



**VIRTUAL/TELECONFERENCE
DENTISTRY EXAMINING BOARD**
Virtual, 4822 Madison Yards Way, Madison
Contact: Will Johnson, (608) 266-2112
January 3, 2024

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 November 1, 2023 (5-7)

D. Introductions, Announcements and Recognition

- 1) Introduction: David F. Gundersen, Dentist Member (Succeeds: Herbert Kaske)
- 2) Recognition: Herbert Kaske, Dentist Member

E. Reminders: Conflicts of Interest, Scheduling Concerns

F. Administrative Matters

- 1) Department, Staff and Board Updates
- 2) 2024 Meeting Dates **(8)**
- 3) Annual Policy Review **(9-11)**
- 4) Election of Officers, Appointments of Liaisons and Alternates, Delegation of Authorities
- 5) 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. Gundersen, David – 7/1/2026
 - 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. 9:00 A.M. Public Hearing – Clearinghouse Rule 23-066 on DE 3 and 7, Relating to Topical Application of Anesthetics by a Dental Hygienist (12-21)**
 - 1) Review Public Hearing Comments and Respond to Clearinghouse Report
- H. Legislative and Policy Matters – Discussion and Consideration (22-109)**
 - 1) SB 689 (23-53)
 - 2) SB 692 (54-105)
 - 3) SB 706 (106-109)
- I. Administrative Rule Matters – Discussion and Consideration (110-132)**
 - 1) Consideration of a scope statement to revise DE 2 (110)
 - 2) Final Rule Draft: DE 1, 5, 6, 13, and 16 Relating to Certification of Expanded Function Dental Auxiliaries (111-131)
 - 3) Pending or Possible Rulemaking Projects (132)
- J. Expanding Licensure Opportunities – Discussion and Consideration**
- K. 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) Public Health Emergencies
 - 11) Administrative Rule Matters
 - 12) Liaison Reports
 - 13) Board Liaison Training and Appointment of Mentors
 - 14) Informational Items
 - 15) Division of Legal Services and Compliance (DLSC) Matters
 - 16) Presentations of Petitions for Summary Suspension
 - 17) Petitions for Designation of Hearing Examiner
 - 18) Presentation of Stipulations, Final Decisions and Orders
 - 19) Presentation of Proposed Final Decisions and Orders
 - 20) Presentation of Interim Orders
 - 21) Petitions for Re-Hearing
 - 22) Petitions for Assessments
 - 23) Petitions to Vacate Orders
 - 24) Requests for Disciplinary Proceeding Presentations
 - 25) Motions
 - 26) Petitions
 - 27) Appearances from Requests Received or Renewed
 - 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports
- L. 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.).

M. Credentialing Matters

1) Application Review

- a. Nicole Mathew – Expanded Function Dental Auxiliary (133-140)

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

1) Proposed Stipulations, Final Decisions and Orders

- a. 21 DEN 121 – Bruce M. Trimble (141-148)
b. 22 DEN 034 – Supriya K. Shetty (149-155)
c. 23 DEN 074 – Fred E. Zietz (156-162)

2) Administrative Warnings

- a. 22 DEN 022 – J.J.R., D.D.S. (163-164)
b. 22 DEN 034 – J.M.L. (165-166)
c. 23 DEN 051 – J.L.M., D.M.D (167-168)
d. 23 DEN 074 – A.A.B. (169-170)

3) Case Closings

- a. 22 DEN 004 – C.E.C. & R.E. (171-178)
b. 22 DEN 039 – C.E.C. (179-185)
c. 23 DEN 074 – K.A.L. (186-192)

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: MARCH 6, 2024

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, or reach the Meeting Staff by calling 608-267-7213.

**VIRTUAL/TELECONFERENCE
DENTISTRY EXAMINING BOARD
MEETING MINUTES
NOVEMBER 1, 2023**

PRESENT: Troy Alton, DDS; Lisa Bahr, RDH; Matthew Bistan, DDS; Joan Fox; Shaheda Govani, DDS; Herbert Kaske, DDS; Christine Kenyon, DDS; Debra Kolste; Katherine Schrubbe, RDH; Diana Whalen, RDH (*arrived at 9:10*).

EXCUSED: Peter Sheild, DDS

STAFF: Will Johnson, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Brenda Taylor, Board Services Supervisor; and other Department staff

CALL TO ORDER

Matthew Bistan, Chairperson, called the meeting to order at 9:02 a.m. A quorum was confirmed with nine (9) members present.

ADOPTION OF AGENDA

Amendments to the Agenda:

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, to adopt the Agenda as published/. Motion carried unanimously.

APPROVAL OF MINUTES OF SEPTEMBER 6, 2023

MOTION: Joan Fox moved, seconded by Troy Alton, to approve the Minutes of September 6, 2023, as published/ Motion carried unanimously.

Diana Whalen, RDH arrived at 9:10

**9:00 A.M. PUBLIC HEARING – CLEARINGHOUSE RULE 23-051 ON DE 1, 5, 6, 13,
AND 16, RELATING TO CERTIFICATION OF EXPANDED FUNCTION DENTAL
AUXILIARIES**

Review Public Hearing Comments and Respond to Clearinghouse Report

MOTION: Matthew Bistan moved, seconded by Troy Alton, to reject Clearinghouse comment number(s) 2.a., 2.c., and to accept all remaining Clearinghouse comments for Clearinghouse Rule 23-051 (DE 1, 5, 6, 13 and 16), relating to Certification of Expanded Function Dental Auxiliaries. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Preliminary Rule Draft: DE 3 and 7, Relating to Topical Application of Anesthetics by a Dental Hygienist

MOTION: Lisa Bahr moved, seconded by Diana Whalen, to approve the preliminary rule draft of DE 3 and 7, relating to Topical Application of Anesthetics by a Dental Hygienist for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Debra Kolste excused at 10:00 am

CLOSED SESSION

MOTION: Bahr moved, seconded by Kaske, 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; Joan Fox-yes; Shaheda Govani-yes; Herbert Kaske-yes; Christine Kenyon-yes; Katherine Schrubbe-yes; and Diana Whalen-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:12 a.m.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Proposed Stipulations, Final Decisions and Orders

MOTION: Matthew Bistan moved, seconded by Katherine Schrubbe, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of the following cases:

21 DEN 106 – J. Charles Mesec, D.D.S.
22 DEN 047 – Brian J. Blocher, D.D.S.
22 DEN 157 – Andrew S. Onela, D.D.S.
22 DEN 158 – Jolanta M. Pajek, D.D.S.
22 DEN 171 – Edward W. Hoffmann, D.D.S.
Motion carried unanimously.

Case Closings

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

23 DEN 042 – J.P.W. – No Violation
23 DEN 082 – R.E.A. – No Violation
Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Matthew Bistan moved, seconded by Joan Fox, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 10:17 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Matthew Bistan moved, seconded by Shaheda Govani, 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: Matthew Bistan, seconded by Joan Fox, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:17 a.m.

DRAFT

DENTISTRY EXAMINING BOARD
2024 Meeting dates

Meeting Date		<i>Start time</i>	Agenda item deadline
Wednesday, January 3, 2024	Virtual	9:00	12/15/2023
Wednesday, March 6, 2024	Virtual	9:00	2/23/2024
Wednesday, May 1, 2024	In person	9:00	4/19/2024
Wednesday, July 10, 2024	In person	9:00	6/27/2024
Wednesday, September 4, 2024	Virtual	9:00	8/22/2024
Wednesday, November 6, 2024	Virtual	9:00	10/25/2024

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Brenda Taylor, Board Services Supervisor		2) Date when request submitted: 12/14/2023	
3) Name of Board, Committee, Council, Sections: All Boards			
4) Meeting Date: First Meeting of 2024	5) Attachments: <input checked="" type="checkbox"/> Yes	6) How should the item be titled on the agenda page? Annual Policy Review	
7) Place Item in: <input checked="" type="checkbox"/> Open Session	8) Is an appearance before the Board being scheduled? <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed:			
<p>Please be advised of the following Policy Items:</p> <ol style="list-style-type: none"> 1. In-Person Meeting Policy: Depending on the frequency of Board meetings, a Board may be allowed a certain number of in-person meetings. <ul style="list-style-type: none"> • 4-5 Meetings per year = 1 in-person opportunity • 6-8 Meetings per year = 2 in-person opportunities • 12 Meetings per year = 4 in-person opportunities 2. Attendance/Quorum: Thank you for your service and commitment to meeting attendance. If you cannot attend a meeting or have scheduling conflicts impacting your attendance, please let us know as soon as possible. Timely notification is appreciated as a quorum is required for Boards, Sections, and Councils to meet pursuant to Open Meetings Law. 3. Walking Quorum: Board/Section/Council members must not collectively discuss the body's business outside a properly noticed meeting. Should several members of a body do so, the members could be violating the open meetings law. 4. Mandatory Training: All Board Members must complete Public Records and Ethics Training, annually. 5. Agenda Deadlines: Please communicate agenda topics to your Executive Director before the agenda submission deadline at 12:00 pm, 8 business days prior to a meeting. (Attachment: Timeline of a Meeting) 6. Per Diem and Reimbursement Claims: Please submit all Per Diem and Reimbursement claims to DSPPS within 30 days of the close of each month in which expenses are incurred. (Attachment: Per Diem Example) 7. Lodging Accommodations/Hotel Cancellation Policy: Lodging accommodations are available to eligible members. Standard eligibility: the member must leave home before 6:00 am to attend a meeting by the scheduled start time. <ol style="list-style-type: none"> a. If a member cannot attend a meeting it is their responsibility to cancel their reservation within the applicable cancellation timeframe. b. If a meeting is changed to occur remotely, is canceled, or rescheduled, DSPPS staff will cancel or modify reservations as appropriate. 8. Inclement Weather Policy: In the event of inclement weather, the DSPPS may change a meeting from an in-person venue to hosted as virtual/teleconference only. 			
11)		Authorization	
<i>Brenda Taylor</i>		<i>12/14/2023</i>	
<p>Directions for including supporting documents:</p> <ol style="list-style-type: none"> 1. This form should be saved with any other documents submitted to the Agenda Items folders. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director 			

Timeline of a Meeting

8 business days prior to the meeting: All agenda materials are due to the Department by 12:00 pm, 8 business days prior to the meeting date.

7 business days prior to the meeting: The draft agenda page is due to the Executive Director. The Executive Director transmits to the Chair for review and approval.

5 business days prior to the meeting: The approved agenda is returned to the Board Administration Specialist for agenda packet production and compilation.

4 business days prior to the meeting: Agenda packets are posted on the DSPS Board SharePoint site and on the Department website.

Agenda Item Examples:

- Approval of the Agenda and previous meeting Minutes
- Open Session Items
 - Public Hearings (relating to Administrative Rules)
 - Administrative Matters
 - Legislation and Policy Matters
 - Administrative Rules Matters
 - Credentialing Matters
 - Education and Exam Issues
 - Public Agenda Requests
 - Current Issues Affecting the Profession
 - Public Comments
- Closed Session items
 - Deliberations on Proposed Disciplinary Actions
 - Stipulations
 - Administrative Warnings
 - Case Closings
 - Monitoring Matters
 - Professional Assistance Procedure (PAP) Issues
 - Proposed Final Decisions and Orders
 - Orders Fixing Costs/Matters Relating to Costs
 - Credentialing Matters
 - Education and Exam Issues

Thursday of the Week Prior to the Meeting: Agendas are published for public notice on the Public Notices and Meeting Minutes website: publicmeetings.wi.gov.

1 business day after the Meeting: "Action" lists are distributed by staff detailing board actions on closed session business.

5 business days after the Meeting: "To Do" lists are distributed to staff to ensure that board decisions are acted on and/or implemented within the appropriate divisions in the Department. Minutes approved by the board are published on the the Public Notices and Meeting Minutes website: publicmeetings.wi.gov.

Department of Safety and Professional Services

PER DIEM REPORT

INSTRUCTIONS: Claimant records board-related activities by entering the date of an activity, the duration of time spent in that activity, the relevant purpose code (see purpose code descriptions below), where the activity is conducted, and the type of activity performed. Only one (1) \$25.00 per diem payment can be issued on any given calendar day.

Purpose Codes:

- A. Official meetings including video/teleconference calls** (automatic day of per diem): i.e., board, committee, board training or screening panels; **Hearings**, i.e., Senate Confirmation, legislative, disciplinary or informal settlement conferences; **Examinations and Test Development Sessions**, i.e., test administration, test review or analysis events, national testing events, tour of test facilities, etc.)
- B. Other** (One (1) per diem will be issued for every five (5) hours spent in category B, per calendar month): i.e., review of disciplinary cases, consultation on cases, review of meeting materials, board liaison work e.g., contacts regarding Monitoring, Professional Assistance Procedure, Credentialing, Education and Examinations

NAME OF EXAMINING BOARD OR COUNCIL EXAMPLE EXAMINING BOARD			BOARD OR COUNCIL MEMBER'S NAME MARY SUNSHINE	
Activity Date MM/DD/YY	Duration of Activity Hours/Minutes	Purpose Code A or B	Where Performed City/Location (Home, Work, DSPS)	Activity Describe Activity Performed (see purpose codes)
12/2/20	2 hrs	B	Pleasant Prairie/Home	Review of screening panel materials
12/3/20	2 hr / 30 mins	B	Pleasant Prairie/Home	Review of screening panel materials
12/10/20	1 hr	A	Pleasant Prairie/Home	Screening Panel Meeting - Teleconference
12/12/20	1 hr / 30 mins	B	Pleasant Prairie/Home	Case consultation
12/13/20	1 hr	B	Pleasant Prairie/Home	Liaison: Application Review
12/16/20	6 hrs	A	Madison/DSPS	Board Member Training
				<p>The 5-hour rule applies to "B" code activities. Add the 'B' codes within the calendar month and then divide by five (5) hours to calculate your per diem payment. In this case the total is seven (7) hours which equals one (1) day of per diem.</p> <p>Each 'A' code is an automatic day of per diem regardless of time spent in that activity. Ms. Sunshine is eligible for two (2) additional days of payment.</p> <p>Department staff completes the fields titled "Total Days Claimed".</p>
CLAIMANT'S CERTIFICATION			Comments:	
The undersigned certifies, in accordance with § 16.53, Wis. Stats., that this account for per diem, is just and correct; and that this claim is for service necessarily incurred in the performance of duties required by the State, as authorized by law.				
<i>Mary Sunshine</i>		1/4/2021		
Claimant's Signature	Date	Supervisor	Date	

EMPL ID: 100012345-0

To be completed by Department staff: **TOTAL DAYS CLAIMED: 3 @ \$25.00 = 75.00**

**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: 12/14/23 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: 01/03/24	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 9:00 A.M. Public Hearing – Clearinghouse Rule 23-066 on DE 3 and 7, Relating to Topical Application of Anesthetics by a Dental Hygienist 1. Review Public Hearing Comments and Respond to Clearinghouse Report	
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: The Board will hold a Public Hearing on this rule as required by the rulemaking process.			
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 : 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 3.03 (6) and create DE 3.05, relating to topical application of anesthetics by a dental hygienist.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 447.06 (2) (c), Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.02 (2) (e), Stats.

Explanation of agency authority:

15.08(5)(b) Each examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.

447.02 (2) (e) The examining board shall promulgate rules specifying the educational requirements for administration of local anesthesia by a dental hygienist licensed under this chapter under s. 447.06 (2) (e) 2.

Related statute or rule: None.

Plain language analysis:

The objective of this proposed rule is to revise DE 3 to allow licensed dental hygienists to apply topical anesthetics without the presence of a licensed dentist. This was achieved by creating DE 3.05 to include definitions for “topical anesthetics” and “subgingival anesthetics,” as well as outline the practice limitations associated with their application. The list of prohibited practices in DE 3.03 was also amended to specify that the administration of injectable local anesthesia is prohibited except as provided in ch. DE 7.

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: In Illinois, a dental hygienist may administer local anesthesia under the supervision of a dentist upon successful completion of a training program approved by the Illinois Department of Financial and Professional Regulation. [225 Illinois Compiled Statutes Section 18]. Additionally, the Illinois Administrative Code specifies that the dental hygienist must function under the supervision of a dentist who remains in the facility when administering local anesthesia [Illinois Administrative Code Title 68 Chapter VII Subchapter b Part 1220 Section 1220.240 (g)].

Iowa: In Iowa, administration of local anesthesia by a dental hygienist may only be performed under the direct supervision of a dentist [650 Iowa Administrative Code Chapter 10 Section 10.3 (4)].

Michigan: In Michigan, a dental hygienist may apply topical anesthetic agents by prescription of a dentist and subgingival medicaments under assignment from a dentist. Assignment means that the dentist has designated a patient and described the procedures to be performed but does not need to be physically present at the time of those procedures being performed. Michigan Administrative Rules R 338.11401 and 338.11411].

Minnesota: In Minnesota, a dental hygienist may administer local anesthesia and place subgingival medicaments under the general supervision of a dentist. Before a dental hygienist administers local anesthesia, they must successfully complete a didactic and clinical program accredited by the Commission on Dental Accreditation [Minnesota Administrative Rules 3100.8700 Subpart. 1].

Summary of factual data and analytical methodologies: The Board reviewed Wisconsin Administrative Code chapter DE 3 to determine where changes were needed to allow for the application of topical anesthesia by a dental hygienist without the presence of a dentist.

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

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

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on a date January 3, 2024, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 3.03 (6) is amended to read:

DE 3.03 (6) Administer injectable local anesthesia, except as provided in ch. DE 7.

SECTION 2. DE 3.05 is created to read:

DE 3.05 Topical anesthetics. (1) “topical anesthetics” means anesthetics applied to a body surface such as the skin or mucous membrane as a remediable procedure.

(2) “subgingival anesthetics” means non-injectable topical anesthetics applied below the gum tissue as a remediable procedure.

(3) Pursuant to s. 447.06 (2) (c), Stats., a dental hygienist may apply topical and subgingival anesthetics to a patient without the presence of a dentist, if all of the following conditions are met:

(a) the remediable procedure is performed under a written or oral prescription.

(b) The dentist who made the written or oral prescription has seen the patient at least once during the 12-month period immediately preceding:

1. The date on which the written or oral prescription was made; and
2. The date on which the dental hygiene practice or remediable procedure is performed.

(c) The written or oral prescription specifies the practices and procedures that the dental hygienist may perform with the informed consent of the patient, or, if applicable, the patient’s parent or legal guardian.

SECTION 3. 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)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date November 28 2023
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DE 3 and 7	
4. Subject Topical Application of Anesthetics by a Dental Hygienist	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected s. 20.165 (1) (g)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The proposed rule will update the Dentistry Examining Board's part of the administrative code to allow Dental Hygienists to apply topical anesthetics without the presence of a supervising Dentist.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule was posted on the Department of Safety and Professional Service's (DSPS) website for 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. N/A	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) DSPS estimates a total of \$2,100 in one-time costs for staffing and an indeterminate one-time IT impact to implement the rule. The estimated one-time staffing need attributed to the implementation of this rule accounts for staff and board training, website and forms updates, and additional workload associated with a temporary increase in inquiries and community outreach. The one-time estimated costs cannot be absorbed in the currently appropriated agency budget.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing the rule is expanded practice capabilities for Dental Hygienists.	
16. Long Range Implications of Implementing the Rule The long range implications of implementing the rule are expedited patient care through services provided by Dental Hygienists that do not need to wait for a Dentist to be present to complete .	
17. Compare With Approaches Being Used by Federal Government None.	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: In Illinois, a dental hygienist may administer local anesthesia under the supervision of a dentist upon successful completion of a training program approved by the Illinois Department of Financial and Professional Regulation. [225 Illinois Compiled Statutes Section 18]. Additionally, the Illinois Administrative Code specifies that the dental hygienist must function under the supervision of a dentist who remains in the facility when administering local anesthesia [Illinois Administrative Code Title 68 Chapter VII Subchapter b Part 1220 Section 1220.240 (g)].

Iowa: In Iowa, administration of local anesthesia by a dental hygienist may only be performed under the direct supervision of a dentist [650 Iowa Administrative Code Chapter 10 Section 10.3 (4)].

Michigan: In Michigan, a dental hygienist may apply topical anesthetic agents by prescription of a dentist and subgingival medicaments under assignment from a dentist. Assignment means that the dentist has designated a patient and described the procedures to be performed but does not need to be physically present at the time of those procedures being performed. Michigan Administrative Rules R 338.11401 and 338.11411].

