STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

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

PROPOSED ORDER

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

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 447.063, Stats.

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

Explanation of agency authority:

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

A person who manages or controls a business that offers dental or dental hygiene services, including management or control of a business through which the person allows another person to offer dental or dental hygiene services, shall preserve patient health care records, as defined in s. 146.81 (4), for an amount of time determined by the examining board by rule. [447.063 (1), Stats.]

Related statute or rule: DE 8

Plain language analysis:

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

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

Comparison with rules in adjacent states:

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

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

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

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

Summary of factual data and analytical methodologies:

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

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. DE 8.035 is created to read:

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

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Dentistry Examining Board is approved for submission to the Governor and Legislature.

Dated _____ Agency _____

Chairperson
Dentistry Examining Board