

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

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| IN THE MATTER OF RULE-MAKING | : | NOTICE OF PUBLIC HEARING |
| PROCEEDINGS BEFORE THE | : | CR 11-033 |
| DENTISTRY EXAMINING BOARD | : | |

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Wisconsin Dentistry Examining Board, will hold a public hearing at the time and place indicated below to consider an order adopting permanent rules to amend ss. DE 2.03 (1) (intro.), (a), (2), (3), (5) (a) (intro.), and (b); and to create ss. DE 2.03 (1) (d), (4), (5) (a) 4. and ch. DE 13, relating to licensure renewal and continuing education for dentists and dental hygienists.

Hearing Date, Time and Location

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| Date: | September 7, 2011 |
| Time: | 8:30 a.m. |
| Location: | 1400 East Washington Avenue Room 121A Madison, Wisconsin |

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Even if you appear at the hearing in person, you are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Board Services, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by the date and time of the hearing to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 447.05, 447.055, and 447.056, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2), 447.02 (1) (f), and 447.055(6) and 447.056 (5), Stats.

Explanation of agency authority:

Section 15.08(5)(b), Stats., requires that examining boards shall promulgate rules for their own guidance and for the guidance of the professions over which they have jurisdiction. Section 227.11(2), Stats., permits an agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency. Section 447.02(1)(f), Stats., authorizes the Wisconsin Dentistry Examining Board to promulgate rules regarding compliance with continuing education requirements under s. 447.056, Stats. Sections 447.055(6) and 447.056(5), Stats. authorizes the Dentistry Examining Board to require applicants for the renewal of licenses to practice dentistry and dental hygiene to submit proof of compliance with continuing education requirements.

Related statute or rule:

There are no related statutes or rules other than those listed above.

Plain language analysis:

This rule-making proposal implements the continuing education (CE) requirements for dental hygienists established by the state legislature in 2005 Wis. Act 318 and for dentists in 2007 Wis. Act 31. The dentistry examining board's proposal includes new ch. DE 13, setting forth specific rules and procedures respecting CE for both professions. The board also proposes changes to the licensure renewal rules for dentists and dental hygienists, found in s. DE 2.03, that are necessitated by the new continuing education requirements.

Summary of, and comparison with, existing or proposed federal regulation:

There are no existing or proposed federal regulations.

Comparison with rules in adjacent states:

Illinois:

The Illinois statutes require dentists to complete 48 hours of CE in courses relevant to the practice of dentistry during each triennial licensure renewal period. Dental hygienists must complete 36 hours each triennium. Licensure renewal applicants for both professions must submit an affidavit attesting to their compliance with the appropriate CE requirement. 225 ILCS 25/16.1. Under the Illinois Administrative Code, there is no CE requirement for new licensees applying for their first renewal. 68 Ill. Admin. Code 1220.440 a) 4). Persons who are licensed in a dental specialty need only complete the CE required for their general license. 68 Ill. Admin. Code 1220.440 a) 5). No more than 50% of the required CE hours for licensees of both professions may be acquired through correspondence courses. To receive credit for a correspondence course, the course must include a test on which the licensee achieves a passing grade. 68 Ill. Admin. Code 1220.440 b) 3). Licensees may earn credit for teaching CE programs or courses, but only once for the same program or course during a triennium. 68 Ill. Admin. Code 1220.440 b) 6). They may earn no more than 2 of the required credits for presenting volunteer community oral health education programs. 68 Ill. Admin. Code 1220.440 b) 7). Licensees may seek approval of an individual program or course not previously approved, including courses sponsored in other jurisdictions, prior to participation therein by application

and payment of a \$20 fee. 68 Ill. Admin. Code 1220.440 b) 9). See <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1296&ChapterID=24>, <http://www.ilga.gov/commission/jcar/admincode/068/068012200D04400R.html>. See also <http://www.idfpr.com/dpr/WHO/dent.asp>.

