

CR 90-201

CERTIFICATE

STATE OF WISCONSIN

DEPARTMENT OF REGULATION AND LICENSING

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Patrick D. Braatz, Director, Bureau of Health Professions in the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Dentistry Examining Board, do hereby certify that the annexed rules were duly approved and adopted by the Dentistry Examining Board on the 3rd day of July, 1991.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue, Madison, Wisconsin this 3rd day of July, 1991.



**Patrick D. Braatz, Director
Bureau of Health Professions
Department of Regulation and
Licensing**

RECEIVED

JUL 8 1991
4:15 pm
Revisor of Statutes
Bureau

9-1-91

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 90-201)

ORDER

An order of the Dentistry Examining Board to repeal DE 11.02 (4); to renumber DE 1.02 (2), (3), (4), (5), (6) and (7), DE 11.03, DE 11.04, DE 11.05, DE 11.06, DE 11.07, and DE 11.09; to renumber and amend DE 1.02 (1), DE 11.02 (1), (2) and (3) and DE 11.08; to amend DE 1.01, DE 1.02 (intro.), DE 2.04 (1) (intro.), (a), (b), (c), (d), (e) and (f), DE 2.04 (1), DE 11.01; and to create DE 1.02 (1), DE 2.04 (1) (g), (h) and (i), DE 2.04 (1) (f), (g), (h) and (i), DE 11.02 (1) and (5), DE 11.03, DE 11.04, DE 11.05 and chapter DE 12 of the administrative code relating to definitions, endorsement, standards for the administration of anesthesia by dentists, and delegation of remediable procedures and dental functions by dentists to be performed by unlicensed persons under the supervision of the delegating dentist.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5), 227.11 (2) (a), 447.02 (1) (b), 447.02 (2) (b) and (c), Stats.

Statutes interpreted: ss. 447.01 (12), 447.065 and 447.02 (2) (b), Stats.

In this order the Dentistry Examining Board proposes as follows:

Section DE 1.01 is amended to reflect the renumbering of the statutes, and the creation of several new chapters of the administrative code since the previous amendment of s. DE 1.01.

Section DE 1.02 is amended to reflect a new definition of "active practice of dental hygiene," an amendment to the previous definition of "active practice of dentistry" and the renumbering of various subsections to accommodate the addition. The number of hours of practice required for "active practice of dentistry" is reduced from 1,000 within a year to 750 within a year to more accurately reflect the current practice in the profession. The number of hours required for active practice of dental hygiene are stated for the first time at 350 hours within a year. Both definitions include a statement intended to clarify what type of employment is considered "active practice."

Section DE 2.04 is amended to eliminate unnecessary, artificial barriers to licensure for persons licensed in other jurisdictions, and to more completely state the standards for endorsement of licensing credentials in Wisconsin.

Section DE 11.01, Authority and Purpose, is amended to include reference to new statutory authority relating to educational standards required of dentists for the use of anesthesia, and to cover all types of anesthesia, including the administration of gas.

Section DE 11.02, Definitions, is amended to include a definition of "analgesia" and delete a definition of "local anesthesia," which is not a topic covered by this rule. Minor amendments were made throughout for clarity, without substantive change.

Sections DE 11.03 to 11.09 are renumbered to facilitate logical placement of newly created rules.

Sections DE 11.03, 11.04 and 11.05 are created setting forth the educational or attained experience standards which must be met by dentists wishing to use general or deep sedation, conscious sedation, or nitrous oxide inhalation sedation respectively. Newly created s. DE 11.03, dealing with the requirements for use of general or deep sedation, includes a provision for a dentist to associate with a qualified person who will administer the anesthetic or sedative agent, if the dentist does not meet the required education or experience standards.

The introduction to current s. DE 11.08, which is renumbered s. DE 11.11, is amended for clarity, without substantive change.