Minnesota: In Minnesota, a dental hygienist may administer local anesthesia and place subgingival medicaments under the general supervision of a dentist. Before a dental hygienist administers local anesthesia, they must successfully complete a didactic and clinical program accredited by the Commission on Dental Accreditation [Minnesota Administrative Rules 3100.8700 Subpart. 1].

19. Contact Name

Nilajah Hardin, Administrative Rules Coordinator

20. Contact Phone Number

(608) 267-7139

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

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

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

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

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

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

- Yes No
-



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **23-066**

AN ORDER to amend DE 3.03 (6); and to create DE 3.05, relating to topical application of anesthetics by a dental hygienist.

Submitted by **DENTISTRY EXAMINING BOARD**

11-28-2023 RECEIVED BY LEGISLATIVE COUNCIL.

12-12-2023 REPORT SENT TO AGENCY.

MSK:AG

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



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CLEARINGHOUSE RULE 23-066

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

In the rule summary’s listing of statutory authority and explanation of agency authority, it appears the citation to s. 447.02 (2) (e), Stats., could be removed. That provision relates to educational requirements for administration of local anesthesia, and the proposed rule does not address those educational requirements.

2. Form, Style and Placement in Administrative Code

a. In SECTION 2 of the proposed rule, the definitions created in s. DE 3.05 should be restructured to provide an introductory statement that explains the applicability of the definitions. The definitions should also be placed in alphabetical order. [s. 1.07 (2) (b), Manual.] For example, if the definitions apply only in s. DE 3.05, the section could instead be structured as follows:

(1) In this section:

(a) “Subgingival anesthetics” means....

(b) “Topical anesthetics” means....

(2) Pursuant to s. 447.06 (2) (c), Stats., a dental hygienist may....

b. In SECTION 2 of the proposed rule, the first word of each subunit should begin with a capital letter.

c. In SECTION 2 of the proposed rule, the introduction and subunits in s. DE 3.05 (3) (b) should be revised to conform to current conventions for list formatting. In particular, the introductory statement in par. (b) should end with the phrase “all of the following:” to specify that “all” of the subunits must apply, and subd. 1. should end in a period. [s. 1.11, Manual.]

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Will Johnson, Executive Director		2) Date When Request Submitted: 12/15/2034
		Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board		
4) Meeting Date: 01/03/2024	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Policy Matters – Discussion and Consideration • SB 689 • SB 692 • SB 706
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <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:		
11) Authorization		
Signature of person making this request		Date
Supervisor (if required)		Date
William Johnson		12/15/2023
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
2023 - 2024 LEGISLATURE

LRB-4950/1
MED:cdc/wlj/skw

2023 SENATE BILL 689

November 15, 2023 - Introduced by Senators FELZKOWSKI, HUTTON, JAMES, MARKLEIN, ROYS, SPREITZER, TESTIN and BALLWEG, cosponsored by Representatives PLUMER, BEHNKE, BINSFELD, CALLAHAN, DITTRICH, EMERSON, GOEBEN, JACOBSON, JOERS, MURSAU, OHNSTAD, OLDENBURG, ORTIZ-VELEZ, ROZAR, SNYDER and TUSLER. Referred to Committee on Health.

1 **AN ACT to amend** 15.405 (6) (b), 36.61 (1) (b), 36.61 (3) (a), 36.61 (5) (b) 1., 36.61
2 (8) (c) 3., 146.81 (1) (c), 146.89 (1) (r) 1., 146.89 (1) (r) 5., 146.89 (3) (b) 8., 146.89
3 (3m) (intro.), 146.997 (1) (d) 3., 155.01 (7), 252.14 (1) (ar) 3., 257.01 (5) (a), 257.01
4 (5) (b), 440.094 (1) (c) 3., 447.02 (1) (a), 447.02 (1) (b), 447.02 (2) (a), 447.02 (3)
5 (a) (intro.), 447.02 (3) (a) 2., 447.02 (3) (b), 447.02 (5), 447.03 (3) (c), 447.06 (1),
6 447.06 (2) (a) 3., 447.06 (2) (b), 447.06 (2) (c) (intro.), 447.06 (2) (c) 2. (intro.),
7 447.063, 447.065, 447.07 (1), 447.07 (3) (intro.), 447.07 (3) (e) to (h), 447.40
8 (intro.), 447.40 (6), 448.03 (2) (a), 448.975 (2) (c) 1., 450.03 (1) (e), 450.10 (3) (a)
9 4., 462.02 (2) (d), 462.04, 463.10 (5), 463.12 (5), 632.87 (4), 895.48 (1m) (a)
10 (intro.), 895.48 (1m) (a) 2. and 941.315 (5); and **to create** 36.61 (1) (ak), 440.03
11 (13) (b) 20m., 440.08 (2) (a) 25m., 447.01 (6g), 447.01 (6r), 447.02 (1) (g), 447.02
12 (3) (a) 3., 447.02 (6), 447.03 (1m), 447.03 (3) (am), 447.04 (1m), 447.05 (2m),
13 447.057, 447.06 (1m), 447.06 (3) and 447.07 (6) of the statutes; **relating to:**
14 licensure of dental therapists; extending the time limit for emergency rule

SENATE BILL 689

1 procedures; providing an exemption from emergency rule procedures;
2 providing an exemption from rule-making procedures; and granting
3 rule-making authority.

Analysis by the Legislative Reference Bureau

This bill provides for the licensure of dental therapists, who are health care practitioners who may engage in the limited practice of dentistry.

Under current law, dentists and dental hygienists are licensed by the Dentistry Examining Board to practice dentistry and dental hygiene, respectively. This bill provides for the licensure of a third type of dental practitioner, dental therapists. Under the bill, the board must grant a dental therapist license to an individual who satisfies certain criteria, including completion of a qualifying dental therapy education program and passage of required examinations.

Under the bill, a dental therapy education program qualifies if the program 1) is accredited by the American Dental Association's Commission on Dental Accreditation (CODA); 2) is a program approved by the Minnesota Board of Dentistry on or before the bill's effective date that has, as of the time of application, become CODA-accredited; or 3) is a program offered in Wisconsin that has received initial CODA accreditation but is not yet fully CODA-accredited. With respect to the third category of dental therapy education programs (programs offered in Wisconsin), the bill allows applicants to obtain a license on the basis of graduation from such a program only for four years after the program's inception, and if the program is not fully CODA-accredited by the time that four-year period has elapsed, the bill requires the licenses of dental therapists who graduated from the program to be revoked.

Under the bill, dental therapists may provide dental therapy services only as an employee of specified employers and only under the supervision of a dentist who is either similarly employed or who directly employs the dental therapist. The dental therapist must also have a collaborative management agreement with a dentist that addresses various aspects of the dental therapist's practice and supervision. Dental therapists are, subject to the terms of a collaborative management agreement and what was covered in their dental therapy education program, limited to providing services, treatments, and procedures that are specified in the bill, as well as additional services, treatments, or procedures specified by the board by rule. Dental therapists may initially provide dental therapy services only under the direct or indirect supervision of a qualifying dentist. Once a dental therapist licensed has provided dental therapy services for at least 2,000 hours, the dental therapist may provide services under the general supervision of a qualifying dentist. However, the level of supervision for a dental therapist may be further limited under the terms of a collaborative management agreement. Dental therapists must also, under the bill, either 1) limit their practice to federally defined dental shortage areas or 2) practice in settings where at least 50 percent of their patient base consists of certain specified

SENATE BILL 689

populations. Dental therapists must complete 12 hours of continuing education each biennium.

The bill subjects dental therapists to, or covers dental therapists under, various other laws, including the health care records law, the volunteer health care provider program, the health care worker protection law, and the emergency volunteer health care practitioner law. The bill also provides for loan forgiveness for dental therapists under the health care provider loan assistance program.

Finally, the bill requires, effective when 50 individuals become licensed as a dental therapist in this state or five years after the bill is enacted, that, to the extent possible, one of the dental hygienist members on the board also be licensed as a dental therapist.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.405 (6) (b) of the statutes is amended to read:

2 15.405 (6) (b) Three dental hygienists who are licensed under ch. 447. The
3 governor shall, to the extent possible, appoint members under this paragraph so that
4 at least one of the members under this paragraph is an individual who is also a dental
5 therapist licensed under ch. 447. Notwithstanding s. 15.08 (1m) (a), the dental
6 hygienist members under this paragraph may participate in the preparation and
7 grading of licensing examinations for dental hygienists.

8 **SECTION 2.** 36.61 (1) (ak) of the statutes is created to read:

9 36.61 (1) (ak) “Dental therapist” means an individual licensed under s. 447.04
10 (1m).

11 **SECTION 3.** 36.61 (1) (b) of the statutes is amended to read:

12 36.61 (1) (b) “Health care provider” means a dental therapist, dental hygienist,
13 physician assistant, nurse-midwife, or nurse practitioner.

14 **SECTION 4.** 36.61 (3) (a) of the statutes is amended to read:

SENATE BILL 689**SECTION 4**

1 36.61 (3) (a) The board shall enter into a written agreement with the health
2 care provider. In the agreement, the health care provider shall agree to practice at
3 least 32 clinic hours per week for 3 years in one or more eligible practice areas in this
4 state or in a rural area, except that a health care provider in the expanded loan
5 assistance program under sub. (8) who is not a dental therapist or dental hygienist
6 may only agree to practice at a public or private nonprofit entity in a health
7 professional shortage area.

8 **SECTION 5.** 36.61 (5) (b) 1. of the statutes is amended to read:

9 36.61 (5) (b) 1. The degree to which there is an extremely high need for medical
10 care in the eligible practice area, health professional shortage area, or rural area in
11 which an eligible applicant who is not a dental therapist or dental hygienist desires
12 to practice and the degree to which there is an extremely high need for dental care
13 in the dental health shortage area or rural area in which an eligible applicant who
14 is a dental therapist or dental hygienist desires to practice.

15 **SECTION 6.** 36.61 (8) (c) 3. of the statutes is amended to read:

16 36.61 (8) (c) 3. Practice at a public or private nonprofit entity in a health
17 professional shortage area, if the health care provider is not a dental therapist or
18 dental hygienist, or in a dental health shortage area, if the health care provider is
19 a dental therapist or dental hygienist.

20 **SECTION 7.** 146.81 (1) (c) of the statutes is amended to read:

21 146.81 (1) (c) A dentist or dental therapist licensed under ch. 447.

22 **SECTION 8.** 146.89 (1) (r) 1. of the statutes is amended to read:

23 146.89 (1) (r) 1. Licensed as a physician under ch. 448, naturopathic doctor
24 under ch. 466, a dentist, dental therapist, or dental hygienist under ch. 447, a
25 registered nurse, practical nurse, or nurse-midwife under ch. 441, an optometrist

SENATE BILL 689

1 under ch. 449, a physician assistant under subch. IX of ch. 448, a pharmacist under
2 ch. 450, a chiropractor under ch. 446, a podiatrist under subch. IV of ch. 448, or a
3 physical therapist under subch. III of ch. 448.

4 **SECTION 9.** 146.89 (1) (r) 5. of the statutes is amended to read:

5 146.89 (1) (r) 5. An individual who holds a valid, unexpired license,
6 certification, or registration issued by another state or territory that authorizes or
7 qualifies the individual to perform acts that are substantially the same as those acts
8 that an individual who is described in subds. 1. to 4., except a dentist, dental
9 therapist, or dental hygienist, is licensed or certified to perform and who performs
10 acts that are within the scope of that license, certification, or registration.

11 **SECTION 10.** 146.89 (3) (b) 8. of the statutes is amended to read:

12 146.89 (3) (b) 8. Dental services, including tooth extractions and other
13 procedures done under local anesthesia only and any necessary suturing related to
14 the extractions, performed by a dentist or dental therapist who is a volunteer health
15 provider; and dental hygiene services, performed by a dental hygienist who is a
16 volunteer health provider.

17 **SECTION 11.** 146.89 (3m) (intro.) of the statutes is amended to read:

18 146.89 (3m) (intro.) A volunteer health care provider who is a dentist or dental
19 therapist may provide dental services or a volunteer health care provider who is a
20 dental hygienist may provide dental hygiene services, to persons who are recipients
21 of Medical Assistance, if all of the following apply:

22 **SECTION 12.** 146.997 (1) (d) 3. of the statutes is amended to read:

23 146.997 (1) (d) 3. A dentist or dental therapist licensed under ch. 447.

24 **SECTION 13.** 155.01 (7) of the statutes, as affected by 2021 Wisconsin Act 251,
25 is amended to read:

SENATE BILL 689**SECTION 13**

1 155.01 (7) “Health care provider” means a nurse licensed or permitted under
2 ch. 441, a chiropractor licensed under ch. 446, a dentist or dental therapist licensed
3 under ch. 447, a physician, physician assistant, perfusionist, podiatrist, physical
4 therapist, physical therapist assistant, occupational therapist, occupational therapy
5 assistant, or genetic counselor licensed under ch. 448, a naturopathic doctor licensed
6 under ch. 466, a person practicing Christian Science treatment, an optometrist
7 licensed under ch. 449, a psychologist who is licensed under ch. 455, who is exercising
8 the temporary authorization to practice, as defined in s. 455.50 (2) (o), in this state,
9 or who is practicing under the authority to practice interjurisdictional
10 telepsychology, as defined in s. 455.50 (2) (b), a physical therapist or physical
11 therapist assistant who holds a compact privilege under subch. XI of ch. 448, an
12 occupational therapist or occupational therapy assistant who holds a compact
13 privilege under subch. XII of ch. 448, a partnership thereof, a corporation or limited
14 liability company thereof that provides health care services, a cooperative health
15 care association organized under s. 185.981 that directly provides services through
16 salaried employees in its own facility, or a home health agency, as defined in s. 50.49
17 (1) (a).

18 **SECTION 14.** 252.14 (1) (ar) 3. of the statutes is amended to read:

19 252.14 (1) (ar) 3. A dentist or dental therapist licensed under ch. 447.

20 **SECTION 15.** 257.01 (5) (a) of the statutes is amended to read:

21 257.01 (5) (a) An individual who is licensed as a physician, a physician
22 assistant, or a podiatrist under ch. 448, licensed as a naturopathic doctor under ch.
23 466, licensed as a registered nurse, licensed practical nurse, or nurse-midwife under
24 ch. 441, licensed as a dentist or dental therapist under ch. 447, licensed as a

SENATE BILL 689

1 pharmacist under ch. 450, licensed as a veterinarian or certified as a veterinary
2 technician under ch. 89, or certified as a respiratory care practitioner under ch. 448.

3 **SECTION 16.** 257.01 (5) (b) of the statutes is amended to read:

4 257.01 (5) (b) An individual who was at any time within the previous 10 years,
5 but is not currently, licensed as a physician, a physician assistant, or a podiatrist
6 under ch. 448, licensed as a naturopathic doctor under ch. 466, licensed as a
7 registered nurse, licensed practical nurse or nurse-midwife, under ch. 441, licensed
8 as a dentist or dental therapist under ch. 447, licensed as a pharmacist under ch. 450,
9 licensed as a veterinarian or certified as a veterinary technician under ch. 89, or
10 certified as a respiratory care practitioner under ch. 448, if the individual's license
11 or certification was never revoked, limited, suspended, or denied renewal.

12 **SECTION 17.** 440.03 (13) (b) 20m. of the statutes is created to read:

13 440.03 (13) (b) 20m. Dental therapist.

14 **SECTION 18.** 440.08 (2) (a) 25m. of the statutes is created to read:

15 440.08 (2) (a) 25m. Dental therapist: October 1 of each odd-numbered year.

16 **SECTION 19.** 440.094 (1) (c) 3. of the statutes is amended to read:

17 440.094 (1) (c) 3. A dentist or dental therapist licensed under ch. 447.

18 **SECTION 20.** 447.01 (6g) of the statutes is created to read:

19 447.01 (6g) "Dental therapist" means an individual who practices dental
20 therapy.

21 **SECTION 21.** 447.01 (6r) of the statutes is created to read:

22 447.01 (6r) "Dental therapy" means the limited practice of dentistry, consisting
23 of the services, treatments, and procedures specified in s. 447.06 (3) (b).

24 **SECTION 22.** 447.02 (1) (a) of the statutes is amended to read:

SENATE BILL 689

1 447.02 (1) (a) Governing the reexamination of an applicant who fails an
2 examination specified in s. 447.04 (1) (a) 5., (1m)(e), or (2) (a) 5. The rules may specify
3 additional educational requirements for those applicants and may specify the
4 number of times an applicant may be examined.

5 **SECTION 23.** 447.02 (1) (b) of the statutes is amended to read:

6 447.02 (1) (b) Governing the standards and conditions for the use of radiation
7 and ionizing equipment in the practice of dentistry or dental therapy.

8 **SECTION 24.** 447.02 (1) (g) of the statutes is created to read:

9 447.02 (1) (g) Specifying services, treatments, or procedures, in addition to
10 those specified under s. 447.06 (3) (b) 1. to 27., that are included within the practice
11 of dental therapy.

12 **SECTION 25.** 447.02 (2) (a) of the statutes is amended to read:

13 447.02 (2) (a) The conditions for supervision and the degree of supervision
14 required under ss. 447.03 (3) (a), (am), (b) and (d) 2. and 447.065.

15 **SECTION 26.** 447.02 (3) (a) (intro.) of the statutes is amended to read:

16 447.02 (3) (a) (intro.) The examining board may issue a permit authorizing the
17 practice in this state, without compensation, of dentistry, dental therapy, or dental
18 hygiene to an applicant who is licensed to practice dentistry, dental therapy, or dental
19 hygiene in another state, if all of the following apply:

20 **SECTION 27.** 447.02 (3) (a) 2. of the statutes is amended to read:

21 447.02 (3) (a) 2. The examining board determines that the applicant is qualified
22 and satisfies the criteria specified under s. 447.04 (1) (b) 1. to 3., except that the
23 examining board may not require the applicant to pass an examination of state
24 statutes and rules relating to dentistry, dental therapy, or dental hygiene.

25 **SECTION 28.** 447.02 (3) (a) 3. of the statutes is created to read:

SENATE BILL 689

1 447.02 (3) (a) 3. If the applicant is applying for a permit to practice dental
2 therapy, the applicant graduated from a dental therapy education program approved
3 under s. 447.04 (1m) (c) 1. to 3.

4 **SECTION 29.** 447.02 (3) (b) of the statutes is amended to read:

5 447.02 (3) (b) A permit under this subsection shall authorize the practice of
6 dentistry, dental therapy, or dental hygiene in a specified area of the state for a period
7 of time not more than 10 days in a year and may be renewed by the examining board.
8 The examining board may not require an applicant to pay a fee for the issuance or
9 renewal of a permit under this subsection.

10 **SECTION 30.** 447.02 (5) of the statutes is amended to read:

11 447.02 (5) Except as provided in ss. 447.058 and 447.063, nothing in this
12 chapter may be construed as authorizing the examining board to regulate business
13 or administrative support functions or services, that do not constitute the practice
14 of dentistry, dental therapy, or dental hygiene, provided to a business that provides
15 dental or dental hygiene services.

16 **SECTION 31.** 447.02 (6) of the statutes is created to read:

17 447.02 (6) The examining board shall send a notice to the legislative reference
18 bureau for publication in the Wisconsin Administrative Register when the board
19 determines that 50 or more individuals are currently licensed as dental therapists
20 in this state under s. 447.04 (1m). This subsection does not apply on or after the first
21 day of the 6th year beginning after publication of this act [LRB inserts date].

22 **SECTION 32.** 447.03 (1m) of the statutes is created to read:

23 447.03 (1m) DENTAL THERAPISTS. Except as provided under sub. (3) and s.
24 447.02 (3), no person may do any of the following unless he or she is licensed to
25 practice dental therapy under this chapter:

SENATE BILL 689**SECTION 32**

1 (a) Practice or offer to practice dental therapy.

2 (b) Represent himself or herself to the public as a dental therapist or use, in
3 connection with his or her name, any title or description that may convey the
4 impression that he or she is a dental therapist.

5 **SECTION 33.** 447.03 (3) (am) of the statutes is created to read:

6 447.03 (3) (am) A dental therapy student who practices dental therapy under
7 the supervision of a dentist in an infirmary, clinic, hospital, or other institution
8 connected or associated for training purposes with a dental therapy school accredited
9 by the American Dental Association commission on dental accreditation or its
10 successor agency.