Iowa:

Iowa requires members of both the dentistry and dental hygiene professions to complete 30 hours of continuing education during each biennial licensure renewal period, except for the period of initial licensure. Section 272C.2, Iowa Code; Sections 650-14.1 (3), 25.2 (1), Iowa Admin. Code (IAC). All of the following rules thus apply to both professions. Licensees may earn CE credits for attending or presenting at a multiday, convention-type meeting held at a national, state, or regional level (maximum of 6 credits per biennium); postgraduate work in health sciences (15 credits per semester); completing Part II of the National Board Examination for dentists, or the National Board Examination for dental hygienists, or a recognized specialty examination (15 credits); self-study activities, including television viewing, video programs, interactive correspondence programs that require branching, navigation, participation and decision-making by the participant (maximum of 12 credits); teaching dental education (credit for same program only once per biennium, but teaching earns double credit); publishing scientific articles related to dentistry, dental hygiene, or dental assisting in a professional journal (5 credits per article, maximum of 20 per biennium); and other CE activities as approved by the board. Section 650-25.3 (4), IAC. The only mandatory programming is in child and/or dependent adult abuse reporting (2 hours every 5 years) and CPR certification (maximum of 3 credits per biennium). Sections 650-25.2 (9), (10), IAC. Licensees must keep records of courses they attend for 4 years after the end of the year of attendance. Section 650-25.2 (5). There is no carryover of credits from one biennium to another. Section 650-25.2 (8). Licensees may apply for approval of otherwise unapproved CE activities upon application and payment of a fee. Sections 650-25.3 (5), (6). The board may exempt licensees from the CE requirements for illness or disability. Section 650-25.2 (8). Exemptions will be granted for the other reasons set forth in s. 650-25.7 (2), including periods during which the licensee is on active duty in military service, is practicing in another jurisdiction in which the licensee meets that jurisdiction's CE requirements, is in government service assigned to duty outside the United States, and other periods as approved by the board. See <http://search.legis.state.ia.us/nxt/gateway.dll/ar/iac?f=templates&fn=default.htm>. See also www.state.ia.us/dentalboard/con_ed.html.

Michigan:

Michigan dentists must complete 60 hours of CE per triennial licensure renewal period, twenty of which must be in programs directly related to clinical issues. Training for the required certification in basic or cardiac life support does not count toward the 60-hour CE requirement. Dental specialists must complete 20 hours in their specialty field. All licensees must complete one hour of pain and symptom management. One hour of credit equals 50-60 minutes of instruction. Licensees must keep records of their CE compliance for four years after the date of a renewal application. Sections R 338.11701 (2), (3), Mich. Admin. Code. Dentists may earn CE hours by completing courses approved by the Michigan Board of Dentistry offered for credit in a

dental school or hospital-based specialty program; participating in a postgraduate dental clinical training program of at least 7 months (maximum of 20 credits per calendar year); attending CE programs approved by the Academy of General Dentistry's Program Approval for Continuing Education under its 2008 standards; developing and presenting a table clinical demonstration or a lecture in conjunction with a board-approved CE program (maximum of 10 hours for one program, and credit awarded only for the initial presentation); publishing an article in the journal of a school for dental-related professions or of a state or state-component dental-related professional association (12 credits per article); reading articles, viewing or listening to media other than on-line programs devoted to the dental professions (maximum of 10 credits); participating in board-approved on-line CE activities (maximum of 20 credits); completing an American board specialty examination (10 credits awarded); renewing a license in another state that has substantially equivalent CE requirements (60 credits awarded); attending a program approved by another state's dental board; or attending programs related to certain CE topics approved by the boards of medicine or osteopathic medicine (maximum of 30 credits). Section R 338.11703, Mich. Admin. Code. The board may waive the CE requirement for a dentist for one of the following four reasons: temporary disability, military service, absence from the continental United States, or other circumstance beyond the licensee's control that the board considers good and sufficient. All licensed dentists are otherwise subject to the CE requirement. See

http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33811101&Dpt=LG&RngHigh=. See also

http://www.michigan.gov/documents/mdch_dentist_cebroc_122701_7.pdf.

Dental hygienists in Michigan must complete 36 hours of CE during each triennial licensure renewal period, 12 of which must be in programs directly related to clinical issues such as delivery of care, materials used in delivering care, and pharmacology. Training for the required certification in basic or cardiac life support does not count toward the 36-hour CE requirement. All hygienists must complete one hour of pain and symptom management, which may include, but are not limited to courses in behavior management, psychology of pain, pharmacology, behavior modification, stress management, clinical applications, and drug interactions. One hour of credit equals 50-60 minutes of instruction. Licensees must keep records of their CE compliance for four years after the date of a renewal application. Sections R 338.11704 (2), (3), Mich. Admin. Code. Activities that qualify for dental hygienists' CE credit are generally the same as those that qualify for dentists' CE. Where a specific number of credits is indicated for dentists, the number is pro-rated for dental hygienists, and hygienists do not have the options of participating in a postgraduate dental clinical training program, or completing a dental specialty examination. Sections R 338.11704a, Mich. Admin. Code. The same waiver principles that apply to dentists apply to dental hygienists, and all dental hygienists are otherwise subject to the CE requirement. See

http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33811101&Dpt=LG&RngHigh=. See also

http://www.michigan.gov/documents/mdch_rdh_rda_cebroc_122702_7.pdf.