Chapter DE 12 is created which proposes to identify the procedures and dental functions which may be delegated to unlicensed persons by licensed dentists, consistent with public safety. The creation of chapter DE 12 to interpret provisions of ch. 447, Stats., and 1989 Wisconsin Act 349 is required by practical difficulties apparent in dental practices which rely on unlicensed persons to perform dental patient services. Unlicensed persons who provide dental patient services in Wisconsin are not currently subject to competence or educational standards as a prerequisite for performing those services, and may therefore have little or no training in the tasks performed. There is a defined scope of practice limited to persons licensed as dental hygienists; persons who are not licensed to practice dentistry or dental hygiene may not legally perform dental services within that scope of practice. For the guidance of the profession and the public, the Dentistry Examining Board proposes to describe those procedures and dental functions which may be delegated to unlicensed persons consistent with the scope of practice limited to licensed persons, public safety, and s. 447.065, Stats. One factor in the identification of dental services which may be delegated to an unlicensed person is competence of the unlicensed person to perform the service; the proposal would require that the delegating dentist maintain verifiable records of the unlicensed person's successful completion of training in the provision of the services delegated. Chapter DE 12 as proposed includes the rule which the Dentistry Examining Board is required to promulgate pursuant to s. 447.02 (2) (c), Stats., relating to the ability of unlicensed persons to use mechanical devices to remove plaque and materia alba from dental patients' teeth. The board proposes to permit unlicensed persons to use mechanical devices to remove plaque and materia alba from dental patients' teeth if the delegation of the function involving that task is consistent with the identification of delegable functions as proposed in ch. DE 12. Finally, ch. DE 12 would clarify that failure to report a violation of ch. DE 12 is unprofessional conduct on the part of dentists and dental hygienists, constituting aiding and abetting the violation of a law substantially related to the practice of dentistry or dental hygiene.

TEXT OF RULE

SECTION 1. DE 1.01 is amended to read:

DE 1.01 AUTHORITY. The ~~rules provisions~~ in chs. DE 1 through to 9 12 are adopted pursuant to the authority in ss. 15.08 (5), ~~227.014~~ and 227.11 (2) (a), Stats., and ch. 447, Stats.

SECTION 2. DE 1.02 (intro.) is amended to read:

DE 1.02 DEFINITIONS. (intro.) ~~As used in rules of the dentistry examining board~~ In chs. DE 1 to 12:

SECTION 3. DE 1.02 (1) is renumbered (2) and amended to read:

DE 1.02 (2) "Active practice of dentistry" means having engaged in at least ~~1,000~~ 750 hours of the practice of dentistry within the 12-month period preceding application for ~~registration~~ licensure in Wisconsin in private practice, the armed forces of the United States, the United States public health service, or as a clinical instructor in a school of dentistry accredited by the American dental association, with a current license to practice dentistry in that jurisdiction.

NOTE: The requirement of "a current license to practice dentistry in that jurisdiction" applies only to clinical instructors at schools accredited by the American dental association, and not to persons practicing with the United States armed forces or public health service because persons practicing with the armed forces or the public health service of the United States have a current license in some U.S. jurisdiction as a condition precedent to practice under the auspices of the federal government.

SECTION 4. DE 1.02 (2) to (7) are renumbered (3) to (8).

SECTION 5. DE 1.02 (1) is created to read:

DE 1.02 (1) "Active practice of dental hygiene" means having engaged in at least 350 hours of the practice of dental hygiene in the 12-month period preceding application for licensure in Wisconsin in private practice, the armed forces of the United States, the United States public health service, or as a clinical instructor in a school of dental hygiene accredited by the American dental association, with a current license to practice dental hygiene in that jurisdiction.

NOTE: The requirement of "a current license to practice dental hygiene in that jurisdiction" applies to clinical instructors at schools accredited by the American dental association, and not to persons practicing with the United States armed forces or public health service because persons practicing with the armed forces or the public health service of the United States have a current license in some U.S. jurisdiction as a condition precedent to practice under the auspices of the federal government.

SECTION 6. DE 2.04 (1) is amended to read:

DE 2.04 ENDORSEMENT. (1) (intro.) The board may grant a license as a dentist to an applicant who holds a valid license issued by the proper authorities of any other state, jurisdiction of the United States or Canada upon payment of the fee specified in s. 440.05-(1) 440.05 (2), Stats., and submission of evidence satisfactory to the board that:

(a) ~~The applicant has qualifications substantially equivalent to standards specified in s. 447.03-(2), Stats.;~~ graduated from a school of dentistry accredited by the American dental association.

(b) ~~The applicant holds a valid license as a dentist which has not been revoked or suspended in another state;~~ submits a certificate from each jurisdiction in which the applicant is or has ever been licensed stating that no disciplinary action is pending against the applicant or the license, and detailing all discipline, if any, which has ever been imposed against the applicant or the license.

(c) ~~The applicant has notified the examining board of any pending disciplinary actions in another state or country. The applicant has an ongoing duty to notify the examining board of the ultimate disposition of any such disciplinary action. The board may invalidate the endorsement for failure by the applicant to provide the information on disciplinary actions within a reasonable time period~~ not failed the central regional dental testing service clinical examination, or any other dental licensing examination, within the previous 3 years.

