts 23 and 130, is amended to read:

448.03 (2) (a) Any person lawfully practicing within the scope of a license, permit, registration, certificate, or certification granted to practice midwifery under subch. XIII of ch. 440, to practice professional or practical nursing or nurse–midwifery under ch. 441, to practice chiropractic under ch. 446, to practice dentistry or dental hygiene or as an expanded function dental auxiliary under ch. 447, to practice optometry under ch. 449, to practice as a physician assistant under subch. VIII, to practice acupuncture under ch. 451 or under any other statutory provision, to practice naturopathic medicine under ch. 466, or as otherwise provided by statute.

SECTION 14. 448.21 (1) (a) of the statutes is amended to read:

448.21 (1) (a) The practice of dentistry or dental hygiene within the meaning of ch. 447 or the practice of an expanded function dental auxiliary under s. 447.035.

SECTION 15. 450.03 (1) (e) of the statutes, as affected by 2021 Wisconsin Act 130, is amended to read:

450.03 (1) (e) Any person lawfully practicing within the scope of a license, permit, registration, certificate, or certification granted to provide home medical oxygen under s. 450.076, to practice professional or practical nursing or nurse–midwifery under ch. 441, to practice dentistry or dental hygiene or as an expanded function dental auxiliary under ch. 447, to practice medicine and surgery under ch. 448, to practice optometry under ch. 449, to practice naturopathic medicine under ch. 466, or to practice veterinary medicine under ch. 89, or as otherwise provided by statute.

SECTION 16. 462.02 (2) (d) of the statutes is amended to read:

462.02 (2) (d) A dentist licensed under s. 447.04 (1), a dental hygienist licensed under s. 447.04 (2), a person certified as an expanded function dental auxiliary under s. 447.04 (3), or a person under the direct supervision of a dentist.

SECTION 17. Nonstatutory provisions.

(1) EMERGENCY RULES. Using the procedure under s. 227.24, the dentistry examining board shall promulgate the rules for the certification and practice of expanded function dental auxiliaries required under s. 447.035 (3). Notwithstanding s. 227.24 (1) (a) and (3), the dentistry examining board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2), an emergency rule promulgated under this subsection remains in effect for one year after its promulgation, or until permanent rules take effect, whichever is sooner, and the effective period may not be further extended under s. 227.24 (2).

**Dentistry Examining Board
Rule Projects (updated 10/21/22)**

Clearinghouse Rule Number	Scope #	Scope Implementation	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
Not Assigned Yet	065-22	08/15/2022	02/01/2025	DE 1, 5, 6, 13, and 16	Certification of Expanded Function Dental Auxiliaries	Board Review and Approval of Emergency and Preliminary Rule Drafts	Emergency Rule Submission for Fiscal Estimate and Governor's Approval; Preliminary Rule Posted for EIA Comment and Fiscal Estimate
Not Assigned Yet	Not Assigned Yet	Determined After Publication	Determined After Publication	DE 2 and 11	Certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support	Submitted to the Governor's Office for Approval on 10/10/22	Submission for Publication in Administrative Register
21-086	036-21	04/21/2021	10/05/2023	DE 11	Permits to Administer Anesthesia	Legislative Review After 01/03/2023	Adoption Order Anticipated for Board Review at a Future Meeting
22-055	109-21	01/14/22	06/13/2024	DE 11	Definitions	Submitted to the Governor's Office for Approval on 10/21/22	Legislative Review After 01/03/2023
Not Assigned Yet	023-22	04/13/2022	09/28/2024	DE 11	Pre-Certification Sedation Education	Emergency Rule Ready for Publication in Wisconsin State Journal; Preliminary (Permanent) Rule in EIA Comment Period and Fiscal Estimate	Emergency Rule Effective Upon Publication; Preliminary Rule Submission for Clearinghouse Review
Not Assigned Yet	031-22	06/03/2022	10/11/2024	DE 13	Controlled Substances Prescribing Continuing Education Requirements	EIA Comment Period and Fiscal Estimate	Submission for Clearinghouse Review