Minnesota:

Minnesota dentists and dental hygienists must satisfy professional development requirements during their initial and subsequent licensure renewal periods. The initial licensure period varies in the number of months depending on the date of an individual licensee's initial licensure; subsequent periods are for two years, also based on the date of initial licensure. Section 3100.5100, Subp. 1., Minn. Admin. Code. Dentists must complete 50, and dental hygienists 25, professional development hours (PDH's) per period. No carryover of PDH's from one renewal period to another is allowed. Licensees are required to maintain a professional development portfolio for record-keeping. Sixty percent of the required PDH's for both professions must be in fundamental activities directly related to the provision of clinical dental services: 30 hours for dentists, 15 for dental hygienists. A maximum of 40% of a licensee's required PDH's may be in elective activities directly related to, or supportive of, the practices of dentistry, dental hygiene, or dental assisting. The Minnesota Board of Dentistry may grant a time extension to a licensee for completion of his or her required PDH's upon finding sufficient extenuating circumstances. Section 3100.5100, Subp. 2., Minn. Admin. Code. Qualifying professional development activities include, but are not limited to continuing education, community services, publications, and career accomplishments throughout a licensee's professional life. The board categorizes all such activities as either fundamental or elective. Fundamental activities include, but are not limited to clinical subject programs pertaining to basic sciences or programs on the care and treatment of patients, core subject programs related to public safety and professionalism, CPR certification (mandatory for all licensees at every renewal), and a self-assessment examination (mandatory for all licensees during each renewal period). Core subjects include, but are not limited to infection control, record-keeping, ethics, patient communications, medical emergency management, and treatment and diagnosis. CPR certification courses must be equivalent to either the American Heart Association or the American Red Cross professional rescuer course. The board must approve other fundamental activities if any such activities are directly related to either a clinical or core subject as those terms are defined in the rules. Section 3100.5100, Subp. 3. A., Minn. Admin. Code. Elective activities include attendance at a multiday state or national dental convention (maximum three credits per biennium); volunteerism or community service directly related to a dental profession practice; self-study of subjects directly related to a dental profession practice; and scholarly activities such as teaching a dental profession course, presenting a table clinic, publishing a dental article in a recognized publication, participating in test construction for a state or nationally recognized dental organization, or participating in an accredited institution's scientific dental research or in an evidence-based clinical study. The board must approve other elective activities if any such activity is directly related to, or supportive of, the practice of one of the dental professions. Section 3100.5100, Subp. 3. B., Minn. Admin. Code. Licensees must keep the records of their completion of professional development activities for at least one renewal period past the period in which the PDH's for such activities were earned. Section 3100.5100, Subp. 5., Minn. Admin. Code. See <https://www.revisor.mn.gov/statutes/?id=150A>, <https://www.revisor.mn.gov/rules/?id=3100>. See also <http://www.dentalboard.state.mn.us/>.

Summary of factual data and analytical methodologies:

The Dentistry Examining Board reviewed the statutory requirements for continuing education for both dentists and dental hygienists and worked to clarify precisely what is required for licensees

and what qualifies for continuing education in Wisconsin. Additionally, the board clarified renewal requirements with regard to continuing education.

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

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that the proposed rule will have no significant fiscal impact.

Effect on small business:

These proposed rules were reviewed by the department’s Small Business Review Advisory Committee. It was determined the rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at John.Murray@Wisconsin.gov, or by calling 608-266-8608.

Agency contact person:

Kris Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2385; email at Kristine1.Anderson@Wisconsin.gov.

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

Comments may be submitted to Kris Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 E. Washington Ave., Room 151, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to Kristine1.Anderson@Wisconsin.gov. Comments must be received on or before the date and time of the hearing to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 2.03 (1) (intro.) and (a) are amended to read:

DE 2.03 Biennial renewal. (1) REQUIREMENTS FOR RENEWAL; DENTISTS. To renew a license a dentist shall, by October 1 of the odd-numbered year following initial licensure and every 2 years thereafter, file with the board all of the following:

(a) An application for renewal on a form prescribed by the department;~~and~~

SECTION 2. DE 2.03 (1) (d) is created to read:

(d) Except as provided in sub. (4), evidence satisfactory to the board of successful completion of the continuing education credit hours required under ch. DE 13.

SECTION 3. DE 2.03 (2) and (3) are amended to read:

(2) REQUIREMENTS FOR RENEWAL; DENTAL HYGIENISTS. A dental hygienist shall by October 1 of the odd-numbered year following initial licensure and every 2 years thereafter, meet the requirements for renewal specified in sub. (1) (a) and (b) to (d).