(d) ~~The applicant has been engaged in the active practice of dentistry, as defined in s. DE-1.02-(1) DE 1.02 (2), in one or more jurisdictions in which the applicant has a current license in good standing, for at least 48 of the 60 months preceding the application for licensure in Wisconsin.~~

(e) ~~The applicant has successfully completed a clinical and laboratory licensing examination for licensure in another state where the licensure requirements are on a human subject which, in the board's judgment, is substantially equivalent to those of Wisconsin the clinical examination administered by the central regional dental testing service, or, alternatively, has successfully completed a board specialty certification examination of an American dental association accredited speciality within the previous 10 years.~~

(f) ~~The applicant has submitted the certificate of the national board of dental examiners as specified in s. 447.04-(1), Stats., and the applicant has successfully completed a jurisprudence examination on the statutory provisions on of Wisconsin statutes and administrative rules relating to dentistry and dental hygiene specified in ch. 447, Stats., and the administrative rules on dentistry and dental hygiene specified in chs. DE-1-9.~~

SECTION 7. DE 2.04 (1) (g), (h) and (i) are created to read:

DE 2.04 (1) (g) The applicant possesses a current certificate of proficiency in cardiopulmonary resuscitation.

(h) The applicant has disclosed all discipline which has ever been taken against the applicant in any jurisdiction shown in reports from the national practitioner data bank and the American association of dental examiners.

(i) The applicant has presented satisfactory responses during any personal interview with the board which may be required to resolve conflicts between the licensing standards and the applicant's application.

SECTION 8. DE 2.04 (2) is amended to read:

DE 2.04 (2) (intro.) The board may grant a certificate license as a dental hygienist to an applicant who holds a certificate license issued by the proper authorities of any other state, jurisdiction of the United States or Canada upon payment of the fee specified in s. 440.05 (2), Stats., and submission of evidence satisfactory to the board that:

(a) ~~The applicant has qualifications substantially equivalent to standards specified in s. 447.08 (2), Stats.;~~ graduated from a school of dental hygiene accredited by the American dental association.

(b) ~~The applicant holds a valid certificate as a dental hygienist which has not been revoked or suspended in another state;~~ submits a license from each jurisdiction in which the applicant is or has ever been licensed stating that no disciplinary action is pending against the applicant or the license, and detailing all discipline, if any, which has ever been imposed against the applicant or the license.

(c) ~~The applicant has notified the examining board of any pending disciplinary actions in another state or country. The applicant has an ongoing duty to notify the examining board of the ultimate disposition of any such disciplinary action. The board may invalidate the endorsement for failure by the applicant to provide the information on disciplinary actions within a reasonable time period~~ not failed the central regional dental testing service clinical examination, or any other dental hygiene licensing examination, within the previous 3 years.

(d) The applicant has successfully completed a clinical and laboratory licensing examination ~~for licensure in another state where the licensure requirements are~~ on a human subject which, in the board's judgment, is substantially equivalent to those of Wisconsin in the clinical examination administered by the central regional dental testing service.

(e) ~~The applicant has submitted the certificate of the national board of dental examiners as specified in s. 447.08 (2) (b), Stats., and the applicant has successfully completed an~~ a jurisprudence examination on the statutory provisions on of Wisconsin statutes and administrative rules relating to dentistry and dental hygiene specified in ch. 447, Stats., and the administrative rules on dentistry and dental hygiene specified in chs. DE 1-9.

SECTION 9. DE 2.04 (2) (f), (g), (h) and (i) are created to read:

DE 2.04 (2) (f) The applicant has been engaged in the active practice of dental hygiene, as defined in s. DE 1.02 (1), in a jurisdiction in which the applicant has a current license in good standing.

(g) The applicant possesses a current certificate of proficiency in cardiopulmonary resuscitation.

(h) The applicant has disclosed all discipline which has ever been taken against the applicant in any jurisdiction shown in reports from the national practitioner data bank and the American association of dental examiners.

(i) The applicant has presented satisfactory responses during any personal interview with the board which may be required to resolve conflicts between the licensing standards and the applicant's application.

