

Wisconsin Administrative Register

No. 668



Publication Date: August 14, 2011

Effective Date: August 15, 2011



Legislative Reference Bureau
<http://www.legis.state.wi.us/rsb/code.htm>



WISCONSIN ADMINISTRATIVE REGISTER

The Wisconsin Administrative Register is published twice monthly by the Legislative Reference Bureau.

Questions, comments, or corrections should be directed to:

Bruce Hoesly (608) 266-7590

email: bruce.hoesly@legis.wisconsin.gov

The Wisconsin Administrative Register and Administrative Code may be obtained from the:

Department of Administration

Office of Document Sales

(608) 266-3358

and may be accessed on the internet at:

<http://www.legis.state.wi.us/rsb/code.htm>

Table of Contents

Emergency Rules Now in Effect.**Pages 4 to 9**

Children and Families:

Safety and Permanence, Chs. DCF 35–59Creates sections DCF 57.485 and 57.49 (1) (am), relating to determination of need for new group homes. **EmR1034**Repeals Chapter DCF 38 and revises Chapter DCF 56, relating to foster care. **EmR1050**Revise Chapters DCF 52, 54, and 57, relating to regulation of rates charged by residential care centers for children and youth, child–placing agencies, and group homes. **EmR1106**

Government Accountability Board:

Amends section GAB 1.28, relating to the definition of the term “political purpose”. **EmR1049**

Insurance:

Revises section Ins 6.07 (4) and (9), relating to readability and electronic access to insurance policies and affecting small business. **EmR1101**Amend sections Ins 17.01 (3) and 17.28 (3) (c), and to repeal and recreate section Ins 17.28 (6), Wis. Adm. Code, relating to annual injured patients and families compensation fund fees, medical mediation panel fees, and provider classifications for the fiscal year beginning July 1, 2011. **EmR1108**

Natural Resources:

Fish, Game, etc., Chs. NR 1—Creates section NR 40.02 (2), relating to the identification, classification and control of invasive species. **EmR1036**Creates sections NR 40.02 (7g), (7r), (25m), (28m) and (46m), 40.04 (3m) and 40.07 (8) relating to the identification, classification and control of invasive bat species. **EmR1039**Repeals section NR 40.02 (28m), amends section NR 40.04 (3m), and repeals and recreates section NR 40.07 (8), relating to the identification, classification and control of invasive species. **EmR1045**Amend section NR 25.09 (2) (b) 2. a and f, and create section NR 25.09 (1) (b) 11., relating to commercial fishing in outlying waters. **EmR1107**Amend sections NR 10.01 (3) (ed) 1. a., 10.01 (3) (et) 2., 10.104 (7) (a) 1., and 10.104 (7) (b), relating to deer hunting seasons and carcass tag use. **EmR1109*****Environmental Protection — Air Pollution Control, Chs. NR 400—***Revises Chapters NR 400, 405 and 407, relating to major source permitting thresholds for sources of greenhouse gas emissions and affecting small business. **EmR1046**

Revenue:

Creates section Tax 2.957, relating to income and franchise tax credits and deductions for businesses that relocate to Wisconsin. **EmR1104**

Safety and Professional Services:
(formerly Commerce)

Creates section Tax 3.05, relating to income and franchise tax deductions for job creation. **EmR1105**

Creates section Tax 11.10 relating to wind, solar, and certain gas powered products. **EmR1110**

***Financial Resources for Businesses and Communities,
Chs. Comm 100–149***

Creates Chapter Comm 103, relating to certification of disabled–veteran–owned businesses, and affecting small businesses. **EmR1041**

Safety and Professional Services:
(formerly Regulation and Licensing)

Creates section RL 91.01 (3) (k), relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker. **EmR0827**

Creates section RL 180.02 and revises section RL 181.01, relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife. **EmR0828**

Creates Chapters RL 200 to 202, relating to governing professional conduct of individuals licensed as sign language interpreters, and for the treatment of state resident licensure exemption requests. **EmR1102**

Safety and Professional Services — Barbering and
Cosmetology Examining Board:

Revises Chapters BC 9 and 11, relating to late renewal and continuing education. **EmR1047**

Safety and Professional Services — Veterinary Examining
Board:

Revises sections VE 2.01 (2), 3.03 (intro) and (5), relating to the requirements for the initial licensure of veterinarians, specifically, the procedures for, and the types of examinations required. **EmR1103**

Scope Statements.