11 **SECTION 34.** 447.03 (3) (c) of the statutes is amended to read:

12 447.03 (3) (c) An individual licensed to practice dentistry, dental therapy, or
13 dental hygiene in another state or country who practices dentistry, dental therapy,
14 or dental hygiene in a program of dental education or research at the invitation of
15 a group of dentists or practices dentistry, dental therapy, or dental hygiene under the
16 jurisdiction of the army, navy, air force, U.S. public health service, or veterans
17 bureau.

18 **SECTION 35.** 447.04 (1m) of the statutes is created to read:

19 447.04 (1m) DENTAL THERAPISTS. The examining board shall grant a license to
20 practice dental therapy to an individual who does all of the following:

21 (a) Submits an application for the license to the department on a form provided
22 by the department.

23 (b) Pays the fee specified in s. 440.05 (1).

24 (c) Submits evidence satisfactory to the examining board that he or she has
25 done one of the following:

SENATE BILL 689

- 1 1. Graduated from an accredited dental therapy education program.
- 2 2. Graduated from a dental therapy education program that was not accredited
- 3 at the time of graduation, but that satisfies all of the following:
- 4 a. The program was approved by the Minnesota Board of Dentistry on or before
- 5 the effective date of this subd. 2. a. [LRB inserts date].
- 6 b. The program was accredited as of the date the individual applies for a license
- 7 under this subsection.
- 8 3. Graduated from a dental therapy education program located in this state
- 9 that, at the time of graduation, was not fully accredited but had received initial
- 10 accreditation. This subdivision applies to a dental therapy education program only
- 11 during the 4-year period beginning after the program's inception. After that 4-year
- 12 period has elapsed, an individual may not qualify for a license under this subsection
- 13 on the basis of graduation from that program unless the program has subsequently
- 14 become accredited as described in subd. 1. The examining board shall maintain a
- 15 register of individuals granted a license on the basis of graduation from a program
- 16 described in this subdivision.
- 17 (d) Submits evidence satisfactory to the examining board that he or she has
- 18 passed a national board dental therapy examination and a dental therapy clinical
- 19 examination administered by a regional testing service that has been approved by
- 20 the examining board to administer clinical examinations for dental professionals.
- 21 If a national board examination or a regional testing service examination for dental
- 22 therapy does not exist, the examining board shall accept evidence of passing an
- 23 alternative examination administered by another entity or testing service that is
- 24 approved by the examining board.

SENATE BILL 689**SECTION 35**

1 (e) Passes an examination administered by the examining board on the
2 statutes and rules relating to dental therapy.

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

8 (g) If the individual was licensed or is currently licensed in another state or
9 territory of the United States or in another country, the individual submits
10 information related to his or her licensure in other jurisdictions as required by the
11 examining board.

12 (h) Completes any other requirements established by the examining board by
13 rule that are comparable to and no more restrictive than the requirements
14 established by the board for dentists under sub. (1) (a) 6. and dental hygienists under
15 sub. (2) (a) 6.

16 **SECTION 36.** 447.05 (2m) of the statutes is created to read:

17 447.05 (2m) The examining board may not renew a license to practice dental
18 therapy unless the applicant for renewal attests that he or she has complied with s.
19 447.057 and any rules promulgated under s. 447.057, that he or she has current
20 proficiency in cardiopulmonary resuscitation, and that he or she has current
21 proficiency in the use of an automated external defibrillator achieved through
22 instruction provided by an individual, organization, or institution of higher
23 education approved under s. 46.03 (38) to provide such instruction.

24 **SECTION 37.** 447.057 of the statutes is created to read:

SENATE BILL 689

1 **447.057 Continuing education; dental therapists.** (1) (a) Except as
2 provided in subs. (3) and (4), a person is not eligible for renewal of a license to practice
3 dental therapy, other than a permit issued under s. 447.02 (3), unless the person has
4 taught, prepared, attended, or otherwise completed, during the 2-year period
5 immediately preceding the renewal date specified under s. 440.08 (2) (a), 12 credit
6 hours of continuing education relating to the clinical practice of dental therapy that
7 is sponsored or recognized by a local, state, regional, national, or international
8 dental, dental therapy, dental hygiene, dental assisting, or medical-related
9 professional organization.

10 (b) Continuing education required under par. (a) may include training in all of
11 the following:

12 1. Basic life support or cardiopulmonary resuscitation. Not more than 2 of the
13 credit hours required under par. (a) may be satisfied by such training.

14 2. Infection control. Not less than 2 of the credit hours required under par. (a)
15 must be satisfied by such training.

16 (c) After consultation with the department of health services, the examining
17 board may promulgate rules requiring that continuing education credit hours under
18 par. (a) include courses in specific clinical subjects.

19 **(2)** The credit hours required under sub. (1) (a) may be satisfied by independent
20 study, correspondence, or Internet programs or courses.

21 **(3)** Subsection (1) (a) does not apply to an applicant for renewal of a license that
22 expires on the first renewal date after the date on which the examining board
23 initially granted the license.

24 **(4)** A person may substitute credit hours of college level courses related to the
25 practice of dental therapy for the credit hours required under sub. (1) (a). For

SENATE BILL 689**SECTION 37**

1 purposes of this subsection, one credit hour of a college level course is equivalent to
2 6 credit hours of continuing education.

3 (5) For purposes of sub. (1) (a), one hour of teaching or preparing a continuing
4 education program is equivalent to one credit hour of continuing education, but a
5 person who teaches or prepares a continuing education program may obtain credit
6 for the program only once.

7 (6) The examining board may require applicants for renewal of a license to
8 practice dental therapy to submit proof of compliance with the requirements of this
9 section.

10 **SECTION 38.** 447.06 (1) of the statutes is amended to read:

11 447.06 (1) No contract of employment entered into between a dentist or dental
12 therapist and any other party under which the dentist or dental therapist renders
13 dental services may require the dentist or dental therapist to act in a manner ~~which~~
14 that violates the professional standards for dentistry or dental therapy set forth in
15 this chapter. Nothing in this subsection limits the ability of the other party to control
16 the operation of the dental practice in a manner in accordance with the professional
17 standards for dentistry or dental therapy set forth in this chapter.

18 **SECTION 39.** 447.06 (1m) of the statutes is created to read:

19 447.06 (1m) No contract of employment entered into between a dental
20 therapist and any other party under which the dental therapist is employed to
21 practice dental therapy may require a dental therapist to meet a minimum quota for
22 the number of patients seen or the number of procedures performed.

23 **SECTION 40.** 447.06 (2) (a) 3. of the statutes is amended to read:

24 447.06 (2) (a) 3. For a school for the education of dentists, dental therapists,
25 or dental hygienists.

SENATE BILL 689

1 **SECTION 41.** 447.06 (2) (b) of the statutes is amended to read:

2 447.06 **(2)** (b) A dental hygienist may practice dental hygiene or perform
3 remediable procedures under par. (a) 1. only as authorized by a dentist or dental
4 therapist who is licensed to practice dentistry or dental therapy under this chapter
5 and who is present in the facility in which those practices or procedures are
6 performed, except as provided in par. (c).

7 **SECTION 42.** 447.06 (2) (c) (intro.) of the statutes is amended to read:

8 447.06 **(2)** (c) (intro.) A dental hygienist may practice dental hygiene or perform
9 remediable procedures under par. (a) 1. if a dentist or dental therapist who is licensed
10 to practice dentistry or dental therapy under this chapter is not present in the facility
11 in which those practices or procedures are performed only if all of the following
12 conditions are met:

13 **SECTION 43.** 447.06 (2) (c) 2. (intro.) of the statutes is amended to read:

14 447.06 **(2)** (c) 2. (intro.) The dentist or dental therapist who made the written
15 or oral prescription has examined the patient at least once during the 12-month
16 period immediately preceding:

17 **SECTION 44.** 447.06 (3) of the statutes is created to read:

18 447.06 **(3)** (a) In this subsection:

- 19 1. “Collaborative management agreement” means an agreement under par. (d).
20 2. “Dental health shortage area” has the meaning given in s. 36.60 (1) (ad).
21 3. “Direct supervision” means that the dentist is present in the dental office or
22 other practice setting, personally diagnoses the condition to be treated, personally
23 authorizes each procedure, and before dismissal of the patient, evaluates the
24 performance of the allied dental personnel.

SENATE BILL 689**SECTION 44**

1 4. “General supervision” means that the dentist is not present in the dental
2 office or other practice setting or on the premises at the time tasks or procedures are
3 being performed by the dental therapist, but that the tasks or procedures performed
4 by the dental therapist are being performed with the prior knowledge and consent
5 of the dentist.

6 5. “Indirect supervision” means that the dentist is present in the dental office
7 or other practice setting, authorizes each procedure, and remains in the office while
8 the procedures are being performed by the allied dental personnel.

9 6. “Medical Assistance patient” means a patient who is a recipient of services
10 under the Medical Assistance program under subch. IV of ch. 49.

11 7. “Qualifying dentist” means a dentist who is licensed in this state, who is
12 actively practicing in this state, and who satisfies the requirement under par. (dr).

13 8. “Uninsured patient” means a patient who lacks dental health coverage,
14 either through a public health care program or private insurance, and has an annual
15 gross family income equal to or less than 200 percent of the federal poverty
16 guidelines.

17 (b) The scope of practice of a dental therapist shall, subject to the terms of a
18 collaborative management agreement, be limited to providing the following services,
19 treatments, and procedures:

20 1. Oral evaluation and assessment of dental disease and formulation of an
21 individualized treatment plan.

22 2. Identification of oral and systemic conditions requiring evaluation or
23 treatment by dentists, physicians, or other health care providers and managing
24 referrals.

25 3. Comprehensive charting of the oral cavity.

SENATE BILL 689

1 4. Oral health instruction and disease prevention education, including
2 nutritional counseling and dietary analysis.

3 5. Exposure and evaluation of radiographic images.

4 6. Dental prophylaxis, including subgingival scaling and polishing procedures.

5 7. Dispensing and administration via the oral or topical route of nonnarcotic
6 analgesic, anti-inflammatory, and antibiotic medications as prescribed by a licensed
7 health care provider.

8 8. Application of topical preventive or prophylactic agents, including fluoride
9 varnish, antimicrobial agents, caries arresting medicaments, and pit and fissure
10 sealants.

11 9. Pulp vitality testing.

12 10. Application of desensitizing medications or resins.

13 11. Fabrication of athletic mouth guards and soft occlusal guards.

14 12. Changing of periodontal dressings.

15 13. Administration of local anesthetic and nitrous oxide.

16 14. Simple extraction of erupted primary teeth.

17 15. Nonsurgical extraction of periodontally diseased permanent teeth with
18 tooth mobility of +3 to +4 to the extent authorized in the dental therapist's
19 collaborative management agreement, except for the extraction of a tooth that is
20 unerupted, impacted, or fractured or that needs to be sectioned for removal.

21 16. Emergency palliative treatment of dental pain limited to the procedures in
22 this paragraph.

23 17. Preparation and placement of direct restoration in primary and permanent
24 teeth.

25 18. Fabrication and placement of single-tooth temporary crowns.

SENATE BILL 689

1 19. Preparation and placement of preformed crowns on primary teeth.

2 20. Indirect and direct pulp capping on permanent teeth.

3 21. Indirect pulp capping on primary teeth.

4 22. Intraoral suture placement and removal.

5 23. Minor adjustment and repair of removable prostheses.

6 24. Placement and removal of space maintainers.

7 25. Pulpotomy on primary teeth.

8 26. Tooth reimplantation and stabilization.

9 27. Recementing of a permanent crown.

10 28. Any additional services, treatments, or procedures specified in the rules
11 promulgated under s. 447.02 (1) (g).

12 (bm) 1. Notwithstanding par. (b) 1. to 28., a dental therapist shall, except as
13 provided in subd. 2., limit his or her practice of dental therapy to providing the
14 services, treatments, and procedures covered by his or her dental therapy education
15 program.

16 2. If any service, treatment, or procedure under par. (b) 1. to 28. was not covered
17 by a dental therapist's dental therapy education program, the dental therapist may
18 provide that service, treatment, or procedure if the dental therapist has
19 subsequently received additional dental therapy educational training to provide
20 that service, treatment, or procedure.

21 (c) 1. Except as provided in subd. 2., a dental therapist licensed under this
22 chapter may provide dental therapy services in this state only under the direct
23 supervision or indirect supervision of a qualifying dentist with whom the dental
24 therapist has entered into a collaborative management agreement.

SENATE BILL 689

1 2. a. Once a dental therapist licensed under this chapter has provided dental
2 therapy services for at least 2,000 hours under direct supervision or indirect
3 supervision, the dental therapist may provide dental therapy services in this state
4 under the general supervision of a qualifying dentist with whom the dental therapist
5 has entered into a collaborative management agreement.

6 b. For purposes of the 2,000 hours requirement under subd. 2. a., hours may
7 include hours of providing dental therapy services in this state under direct
8 supervision or indirect supervision of a qualifying dentist as described in subd. 1. or
9 hours of providing dental therapy services under direct supervision or indirect
10 supervision while licensed as a dental therapist outside this state, but may not
11 include any hours completed prior to graduating from the dental therapy education
12 program.

13 3. Notwithstanding subds. 1. and 2., the level of supervision for a dental
14 therapist may be further limited under the terms of a collaborative management
15 agreement under par. (d) 1. b.

16 4. A supervising dentist shall accept responsibility for all services performed
17 by a dental therapist pursuant to a collaborative management agreement. If services
18 needed by a patient are beyond the dental therapist's scope of practice or
19 authorization under the collaborative management agreement, the dental therapist
20 shall, to the extent required under the collaborative management agreement,
21 consult with the supervising dentist as needed to arrange for those services to be
22 provided by a dentist or another qualified health care provider.

23 (d) 1. Prior to providing any dental therapy services, a dental therapist shall
24 enter into a written collaborative management agreement with a qualifying dentist

SENATE BILL 689**SECTION 44**

1 who will serve as a supervising dentist under par. (c). The agreement must be signed
2 by the dental therapist and the qualifying dentist and address all of the following:

3 a. The practice settings where services may be provided and the patient
4 populations that may be served.

5 b. Consistent with and subject to pars. (bm) and (c), any conditions or
6 limitations on the services that may be provided by the dental therapist, the level of
7 supervision required, and any circumstances requiring consultation prior to
8 performing services.

9 c. Age-specific and procedure-specific practice protocols.

10 d. Dental record-keeping procedures.

11 e. Plans for managing dental or medical emergencies.

12 f. A quality assurance plan for monitoring care provided by the dental
13 therapist.

14 g. Protocols for administering and dispensing medications.

15 h. Criteria or protocols relating to the provision of care to patients with specific
16 medical conditions, treatments, or medications.

17 i. Policies relating to supervision of dental hygienists and other staff.

18 j. A plan for the referral of patients to other dental or health care providers or
19 clinics when services needed are beyond the scope of practice or authorization of the
20 dental therapist.

21 k. Whether and to what extent the dental therapist may perform services
22 described in par. (b) 15.

23 2. a. A collaborative management agreement shall be limited to covering one
24 qualifying dentist and one dental therapist.

SENATE BILL 689

1 b. A dental therapist may enter into multiple collaborative management
2 agreements.

3 c. No dentist may have collaborative management agreements with more than
4 4 dental therapists at any time.

5 (dm) A dental therapist may, subject to par. (e), provide dental therapy services
6 only as an employee of one or more of the following that satisfies par. (dr):

7 1. A dentist with whom the dental therapist has entered into a collaborative
8 management agreement.

9 2. A dental practice.

10 3. A school district or the operator of a private school, as defined in s. 115.001
11 (3r), or a tribal school, as defined in s. 115.001 (15m).

12 4. The operator of a school for the education of dentists or dental hygienists.

13 5. A state or federal prison, a county jail, or other federal, state, county, or
14 municipal correctional or detention facility, or a facility established to provide care
15 for terminally ill patients.

16 6. A local health department, as defined in s. 250.01 (4).

17 7. A charitable institution open to the general public or to members of a
18 religious sect or order.

19 8. A nonprofit home health care agency.

20 9. The operator of a nonprofit dental care program serving primarily indigent,
21 economically disadvantaged, or migrant worker populations.

22 10. A health care employer, as defined in s. 440.094 (1) (b).

23 (dr) A dentist may not enter into a collaborative management agreement with
24 a dental therapist unless the dentist directly employs the dental therapist as

SENATE BILL 689**SECTION 44**

1 provided in par. (dm) 1. or the dentist is employed by or contracts with the dental
2 therapist's employer described in par. (dm) 2. to 10.

3 (e) A dental therapist shall at all times comply with at least one of the following:

4 1. Limit his or her practice to practicing in one or more dental health shortage
5 areas. If a dental therapist begins practicing in a dental health shortage area, and
6 that area loses its designation as a dental health shortage area while the dental
7 therapist continues to practice in that area, the dental therapist is considered to
8 satisfy this subdivision as long as the dental therapist continues to practice in that
9 area.

10 2. Practice in one or more settings in which at least 50 percent of the total
11 patient base of the dental therapist consists of patients who are any of the following:

12 a. Medical Assistance patients.

13 b. Uninsured patients.

14 c. Patients receiving dental care at free and charitable clinics.

15 d. Patients receiving dental care at federally qualified health centers.

16 e. Patients who reside in long-term care facilities.

17 f. Veterans.

18 g. Patients who are members of a federally recognized Indian tribe or band.

19 h. Patients receiving dental care at clinics or facilities located on tribal lands.

20 i. Patients with medical disabilities or chronic conditions that create barriers
21 of access to dental care.

22 **SECTION 45.** 447.063 of the statutes is amended to read:

23 **447.063 Preservation and transfer of patient health care records. (1)**

24 A person who manages or controls a business that offers dental, dental therapy, or
25 dental hygiene services, including management or control of a business through

SENATE BILL 689

1 which the person allows another person to offer dental, dental therapy, or dental
2 hygiene services, shall preserve patient health care records, as defined in s. 146.81
3 (4), for an amount of time determined by the examining board by rule.

4 (2) A person who manages or controls a business that offers dental, dental
5 therapy, or dental hygiene services, including management or control of a business
6 through which the person allows another person to offer dental, dental therapy, or
7 dental hygiene services, shall, upon request of a patient or person authorized by the
8 patient, as defined in s. 146.81 (5), transfer the patient health care records, as
9 defined in s. 146.81 (4), of the patient to another person that the patient or person
10 authorized by the patient specifies to receive the patient health care records.

11 **SECTION 46.** 447.065 of the statutes is amended to read:

12 **447.065 Delegation of remediable procedures and dental practices. (1)**

13 A dentist or dental therapist who is licensed to practice dentistry under this chapter
14 may delegate to an individual who is not licensed under this chapter only the
15 performance of remediable procedures, and only if all of the following conditions are
16 met:

17 (a) The unlicensed individual performs the remediable procedures in
18 accordance with a treatment plan approved by the dentist or dental therapist.

19 (b) The dentist or dental therapist is on the premises when the unlicensed
20 individual performs the remediable procedures.

21 (c) The unlicensed individual's performance of the remediable procedures is
22 subject to inspection by the dentist or dental therapist.

23 (2) Subject to the requirements under s. 447.06 (2), a dentist or dental therapist
24 who is licensed to practice dentistry under this chapter may delegate to a dental
25 hygienist who is licensed to practice dental hygiene under this chapter the

SENATE BILL 689**SECTION 46**

1 performance of remediable procedures and the administration of oral systemic
2 premedications, local anesthesia, nitrous oxide inhalation analgesia, and
3 subgingival sustained release chemotherapeutic agents, to the extent the dentist or
4 dental therapist has the authority to perform the activity personally.

5 (3) A dentist or dental therapist who delegates to another individual the
6 performance of any practice or remediable procedure is responsible for that
7 individual's performance of that delegated practice or procedure.

8 **SECTION 47.** 447.07 (1) of the statutes is amended to read:

9 447.07 (1) The examining board may, without further notice or process, limit,
10 suspend, or revoke the license or certificate of any dentist, dental therapist, or dental
11 hygienist, or the registration of a mobile dentistry program registrant, who fails,
12 within 60 days after the mailing of written notice to the dentist's, dental therapist's,
13 dental hygienist's, or registrant's last-known address, to renew the license,
14 certificate, or registration.