SECTION 10. DE 11.01 is amended to read:

DE 11.01 AUTHORITY AND PURPOSE. The rules in this chapter are adopted under authority in ss. 15.08 (5) (b), 227.11 (2) (a) and ~~447.02-(1)-(h)~~ 447.02 (2) (b), Stats., for the purpose of defining standards for the administration of anesthesia by dentists. The standards specified in this chapter shall apply equally to general anesthesia and ~~conscious-and-deep-sedations~~ sedation, ~~but-do-not-apply-to-sedation-administered-through-inhalation~~ regardless of the route of administration.

SECTION 11. DE 11.02 (1), (2) and (3) are renumbered (2), (3) and (4) and amended to read:

DE 11.02 (2) "Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination ~~thereof~~ of pharmacologic and non-pharmacologic methods.

(3) "Deep sedation" means a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof of pharmacologic and non-pharmacologic methods.

(4) "General anesthesia" means a controlled state of ~~depressed consciousness~~ unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof of pharmacologic and non-pharmacologic methods.

SECTION 12. DE 11.02 (4) is repealed.

SECTION 13. DE 11.02 (1) and (5) are created to read:

DE 11.02 (1) "Analgesia" means the diminution or elimination of pain in the conscious patient.

(5) "Parenteral sedation" means a depressed level of consciousness produced by a pharmacologic method, including intravenous, intramuscular, subcutaneous, submucosal, and rectal routes of administration, which retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command.

SECTION 14. DE 11.03 to DE 11.07 are renumbered 11.06 to 11.10.

SECTION 15. DE 11.08 is renumbered 11.11 and as renumbered 11.11 (intro.) is amended to read:

DE 11.11 OFFICE FACILITIES AND EQUIPMENT. (intro.) No general anesthesia or ~~conscious-and-deep~~ sedation may be administered to a patient in a dental office unless the dental office contains:

SECTION 16. DE 11.09 is renumbered 11.12.

SECTION 17. DE 11.03, 11.04 and 11.05 are created to read:

DE 11.03 RESTRICTIONS ON THE USE OF GENERAL ANESTHESIA AND DEEP SEDATION.

No dentist may employ or administer general anesthesia or deep sedation on an outpatient basis for dental patients unless the dentist meets one of the following conditions:

(1) The dentist has completed the equivalent of a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a program approved by the council on dental education of the American dental association. The advanced training program must be one which prepares the dentist to use general anesthesia, local anesthesia, sedation and analgesia, and to apply the psychological aspects of managing pain and apprehension for the dental patient. The training must include a minimum of 6 months devoted exclusively to learning general anesthesia and related topics in a hospital operating room, with the dentist assigned full-time to the hospital anesthesiology service, and must include experience in the administration of general anesthesia as well as other forms of pain control for ambulatory patients.

(2) The dentist is a diplomate of the American board of oral and maxillofacial surgery, or is a fellow or member of the American association of oral and maxillofacial surgeons, or is a fellow of the American dental society of anesthesiology.

(3) The dentist employs or works in conjunction with a certified registered nurse anesthetist, or with a licensed physician or dentist who is a member of the anesthesiology staff of an accredited hospital, provided that the anesthesia personnel must remain on the premises of the dental facility until the patient under general anesthesia or deep sedation regains consciousness.

(4) The dentist has been using general anesthesia on an outpatient basis in a competent manner for 5 years before the effective date of this subsection, provided that the dentist complies with all other provisions of this chapter.

NOTE: A copy of the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry is available for review at the board office, 1400 East Washington Avenue, Madison, WI. A copy may also be obtained from the publisher, the Council on Dental Education of the American Dental Association, 211 East Chicago Avenue, Chicago, IL. The Guidelines contain authoritative recommendations on the contents of training programs intended to develop proficiency in the use of anesthesia and sedation, and are useful guidance for persons considering such a program.

DE 11.04 RESTRICTIONS ON THE USE OF PARENTERAL SEDATION. No dentist may employ or administer parenteral sedation on an outpatient basis for dental patients unless the dentist meets one of the following conditions:

- (1) The dentist satisfies one of the conditions of s. DE 11.03.
- (2) The dentist has successfully completed an intensive course in the use of parenteral sedation which includes physical evaluation of patients, airway management, and mechanical monitoring. The course shall be sponsored by and presented at a hospital, university, or other educational facility accredited by the council on dental education of the American dental association where adequate facilities are available for patient care and the management of medical emergencies, and shall be approved by the board or the council on dental education of the American dental association. The course shall consist of a minimum of 60 hours of instruction plus management of at least 10 patients on parenteral sedation in a supervised clinical setting. During the course of instruction, there shall never be more than 5 students to one instructor, and the instructor shall be prepared to assess the competency of all participants at the conclusion of the course.
- (3) The dentist has been using parenteral sedation on an outpatient basis in a competent manner without incident for 5 years preceding the effective date of this subsection.