Pages 10 to 11

Agriculture, Trade and Consumer Protection:

Revise Chapter ATCP 70., Subchapter IV, Wis. Admin. Code (Existing). **SS 008–11**

Natural Resources:

Revision of Chapter NR 46, Wis. Admin. Code, relating to the administration of the Managed Forest Law (MFL) Program. **SS 006–11**

Revenue:

Revises Chapter Tax 2 to reflect changes in law. **SS 007–11**

Hearing Notices.

Pages 12 to 19

Safety and Professional Services — Dentistry Examining
Board:

Amend sections DE 2.03 (1) (intro.), (a), (2), (3), (5) (a) (intro.), and (b); and to create sections DE 2.03 (1) (d), (4), (5) (a) 4. and Chapter DE 13, relating to licensure renewal and continuing education for dentists and dental hygienists. **CR 11–033**

- Safety and Professional Services — Dentistry Examining Board: Amend sections DE 1.02 (2), 2.015 (1) (c), (2) (a), (b), (3), (4), and section DE 2.04 (1) (e), and to repeal the Note following section DE 1.02 (2), relating to the active practice of dentistry, specialty certification, and faculty licenses. **CR 11–034**
- Safety and Professional Services — Dentistry Examining Board: Amend sections DE 2.03 (1) (b), (5) (a) 2., 2.04 (1) (g), (h), (2) (a), (g), (h), 6.02 (4) (c), 7.03 (2), 7.05 (2) (a), and to create section DE 2.03 (1) (c), (5) (a) 3., relating to CPR training for licensure renewal for dentists and dental hygienists and related to certification of dental hygienists to administer local anesthesia, and unprofessional advertising for dentists. **CR 11–035**
- Submittal of Proposed Rules to the Legislature.** **Page 20**
- Children and Families: *Safety and Permanence, Chs. DCF 35–59*
Revises Chapters DCF 52, 54 and 57, relating to rate regulation of residential care centers for children and youth, child–placing agencies, and group homes. **CR 11–026**
- Rule Orders Filed with the Legislative Reference Bureau.** **Page 21**
- Safety and Professional Services — Marriage and Family Therapy, Professional Counseling and Social Work Examining Board: Revise Chapter MPSW 3, relating to social work training certificate. **CR 11–028**

Emergency Rules Now in Effect

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Beginning with rules filed with the Legislative Reference Bureau in 2008, the Legislative Reference Bureau will assign a number to each emergency rule filed, for the purpose of internal tracking and reference. The number will be in the following form: EmR0801. The first 2 digits indicate the year of filing and the last 2 digits indicate the chronological order of filing during the year.

Children and Families (3)

Safety and Permanence, Chs. DCF 37–59

1. EmR1034 — Rule adopted to create sections DCF 57.485 and 57.49 (1) (am), relating to determination of need for new group homes.

Exemption From Finding of Emergency

Section 14m (b) of 2009 Wisconsin Act 335 provides that the department is not required to provide evidence that promulgating a rule under s. 48.625 (1g), Stats., 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.

Section 14m (b) also provides that notwithstanding s. 227.24 (1) (c) and (2), Stats., an emergency rule promulgated under s. 48.625 (1g), Stats., remains in effect until the

permanent rules promulgated under s. 48.625 (1g), Stats., take effect.