(3) FAILURE TO MEET REQUIREMENTS. A dentist or dental hygienist who fails to meet the requirements in subs. under subs. (1) and (2) (a) to (d) by the renewal date shall cease and desist from dental or dental hygiene practice.

SECTION 4. DE 2.03 (4) is created to read:

(4) NEW LICENSEES. Dentists and dental hygienists are not required to satisfy the continuing education requirements under sub. (1) (d) for the first renewal period following the issuance of their initial licenses.

SECTION 5. DE 2.03 (5) (a) (intro.) is amended to read:

(5) REQUIREMENTS FOR LATE RENEWAL; REINSTATEMENT. (a) A dentist or dental hygienist who files an application for renewal of a license within 5 years after the renewal date may be reinstated—renew his or her license by filing with the board all of the following:

SECTION 6. DE 2.03 (5) (a) 4. is created to read:

4. Except as provided under sub. (4), evidence satisfactory to the board of successful completion of the continuing education credit hours required under ch. DE 13.

SECTION 7. DE 2.03 (5) (b) is amended to read:

(b) A dentist or dental hygienist who files an application for renewal more than 5 years after the renewal date may be reinstated by filing with the board an application and fees as specified in subs. (1) and (2)—renew his or her license by satisfying the requirements under par. (a) 1. to 4., and submitting verification of successful completion of examinations or education, or both, as the board may prescribe.

SECTION 8. Chapter DE 13 is created to read:

Chapter DE 13

CONTINUING EDUCATION

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

DE 13.02 Definitions. In this chapter:

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

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

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

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

- (a) Has been in existence as a group for at least one year.
- (b) Meets face-to-face at least once each year to discuss issues.
- (c) Has adopted by-laws governing the operation of the group.

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

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

(3) **CREDIT FOR COLLEGE LEVEL COURSES.** One credit hour of a college level course is equivalent to 6 credit hours of continuing education. A licensee may substitute credit hours of

college level courses related to the practice of dentistry for the required continuing education credit hours.

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

(5) CREDIT FOR ACCREDITED RESIDENCY TRAINING PROGRAM. 30 credit hours of continuing education shall be awarded for every 12 months in an accredited residency training program.

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

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

(8) FAILURE TO COMPLETE CONTINUING EDUCATION HOURS. A licensee who fails to complete the continuing education requirements by the renewal date specified under s. 440.08 (2) (a), Stats., shall not practice dentistry until his or her license is restored under s. DE 2.03 (5).

(9) TIME LIMITS ON OBTAINING CREDITS. Credit hours completed before the 2-year period immediately preceding renewal of a license to practice dentistry may not be applied to fulfill the credit hours required under sub. (1).

(10) RECORDKEEPING. Every licensee shall maintain a written record of the continuing education hours required under sub. (1) for not less than 6 years after completion of each credit.

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

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

(2) CREDIT FOR TEACHING OR PREPARING A PROGRAM. One hour of teaching or preparing a professional dental or medical program is equivalent to one credit hour of continuing

education. A licensee who teaches or prepares a professional dental or medical program may obtain credit for the program only once during a biennium.

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

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

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

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

(7) FAILURE TO COMPLETE CONTINUING EDUCATION HOURS. A licensee who fails to meet the continuing education requirements by the renewal date specified under s. 440.08 (2) (a), Stats., shall not practice dental hygiene until his or her license is restored under s. DE 2.03 (5).

(8) TIME LIMITS ON OBTAINING CREDITS. Credit hours completed before the 2-year period immediately preceding renewal of a license to practice dental hygiene may not be applied to fulfill the credit hours required under sub. (1).

(9) RECORDKEEPING. Every licensee shall maintain a written record of the continuing education hours required under sub. (1) for not less than 6 years after completion of each credit.

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

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

(a) The subject matter of the continuing education program relates to the practice of dentistry or the practice of medicine.

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

1. Sponsored or recognized by a local, state, regional, national, or international dental or medical professional organization.

2. A college level course that is offered by a postsecondary institution accredited by the American Dental Association Commission on Dental Accreditation or a successor agency, or by another recognized accrediting body.

3. A study group as specified in s. DE 13.02 (4).

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

(a) The subject matter of the continuing education program relates to the clinical practice of dental hygiene.

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

1. The program is 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).

(END OF TEXT OF RULE)

COPIES OF RULE

Copies of this proposed rule are available upon request to Kris Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Kristine1.Anderson@wisconsin.gov.

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