NOTE: A copy of the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry is available for review at the board office, 1400 East Washington Avenue, Madison, WI. A copy may also be obtained from the publisher, the Council on Dental Education of the American Dental Association, 211 East Chicago Avenue, Chicago, IL. The Guidelines contain authoritative recommendations on the contents of training programs intended to develop proficiency in the use of anesthesia and sedation, and are useful guidance for persons considering such a program.

DE 11.05 RESTRICTIONS ON THE USE OF NITROUS OXIDE INHALATION SEDATION. No dentist may employ or administer nitrous oxide inhalation sedation on an outpatient basis for dental patients unless the dentist meets one of the following conditions:

- (1) The dentist satisfies one of the conditions of s. DE 11.03.
- (2) The dentist has successfully completed an intensive course in the use of nitrous oxide inhalation sedation which includes physical evaluation of patients, airway management, and mechanical monitoring. The course shall be sponsored by and presented at a hospital, university, or other educational facility accredited by the council on dental education of the

American dental association where adequate facilities are available for patient care and the management of medical emergencies, and shall be approved by the board or the council on dental education of the American dental association. The course shall consist of a minimum of 24 hours of instruction plus management of at least 5 patients on nitrous oxide inhalation sedation in a supervised clinical setting. During the course of instruction, there shall never be more than 10 students to one instructor, and the instructor shall be prepared to assess the competency of all participants at the conclusion of the course.

(3) The dentist has been using nitrous oxide inhalation conscious sedation in a dental office in a competent manner without incident for 3 years preceding the effective date of this subsection.

NOTE: A copy of the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry is available for review at the board office, 1400 East Washington Avenue, Madison, WI. A copy may also be obtained from the publisher, the Council on Dental Education of the American Dental Association, 211 East Chicago Avenue, Chicago, IL. The Guidelines contain authoritative recommendations on the contents of training programs intended to develop proficiency in the use of anesthesia and sedation, and are useful guidance for persons considering such a program.

SECTION 18. Chapter DE 12 is created to read:

CHAPTER DE 12 (title)

DELEGATION OF FUNCTIONS TO UNLICENSED PERSONS

DE 12.01 A dentist may not delegate any dental procedure of any description to an unlicensed person if the procedure to be delegated:

(1) Is of a character which may cause damage to the patient's teeth or oral cavity which cannot be remedied without professional intervention.

(2) Is of a character which may cause adverse or unintended general systemic reaction.

(3) Is intended, interpreted, or represented to be preliminary assessments, dental hygiene treatment planning, oral screenings, oral prophylaxes or any portion of an oral prophylaxis, scaling or root planing, or dental sealants.

DE 12.02 A dentist who delegates any dental procedure or function to an unlicensed person must first train or verify the training of the person in the performance of the procedure or function, and must maintain verifiable records on forms approved by the board of the successful completion of the training by the unlicensed person.

DE 12.03 A dentist or dental hygienist who becomes aware that any dentist is improperly delegating the performance of any dental procedure or function to an unlicensed person, or to a person who is performing the delegated procedure or function in a manner which is less than minimally competent,

shall report the circumstances to the board. Failure to report the circumstances of improper delegation by a dentist constitutes aiding and abetting the violation of a law substantially related to the practice of dentistry or dental hygiene, and is a violation of s. DE 5.02 (20).

DE 12.04 An unlicensed person may remove plaque and materia alba with a mechanical device only if the delegation of the function complies with ss. DE 12.01 and 12.02.

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.

Dated July 3, 1991

Agency *Eric R. Dallas*
Chairperson
Dentistry Examining Board

RULES-300
5/10/91

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JUL 8 1991
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CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

DATE: July 8, 1991

TO: Gary Poulson
Assistant Revisor of Statutes

FROM: Pamela Haack, Administrative Assistant
Department of Regulation and Licensing

SUBJECT: Final Rulemaking Order

RECEIVED
JUL 8 1991
Revisor of Statutes
Bureau

Agency: DENTISTRY EXAMINING BOARD

Clearinghouse Rule: 90-201

Attached is a copy and a certified copy of a final order adopting rules.

Would you please publish these rules in the code.

Thank you.