Publication Date: September 2, 2010
Effective Dates: September 2, 2010 through the date permanent rules become effective
Hearing Date: October 21, 2010

2. EmR1050 — Rule adopted to repeal Chapter DCF 38 and revise Chapter DCF 56, relating to foster care.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

In the Child and Family Services Review of Wisconsin's child welfare system this past year, the federal Administration for Children and Families found that Wisconsin is not operating in substantial conformity with a number of federal requirements. In response to this review, the department has submitted a program improvement plan that commits the department to complete implementation of the levels of care system and the child assessment tool throughout the first quarter of 2011. Implementation must begin immediately to meet this deadline and subsequent dependent deadlines in the remaining 2 years of the program improvement plan.

Publication Date: January 1, 2011
Effective Dates: January 1, 2011 through May 30, 2011
Extension Through: August 31, 2011
Hearing Date: February 8, 15, 28, 2011

3. EmR1106 — Rule adopted to revise Chapters DCF 52, 54, and 57, relating to regulation of rates charged by residential care centers for children and youth, child-placing agencies, and group homes.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

2009 Wisconsin Act 28 directed the department to implement rate regulation effective January 1, 2011. Implementation was delayed and this rule is phasing-in rate regulation at the earliest feasible date.

Publication Date: April 18, 2011
Effective Dates: April 18, 2011 through September 16, 2011
Hearing Date: May 18, 2011

Government Accountability Board

EmR1049 — Rule adopted to amend **section GAB 1.28**, relating to the definition of the term “political purpose.”

Finding of Emergency

The Government Accountability Board amends s. GAB 1.28 (3) (b), Wis. Adm. Code, relating to the definition of the term “political purpose.” Section GAB 1.28 as a whole continues to clarify the definition of “political purposes” found in s. 11.01 (16) (a)1., Stats., but repeals the second sentence of s. GAB 1.28 (3) (b) which prescribes communications presumptively susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

This amendment to s. GAB 1.28 (3) (b) is to the rule that was published on July 31, 2010 and effective on August 1, 2010, following a lengthy two year period of drafting, internal review and study, public comment, Legislative review, and consideration of U.S. Supreme Court decisions. Within the context of ch. 11, Stats, s. GAB 1.28 provides direction to persons intending to engage in activities for political purposes with respect to triggering registering and reporting obligations under campaign financing statutes and regulations. In addition, the rule provides more information for the public so that it may have a more complete understanding as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly.

Pursuant to §227.24, Stats., the Government Accountability Board finds an emergency exists as a result of pending litigation against the Board and two decisions by the United States Supreme Court: *Federal Election Commission (FEC) v. Wisconsin Right to Life, Inc. (WRTL II)*, 550 U.S. 549 (2007) and *Citizens United v. FEC*, 558 U.S. ___, (No. 08–205) (January 21, 2010). Following the effective date of the August 1, 2010 rule, three lawsuits were filed seeking a declaration that the rule was unconstitutional and beyond the Board’s statutory authority: one in the U.S. District Court for the Western District of Wisconsin, one in the U.S. District Court for the Eastern District of Wisconsin, and one in the Wisconsin Supreme Court. On August 13, 2010, the Wisconsin Supreme Court temporarily enjoined enforcement of the August 1, 2010 rule, pending further order by the Court.

In the lawsuit in the U.S. District Court for the Western District of Wisconsin, the parties previously executed a joint stipulation asking the Court to permanently enjoin application and enforcement of the second sentence of s. GAB 1.28 (3) (b). On October 13, 2010, the Court issued an Opinion and Order denying that injunction request. In denying the injunction, the Court noted that “G.A.B. has within its own power the ability to refrain from enforcing, or removing altogether, the offending sentence from a regulation G.A.B. itself created” and emphasized that “removing the language — for example, by G.A.B. issuing an emergency rule — would be far more ‘simple and expeditious’ than asking a federal court to permanently enjoin enforcement of the offending regulation.” *Wisconsin Club for Growth, Inc. v. Myse*, No. 10–CV–427, slip op. at 2 (W.D. Wis. Oct. 13, 2010). The Court further noted that staying the case would give the Board time to resolve some or all of the pending issues through further rulemaking. *Id.*, slip op. at 14.