15 **SECTION 48.** 447.07 (3) (intro.) of the statutes is amended to read:

16 447.07 (3) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
17 examining board may make investigations and conduct hearings in regard to any
18 alleged action of any dentist, dental therapist, dental hygienist, or expanded
19 function dental auxiliary, of a mobile dentistry program registrant, or of any other
20 person it has reason to believe is engaged in or has engaged in the practice of
21 dentistry, dental therapy, or dental hygiene, or the operation of a mobile dentistry
22 program, in this state, and may, on its own motion, or upon complaint in writing,
23 reprimand any dentist, dental therapist, dental hygienist, or expanded function
24 dental auxiliary who is licensed or certified under this chapter, or any mobile
25 dentistry program registrant, or deny, limit, suspend, or revoke his or her license or

SENATE BILL 689

1 certificate, or the registration of the mobile dentistry program registrant, if it finds
2 that the dentist, dental therapist, dental hygienist, expanded function dental
3 auxiliary, or mobile dentistry program registrant has done any of the following:

4 **SECTION 49.** 447.07 (3) (e) to (h) of the statutes are amended to read:

5 447.07 (3) (e) Subject to ss. 111.321, 111.322, and 111.335, been convicted of a
6 crime, the circumstances of which substantially relate to the practice of dentistry,
7 dental therapy, or dental hygiene, the practice of an expanded function dental
8 auxiliary, or the operation of a mobile dentistry program.

9 (f) Violated this chapter or any federal or state statute or rule that relates to
10 the practice of dentistry, dental therapy, dental hygiene, or an expanded function
11 dental auxiliary, or the operation of a mobile dentistry program.

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

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

18 **SECTION 50.** 447.07 (6) of the statutes is created to read:

19 447.07 (6) The examining board shall immediately revoke the license to
20 practice dental therapy granted under s. 447.04 (1m) of an individual who qualified
21 for the license on the basis of graduation from a dental therapy education program
22 described in s. 447.04 (1m) (c) 3. if, upon the conclusion of the 4-year period described
23 in s. 447.04 (1m) (c) 3., the program is not accredited as described in s. 447.04 (1m)
24 (c) 1. If the program subsequently becomes accredited, the examining board may
25 allow reinstatement of a revoked license described in this subsection.

SENATE BILL 689**SECTION 51**

1 **SECTION 51.** 447.40 (intro.) of the statutes is amended to read:

2 **447.40 Informed consent.** (intro.) Any dentist or dental therapist who treats
3 a patient shall inform the patient about the availability of reasonable alternate
4 modes of treatment and about the benefits and risks of these treatments. The
5 reasonable dentist standard is the standard for informing a patient under this
6 section. The reasonable dentist standard requires disclosure only of information
7 that a reasonable dentist would know and disclose under the circumstances. The
8 dentist's or dental therapist's duty to inform the patient under this section does not
9 require disclosure of any of the following:

10 **SECTION 52.** 447.40 (6) of the statutes is amended to read:

11 447.40 (6) Information about alternate modes of treatment for any condition
12 the dentist or dental therapist has not included in his or her diagnosis, assessment,
13 or treatment plan at the time the dentist or dental therapist informs the patient.

14 **SECTION 53.** 448.03 (2) (a) of the statutes is amended to read:

15 448.03 (2) (a) Any person lawfully practicing within the scope of a license,
16 permit, registration, certificate, or certification granted to practice midwifery under
17 subch. XIII of ch. 440, to practice professional or practical nursing or
18 nurse-midwifery under ch. 441, to practice chiropractic under ch. 446, to practice
19 dentistry, dental therapy, or dental hygiene or as an expanded function dental
20 auxiliary under ch. 447, to practice optometry under ch. 449, to practice as a
21 physician assistant under subch. IX, to practice acupuncture under ch. 451 or under
22 any other statutory provision, to practice naturopathic medicine under ch. 466, or as
23 otherwise provided by statute.

24 **SECTION 54.** 448.975 (2) (c) 1. of the statutes is amended to read:

SENATE BILL 689

1 448.975 (2) (c) 1. The practice of dentistry, dental therapy, or dental hygiene
2 within the meaning of ch. 447.

3 **SECTION 55.** 450.03 (1) (e) of the statutes is amended to read:

4 450.03 (1) (e) Any person lawfully practicing within the scope of a license,
5 permit, registration, certificate, or certification granted to practice as a pharmacy
6 technician under s. 450.068, to provide home medical oxygen under s. 450.076, to
7 practice professional or practical nursing or nurse-midwifery under ch. 441, to
8 practice dentistry, dental therapy, or dental hygiene or as an expanded function
9 dental auxiliary under ch. 447, to practice medicine and surgery under ch. 448, to
10 practice optometry under ch. 449, to practice naturopathic medicine under ch. 466,
11 or to practice veterinary medicine under ch. 89, or as otherwise provided by statute.

12 **SECTION 56.** 450.10 (3) (a) 4. of the statutes is amended to read:

13 450.10 (3) (a) 4. A dentist or dental therapist licensed under ch. 447.

14 **SECTION 57.** 462.02 (2) (d) of the statutes is amended to read:

15 462.02 (2) (d) A dentist licensed under s. 447.04 (1), a dental therapist licensed
16 under s. 447.04 (1m), a dental hygienist licensed under s. 447.04 (2), a person
17 certified as an expanded function dental auxiliary under s. 447.04 (3), or a person
18 under the direct supervision of a dentist.

19 **SECTION 58.** 462.04 of the statutes, as affected by 2021 Wisconsin Act 251, is
20 amended to read:

21 **462.04 Prescription or order required.** A person who holds a license or
22 limited X-ray machine operator permit under this chapter may not use diagnostic
23 X-ray equipment on humans for diagnostic purposes unless authorized to do so by
24 prescription or order of a physician licensed under s. 448.04 (1) (a), a naturopathic
25 doctor licensed under s. 466.04 (1), a dentist licensed under s. 447.04 (1), a dental

SENATE BILL 689**SECTION 58**

1 therapist licensed under s. 447.04 (1m), a podiatrist licensed under s. 448.63, a
2 chiropractor licensed under s. 446.02, an advanced practice nurse certified under s.
3 441.16 (2), a physician assistant licensed under s. 448.974, or, subject to s. 448.56 (7)
4 (a), a physical therapist who is licensed under s. 448.53 or who holds a compact
5 privilege under subch. XI of ch. 448.

6 **SECTION 59.** 463.10 (5) of the statutes is amended to read:

7 463.10 (5) EXCEPTION. Subsections (2) to (4m) do not apply to a dentist who is
8 ~~licensed under s. 447.03 (1) or to a~~, dental therapist, or physician who tattoos or
9 offers to tattoo a person in the course of the dentist's, dental therapist's, or physician's
10 professional practice.

11 **SECTION 60.** 463.12 (5) of the statutes is amended to read:

12 463.12 (5) EXCEPTION. Subsections (2) to (4m) do not apply to a dentist who is
13 ~~licensed under s. 447.03 (1) or to a~~, dental therapist, or physician who pierces the
14 body of or offers to pierce the body of a person in the course of the dentist's, dental
15 therapist's, or physician's professional practice.

16 **SECTION 61.** 632.87 (4) of the statutes is amended to read:

17 632.87 (4) No policy, plan or contract may exclude coverage for diagnosis and
18 treatment of a condition or complaint by a licensed dentist or dental therapist within
19 the scope of the dentist's or dental therapist's license, if the policy, plan or contract
20 covers diagnosis and treatment of the condition or complaint by another health care
21 provider, as defined in s. 146.81 (1) (a) to (p).

22 **SECTION 62.** 895.48 (1m) (a) (intro.) of the statutes is amended to read:

23 895.48 (1m) (a) (intro.) Except as provided in par. (b), any physician,
24 naturopathic doctor, physician assistant, podiatrist, or athletic trainer licensed
25 under ch. 448, chiropractor licensed under ch. 446, dentist or dental therapist

SENATE BILL 689

1 licensed under ch. 447, emergency medical services practitioner licensed under s.
2 256.15, emergency medical responder certified under s. 256.15 (8), registered nurse
3 licensed under ch. 441, or a massage therapist or bodywork therapist licensed under
4 ch. 460 who renders voluntary health care to a participant in an athletic event or
5 contest sponsored by a nonprofit corporation, as defined in s. 66.0129 (6) (b), a private
6 school, as defined in s. 115.001 (3r), a tribal school, as defined in s. 115.001 (15m), a
7 public agency, as defined in s. 46.856 (1) (b), or a school, as defined in s. 609.655 (1)
8 (c), is immune from civil liability for his or her acts or omissions in rendering that
9 care if all of the following conditions exist:

10 **SECTION 63.** 895.48 (1m) (a) 2. of the statutes is amended to read:

11 895.48 (1m) (a) 2. The physician, naturopathic doctor, podiatrist, athletic
12 trainer, chiropractor, dentist, dental therapist, emergency medical services
13 practitioner, as defined in s. 256.01 (5), emergency medical responder, as defined in
14 s. 256.01 (4p), physician assistant, registered nurse, massage therapist or bodywork
15 therapist does not receive compensation for the health care, other than
16 reimbursement for expenses.

17 **SECTION 64.** 941.315 (5) of the statutes is amended to read:

18 941.315 (5) (a) Subsection (2) does not apply to a person to whom nitrous oxide
19 is administered for the purpose of providing medical or dental care, if the nitrous
20 oxide is administered by a physician ~~or~~, dental therapist or at the direction
21 or under the supervision of a physician ~~or~~, dental therapist.

22 (b) Subsection (3) does not apply to the administration of nitrous oxide by a
23 physician ~~or~~, dental therapist, or by another person at the direction or
24 under the supervision of a physician ~~or~~, dental therapist, for the purpose
25 of providing medical or dental care.

SENATE BILL 689**SECTION 64**

1 (c) Subsection (3) (c) does not apply to the sale to a hospital, health care clinic
2 or other health care organization or to a physician ~~or~~, dentist, or dental therapist of
3 any object used, designed for use or primarily intended for use in administering
4 nitrous oxide for the purpose of providing medical or dental care.

SECTION 65. Nonstatutory provisions.

5
6 (1) The dentistry examining board shall send a notice to the legislative
7 reference bureau for publication in the Wisconsin Administrative Register when the
8 board determines that 50 or more individuals are currently licensed as dental
9 therapists in this state under s. 447.04 (1m).

10 (2) (a) The dentistry examining board shall promulgate emergency rules under
11 s. 227.24 that are necessary to implement this act. Notwithstanding s. 227.24 (1) (c)
12 and (2), emergency rules promulgated under this paragraph remain in effect for 2
13 years, or until the date on which permanent rules take effect, whichever is sooner.
14 Notwithstanding s. 227.24 (1) (a) and (3), the board is not required to provide
15 evidence that promulgating a rule under this paragraph as an emergency rule is
16 necessary for the preservation of the public peace, health, safety, or welfare and is
17 not required to provide a finding of emergency for a rule promulgated under this
18 paragraph.

19 (b) The dentistry examining board shall present a statement of scope for
20 permanent and emergency rules required to implement this act to the department
21 of administration under s. 227.135 (2) no later than the 30th day after the effective
22 date of this paragraph. Notwithstanding s. 227.135 (2), if the governor does not
23 disapprove the statement of scope by the 30th day after the statement is presented
24 to the department of administration, the statement is considered to be approved by
25 the governor.

SENATE BILL 689

1 (c) The dentistry examining board shall submit a proposed emergency rule
2 required to implement this act to the governor for approval under s. 227.24 (1) (e) 1g.
3 no later than the 150th day after the effective date of this paragraph.
4 Notwithstanding s. 227.24 (1) (e) 1g., if the governor does not reject the proposed
5 emergency rule by the 14th day after the rule is submitted to the governor in final
6 draft form, the rule is considered to be approved by the governor.

7 (d) The dentistry examining board shall submit a proposed permanent rule
8 required to implement this act to the governor for approval under s. 227.185 no later
9 than the 365th day after the effective date of this paragraph. Notwithstanding s.
10 227.185, if the governor does not reject that proposed permanent rule by the 30th day
11 after the rule is submitted to the governor in final draft form, the rule is considered
12 to be approved by the governor.

13 **SECTION 66. Effective dates.** This act takes effect on the day after publication,
14 except as follows:

15 (1) The treatment of s. 15.405 (6) (b) takes effect on the date the notice under
16 s. 447.02 (6) is published in the Wisconsin Administrative Register or on the first day
17 of the 6th year beginning after publication, whichever occurs first.

18 (END)



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1697/1
MED:emw

2023 SENATE BILL 692

November 21, 2023 - Introduced by Senators WIMBERGER, HESSELBEIN, FELZKOWSKI, COWLES, L. JOHNSON, MARKLEIN, BALLWEG and SPREITZER, cosponsored by Representatives VANDERMEER, DITTRICH, ARMSTRONG, BODDEN, BROOKS, CALLAHAN, GUSTAFSON, JACOBSON, KITCHENS, MURSAU, O'CONNOR, PENTERMAN, PLUMER, ROZAR, WITTKÉ and BRANDTJEN. Referred to Committee on Health.

1 **AN ACT to renumber and amend** 440.03 (13) (c); **to amend** 15.405 (6) (a), 15.405
2 (6) (b), 36.60 (1) (ae), 45.40 (1g) (a), 77.54 (14) (f) 6., 146.81 (1) (c), 146.997 (1)
3 (d) 3., 155.01 (7), 252.14 (1) (ar) 3., 440.03 (9) (a) (intro.), 440.03 (9) (a) 2., 440.03
4 (13) (b) (intro.), 440.15, 446.01 (1v) (b), chapter 447 (title), 447.01 (intro.),
5 447.01 (8) (bm), 447.01 (13), 447.02 (1) (e), 447.02 (2) (c), 447.02 (2) (d), 447.02
6 (2) (e), 447.02 (2) (j), 447.02 (4), 447.02 (5), 447.03 (1) (intro.), 447.03 (2) (intro.),
7 447.03 (3) (intro.), 447.06 (1), 447.06 (2) (b), 447.06 (2) (c) (intro.), 447.06 (2) (e)
8 (intro.), 447.065 (1) (intro.), 447.065 (2), 447.07 (3) (intro.), 447.07 (3) (f), 447.07
9 (3) (j), 447.09, 447.10, 447.12 (1), 448.956 (4), 450.10 (3) (a) 4., 451.02 (1), 462.02
10 (2) (d), 462.04, 463.10 (5), 463.12 (5) and 895.48 (1m) (a) (intro.); and **to create**
11 14.875, 440.03 (11m) (c) 1t., 440.03 (13) (c) 1. i., subchapter I (title) of chapter
12 447 [precedes 447.01], 447.01 (1t), 447.01 (1u), 447.04 (1) (bm), 447.04 (2) (bm),

SENATE BILL 692

- 1 subchapter II of chapter 447 [precedes 447.50] and 990.01 (6m) of the statutes;
- 2 **relating to:** ratification of the Dentist and Dental Hygienist Compact.
-

Analysis by the Legislative Reference Bureau

This bill ratifies and enters Wisconsin into the Dentist and Dental Hygienist Compact, which provides for the ability of a dentist or dental hygienist to become eligible to practice in other compact states. Significant provisions of the compact include the following:

1. The creation of a Dentist and Dental Hygienist Compact Commission, which includes one member or administrator of the licensure boards of each member state. The commission has various powers and duties granted in the compact, including adopting bylaws, promulgating binding rules for the compact, hiring employees, electing or appointing officers, and appointing committees. The commission may levy on and collect an annual assessment from each member state or impose fees on licensees of participating states when a compact privilege is granted to cover the cost of the operations and activities of the commission and its staff.

2. The ability for a dentist or dental hygienist to obtain a “compact privilege,” which allows a dentist or dental hygienist to practice in another compact state (remote state) if he or she satisfies certain criteria. The compact specifies a number of requirements in order for a dentist or dental hygienist to exercise a compact privilege, including holding a license in a home state, not having any encumbrances against a license, and paying any fees and meeting any jurisprudence requirements that may be imposed by a remote state. A dentist or dental hygienist practicing in a remote state under a compact privilege functions within the scope of practice authorized by the remote state for licensees in that state and is subject to that state’s regulatory authority. A remote state may, in accordance with that state’s laws, revoke or remove a dentist’s or dental hygienist’s compact privilege in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its citizens. If a dentist’s or dental hygienist’s license is encumbered, he or she loses the compact privilege in all remote states until the license is no longer encumbered and again meets the requirements for a compact privilege. If a dentist’s or dental hygienist’s compact privilege to practice in a remote state is removed, he or she loses the compact privilege in any remote state and is not eligible for a compact privilege in any remote state until the license is no longer encumbered.

3. The ability of member states to issue subpoenas that are enforceable in other states.

4. The creation of a coordinated database and reporting system containing licensure and disciplinary action information on dentists and dental hygienists. A member state must submit a uniform data set to the data system on all individuals to whom the compact is applicable as required by the rules of the commission.

5. Provisions regarding resolutions of disputes between member states and between member and nonmember states, including a process for termination of a

SENATE BILL 692

state's membership in the compact if the state defaults on its obligations under the compact.

The compact becomes effective in this state upon its enactment in seven states. The compact provides that it may be amended upon the enactment of an amendment by all member states. A state may withdraw from the compact by repealing the statute authorizing the compact, but the compact provides that a withdrawal does not take effect until 180 days after the effective date of that repeal.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 14.875 of the statutes is created to read:

2 **14.875 Dentist and dental hygienist compact.** There is created a dentist
3 and dental hygienist compact commission as specified in s. 447.50. The
4 commissioner on the commission representing this state shall be appointed by the
5 dentistry examining board as provided in s. 447.50 (7) (b) 1. and shall be an
6 individual described in s. 447.50 (7) (b) 2. The commission has the powers and duties
7 granted and imposed under s. 447.50.

8 **SECTION 2.** 15.405 (6) (a) of the statutes is amended to read:

9 15.405 (6) (a) Six dentists who are licensed under subch. I of ch. 447.

10 **SECTION 3.** 15.405 (6) (b) of the statutes is amended to read:

11 15.405 (6) (b) Three dental hygienists who are licensed under subch. I of ch.
12 447. Notwithstanding s. 15.08 (1m) (a), the dental hygienist members may
13 participate in the preparation and grading of licensing examinations for dental
14 hygienists.

15 **SECTION 4.** 36.60 (1) (ae) of the statutes is amended to read:

16 36.60 (1) (ae) "Dentist" means a dentist, as defined in s. 447.01 (7), who is
17 licensed under subch. I of ch. 447 and who practices general or pediatric dentistry.

SENATE BILL 692**SECTION 5**

1 **SECTION 5.** 45.40 (1g) (a) of the statutes is amended to read:

2 45.40 **(1g)** (a) “Health care provider” means an advanced practice nurse
3 prescriber who is certified under s. 441.16 (2), an audiologist who is licensed under
4 ch. 459, a dentist who is licensed under subch. I of ch. 447 or who holds a compact
5 privilege under subch. II of ch. 447, an optometrist who is licensed under ch. 449, a
6 physician who is licensed under s. 448.02, or a podiatrist who is licensed under s.
7 448.63.

8 **SECTION 6.** 77.54 (14) (f) 6. of the statutes is amended to read:

9 77.54 **(14)** (f) 6. A dentist who is licensed under subch. I of ch. 447 or who holds
10 a compact privilege under subch. II of ch. 447.

11 **SECTION 7.** 146.81 (1) (c) of the statutes is amended to read:

12 146.81 **(1)** (c) A dentist who is licensed under ch. 447 or who holds a compact
13 privilege under subch. II of ch. 447.

14 **SECTION 8.** 146.997 (1) (d) 3. of the statutes is amended to read:

15 146.997 **(1)** (d) 3. A dentist who is licensed under ch. 447 or who holds a compact
16 privilege under subch. II of ch. 447.