In addition, the Board, through its litigation counsel, has represented to the Wisconsin Supreme Court that it does not intend to defend the validity of the second sentence of s. GAB 1.28 (3) (b) and that it would stipulate to the entry of an order

by that Court permanently enjoining the application or enforcement of that sentence.

This amendment brings s. GAB 1.28 (3) (b) into conformity with the above stipulation, with the representations that have been made to the Wisconsin Supreme Court, and with the suggestions made in the October 13, 2010, Opinion and Order of the U.S. District Court for the Western District of Wisconsin. The Board finds that the immediate adoption of this amendment will preserve the public peace and welfare by providing a simple and expeditious clarification of the meaning of s. GAB 1.28 for litigants, for the regulated community, and for the general public and by doing so in advance of the 2011 Spring Election and any other future elections.

Publication Date: January 7, 2011
Effective Dates: January 7, 2011 through June 5, 2011
Extension Through: October 3, 2011
Hearing Date: February 16, 2011

Insurance (2)

1. EmR1101 — Rule adopted to revise **section Ins 6.07 (4) and (9)**, relating to readability and electronic access to insurance policies and affecting small business.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows: the cost of implementing the Flesch scores and electronic access to policies significantly exceeded anticipated costs for the insurance industry; a review of state resources indicates insufficient staff to timely review the volume of health insurance policy filings resulting from the flesch score requirement; and it is anticipated the federal department of Health and Human Services (“HHS”) will use National Association of Insurance Commissioners recommendations for the development of standards for a uniform summary of benefits and coverage explanation for all potential policyholders and enrollees. Repealing these provisions now before costly system overhauls will save both the industry and the state significant resources. Further, although it was anticipated that the National Association of Insurance Commissioners was planning to implement a national readability standard, such movement has stalled negating the amendment to prior Flesch readability scores.

The changes contained in this emergency rule will restore prior standards and ease financial constraints for the insurance industry.

Publication Date: February 9, 2011
Effective Dates: February 9, 2011 through July 8, 2011
Extension Through: September 6, 2011
Hearing Date: May 3, 2011

2. EmR1108 — Rule to amend **sections Ins 17.01 (3) and 17.28 (3) (c)**, and to repeal and recreate **section Ins 17.28 (6)**, Wis. Adm. Code, relating to annual injured patients and families compensation fund fees, medical mediation panel fees, and provider classifications for the fiscal year beginning July 1, 2011.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes must be in place with an effective date of July 1, 2011 for the new fiscal year assessments. The fiscal year fees were established by the Board of Governors at meeting on February 16, 2011. Although the permanent version is currently under review by the Legislature, it cannot be published in time to meet the necessary effective date.

Publication Date: June 10, 2011
Effective Dates: June 10, 2011 through November 6, 2011

Natural Resources (5) *Fish, Game, etc., Chs. NR 1—*

1. EmR1036 — Rule adopted to create **section NR 40.04 (2) (g)** relating to the identification, classification and control of invasive species.

Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures. However, s. 23.22 (2t) (a), Stats., authorizes the department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.**

Publication Date: September 29, 2010
Effective Dates: September 29, 2010 through *See bold text above*
Hearing Date: October 25 to 29, 2010

2. EmR1039 (DNR # IS–49–10(E)) — Rule adopted to create **sections NR 40.02 (7g), (7r), (25m), (28m) and (46m), 40.04 (3m) and 40.07 (8)** relating to the identification, classification and control of invasive bat species.

Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures. However, s. 23.22 (2t) (a), Stats., authorizes the department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such**

emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.

Publication Date: November 3, 2010
Effective Dates: November 3, 2010 through *See bold text above*
Hearing Date: November 29, 2010

3. EmR1045 (DNR # IS–07–11(E)) — Rule to repeal **section NR 40.02 (28m)**; to amend **section NR 40.04 (3m)**, and to repeal and recreate **section NR 40.07 (8)**, (all as created by Natural Resource Board emergency order EmR1039, DNR # IS–49–10(E)), relating to the identification, classification and control of invasive species.

Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures. However, s. 23.22 (2t) (a), Stats., authorizes the department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.**

Publication Date: December 13, 2010
Effective Dates: December 13, 2010 through *See bold text above*

4. EmR1107 — Rule to amend **section NR 25.09 (2) (b) 2. a. and f.**, and create **section NR 25.09 (1) (b) 11.**, relating to commercial fishing in outlying waters.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is: Commercial trap nets in Lake Michigan pose a hazard to the safety of recreational fishermen trolling submerged fishing lines. The preservation of public safety requires appropriate measures to assure that recreational boaters can know the location of trap nets and are able to release themselves from entanglement with the commercial nets. Accordingly, this NRB Order requires that 1) boat operators engaged in trolling with downriggers carry wire cutters on board capable of severing fishing line or downrigger cable, 2) the enhanced net marking requirements on Lake Michigan be applied to trap nets on Lake Superior, 3) all parts of trap nets set in Zone 3 of Lake Michigan between June 29 and Labor Day be within designated areas, and 4) the marking of trap nets in Lake Michigan be enhanced by the use of reflective tape on buoy staffs.

Publication Date: May 23, 2011
Effective Dates: May 23, 2011 through October 19, 2011
Hearing Date: June 27, 2011

5. EmR1109 — Rule to amend sections NR 10.01 (3) (ed) 1. a., 10.01 (3) (et) 2., 10.104 (7) (a) 1., and 10.104 (7) (b), relating to deer hunting seasons and carcass tag use.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The rule is necessary in order to foster participation by hunters and landowners so they will continue to hunt and cooperate in CWD control and deer herd management. This rule proposal balances pressing social concerns about the quality of the deer hunt with the need for effective herd control measures such as additional antlerless deer harvest in management units that are more than 20% over population goals or simply over population goals in units that are part of the CWD Management Zone. This rule will increase harvest of bucks in the CWD zone which have a higher prevalence of CWD and, because of their greater dispersal distances, have a higher likelihood of spreading CWD. However, the rule retains a herd control tool which requires that antlerless deer be harvested before additional bucks (beyond the initial one) may be taken. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control and regulate hunting of wild animals. The State of Wisconsin must provide publications describing the regulations for deer hunting to more than 630,000 deer hunters prior to the start of the season. These regulations must be approved prior to printing nearly 1 million copies of the regulations publication.

Publication Date: July 2, 2011
Effective Dates: September 17, 2011 through February 13, 2012

Natural Resources

Environmental Protection — Air Pollution Control, Chs. NR 400—

EmR1046 (DNR # AM-48-10(E)) — The Wisconsin Natural Resources Board proposes an emergency order to amend section NR 407.02 (4) (b) (intro.), and Table 3 in 407.05 (5) and to create sections NR 400.02 (74m), 400.03 (3) (om), and (4) (go) and (ki), 405.02 (28m), 405.07 (9), 407.02 (8m) and 407.075, relating to major source permitting thresholds for sources of greenhouse gas emissions and affecting small business.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. Preservation of the public welfare necessitates putting the forgoing rules into effect prior to the time that it would take if the Department complied with normal procedures.

On April 1, 2010, the U.S. EPA promulgated the first emission standard for gases contributing to climate change, i.e., greenhouse gases or GHG, which will become effective on January 2, 2011. While these standards target automobile emissions, under the Clean Air Act, this action will unintentionally subject stationary sources across the country to complex prevention of significant deterioration (PSD) and