17 **SECTION 9.** 155.01 (7) of the statutes, as affected by 2021 Wisconsin Act 251,
18 is amended to read:

19 155.01 **(7)** “Health care provider” means a nurse licensed or permitted under
20 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under subch. I of ch.
21 447, a physician, physician assistant, perfusionist, podiatrist, physical therapist,
22 physical therapist assistant, occupational therapist, occupational therapy assistant,
23 or genetic counselor licensed under ch. 448, a naturopathic doctor licensed under ch.
24 466, a person practicing Christian Science treatment, an optometrist licensed under
25 ch. 449, a psychologist who is licensed under ch. 455, who is exercising the temporary

SENATE BILL 692

1 authorization to practice, as defined in s. 455.50 (2) (o), in this state, or who is
2 practicing under the authority to practice interjurisdictional telepsychology, as
3 defined in s. 455.50 (2) (b), a dentist who holds a compact privilege under subch. II
4 of ch. 447, a physical therapist or physical therapist assistant who holds a compact
5 privilege under subch. XI of ch. 448, an occupational therapist or occupational
6 therapy assistant who holds a compact privilege under subch. XII of ch. 448, a
7 partnership thereof, a corporation or limited liability company thereof that provides
8 health care services, a cooperative health care association organized under s.
9 185.981 that directly provides services through salaried employees in its own facility,
10 or a home health agency, as defined in s. 50.49 (1) (a).

11 **SECTION 10.** 252.14 (1) (ar) 3. of the statutes is amended to read:

12 252.14 (1) (ar) 3. A dentist who is licensed under subch. I of ch. 447 or who holds
13 a compact privilege under subch. II of ch. 447.

14 **SECTION 11.** 440.03 (9) (a) (intro.) of the statutes is amended to read:

15 440.03 (9) (a) (intro.) Subject to pars. (b) and (c) and s. 458.33 (2) (b) and (5),
16 the department shall, biennially, determine each fee for an initial credential for
17 which no examination is required, for a reciprocal credential, and for a credential
18 renewal and any fees imposed under ss. 447.51 (2), 448.986 (2), and 448.9875 (2) by
19 doing all of the following:

20 **SECTION 12.** 440.03 (9) (a) 2. of the statutes is amended to read:

21 440.03 (9) (a) 2. Not later than January 31 of each odd-numbered year,
22 adjusting for the succeeding fiscal biennium each fee for an initial credential for
23 which an examination is not required, for a reciprocal credential, and, subject to s.
24 440.08 (2) (a), for a credential renewal, and any fees imposed under ss. 447.51 (2),
25 448.986 (2), and 448.9875 (2), if an adjustment is necessary to reflect the

SENATE BILL 692**SECTION 12**

1 approximate administrative and enforcement costs of the department that are
2 attributable to the regulation of the particular occupation or business during the
3 period in which the initial or reciprocal credential, credential renewal, or compact
4 privilege is in effect and, for purposes of each fee for a credential renewal, to reflect
5 an estimate of any additional moneys available for the department's general
6 program operations as a result of appropriation transfers that have been or are
7 estimated to be made under s. 20.165 (1) (i) during the fiscal biennium in progress
8 at the time of the deadline for an adjustment under this subdivision or during the
9 fiscal biennium beginning on the July 1 immediately following the deadline for an
10 adjustment under this subdivision.

11 **SECTION 13.** 440.03 (11m) (c) 1t. of the statutes is created to read:

12 440.03 (11m) (c) 1t. The coordinated database and reporting system under s.
13 447.50 (8), if such disclosure is required under the dentist and dental hygienist
14 compact under s. 447.50.

15 **SECTION 14.** 440.03 (13) (b) (intro.) of the statutes is amended to read:

16 440.03 (13) (b) (intro.) The department may investigate whether an applicant
17 for or holder of any of the following credentials has been charged with or convicted
18 of a crime only pursuant to rules promulgated by the department under this
19 paragraph, including rules that establish the criteria that the department will use
20 to determine whether an investigation under this paragraph is necessary, except as
21 provided in par. (c) and ss. 441.51 (5) (a) 5., 447.50 (3) (a) 5., 448.980 (5) (b) 3., 448.985
22 (3) (a) 4., 448.987 (3) (a) 5. a. and (5) (b) 2. a., and 455.50 (3) (e) 4. and (f) 4.:

23 **SECTION 15.** 440.03 (13) (c) of the statutes is renumbered 440.03 (13) (c) 1.
24 (intro.) and amended to read:

SENATE BILL 692

1 440.03 (13) (c) 1. (intro.) The department shall require ~~an~~ all of the following
2 to be photographed and fingerprinted on 2 fingerprint cards, each bearing a complete
3 set of the person's fingerprints:

4 a. An applicant for a private detective license or a private security permit under
5 s. 440.26, ~~an.~~

6 b. An applicant for a juvenile martial arts instructor permit under sub. (17),
7 ~~an.~~

8 c. An applicant for a real estate appraiser certification under s. 458.06 or
9 license under s. 458.08, ~~an.~~

10 d. An applicant for a multistate license under s. 441.06 (1c) or 441.10 (1c), ~~an.~~

11 e. An applicant for a compact license under s. 448.05 (2) (f), ~~an.~~

12 f. An applicant for a physical therapist license under s. 448.53 or physical
13 therapist assistant license under s. 448.535, ~~an.~~

14 g. An applicant for an occupational therapist or occupational therapy assistant
15 compact privilege under s. 448.987 (4), and an applicant for an occupational
16 therapist or occupational therapy assistant license described in s. 448.987 (5) (b) 2.
17 ~~a., an~~

18 h. An applicant for a psychologist license under s. 455.04, ~~and a.~~

19 z. A person for whom the department conducts an investigation under par. (b),
20 ~~to be photographed and fingerprinted on 2 fingerprint cards, each bearing a complete~~
21 ~~set of the person's fingerprints.~~

22 2. The department of justice may submit the fingerprint cards, and the
23 department of justice shall submit the fingerprint cards of all applicants ~~for a real~~
24 ~~estate appraiser certification under s. 458.06 or license under s. 458.08, of all~~
25 ~~applicants for a multistate license under s. 441.06 (1c) or 441.10 (1c), of all applicants~~

SENATE BILL 692**SECTION 15**

1 ~~for a compact license under s. 448.05 (2) (f), of all applicants for a physical therapist~~
2 ~~license under s. 448.53 or a physical therapist assistant license under s. 448.535, and~~
3 ~~of all applicants for a psychologist license under s. 455.04 identified in subd. 1. c. to~~
4 ~~i., to the federal bureau of investigation for the purpose of verifying the identity of~~
5 ~~the persons fingerprinted and obtaining records of their criminal arrests and~~
6 ~~convictions.~~

7 3. Information obtained from the federal bureau of investigation may be shared
8 with the department or the appropriate credentialing board, but shall otherwise be
9 kept confidential and is not subject to disclosure under s. 19.35.

10 **SECTION 16.** 440.03 (13) (c) 1. i. of the statutes is created to read:

11 440.03 (13) (c) 1. i. An applicant for a dentist or dental hygienist license or
12 compact privilege under s. 447.04 when required pursuant to the dentist and dental
13 hygienist compact under s. 447.50.

14 **SECTION 17.** 440.15 of the statutes is amended to read:

15 **440.15 No fingerprinting.** Except as provided under ss. 440.03 (13) (c),
16 441.51 (5) (a) 5., 447.50 (3) (a) 5., 448.980 (5) (b) 3., 448.985 (3) (a) 4., 448.987 (3) (a)
17 5. a. and (5) (b) 2. a., 450.071 (3) (c) 9., 450.075 (3) (c) 9., and 455.50 (3) (e) 4. and (f)
18 4., the department or a credentialing board may not require that an applicant for a
19 credential or a credential holder be fingerprinted or submit fingerprints in
20 connection with the department's or the credentialing board's credentialing.

21 **SECTION 18.** 446.01 (1v) (b) of the statutes is amended to read:

22 446.01 (1v) (b) Dentistry examining board under subch. I of ch. 447. "Health
23 care professional" also includes an individual who holds a compact privilege under
24 subch. II of ch. 447.

25 **SECTION 19.** Chapter 447 (title) of the statutes is amended to read:

SENATE BILL 692

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CHAPTER 447

~~DENTISTRY EXAMINING BOARD~~

AND DENTAL HYGIENE

SECTION 20. Subchapter I (title) of chapter 447 [precedes 447.01] of the statutes is created to read:

CHAPTER 447

SUBCHAPTER I

REGULATION OF DENTISTRY

AND DENTAL HYGIENE

SECTION 21. 447.01 (intro.) of the statutes is amended to read:

447.01 Definitions. (intro.) In this ~~chapter~~ subchapter:

SECTION 22. 447.01 (1t) of the statutes is created to read:

447.01 (1t) “Compact” means the dentist and dental hygienist compact under s. 447.50.

SECTION 23. 447.01 (1u) of the statutes is created to read:

447.01 (1u) “Compact privilege” means a compact privilege, as defined in s. 447.50 (2) (g), that is granted under the compact to an individual to practice in this state.

SECTION 24. 447.01 (8) (bm) of the statutes is amended to read:

447.01 (8) (bm) A dentist who is licensed under this chapter subchapter or who is exercising the compact privilege in this state may not perform dental services that are outside the scope of the dentist’s relevant education, training, and experience.

SECTION 25. 447.01 (13) of the statutes is amended to read:

447.01 (13) “Written or oral prescription” means specific written or oral authorization by a dentist ~~who is licensed to practice dentistry under this chapter to~~

SENATE BILL 692**SECTION 25**

1 perform patient procedures according to a clearly defined treatment plan developed
2 by the dentist.

3 **SECTION 26.** 447.02 (1) (e) of the statutes is amended to read:

4 447.02 (1) (e) Providing for the granting of temporary licenses under this
5 ~~chapter~~ subchapter.

6 **SECTION 27.** 447.02 (2) (c) of the statutes is amended to read:

7 447.02 (2) (c) Whether an individual is required to be licensed under this
8 ~~chapter~~ subchapter to remove plaque or materia alba accretions with mechanical
9 devices.

10 **SECTION 28.** 447.02 (2) (d) of the statutes is amended to read:

11 447.02 (2) (d) The oral systemic premedications and subgingival sustained
12 release chemotherapeutic agents that may be administered by a dental hygienist
13 ~~licensed under this chapter~~ under s. 447.06 (2) (e) 1. and 3.

14 **SECTION 29.** 447.02 (2) (e) of the statutes is amended to read:

15 447.02 (2) (e) The educational requirements for administration of local
16 anesthesia by a dental hygienist ~~licensed under this chapter~~ under s. 447.06 (2) (e)
17 2.

18 **SECTION 30.** 447.02 (2) (j) of the statutes is amended to read:

19 447.02 (2) (j) The educational requirements for a dental hygienist ~~licensed~~
20 ~~under this chapter~~ to administer nitrous oxide inhalation analgesia under s. 447.06
21 (2) (e) 4.

22 **SECTION 31.** 447.02 (4) of the statutes is amended to read:

23 447.02 (4) In the course of investigating a violation of this ~~chapter~~ subchapter,
24 the examining board may require, by order or subpoena, that a person who manages
25 or controls a business that offers dental or dental hygiene services, including

SENATE BILL 692

1 management or control of a business through which the person allows another
2 person to offer dental or dental hygiene services, produce patient health care records,
3 as defined in s. 146.81 (4).

4 **SECTION 32.** 447.02 (5) of the statutes is amended to read:

5 447.02 (5) Except as provided in ss. 447.058 and 447.063, nothing in this
6 ~~chapter~~ subchapter may be construed as authorizing the examining board to
7 regulate business or administrative support functions or services, that do not
8 constitute the practice of dentistry or dental hygiene, provided to a business that
9 provides dental or dental hygiene services.

10 **SECTION 33.** 447.03 (1) (intro.) of the statutes is amended to read:

11 447.03 (1) DENTISTS. (intro.) Except as provided under sub. (3) and ss. 257.03
12 and 447.02 (3), no person may do any of the following unless he or she is licensed to
13 practice dentistry under this ~~chapter~~ subchapter or holds a compact privilege to
14 practice dentistry:

15 **SECTION 34.** 447.03 (2) (intro.) of the statutes is amended to read:

16 447.03 (2) DENTAL HYGIENISTS. (intro.) Except as provided under sub. (3) and
17 s. 447.02 (3), no person may do any of the following unless he or she is licensed to
18 practice dental hygiene under this ~~chapter~~ subchapter or holds a compact privilege
19 to practice dental hygiene:

20 **SECTION 35.** 447.03 (3) (intro.) of the statutes is amended to read:

21 447.03 (3) EXCEPTIONS. (intro.) No license or certificate under this ~~chapter~~
22 subchapter is required for any of the following:

23 **SECTION 36.** 447.04 (1) (bm) of the statutes is created to read:

24 447.04 (1) (bm) The examining board shall grant a compact privilege to practice
25 dentistry to an individual who does all of the following:

SENATE BILL 692**SECTION 36**

1 1. Submits an application for the compact privilege to the department on a form
2 provided by the department.

3 2. Pays the applicable fee specified in s. 447.51 (2).

4 3. Passes an examination administered by the examining board on the statutes
5 and rules relating to dentistry.

6 4. Satisfies all other applicable requirements under s. 447.50 (4).

7 **SECTION 37.** 447.04 (2) (bm) of the statutes is created to read:

8 447.04 (2) (bm) The examining board shall grant a compact privilege to practice
9 dental hygiene to an individual who does all of the following:

10 1. Submits an application for the compact privilege to the department on a form
11 provided by the department.

12 2. Pays the applicable fee specified in s. 447.51 (2).

13 3. Passes an examination administered by the examining board on the statutes
14 and rules relating to dental hygiene.

15 4. Satisfies all other applicable requirements under s. 447.50 (4).

16 **SECTION 38.** 447.06 (1) of the statutes is amended to read:

17 447.06 (1) No contract of employment entered into between a dentist and any
18 other party under which the dentist renders dental services may require the dentist
19 to act in a manner ~~which~~ that violates the professional standards for dentistry set
20 forth in this ~~chapter~~ subchapter. Nothing in this subsection limits the ability of the
21 other party to control the operation of the dental practice in a manner in accordance
22 with the professional standards for dentistry set forth in this ~~chapter~~ subchapter.

23 **SECTION 39.** 447.06 (2) (b) of the statutes is amended to read:

24 447.06 (2) (b) A dental hygienist may practice dental hygiene or perform
25 remediable procedures under par. (a) 1. only as authorized by a dentist ~~who is~~

SENATE BILL 692

1 ~~licensed to practice dentistry under this chapter~~ and who is present in the facility in
2 which those practices or procedures are performed, except as provided in par. (c).

3 **SECTION 40.** 447.06 (2) (c) (intro.) of the statutes is amended to read:

4 447.06 (2) (c) (intro.) A dental hygienist may practice dental hygiene or perform
5 remediable procedures under par. (a) 1. if a dentist ~~who is licensed to practice~~
6 ~~dentistry under this chapter~~ is not present in the facility in which those practices or
7 procedures are performed only if all of the following conditions are met:

8 **SECTION 41.** 447.06 (2) (e) (intro.) of the statutes is amended to read:

9 447.06 (2) (e) (intro.) Pursuant to a treatment plan approved by a dentist ~~who~~
10 ~~is licensed under this chapter~~, a dental hygienist ~~licensed under this chapter~~ may
11 administer the following upon delegation by the dentist if the dentist remains on the
12 premises in which the practices are performed and is available to the patient
13 throughout the completion of the appointment:

14 **SECTION 42.** 447.065 (1) (intro.) of the statutes is amended to read:

15 447.065 (1) (intro.) A dentist ~~who is licensed to practice dentistry under this~~
16 ~~chapter~~ may delegate to an individual who is not licensed under this ~~chapter~~
17 subchapter only the performance of remediable procedures, and only if all of the
18 following conditions are met:

19 **SECTION 43.** 447.065 (2) of the statutes is amended to read:

20 447.065 (2) Subject to the requirements under s. 447.06 (2), a dentist ~~who is~~
21 ~~licensed to practice dentistry under this chapter~~ may delegate to a dental hygienist
22 ~~who is licensed to practice dental hygiene under this chapter~~ the performance of
23 remediable procedures and the administration of oral systemic premedications, local
24 anesthesia, nitrous oxide inhalation analgesia, and subgingival sustained release
25 chemotherapeutic agents.

SENATE BILL 692**SECTION 44**

1 **SECTION 44.** 447.07 (3) (intro.) of the statutes is amended to read:

2 447.07 (3) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
3 examining board may make investigations and conduct hearings in regard to any
4 alleged action of any dentist, dental hygienist, or expanded function dental auxiliary,
5 of a mobile dentistry program registrant, or of any other person it has reason to
6 believe is engaged in or has engaged in the practice of dentistry or dental hygiene,
7 or the operation of a mobile dentistry program, in this state, and may, on its own
8 motion, or upon complaint in writing, reprimand any dentist, dental hygienist, or
9 expanded function dental auxiliary who is licensed or certified under this ~~chapter~~
10 subchapter or who holds a compact privilege, or any mobile dentistry program
11 registrant, or deny, limit, suspend, or revoke his or her license ~~or~~ certificate, or
12 compact privilege, or the registration of the mobile dentistry program registrant, if
13 it finds that the dentist, dental hygienist, expanded function dental auxiliary, or
14 mobile dentistry program registrant has done any of the following:

15 **SECTION 45.** 447.07 (3) (f) of the statutes is amended to read:

16 447.07 (3) (f) Violated this ~~chapter~~ subchapter or any federal or state statute
17 or rule that relates to the practice of dentistry, dental hygiene, or an expanded
18 function dental auxiliary, or the operation of a mobile dentistry program.

19 **SECTION 46.** 447.07 (3) (j) of the statutes is amended to read:

20 447.07 (3) (j) Employed, directly or indirectly, any unlicensed or uncertified
21 person to perform any act requiring licensure or certification under this ~~chapter~~
22 subchapter.

23 **SECTION 47.** 447.09 of the statutes is amended to read:

24 **447.09 Penalties.** Any person who violates this ~~chapter~~ subchapter may be
25 fined not more than \$1,000 or imprisoned for not more than one year in the county

SENATE BILL 692

1 jail or both for the first offense and is guilty of a Class I felony for the 2nd or
2 subsequent conviction within 5 years.

3 **SECTION 48.** 447.10 of the statutes is amended to read:

4 **447.10 Injunction.** If it appears upon the complaint of any person to the
5 examining board, or it is believed by the examining board that any person is violating
6 this ~~chapter~~ subchapter, the examining board, or the district attorney of the proper
7 county, may investigate such alleged violation, and may, in addition to or in lieu of
8 any other remedies provided by law, bring action in the name and on behalf of the
9 state against any such person to enjoin such violation. Between meetings of the
10 examining board, its president and secretary, acting in its behalf, are empowered
11 jointly to make such an investigation, and on the basis thereof to seek such relief.
12 Investigations conducted by the examining board, or by its president and secretary,
13 shall be conducted according to rules promulgated under s. 440.03 (1).

14 **SECTION 49.** 447.12 (1) of the statutes is amended to read:

15 447.12 (1) The dentists of any county who are licensed to practice dentistry
16 under this ~~chapter~~ subchapter, provided there are at least 5 in the county, may
17 organize a county dental society as a component of the Wisconsin Dental Association.
18 When so organized it shall be a body corporate, and shall be designated as the dental
19 society of the county, and shall have the general powers of a corporation and may take
20 by purchase or gift and hold real and personal property. County dental societies now
21 existing are continued with the powers and privileges conferred by this ~~chapter~~
22 subchapter. A county or district dental society that was in existence but
23 unincorporated on September 29, 1963, is not required to incorporate unless that is
24 the express wish of the majority of its members.

SENATE BILL 692

1 (c) Increases public access to qualified, licensed dentists and dental hygienists
2 by creating a responsible, streamlined pathway for licensees to practice in
3 participating states.

4 (d) Enhances the ability of participating states to protect the public's health
5 and safety;

6 (e) Does not interfere with licensure requirements established by a
7 participating state;

8 (f) Facilitates the sharing of licensure and disciplinary information among
9 participating states;

10 (g) Requires dentists and dental hygienists who practice in a participating
11 state pursuant to a compact privilege to practice within the scope of practice
12 authorized in that state;

13 (h) Extends the authority of a participating state to regulate the practice of
14 dentistry and dental hygiene within its borders to dentists and dental hygienists who
15 practice in the state through a compact privilege;

16 (i) Promotes the cooperation of participating state in regulating the practice of
17 dentistry and dental hygiene within those states;

18 (j) Facilitates the relocation of military members and their spouses who are
19 licensed to practice dentistry or dental hygiene;

20 **(2) DEFINITIONS.** As used in this compact, unless the context requires otherwise,
21 the following definitions shall apply:

22 (a) "Active military member" means any person with full-time duty status in
23 the armed forces of the United States, including members of the national guard and
24 reserve.

SENATE BILL 692**SECTION 50**

1 (b) “Adverse action” means disciplinary action or encumbrance imposed on a
2 license or compact privilege by a state licensing authority.