Title V permitting and emission control requirements. U.S. EPA attempted to mitigate this unintended effect by promulgating additional rules, which became effective on June 3, 2010, limiting applicability of the permitting requirements. However, Wisconsin sources will not be affected by the new U.S. EPA rules since existing state statute and administrative code do not contain the same applicability limiting provisions. State rules consistent with those at the federal level must be in effect on January 2, 2011 in order to provide the relief U.S. EPA intended for Wisconsin sources. Without these proposed emergency rules, many sources, including municipal landfills, hospitals, asphalt plants, wastewater treatment plants, small wood fired boilers and agricultural digesters, will be considered major emissions sources of GHG, and therefore subject to the permit and emission control requirements for GHG. These permit and control requirements were never intended or designed to address the type or size of sources that could now be affected. Without the proposed changes, the existing rules would have the potential to overwhelm DNR permitting staff, divert resources away from significant environmental issues, and delay issuance of construction permits for critical projects for expanding businesses.

Therefore, the Department finds that the proposed emergency rules are necessary and appropriate for the preservation of the public welfare.

Publication Date: December 15, 2010
Effective Dates: December 15, 2010 through May 15, 2011
Extension Through: September 11, 2011
Hearing Date: January 21, 2011

Revenue (3)

1. EmR1104 — Rule adopted creating section Tax 2.957, relating to income and franchise tax credits and deductions for businesses that relocate to Wisconsin.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that the attached rule order is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The emergency rule is to reflect changes in Wisconsin's tax laws due to the creation of income and franchise tax credits and deductions for businesses that relocate to Wisconsin.

It is necessary to promulgate this rule order so that these credits and deductions, created to help bring much needed jobs to Wisconsin, may be administered in a fair and consistent manner.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Legislative Reference Bureau, as provided in s. 227.24, Stats.

Publication Date: April 7, 2011
Effective Dates: April 7, 2011 through September 3, 2011
Hearing Date: June 14, 2011

2. EmR1105 — Rule adopted creating section Tax 3.05, relating to income and franchise tax deductions for job creation.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that the attached rule order is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The emergency rule is to reflect changes in Wisconsin’s tax laws due to the creation of income and franchise tax deductions for job creation.

It is necessary to promulgate this rule order so that these deductions, created to help bring much needed jobs to Wisconsin, may be administered in a fair and consistent manner.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Legislative Reference Bureau, as provided in s. 227.24, Stats.

Publication Date: April 7, 2011
Effective Dates: April 7, 2011 through September 3, 2011
Hearing Date: June 14, 2011

3. EmR1110 — The Wisconsin Department of Revenue hereby adopts an emergency rule interpreting s. 77.54 (56), Stats., creating **section Tax 11.10** relating to wind, solar, and certain gas powered products.

The statement of scope for this emergency rule, SS 001–11, was approved by the governor on June 17, 2011, and published in Register 667 on July 14, 2011. This emergency rule was approved by the governor on June 20, 2011

Finding of Emergency

The Department of Revenue finds that an emergency exists and that the attached rule order is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The emergency rule is to reflect changes in Wisconsin’s tax laws due to the creation of a sales and use tax exemption for certain energy–producing wind, solar, and gas powered products and the electricity or energy they produce.

It is necessary to promulgate this rule order so that this exemption, which is effective July 1, 2011, may be administered in a fair and consistent manner.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Legislative Reference Bureau, as provided in s. 227.24, Stats.

Publication Date: June 29, 2011
Effective Dates: June 29, 2011 through November 25, 2011

Safety and Professional Services
(Formerly Commerce)

*Financial Resources for Businesses and Communities,
Chs. Comm 100–149*

EmR1041 — Rule adopted creating **Chapter Comm 103**, relating to certification of disabled–veteran–owned businesses, and affecting small businesses.

Exemption From Finding of Emergency

The Legislature, by SECTION 101 (1) in 2009 Wisconsin Act 299, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: November 14, 2010
Effective Dates: November 14, 2010 through April 12, 2011
Extension Through: August 10, 2011
Hearing Date: February 15, 2011

Safety and Professional Services (3)
(Formerly Regulation and Licensing)

1. EmR0827 — Rule adopted creating **section RL 91.01 (3) (k)**, relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker.