3 (c) “Alternative program” means a nondisciplinary monitoring or practice
4 remediation process applicable to a dentist or dental hygienist approved by a state
5 licensing authority of a participating state in which the dentist or dental hygienist
6 is licensed. This includes, but is not limited to, programs to which licensees with
7 substance abuse or addiction issues are referred in lieu of adverse action.

8 (d) “Clinical assessment” means examination or process, required for licensure
9 as a dentist or dental hygienist as applicable, that provides evidence of clinical
10 competence in dentistry or dental hygiene.

11 (e) “Commissioner” means the individual appointed by a participating state to
12 serve as the member of the commission for that participating state.

13 (f) “Compact” means this dentist and dental hygienist compact.

14 (g) “Compact privilege” means the authorization granted by a remote state to
15 allow a licensee from a participating state to practice as a dentist or dental hygienist
16 in a remote state.

17 (h) “Continuing professional development” means a requirement, as a
18 condition of license renewal to provide evidence of successful participation in
19 educational or professional activities relevant to practice or area of work.

20 (i) “Criminal background check” means the submission of fingerprints or other
21 biometric-based information for a license applicant for the purpose of obtaining that
22 applicant’s criminal history record information, as defined in 28 CFR 20.3 (d) from
23 the federal bureau of investigation and the state’s criminal history record repository
24 as defined in 28 CFR. 20.3 (f).

SENATE BILL 692

1 (j) “Data system” means the commission’s repository of information about
2 licensees, including but not limited to examination, licensure, investigative, compact
3 privilege, adverse action, and alternative program.

4 (k) “Dental hygienist” means an individual who is licensed by a state licensing
5 authority to practice dental hygiene.

6 (L) “Dentist” means an individual who is licensed by a state licensing authority
7 to practice dentistry.

8 (m) “Dentist and dental hygienist compact commission” or “commission” means
9 a joint government agency established by this compact comprised of each state that
10 has enacted the compact and a national administrative body comprised of a
11 commissioner from each state that has enacted the compact.

12 (n) “Encumbered license” means a license that a state licensing authority has
13 limited in any way other than through an alternative program.

14 (o) “Executive board” means the chair, vice chair, secretary and treasurer and
15 any other commissioners as may be determined by commission rule or bylaw.

16 (p) “Jurisprudence requirement” means the assessment of an individual’s
17 knowledge of the laws and rules governing the practice of dentistry or dental
18 hygiene, as applicable, in a state.

19 (q) “License” means current authorization by a state, other than authorization
20 pursuant to a compact privilege, or other privilege, for an individual to practice as
21 a dentist or dental hygienist in that state.

22 (r) “Licensee” means an individual who holds an unrestricted license from a
23 participating state to practice as a dentist or dental hygienist in that state.

SENATE BILL 692**SECTION 50**

1 (s) “Model compact” the model for the dentist and dental hygienist compact on
2 file with the council of state governments or other entity as designated by the
3 commission.

4 (t) “Participating state” means a state that has enacted the compact and been
5 admitted to the commission in accordance with the provisions herein and
6 commission rules.

7 (u) “Qualifying license” means a license that is not an encumbered license
8 issued by a participating state to practice dentistry or dental hygiene.

9 (v) “Remote state” means a participating state where a licensee who is not
10 licensed as a dentist or dental hygienist is exercising or seeking to exercise the
11 compact privilege.

12 (w) “Rule” means a regulation promulgated by an entity that has the force of
13 law.

14 (x) “Scope of practice” means the procedures, actions, and processes a dentist
15 or dental hygienist licensed in a state is permitted to undertake in that state and the
16 circumstances under which the licensee is permitted to undertake those procedures,
17 actions and processes. Such procedures, actions and processes and the
18 circumstances under which they may be undertaken may be established through
19 means, including, but not limited to, statute, regulations, case law, and other
20 processes available to the state licensing authority or other government agency.

21 (y) “Significant investigative information” means information, records, and
22 documents received or generated by a state licensing authority pursuant to an
23 investigation for which a determination has been made that there is probable cause
24 to believe that the licensee has violated a statute or regulation that is considered

SENATE BILL 692

1 more than a minor infraction for which the state licensing authority could pursue
2 adverse action against the licensee.

3 (z) “State” means any state, commonwealth, district, or territory of the United
4 States of America that regulates the practices of dentistry and dental hygiene.

5 (za) “State licensing authority” means an agency or other entity of a state that
6 is responsible for the licensing and regulation of dentists or dental hygienists.

7 **(3) STATE PARTICIPATION IN THE COMPACT.** (a) In order to join the Compact and
8 thereafter continue as a participating state, a state must:

9 1. Enact a compact that is not materially different from the model compact as
10 determined in accordance with commission rules;

11 2. Participate fully in the commission’s data system;

12 3. Have a mechanism in place for receiving and investigating complaints about
13 its licensees and license applicants;

14 4. Notify the commission, in compliance with the terms of the compact and
15 commission rules, of any adverse action or the availability of significant
16 investigative information regarding a licensee and license applicant;

17 5. Fully implement a criminal background check requirement, within a time
18 frame established by commission rule, by receiving the results of a qualifying
19 criminal background check;

20 6. Comply with the commission rules applicable to a participating state;

21 7. Accept the national board examinations of the Joint Commission on National
22 Dental Examinations or another examination accepted by commission rule as a
23 licensure examination;

24 8. Accept for licensure that applicants for a dentist license graduate from a
25 predoctoral dental education program accredited by the Commission on Dental

SENATE BILL 692**SECTION 50**

1 Accreditation or another accrediting agency recognized by the United States
2 department of education for the accreditation of dentistry and dental hygiene
3 education programs, leading to the doctor of dental surgery (D.D.S.) or doctor of
4 dental medicine (D.M.D.) degree;

5 9. Accept for licensure that applicants for a dental hygienist license graduate
6 from a dental hygiene education program accredited by the Commission on Dental
7 Accreditation or another accrediting agency recognized by the United States
8 department of education for the accreditation of dentistry and dental hygiene
9 education programs;

10 10. Require for licensure that applicants successfully complete a clinical
11 assessment;

12 11. Have continuing professional development requirements as a condition for
13 license renewal; and

14 12. Pay a participation fee to the commission as established by commission
15 rule.

16 (b) Providing alternative pathways for an individual to obtain an unrestricted
17 license does not disqualify a state from participating in the compact.

18 (c) When conducting a criminal background check the state licensing authority
19 shall:

20 1. Consider that information in making a licensure decision;

21 2. Maintain documentation of completion of the criminal background check and
22 background check information to the extent allowed by state and federal law; and

23 3. Report to the commission whether it has completed the criminal background
24 check and whether the individual was granted or denied a license.

SENATE BILL 692

1 (d) A licensee of a participating state who has a qualifying license in that state
2 and does not hold an encumbered license in any other participating state, shall be
3 issued a compact privilege in a remote state in accordance with the terms of the
4 compact and commission rules. If a remote state has a jurisprudence requirement
5 a compact privilege will not be issued to the licensee unless the licensee has satisfied
6 the jurisprudence requirement.

7 **(4) COMPACT PRIVILEGE.** (a) To obtain and exercise the compact privilege under
8 the terms and provisions of the compact, the licensee shall:

9 1. Have a qualifying license as a dentist or dental hygienist in a participating
10 state;

11 2. Be eligible for a compact privilege in any remote state in accordance with
12 pars. (d), (g), and (h);

13 3. Submit to an application process whenever the licensee is seeking a compact
14 privilege;

15 4. Pay any applicable commission and remote state fees for a compact privilege
16 in the remote state;

17 5. Meet any jurisprudence requirement established by a remote state in which
18 the licensee is seeking a compact privilege;

19 6. Have passed a national board examination of the Joint Commission on
20 National Dental Examinations or another examination accepted by commission
21 rule;

22 7. For a dentist, have graduated from a predoctoral dental education program
23 accredited by the Commission on Dental Accreditation or another accrediting agency
24 recognized by the United States department of education for the accreditation of

SENATE BILL 692**SECTION 50**

1 dentistry and dental hygiene education programs, leading to the doctor of dental
2 surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree;

3 8. For a dental hygienist, have graduated from a dental hygiene education
4 program accredited by the Commission on Dental Accreditation or another
5 accrediting agency recognized by the United States department of education for the
6 accreditation of dentistry and dental hygiene education programs;

7 9. Have successfully completed a clinical assessment for licensure;

8 10. Report to the commission adverse action taken by any non-participating
9 state when applying for a compact privilege and, otherwise, within thirty (30) days
10 from the date the adverse action is taken;

11 11. Report to the commission when applying for a compact privilege the address
12 of the licensee's primary residence and thereafter immediately report to the
13 commission any change in the address of the licensee's primary residence; and

14 12. Consent to accept service of process by mail at the licensee's primary
15 residence on record with the commission with respect to any action brought against
16 the licensee by the commission or a participating state, and consent to accept service
17 of a subpoena by mail at the licensee's primary residence on record with the
18 commission with respect to any action brought or investigation conducted by the
19 commission or a participating state.

20 (b) The licensee must comply with the requirements of par. (a) to maintain the
21 compact privilege in the remote state. If those requirements are met, the compact
22 privilege will continue as long as the licensee maintains a qualifying license in the
23 state through which the licensee applied for the compact privilege and pays any
24 applicable compact privilege renewal fees.

SENATE BILL 692

1 (c) A licensee providing dentistry or dental hygiene in a remote state under the
2 compact privilege shall function within the scope of practice authorized by the
3 remote state for a dentist or dental hygienist licensed in that state.

4 (d) A licensee providing dentistry or dental hygiene pursuant to a compact
5 privilege in a remote state is subject to that state's regulatory authority. A remote
6 state may, in accordance with due process and that state's laws, by adverse action
7 revoke or remove a licensee's compact privilege in the remote state for a specific
8 period of time and impose fines or take any other necessary actions to protect the
9 health and safety of its citizens. If a remote state imposes an adverse action against
10 a compact privilege that limits the compact privilege, that adverse action applies to
11 all compact privileges in all remote states. A licensee whose compact privilege in a
12 remote state is removed for a specified period of time is not eligible for a compact
13 privilege in any other remote state until the specific time for removal of the compact
14 privilege has passed and all encumbrance requirements are satisfied.

15 (e) If a license in a participating state is an encumbered license, the licensee
16 shall lose the compact privilege in a remote state and shall not be eligible for a
17 compact privilege in any remote state until the license is no longer encumbered.

18 (f) Once an encumbered license in a participating state is restored to good
19 standing, the licensee must meet the requirements of par. (a) to obtain a compact
20 privilege in a remote state.

21 (g) If a licensee's compact privilege in a remote state is removed by the remote
22 state, the individual shall lose or be ineligible for the compact privilege in any remote
23 state until the following occur:

24 1. The specific period of time for which the compact privilege was removed has
25 ended; and

SENATE BILL 692**SECTION 50**

1 2. All conditions for removal of the compact privilege have been satisfied.

2 (h) Once the requirements of par. (g) have been met, the licensee must meet the
3 requirements in par. (a) to obtain a compact privilege in a remote state.

4 **(5) ACTIVE MILITARY MEMBER OR THEIR SPOUSES.** An active military member and
5 their spouse shall not be required to pay to the commission for a compact privilege
6 the fee otherwise charged by the commission. If a remote state chooses to charge a
7 fee for a compact privilege, it may choose to charge a reduced fee or no fee to an active
8 military member and their spouse for a compact privilege.

9 **(6) ADVERSE ACTIONS.** (a) A participating state in which a licensee is licensed
10 shall have exclusive authority to impose adverse action against the qualifying
11 license issued by that participating state.

12 (b) A participating state may take adverse action based on the significant
13 investigative information of a remote state, so long as the participating state follows
14 its own procedures for imposing adverse action.

15 (c) Nothing in this compact shall override a participating state's decision that
16 participation in an alternative program may be used in lieu of adverse action and
17 that such participation shall remain nonpublic if required by the participating
18 state's laws. Participating states must require licensees who enter any alternative
19 program in lieu of discipline to agree not to practice pursuant to a compact privilege
20 in any other participating state during the term of the alternative program without
21 prior authorization from such other participating state.

22 (d) Any participating state in which a licensee is applying to practice or is
23 practicing pursuant to a compact privilege may investigate actual or alleged
24 violations of the statutes and regulations authorizing the practice of dentistry or

SENATE BILL 692

1 dental hygiene in any other participating state in which the dentist or dental
2 hygienist holds a license or compact privilege.

3 (e) A remote state shall have the authority to:

4 1. Take adverse actions as set forth in sub. (4) (d) against a licensee's compact
5 privilege in the state;

6 2. In furtherance of its rights and responsibilities under the compact and the
7 commission's rules issue subpoenas for both hearings and investigations that
8 require the attendance and testimony of witnesses, and the production of evidence.
9 Subpoenas issued by a state licensing authority in a participating state for the
10 attendance and testimony of witnesses, or the production of evidence from another
11 participating state, shall be enforced in the latter state by any court of competent
12 jurisdiction, according to the practice and procedure of that court applicable to
13 subpoenas issued in proceedings pending before it. The issuing authority shall pay
14 any witness fees, travel expenses, mileage, and other fees required by the service
15 statutes of the state where the witnesses or evidence are located; and

16 3. If otherwise permitted by state law, recover from the licensee the costs of
17 investigations and disposition of cases resulting from any adverse action taken
18 against that licensee.

19 (f) *Joint investigations.* 1. In addition to the authority granted to a
20 participating state by its dentist or dental hygienist licensure act or other applicable
21 state law, a participating state may jointly investigate licensees with other
22 participating states.

23 2. Participating states shall share any significant investigative information,
24 litigation, or compliance materials in furtherance of any joint or individual
25 investigation initiated under the compact.

SENATE BILL 692**SECTION 50**

1 (g) *Authority to continue investigation.* 1. After a licensee's compact privilege
2 in a remote state is terminated, the remote state may continue an investigation of
3 the licensee that began when the licensee had a compact privilege in that remote
4 state.

5 2. If the investigation yields what would be significant investigative
6 information had the licensee continued to have a compact privilege in that remote
7 state, the remote state shall report the presence of such information to the data
8 system as required by sub. (8) (b) 6. as if it was significant investigative information.

9 **(7) ESTABLISHMENT AND OPERATION OF THE COMMISSION.** (a) The compact
10 participating states hereby create and establish a joint government agency whose
11 membership consists of all participating states that have enacted the compact. The
12 commission is an instrumentality of the participating states acting jointly and not
13 an instrumentality of any one state. The commission shall come into existence on
14 or after the effective date of the compact as set forth in sub. (11) (a).

15 (b) *Participation, voting, and meetings.* 1. Each participating state shall have
16 and be limited to one (1) commissioner selected by that participating state's state
17 licensing authority or, if the state has more than one state licensing authority,
18 selected collectively by the state licensing authorities.

19 2. The commissioner shall be a member or designee of such authority or
20 authorities.

21 3. The commission may by rule or bylaw establish a term of office for
22 commissioners and may by rule or bylaw establish term limits.

23 4. The commission may recommend to a state licensing authority or
24 authorities, as applicable, removal or suspension of an individual as the state's
25 commissioner.

SENATE BILL 692

1 5. A participating state's state licensing authority, or authorities, as applicable,
2 shall fill any vacancy of its commissioner on the commission within sixty (60) days
3 of the vacancy.

4 6. Each commissioner shall be entitled to one vote on all matters that are voted
5 upon by the commission.

6 7. The commission shall meet at least once during each calendar year.
7 Additional meetings may be held as set forth in the bylaws. The commission may
8 meet by telecommunication, video conference or other similar electronic means.

9 (c) The commission shall have the following powers:

10 1. Establish the fiscal year of the commission;

11 2. Establish a code of conduct and conflict of interest policies;

12 3. Adopt rules and bylaws;

13 4. Maintain its financial records in accordance with the bylaws;

14 5. Meet and take such actions as are consistent with the provisions of this
15 compact, the commission's rules, and the bylaws;

16 6. Initiate and conclude legal proceedings or actions in the name of the
17 commission, provided that the standing of any state licensing authority to sue or be
18 sued under applicable law shall not be affected;

19 7. Maintain and certify records and information provided to a participating
20 state as the authenticated business records of the commission, and designate a
21 person to do so on the commission's behalf;

22 8. Purchase and maintain insurance and bonds;

23 9. Borrow, accept, or contract for services of personnel, including, but not
24 limited to, employees of a participating state;

25 10. Conduct an annual financial review;

SENATE BILL 692**SECTION 50**

1 11. Hire employees, elect or appoint officers, fix compensation, define duties,
2 grant such individuals appropriate authority to carry out the purposes of the
3 compact, and establish the commission's personnel policies and programs relating
4 to conflicts of interest, qualifications of personnel, and other related personnel
5 matters;

6 12. As set forth in the commission rules, charge a fee to a licensee for the grant
7 of a compact privilege in a remote state and thereafter, as may be established by
8 commission rule, charge the licensee a compact privilege renewal fee for each
9 renewal period in which that licensee exercises or intends to exercise the compact
10 privilege in that remote state. Nothing herein shall be construed to prevent a remote
11 state from charging a licensee a fee for a compact privilege or renewals of a compact
12 privilege, or a fee for the jurisprudence requirement if the remote state imposes such
13 a requirement for the grant of a compact privilege;

14 13. Accept any and all appropriate gifts, donations, grants of money, other
15 sources of revenue, equipment, supplies, materials, and services, and receive, utilize,
16 and dispose of the same; provided that at all times the commission shall avoid any
17 appearance of impropriety and/or conflict of interest;

18 14. Lease, purchase, retain, own, hold, improve, or use any property, real,
19 personal, or mixed, or any undivided interest therein;

20 15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
21 dispose of any property real, personal, or mixed;

22 16. Establish a budget and make expenditures;

23 17. Borrow money;

24 18. Appoint committees, including standing committees, which may be
25 composed of members, state regulators, state legislators or their representatives,

SENATE BILL 692

1 and consumer representatives, and such other interested persons as may be
2 designated in this compact and the bylaws;

3 19. Provide and receive information from, and cooperate with, law enforcement
4 agencies;

5 20. Elect a chair, vice chair, secretary and treasurer and such other officers of
6 the commission as provided in the commission's bylaws;

7 21. Establish and elect an executive board;

8 22. Adopt and provide to the participating states an annual report;

9 23. Determine whether a state's enacted compact is materially different from
10 the model compact language such that the state would not qualify for participation
11 in the compact; and

12 24. Perform such other functions as may be necessary or appropriate to achieve
13 the purposes of this compact.

14 (d) *Meetings of the commission.* 1. All meetings of the commission that are not
15 closed pursuant to this paragraph shall be open to the public. Notice of public
16 meetings shall be posted on the commission's website at least thirty (30) days prior
17 to the public meeting.

18 2. Notwithstanding subd. 1., the commission may convene an emergency public
19 meeting by providing at least twenty-four (24) hours prior notice on the commission's
20 website, and any other means as provided in the commission's rules, for any of the
21 reasons it may dispense with notice of proposed rule making under sub. (9) (L). The
22 commission's legal counsel shall certify that one of the reasons justifying an
23 emergency public meeting has been met.

24 3. Notice of all commission meetings shall provide the time, date, and location
25 of the meeting, and if the meeting is to be held or accessible via telecommunication,

SENATE BILL 692**SECTION 50**

1 video conference, or other electronic means, the notice shall include the mechanism
2 for access to the meeting through such means.

3 4. The commission may convene in a closed, nonpublic meeting for the
4 commission to receive legal advice or to discuss:

5 a. Noncompliance of a participating state with its obligations under the
6 compact;

7 b. The employment, compensation, discipline or other matters, practices or
8 procedures related to specific employees or other matters related to the commission's
9 internal personnel practices and procedures;

10 c. Current or threatened discipline of a licensee or compact privilege holder by
11 the commission or by a participating state's licensing authority;

12 d. Current, threatened, or reasonably anticipated litigation;

13 e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or
14 real estate;

15 f. Accusing any person of a crime or formally censuring any person;

16 g. Trade secrets or commercial or financial information that is privileged or
17 confidential;

18 h. Information of a personal nature where disclosure would constitute a clearly
19 unwarranted invasion of personal privacy;

20 i. Investigative records compiled for law enforcement purposes;

21 j. Information related to any investigative reports prepared by or on behalf of
22 or for use of the commission or other committee charged with responsibility of
23 investigation or determination of compliance issues pursuant to the compact;

24 k. Legal advice;

SENATE BILL 692

1 L. Matters specifically exempted from disclosure to the public by federal or
2 participating state law; and

3 m. Other matters as promulgated by the commission by rule.

4 5. If a meeting, or portion of a meeting, is closed, the presiding officer shall state
5 that the meeting will be closed and reference each relevant exempting provision, and
6 such reference shall be recorded in the minutes.

7 6. The commission shall keep minutes that fully and clearly describe all
8 matters discussed in a meeting and shall provide a full and accurate summary of
9 actions taken, and the reasons therefore, including a description of the views
10 expressed. All documents considered in connection with an action shall be identified
11 in such minutes. All minutes and documents of a closed meeting shall remain under
12 seal, subject to release only by a majority vote of the commission or order of a court
13 of competent jurisdiction.

14 (e) *Financing of the commission.* 1. The commission shall pay, or provide for
15 the payment of, the reasonable expenses of its establishment, organization, and
16 ongoing activities.

17 2. The commission may accept any and all appropriate sources of revenue,
18 donations, and grants of money, equipment, supplies, materials, and services.

19 3. The commission may levy on and collect an annual assessment from each
20 participating state and impose fees on licensees of participating states when a
21 compact privilege is granted, to cover the cost of the operations and activities of the
22 commission and its staff, which must be in a total amount sufficient to cover its
23 annual budget as approved each fiscal year for which sufficient revenue is not
24 provided by other sources. The aggregate annual assessment amount for

SENATE BILL 692**SECTION 50**

1 participating states shall be allocated based upon a formula that the commission
2 shall promulgate by rule.

3 4. The commission shall not incur obligations of any kind prior to securing the
4 funds adequate to meet the same; nor shall the commission pledge the credit of any
5 participating state, except by and with the authority of the participating state.

6 5. The commission shall keep accurate accounts of all receipts and
7 disbursements. The receipts and disbursements of the commission shall be subject
8 to the financial review and accounting procedures established under its bylaws. All
9 receipts and disbursements of funds handled by the commission shall be subject to
10 an annual financial review by a certified or licensed public accountant, and the
11 report of the financial review shall be included in and become part of the annual
12 report of the commission.

13 (f) *The executive board.* 1. The executive board shall have the power to act on
14 behalf of the commission according to the terms of this compact. The powers, duties,
15 and responsibilities of the executive board shall include:

16 a. Overseeing the day-to-day activities of the administration of the compact
17 including compliance with the provisions of the compact, the commission's rules and
18 bylaws;

19 b. Recommending to the commission changes to the rules or bylaws, changes
20 to this compact legislation, fees charged to compact participating states, fees charged
21 to licensees, and other fees;

22 c. Ensuring compact administration services are appropriately provided,
23 including by contract;

24 d. Preparing and recommending the budget;

25 e. Maintaining financial records on behalf of the commission;

SENATE BILL 692

1 f. Monitoring compact compliance of participating states and providing
2 compliance reports to the commission;

3 g. Establishing additional committees as necessary;

4 h. Exercising the powers and duties of the commission during the interim
5 between commission meetings, except for adopting or amending rules, adopting or
6 amending bylaws, and exercising any other powers and duties expressly reserved to
7 the commission by rule or bylaw; and

8 i. Other duties as provided in the rules or bylaws of the commission.

9 2. The executive board shall be composed of up to seven (7) members:

10 a. The chair, vice chair, secretary and treasurer of the commission and any
11 other members of the commission who serve on the executive board shall be voting
12 members of the executive board; and

13 b. Other than the chair, vice chair, secretary, and treasurer, the commission
14 may elect up to three (3) voting members from the current membership of the
15 commission.

16 3. The commission may remove any member of the executive board as provided
17 in the commission's bylaws.

18 4. The executive board shall meet at least annually.

19 a. An executive board meeting at which it takes or intends to take formal action
20 on a matter shall be open to the public, except that the executive board may meet in
21 a closed, nonpublic session of a public meeting when dealing with any of the matters
22 covered under par (d) 4.

23 b. The executive board shall give five (5) business days' notice of its public
24 meetings, posted on its website and as it may otherwise determine to provide notice

SENATE BILL 692**SECTION 50**

1 to persons with an interest in the public matters the executive board intends to
2 address at those meetings.

3 5. The executive board may hold an emergency meeting when acting for the
4 commission to:

5 a. Meet an imminent threat to public health, safety, or welfare;

6 b. Prevent a loss of commission or participating state funds; or

7 c. Protect public health and safety.

8 (g) *Qualified immunity, defense, and indemnification.* 1. The members,
9 officers, executive director, employees and representatives of the commission shall
10 be immune from suit and liability, both personally and in their official capacity, for
11 any claim for damage to or loss of property or personal injury or other civil liability
12 caused by or arising out of any actual or alleged act, error, or omission that occurred,
13 or that the person against whom the claim is made had a reasonable basis for
14 believing occurred within the scope of commission employment, duties or
15 responsibilities; provided that nothing in this subdivision shall be construed to
16 protect any such person from suit or liability for any damage, loss, injury, or liability
17 caused by the intentional or willful or wanton misconduct of that person. The
18 procurement of insurance of any type by the commission shall not in any way
19 compromise or limit the immunity granted hereunder.

20 2. The commission shall defend any member, officer, executive director,
21 employee, and representative of the commission in any civil action seeking to impose
22 liability arising out of any actual or alleged act, error, or omission that occurred
23 within the scope of commission employment, duties, or responsibilities, or as
24 determined by the commission that the person against whom the claim is made had
25 a reasonable basis for believing occurred within the scope of commission

SENATE BILL 692

1 employment, duties, or responsibilities; provided that nothing herein shall be
2 construed to prohibit that person from retaining their own counsel at their own
3 expense; and provided further, that the actual or alleged act, error, or omission did
4 not result from that person's intentional or willful or wanton misconduct.

5 3. Notwithstanding subd. 1., should any member, officer, executive director,
6 employee, or representative of the commission be held liable for the amount of any
7 settlement or judgment arising out of any actual or alleged act, error, or omission that
8 occurred within the scope of that individual's employment, duties, or responsibilities
9 for the commission, or that the person to whom that individual is liable had a
10 reasonable basis for believing occurred within the scope of the individual's
11 employment, duties, or responsibilities for the commission, the commission shall
12 indemnify and hold harmless such individual, provided that the actual or alleged act,
13 error, or omission did not result from the intentional or willful or wanton misconduct
14 of the individual.

15 4. Nothing herein shall be construed as a limitation on the liability of any
16 licensee for professional malpractice or misconduct, which shall be governed solely
17 by any other applicable state laws.

18 5. Nothing in this compact shall be interpreted to waive or otherwise abrogate
19 a participating state's state action immunity or state action affirmative defense with
20 respect to antitrust claims under the Sherman Act, Clayton Act, or any other state
21 or federal antitrust or anticompetitive law or regulation.

22 6. Nothing in this compact shall be construed to be a waiver of sovereign
23 immunity by the participating states or by the commission.

24 **(8) DATA SYSTEM.** (a) The commission shall provide for the development,
25 maintenance, operation, and utilization of a coordinated database and reporting

SENATE BILL 692**SECTION 50**

1 system containing licensure, adverse action, and the presence of significant
2 investigative information on all licensees and applicants for a license in
3 participating states.

4 (b) Notwithstanding any other provision of state law to the contrary, a
5 participating state shall submit a uniform data set to the data system on all
6 individuals to whom this compact is applicable as required by the rules of the
7 commission, including:

8 1. Identifying information;

9 2. Licensure data;

10 3. Adverse actions against a licensee, license applicant or compact privilege
11 and information related thereto;

12 4. Nonconfidential information related to alternative program participation,
13 the beginning and ending dates of such participation, and other information related
14 to such participation;

15 5. Any denial of an application for licensure, and the reason(s) for such denial,
16 (excluding the reporting of any criminal history record information where prohibited
17 by law);

18 6. The presence of significant investigative information; and

19 7. Other information that may facilitate the administration of this compact or
20 the protection of the public, as determined by the rules of the commission.

21 (c) The records and information provided to a participating state pursuant to
22 this compact or through the data system, when certified by the commission or an
23 agent thereof, shall constitute the authenticated business records of the commission,
24 and shall be entitled to any associated hearsay exception in any relevant judicial,
25 quasi-judicial or administrative proceedings in a participating state.

SENATE BILL 692

1 (d) Significant investigative information pertaining to a licensee in any
2 participating state will only be available to other participating states.

3 (e) It is the responsibility of the participating states to monitor the database
4 to determine whether adverse action has been taken against a licensee or license
5 applicant. Adverse action information pertaining to a licensee or license applicant
6 in any participating state will be available to any other participating state.

7 (f) Participating states contributing information to the data system may
8 designate information that may not be shared with the public without the express
9 permission of the contributing state.

10 (g) Any information submitted to the data system that is subsequently
11 expunged pursuant to federal law or the laws of the participating state contributing
12 the information shall be removed from the data system.

13 **(9) RULE MAKING.** (a) The commission shall promulgate reasonable rules in
14 order to effectively and efficiently implement and administer the purposes and
15 provisions of the compact. A commission rule shall be invalid and have no force or
16 effect only if a court of competent jurisdiction holds that the rule is invalid because
17 the commission exercised its rule-making authority in a manner that is beyond the
18 scope and purposes of the compact, or the powers granted hereunder, or based upon
19 another applicable standard of review.

20 (b) The rules of the commission shall have the force of law in each participating
21 state, provided however that where the rules of the commission conflict with the laws
22 of the participating state that establish the participating state's scope of practice as
23 held by a court of competent jurisdiction, the rules of the commission shall be
24 ineffective in that state to the extent of the conflict.

SENATE BILL 692**SECTION 50**

1 (c) The commission shall exercise its rule-making powers pursuant to the
2 criteria set forth in this subsection and the rules adopted thereunder. Rules shall
3 become binding as of the date specified by the commission for each rule.

4 (d) If a majority of the legislatures of the participating states rejects a
5 commission rule or portion of a commission rule, by enactment of a statute or
6 resolution in the same manner used to adopt the compact, within four (4) years of the
7 date of adoption of the rule, then such rule shall have no further force and effect in
8 any participating state or to any state applying to participate in the compact.

9 (e) Rules shall be adopted at a regular or special meeting of the commission.

10 (f) Prior to adoption of a proposed rule, the commission shall hold a public
11 hearing and allow persons to provide oral and written comments, data, facts,
12 opinions, and arguments.

13 (g) Prior to adoption of a proposed rule by the commission, and at least thirty
14 (30) days in advance of the meeting at which the commission will hold a public
15 hearing on the proposed rule, the commission shall provide a notice of proposed rule
16 making:

17 1. On the website of the commission or other publicly accessible platform;

18 2. To persons who have requested notice of the commission's notices of proposed
19 rule making, and

20 3. In such other way(s) as the commission may by rule specify.

21 (h) The notice of proposed rule making shall include:

22 1. The time, date, and location of the public hearing at which the commission
23 will hear public comments on the proposed rule and, if different, the time, date, and
24 location of the meeting where the commission will consider and vote on the proposed
25 rule;

SENATE BILL 692

1 2. If the hearing is held via telecommunication, video conference, or other
2 electronic means, the commission shall include the mechanism for access to the
3 hearing in the notice of proposed rule making;

4 3. The text of the proposed rule and the reason therefor;

5 4. A request for comments on the proposed rule from any interested person; and

6 5. The manner in which interested persons may submit written comments.

7 (i) All hearings will be recorded. A copy of the recording and all written
8 comments and documents received by the commission in response to the proposed
9 rule shall be available to the public.

10 (j) Nothing in this subsection shall be construed as requiring a separate
11 hearing on each commission rule. Rules may be grouped for the convenience of the
12 commission at hearings required by this subsection.

13 (k) The commission shall, by majority vote of all commissioners, take final
14 action on the proposed rule based on the rule-making record.

15 1. The commission may adopt changes to the proposed rule provided the
16 changes do not enlarge the original purpose of the proposed rule.

17 2. The commission shall provide an explanation of the reasons for substantive
18 changes made to the proposed rule as well as reasons for substantive changes not
19 made that were recommended by commenters.

20 3. The commission shall determine a reasonable effective date for the rule.
21 Except for an emergency as provided in par. (L), the effective date of the rule shall
22 be no sooner than thirty (30) days after the commission issuing the notice that it
23 adopted or amended the rule.

24 (L) Upon determination that an emergency exists, the commission may
25 consider and adopt an emergency rule with 24 hours' notice, with opportunity to

SENATE BILL 692**SECTION 50**

1 comment, provided that the usual rule-making procedures provided in the compact
2 and in this subsection shall be retroactively applied to the rule as soon as reasonably
3 possible, in no event later than ninety (90) days after the effective date of the rule.
4 For the purposes of this provision, an emergency rule is one that must be adopted
5 immediately in order to:

- 6 1. Meet an imminent threat to public health, safety, or welfare;
- 7 2. Prevent a loss of commission or participating state funds;
- 8 3. Meet a deadline for the promulgation of a rule that is established by federal
9 law or rule; or
- 10 4. Protect public health and safety.

11 (m) The commission or an authorized committee of the commission may direct
12 revisions to a previously adopted rule for purposes of correcting typographical errors,
13 errors in format, errors in consistency, or grammatical errors. Public notice of any
14 revisions shall be posted on the website of the commission. The revision shall be
15 subject to challenge by any person for a period of thirty (30) days after posting. The
16 revision may be challenged only on grounds that the revision results in a material
17 change to a rule. A challenge shall be made in writing and delivered to the
18 commission prior to the end of the notice period. If no challenge is made, the revision
19 will take effect without further action. If the revision is challenged, the revision may
20 not take effect without the approval of the commission.

21 (n) No participating state's rule-making requirements shall apply under this
22 compact.

23 **(10) OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.** (a) *Oversight.* 1. The
24 executive and judicial branches of state government in each participating state shall

SENATE BILL 692

1 enforce this compact and take all actions necessary and appropriate to implement
2 the compact.

3 2. Venue is proper and judicial proceedings by or against the commission shall
4 be brought solely and exclusively in a court of competent jurisdiction where the
5 principal office of the commission is located. The commission may waive venue and
6 jurisdictional defenses to the extent it adopts or consents to participate in alternative
7 dispute resolution proceedings. Nothing herein shall affect or limit the selection or
8 propriety of venue in any action against a licensee for professional malpractice,
9 misconduct or any such similar matter.

10 3. The commission shall be entitled to receive service of process in any
11 proceeding regarding the enforcement or interpretation of the compact or
12 commission rule and shall have standing to intervene in such a proceeding for all
13 purposes. Failure to provide the commission service of process shall render a
14 judgment or order void as to the commission, this compact, or promulgated rules.

15 (b) *Default, technical assistance, and termination.* 1. If the commission
16 determines that a participating state has defaulted in the performance of its
17 obligations or responsibilities under this compact or the promulgated rules, the
18 commission shall provide written notice to the defaulting state. The notice of default
19 shall describe the default, the proposed means of curing the default, and any other
20 action that the commission may take, and shall offer training and specific technical
21 assistance regarding the default.

22 2. The commission shall provide a copy of the notice of default to the other
23 participating states.

24 (c) If a state in default fails to cure the default, the defaulting state may be
25 terminated from the compact upon an affirmative vote of a majority of the

SENATE BILL 692**SECTION 50**

1 commissioners, and all rights, privileges and benefits conferred on that state by this
2 compact may be terminated on the effective date of termination. A cure of the default
3 does not relieve the offending state of obligations or liabilities incurred during the
4 period of default.

5 (d) Termination of participation in the compact shall be imposed only after all
6 other means of securing compliance have been exhausted. Notice of intent to
7 suspend or terminate shall be given by the commission to the governor, the majority
8 and minority leaders of the defaulting state's legislature, the defaulting state's state
9 licensing authority or authorities, as applicable, and each of the participating states'
10 state licensing authority or authorities, as applicable.

11 (e) A state that has been terminated is responsible for all assessments,
12 obligations, and liabilities incurred through the effective date of termination,
13 including obligations that extend beyond the effective date of termination.

14 (f) Upon the termination of a state's participation in this compact, that state
15 shall immediately provide notice to all licensees of the state, including licensees of
16 other participating states issued a compact privilege to practice within that state, of
17 such termination. The terminated state shall continue to recognize all compact
18 privileges then in effect in that state for a minimum of one hundred eighty (180) days
19 after the date of said notice of termination.

20 (g) The commission shall not bear any costs related to a state that is found to
21 be in default or that has been terminated from the compact, unless agreed upon in
22 writing between the commission and the defaulting state.

23 (h) The defaulting state may appeal the action of the commission by petitioning
24 the U.S. District Court for the District of Columbia or the federal district where the

SENATE BILL 692

1 commission has its principal offices. The prevailing party shall be awarded all costs
2 of such litigation, including reasonable attorney's fees.

3 (i) *Dispute resolution.* 1. Upon request by a participating state, the commission
4 shall attempt to resolve disputes related to the compact that arise among
5 participating states and between participating states and non-participating states.

6 2. The commission shall promulgate a rule providing for both mediation and
7 binding dispute resolution for disputes as appropriate.

8 (j) *Enforcement.* 1. The commission, in the reasonable exercise of its discretion,
9 shall enforce the provisions of this compact and the commission's rules.

10 2. By majority vote, the commission may initiate legal action against a
11 participating state in default in the United States District Court for the District of
12 Columbia or the federal district where the commission has its principal offices to
13 enforce compliance with the provisions of the compact and its promulgated rules.
14 The relief sought may include both injunctive relief and damages. In the event
15 judicial enforcement is necessary, the prevailing party shall be awarded all costs of
16 such litigation, including reasonable attorney's fees. The remedies herein shall not
17 be the exclusive remedies of the commission. The commission may pursue any other
18 remedies available under federal or the defaulting participating state's law.

19 3. A participating state may initiate legal action against the commission in the
20 U.S. District Court for the District of Columbia or the federal district where the
21 commission has its principal offices to enforce compliance with the provisions of the
22 compact and its promulgated rules. The relief sought may include both injunctive
23 relief and damages. In the event judicial enforcement is necessary, the prevailing
24 party shall be awarded all costs of such litigation, including reasonable attorney's
25 fees.

SENATE BILL 692**SECTION 50**

1 4. No individual or entity other than a participating state may enforce this
2 compact against the commission.

3 **(11) EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT.** (a) The compact shall come
4 into effect on the date on which the compact statute is enacted into law in the seventh
5 participating state.

6 1. On or after the effective date of the compact, the commission shall convene
7 and review the enactment of each of the states that enacted the compact prior to the
8 commission convening (“charter participating states”) to determine if the statute
9 enacted by each such charter participating state is materially different than the
10 model compact.

11 a. A charter participating state whose enactment is found to be materially
12 different from the model compact shall be entitled to the default process set forth in
13 sub. (10).

14 b. If any participating state is later found to be in default, or is terminated or
15 withdraws from the compact, the commission shall remain in existence and the
16 compact shall remain in effect even if the number of participating states should be
17 less than seven (7).

18 2. Participating states enacting the compact subsequent to the charter
19 participating states shall be subject to the process set forth in sub. (7) (c) 23. to
20 determine if their enactments are materially different from the model compact and
21 whether they qualify for participation in the compact.

22 3. All actions taken for the benefit of the commission or in furtherance of the
23 purposes of the administration of the compact prior to the effective date of the
24 compact or the commission coming into existence shall be considered to be actions
25 of the commission unless specifically repudiated by the commission.

SENATE BILL 692

1 4. Any state that joins the compact subsequent to the commission's initial
2 adoption of the rules and bylaws shall be subject to the commission's rules and
3 bylaws as they exist on the date on which the compact becomes law in that state. Any
4 rule that has been previously adopted by the commission shall have the full force and
5 effect of law on the day the compact becomes law in that state.

6 (b) Any participating state may withdraw from this compact by enacting a
7 statute repealing that state's enactment of the compact.

8 1. A participating state's withdrawal shall not take effect until one hundred
9 eighty (180) days after enactment of the repealing statute.

10 2. Withdrawal shall not affect the continuing requirement of the withdrawing
11 state's licensing authority or authorities to comply with the investigative and
12 adverse action reporting requirements of this compact prior to the effective date of
13 withdrawal.

14 3. Upon the enactment of a statute withdrawing from this compact, the state
15 shall immediately provide notice of such withdrawal to all licensees within that
16 state. Notwithstanding any subsequent statutory enactment to the contrary, such
17 withdrawing state shall continue to recognize all compact privileges to practice
18 within that state granted pursuant to this compact for a minimum of one hundred
19 eighty (180) days after the date of such notice of withdrawal.

20 (c) Nothing contained in this compact shall be construed to invalidate or
21 prevent any licensure agreement or other cooperative arrangement between a
22 participating state and a non-participating state that does not conflict with the
23 provisions of this compact.

SENATE BILL 692**SECTION 50**

1 (d) This compact may be amended by the participating states. No amendment
2 to this compact shall become effective and binding upon any participating state until
3 it is enacted into the laws of all participating states.

4 **(12) CONSTRUCTION AND SEVERABILITY.** (a) This compact and the commission's
5 rule-making authority shall be liberally construed so as to effectuate the purposes,
6 and the implementation and administration of the compact. Provisions of the
7 compact expressly authorizing or requiring the promulgation of rules shall not be
8 construed to limit the commission's rule-making authority solely for those purposes.

9 (b) The provisions of this compact shall be severable and if any phrase, clause,
10 sentence or provision of this compact is held by a court of competent jurisdiction to
11 be contrary to the constitution of any participating state, a state seeking
12 participation in the compact, or of the United States, or the applicability thereof to
13 any government, agency, person or circumstance is held to be unconstitutional by a
14 court of competent jurisdiction, the validity of the remainder of this compact and the
15 applicability thereof to any other government, agency, person or circumstance shall
16 not be affected thereby.

17 (c) Notwithstanding par. (b), the commission may deny a state's participation
18 in the compact or, in accordance with the requirements of sub. (10) (b), terminate a
19 participating state's participation in the compact, if it determines that a
20 constitutional requirement of a participating state is a material departure from the
21 compact. Otherwise, if this compact shall be held to be contrary to the constitution
22 of any participating state, the compact shall remain in full force and effect as to the
23 remaining participating states and in full force and effect as to the participating state
24 affected as to all severable matters.

SENATE BILL 692

1 **(13)** CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS. (a) Nothing
2 herein shall prevent or inhibit the enforcement of any other law of a participating
3 state that is not inconsistent with the compact.

4 (b) Any laws, statutes, regulations, or other legal requirements in a
5 participating state in conflict with the compact are superseded to the extent of the
6 conflict.

7 (c) All permissible agreements between the commission and the participating
8 states are binding in accordance with their terms.

9 **447.51 Implementation of the dentist and dental hygienist compact.**

10 **(1)** In this section, “compact privilege” has the meaning given in s. 447.50 (2) (g).

11 **(2)** The department may impose a fee for an individual to receive a compact
12 privilege as provided in s. 447.50 (4) (a) 4.

13 **(3)** (a) An individual who is exercising the compact privilege in this state shall
14 comply with s. 440.03 (13) (am).

15 (b) Subject to s. 447.50 and any rules promulgated thereunder, ss. 440.20 to
16 440.22 and the rules promulgated under s. 440.03 (1) shall apply to an individual who
17 is exercising the compact privilege in this state in the same manner that they apply
18 to holders of licenses issued under subch. I.

19 **SECTION 51.** 448.956 (4) of the statutes, as affected by 2021 Wisconsin Act 251,
20 is amended to read:

21 448.956 (4) If a licensee determines that a patient’s medical condition is beyond
22 the scope of practice of the licensee, the licensee shall, in accordance with the protocol
23 established under sub. (1) (a), refer the patient to a health care practitioner who is
24 licensed under ch. 446 or 447 or subch. II, III or IV of ch. 448; or who holds a compact

SENATE BILL 692**SECTION 51**

1 privilege under subch. II of ch. 447 or subch. XI of ch. 448 and who can provide
2 appropriate treatment to the patient.

3 **SECTION 52.** 450.10 (3) (a) 4. of the statutes is amended to read:

4 450.10 (3) (a) 4. A dentist who is licensed under subch. I of ch. 447 or who holds
5 a compact privilege under subch. II of ch. 447.

6 **SECTION 53.** 451.02 (1) of the statutes, as affected by 2021 Wisconsin Act 251,
7 is amended to read:

8 451.02 (1) An individual holding a license, permit or certificate under ch. 441,
9 446, 447, 448, or 449 or a compact privilege under subch. II of ch. 447 or subch. XI
10 or XII of ch. 448 who engages in a practice of acupuncture that is also included within
11 the scope of his or her license, permit, certificate, or privilege.

12 **SECTION 54.** 462.02 (2) (d) of the statutes is amended to read:

13 462.02 (2) (d) A dentist licensed under s. 447.04 (1), a dental hygienist licensed
14 under s. 447.04 (2), a person certified as an expanded function dental auxiliary under
15 s. 447.04 (3), a dentist or dental hygienist who holds a compact privilege under subch.
16 II of ch. 447, or a person under the direct supervision of a dentist.

17 **SECTION 55.** 462.04 of the statutes, as affected by 2021 Wisconsin Act 251, is
18 amended to read:

19 **462.04 Prescription or order required.** A person who holds a license or
20 limited X-ray machine operator permit under this chapter may not use diagnostic
21 X-ray equipment on humans for diagnostic purposes unless authorized to do so by
22 prescription or order of a physician licensed under s. 448.04 (1) (a), a naturopathic
23 doctor licensed under s. 466.04 (1), a dentist who is licensed under s. 447.04 (1) or who
24 holds a compact privilege under subch. II of ch. 447, a podiatrist licensed under s.
25 448.63, a chiropractor licensed under s. 446.02, an advanced practice nurse certified

SENATE BILL 692

1 under s. 441.16 (2), a physician assistant licensed under s. 448.974, or, subject to s.
2 448.56 (7) (a), a physical therapist who is licensed under s. 448.53 or who holds a
3 compact privilege under subch. XI of ch. 448.

4 **SECTION 56.** 463.10 (5) of the statutes is amended to read:

5 463.10 (5) EXCEPTION. Subsections (2) to (4m) do not apply to a dentist ~~who is~~
6 ~~licensed under s. 447.03 (1)~~ or to a physician who tattoos or offers to tattoo a person
7 in the course of the dentist's or physician's professional practice.

8 **SECTION 57.** 463.12 (5) of the statutes is amended to read:

9 463.12 (5) EXCEPTION. Subsections (2) to (4m) do not apply to a dentist ~~who is~~
10 ~~licensed under s. 447.03 (1)~~ or to a physician who pierces the body of or offers to pierce
11 the body of a person in the course of the dentist's or physician's professional practice.

12 **SECTION 58.** 895.48 (1m) (a) (intro.) of the statutes is amended to read:

13 895.48 (1m) (a) (intro.) Except as provided in par. (b), any physician,
14 ~~naturopathic doctor~~, physician assistant, podiatrist, or athletic trainer licensed
15 under ch. 448, naturopathic doctor licensed under ch. 466, chiropractor licensed
16 under ch. 446, dentist who is licensed under subch. I of ch. 447 or who holds a compact
17 privilege under subch. II of ch. 447, emergency medical services practitioner licensed
18 under s. 256.15, emergency medical responder certified under s. 256.15 (8),
19 registered nurse licensed under ch. 441, or a massage therapist or bodywork
20 therapist licensed under ch. 460 who renders voluntary health care to a participant
21 in an athletic event or contest sponsored by a nonprofit corporation, as defined in s.
22 66.0129 (6) (b), a private school, as defined in s. 115.001 (3r), a tribal school, as
23 defined in s. 115.001 (15m), a public agency, as defined in s. 46.856 (1) (b), or a school,
24 as defined in s. 609.655 (1) (c), is immune from civil liability for his or her acts or
25 omissions in rendering that care if all of the following conditions exist:



2023 SENATE BILL 706

November 21, 2023 - Introduced by Senators TESTIN, BALLWEG, FEYEN, NASS and WIRCH, cosponsored by Representatives SAPIK, KURTZ, BRANDTJEN, CALLAHAN, DITTRICH, DONOVAN, MELOTIK, MURPHY, MURSAU, NOVAK, OLDENBURG, PENTERMAN, RODRIGUEZ, SNYDER, SUBECK, TUSLER, VANDERMEER and ZIMMERMAN. Referred to Committee on Health.

1 **AN ACT** *to amend* 39.465 (title), 39.465 (1) (a), 39.465 (1) (d), 39.465 (2), 39.465
2 (3) (a), 39.465 (3) (b) and 39.465 (4); and *to create* 39.465 (1) (b) and 39.465 (1)
3 (e) of the statutes; **relating to:** scholarships for Marquette University School
4 of Dentistry students who practice in dental health shortage areas.

Analysis by the Legislative Reference Bureau

This bill modifies a scholarship awarded by the Higher Educational Aids Board so that it applies to students enrolled in the Marquette University School of Dentistry (MUSD).

Current law requires HEAB, in consultation with the Department of Health Services, to establish a scholarship program for state residents who enter into an agreement with HEAB to practice in a health shortage area in this state upon graduation (eligible student). HEAB may award an annual scholarship for each year of an eligible student's enrollment, up to four years, and the eligible student must agree to practice in a health shortage area for 18 months for each annual scholarship the student receives. If the student fails to meet this obligation, the student must repay the scholarships based on a specified calculation.

This bill makes changes to the program so that it applies only to students enrolled in MUSD who agree to practice dentistry in a dental health shortage area for 18 months for each annual scholarship received. The bill defines a "dental health shortage area" as an area that is federally designated as having a shortage of dental professionals, not including the counties of Brown, Dane, Kenosha, Milwaukee, and Waukesha. Under the bill, HEAB may award to no more than 15 MUSD students

SENATE BILL 706

an annual scholarship of \$30,000 per year for up to four years. A student who fails to meet his or her obligation to practice in a dental health shortage area for the requisite period must repay the scholarships in the manner required under current law.

The bill also requires HEAB to provide MUSD \$350,000 annually for the development and operation of programs to support the recruitment and training of students in rural dentistry.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 39.465 (title) of the statutes is amended to read:

2 **39.465** (title) **Scholarship Dentistry scholarship program.**

3 **SECTION 2.** 39.465 (1) (a) of the statutes is amended to read:

4 39.465 (1) (a) “Actual practice total” is the total number of months that a
5 student upon graduation practices dentistry in a dental health shortage area in this
6 state. For purposes of this paragraph, a fraction of a month is counted as one month.

7 **SECTION 3.** 39.465 (1) (b) of the statutes is created to read:

8 39.465 (1) (b) “Dental health shortage area” has the meaning given in s. 36.60
9 (1) (ad), except that “dental health shortage area” does not include an area in the
10 county of Brown, Dane, Kenosha, Milwaukee, or Waukesha.

11 **SECTION 4.** 39.465 (1) (d) of the statutes is amended to read:

12 39.465 (1) (d) “Required practice total” means the total number of months a
13 student upon graduation is required under sub. (3) to practice dentistry in a dental
14 health shortage area in this state.

15 **SECTION 5.** 39.465 (1) (e) of the statutes is created to read:

16 39.465 (1) (e) “School” means the Marquette University School of Dentistry.

17 **SECTION 6.** 39.465 (2) of the statutes is amended to read:

SENATE BILL 706

1 39.465 (2) SCHOLARSHIPS. In consultation with the department of health
2 services, the board shall establish a program for awarding to no more than 15
3 students at the school an annual scholarship, including a stipend, equal to \$30,000
4 for each year of a student's enrollment but not exceeding 4 years. The board shall
5 pay the scholarships from the appropriation account under s. 20.235 (1) (dg). From
6 the appropriation account under s. 20.235 (1) (dg), the board shall also provide the
7 school \$350,000 annually for the development and operation of programs to support
8 the recruitment and training of students in rural dentistry.

9 **SECTION 7.** 39.465 (3) (a) of the statutes is amended to read:

10 39.465 (3) (a) A student is not eligible for a scholarship under the program
11 established under sub. (2) unless he or she is a resident of the state and enters into
12 an agreement with the board in which he or she agrees upon graduation to practice
13 dentistry in a dental health shortage area in this state for a period equal to 18 months
14 multiplied by the number of annual scholarships the board awards to the student
15 under the program.

16 **SECTION 8.** 39.465 (3) (b) of the statutes is amended to read:

17 39.465 (3) (b) An agreement under par. (a) shall specify that if a student fails
18 to practice dentistry in a dental health shortage area in this state for the period
19 required under par. (a), he or she is liable to the state for an amount equal to the total
20 dollar amount of annual scholarships awarded to the student multiplied by the
21 student's repayment liability percentage.

22 **SECTION 9.** 39.465 (4) of the statutes is amended to read:

23 39.465 (4) GEOGRAPHIC DIVERSITY. The In cooperation with the school, the board
24 shall make every effort to ensure that students who are awarded scholarships under

SENATE BILL 706

SECTION 9

1 the program established under sub. (2) practice dentistry upon graduation in
2 geographically diverse dental health shortage areas in this state.

3 **SECTION 10. Initial applicability.**

4 (1) This act first applies to scholarships awarded in the 2024-25 academic year.

5 (END)

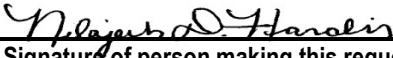
**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Jameson Whitney, Board Counsel		2) Date When Request Submitted: 12/15/23 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 1/3/24	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration --Consideration of a scope statement to revise DE 2	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (<u>Fill out Board Appearance Request</u>) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: The Board will consider whether to request a scope statement to revise and update the requirements in Wis. Admin. Code ch. DE 2 as they apply to foreign-trained dentists.			
11) Signature of person making this request Jameson Whitney		Authorization	Date 12/15/23
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
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: 12/14/23 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: 01/03/24	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. Final Rule Draft: 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 Preliminary Rule Draft and Drafting of a New Rule; Review Board’s Current Rule Projects Attachments: <ul style="list-style-type: none"> • Legislative Report, Final Rule Draft, EIA, and Clearinghouse Report (DE 1, 5, 6, 13, and 16) • 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		12/14/23 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 :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
DENTISTRY EXAMINING BOARD : CR 23-051**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

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

The objective of the proposed rule is to implement the statutory changes from 2021 Wisconsin Act 254. This was achieved through updates made several sections in DE 1 and 5, as well as the creation of new requirements in DE 5, 13, and the new chapter DE 16.

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

The Dentistry Examining Board held a public hearing on November 1, 2023. No public comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 2a. Section 447.035 (30 (c), Stats., as enacted by 2021 Wisconsin Act 254, provides that these rules may not permit an auxiliary to perform the cutting of hard or soft tissue, diagnosis, or treatment planning. Though the rules do not explicitly permit these activities, they do not mention them either. Consider including language clarifying that these activities may not be performed by an auxiliary.

Response: The Board rejects this comment because they feel that the statute is sufficiently clear on what is prohibited for an auxiliary, therefore further clarification in the administrative code is not necessary.

Comment: 2c. Section DE 13.045 (10) prescribes a hardship waiver from continuing education requirements. Can the agency elaborate on how a certified individual may apply for such a waiver?

Response: The Board rejects this comment and would like to note that the process to obtain a waiver is not explicitly stated for dental hygienists or dentists in the

administrative code and therefore does not feel that is necessary for the auxiliaries.

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

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

DRAFT

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 23-051)

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. This was achieved through updates made several sections in DE 1 and 5, as well as the creation of new requirements in DE 5, 13, and the new chapter DE 16.

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

Fiscal Estimate and Economic Impact Analysis: The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business: These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on November 1, 2023, 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 ~~4216~~ 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 the practice of an 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).

Note: The continuing education certification statement form is available on the Department's website at <http://dsps.wi.gov>. Completed forms can be mailed to the Department at 4822 Madison Yards Way, Madison, WI 53705

Commented [NH1]: Clearinghouse Comment #2b

- ~~(6)~~(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 s. DE 5.02 (16).
- ~~(7)~~(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).
- ~~(8)~~(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.

~~(9)~~(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 expanded function dental auxiliaries 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), Stats., 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:

Commented [NH2]: Clearinghouse Comment #5a

- (1) ~~Has completed~~ A 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 Dentistry Examining Board.
- (2) ~~Has completed~~ A 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.

Commented [NH3]: Clearinghouse Comment #5b

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

This Proposed Order of the Dentistry Examining Board is approved for submission to the Governor and Legislature.

Dated _____ Agency _____
Chairperson
Dentistry Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date September 5, 2023</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DE 1, 5, 6, 13 and 16 - Permanent Rule</p>	
<p>4. Subject Certification of Expanded Function Dental Auxiliaries</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected s. 20.165 (1) (g)</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule The objective of the proposed rule is to implement the statutory changes from 2021 Wisconsin Act 254. This was achieved through updates made several sections in DE 1 and 5, as well as the creation of new requirements in DE 5, 13, and the new chapter DE 16.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule will be posted on the Department's website for 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) DPS estimates a total of \$6,400 in one-time costs for staffing and an indeterminate one-time IT impact to implement the rule. The estimated one-time staffing need for .1 limited term employees (LTEs) is for staff to undertake such tasks as sites and forms updates, training on new requirements and processes, and responding to any questions due to changes. The one-time estimated costs cannot be absorbed in the currently appropriated agency budget.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefits of implementing this rule are that the Dentistry Examining Board's sections of the Administrative Code will be aligned with Wisconsin State Statutes.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implications of implementing this rule are practice requirements for Expanded Function Dental Auxiliaries in Wisconsin.</p>	
<p>17. Compare With Approaches Being Used by Federal Government</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

None.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

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]

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

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

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

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

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

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

- Yes No
-



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **23-051**

AN ORDER to amend DE 1.01 and 5.02 (intro.), (5), (9), (14m), (18), (20), (24), and (25); and to create DE 5.02 (22m), 13.045, and 13.05 (3), and chapter DE 16, relating to certification of expanded function dental auxiliaries.

Submitted by **DENTISTRY EXAMINING BOARD**

09-05-2023 RECEIVED BY LEGISLATIVE COUNCIL.

10-03-2023 REPORT SENT TO AGENCY.

SG:SM

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



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CLEARINGHOUSE RULE 23-051

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. Section 447.035 (3) (c), Stats., as enacted by 2021 Wisconsin Act 254, provides that these rules may not permit an auxiliary to perform cutting of hard or soft tissue, diagnosis, or treatment planning. Though the rules do not explicitly permit these activities, they do not mention them either. Consider including language clarifying that these activities may not be performed by an auxiliary.

b. Section DE 13.045 (6) directs a certified individual to sign a statement attesting to compliance with the continuing education requirements. Does the agency intend that a certified individual will submit this statement to the agency? Will the agency produce a form on which the statement may be made?

c. Section DE 13.045 (10) prescribes a hardship waiver from continuing education requirements. Can the agency elaborate on how a certified individual may apply for such waiver?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section DE 16.04 (1) and (2) should be revised for clarity and verb tense agreement, so that each subdivision more properly follows the introductory material. For example, would deletion of the phrase “has completed” from subs. (1) and (2) improve the readability of each provision? The agency should review the use of the phrase “and holds” in sub. (1) for the same concern.

b. Section 447.035 (3) (b) 3., Stats., as enacted by 2021 Wisconsin Act 254, requires the board to promulgate a rule that requires a dentist who delegates a procedure to an auxiliary “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”.

Section DE 16.05 (2), however, provides that the supervising licensed dentist who has delegated a procedure to an auxiliary “shall remain on site for the duration of the delegated procedure and verify that the procedure has been performed correctly”. The difference in the meanings of the

words “site/premises” and “successfully/correctly” could cause confusion. Consider modifying the rule to align with the statutory language.

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 12/14/23)

Clearinghouse Rule Number	Scope #	Scope Implementation	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
23-051 (EmR 2304)	065-22	08/15/2022	02/01/2025	DE 1, 5, 6, 13, and 16	Certification of Expanded Function Dental Auxiliaries	Final Rule and Legislative Report Reviewed at 01/03/24 Meeting (Emergency Rule Effective 03/01/23-03/01/24)	Governor's Office Approval and Submission to the Legislature
23-041	086-22	11/21/2022	05/07/2025	DE 2 and 11	Certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support	Legislative Review	Board Review of Adoption Order at a Future Meeting
23-066	039-23	06/30/2023	12/12/2025	DE 3 and 7	Topical Application of Anesthetics by a Dental Hygienist	Public Hearing Held at 01/03/24 Meeting	Drafting Final Rule and Legislative Report