Exemption From Finding of Emergency

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of regulation and licensing is not required to provide evidence that promulgating a rule 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 to implement 2007 Wisconsin Act 104. Notwithstanding s. 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

Publication Date: September 10, 2008
Effective Dates: September 10, 2008 through the date on which the final rules take effect
Hearing Date: November 26, 2008
April 13, 2009

2. EmR0828 — Rules adopted to amend **section RL 181.01 (2) (c)**; and to create **sections RL 180.02 (1m), (3m) and (11), 181.01 (1) (d), (2) (c) 1. and 2.**, relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife.

Exemption From Finding of Emergency

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of regulation and licensing is not required to provide evidence that promulgating a rule 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 to implement 2007 Wisconsin Act 104. Notwithstanding s. 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

Publication Date: September 10, 2008
Effective Dates: September 10, 2008 through the date on which the final rules take effect
Hearing Date: November 26, 2008

3. EmR1102 — Rule adopted creating **Chapters RL 200 to 202**, relating to governing professional conduct of individuals licensed as sign language interpreters, and for the treatment of state resident licensure exemption requests.

Finding of Emergency

2009 Wisconsin Act 360 created laws regulating the practice of sign language interpreting, and became effective on December 1, 2010. Under the act, codified at s. 440.032, Stats., individuals practicing as sign language interpreters must now be licensed by the department, and must comply with a code of professional conduct to be promulgated by the department. The new law also provides for exemptions from the licensure requirement under certain circumstances, and requires the council to promulgate rules establishing the criteria and procedures for granting state resident exemptions. As s. 440.032, Stats., is already in effect, an emergency rule is necessary to implement the law pending promulgation of a similar permanent rule.

Publication Date: March 16, 2011
Effective Dates: March 16, 2011 through August 12, 2011
Hearing Date: May 3, 2011

Safety and Professional Services —

Barbering and Cosmetology Examining Board

EmR1047 — Rule adopted to revise **Chapters BC 9 and 11**, relating to late renewal and continuing education.

Finding of Emergency

The rule as currently promulgated fails to adequately protect the public to the extent that several provisions are underdeveloped, ambiguous or silent. As a result, inconsistent interpretations and contradictory information has led to significant confusion within the profession. Given that the rules require licensees to comply by March 31, 2011, the errors and omissions need to be addressed immediately so licensees can receive adequate training to provide safe and competent services to the public, and comply with the requirements for renewal of a license.

Publication Date: December 23, 2010
Effective Dates: December 23, 2010 through May 21, 2011
Extension Through: September 18, 2011

Hearing Date: April 4, 2011

**Safety and Professional Services —
 Veterinary Examining Board**

EmR1103 — Rule adopted to revise **sections VE 2.01 (2), 3.03 (intro) and (5)**, relating to the requirements for the initial licensure of veterinarians, specifically, the procedures for, and the types of examinations required.

Finding of Emergency

As currently written, the veterinary examining board rules regarding licensure candidates' deadlines for submission of applications to take the North American Veterinary Licensing Examination (NAVLE) do not align with the deadlines established by the National Board of Veterinary Medical Examiners (NBVME). The rules thus also conflict with the deadlines defined in the board's NBVME NAVLE agreement. The rules state that a candidate shall file a completed NAVLE application with the board at least 60 days prior to the date of the scheduled examination. However, NAVLE's deadlines require submission of applications approximately 115 days ahead of the examination date. This inconsistency between the rules and NAVLE's deadlines will likely cause significant confusion for licensure candidates. At worst, it could preclude a candidate from taking the particular NAVLE he or she applies for due to missing the application deadline. In addition, recently-passed legislation now allows foreign veterinary graduates to show evidence of successful completion of the Program for the Assessment of Veterinary Education Equivalence (PAVE) as an alternative to the American Veterinary Medical Association (AMVA) Educational Commission for Foreign Veterinary Graduates Certification (ECFVGC) program. The board adopts this emergency rule effecting the necessary changes pending the promulgation of a similar permanent rule.

Publication Date: March 28, 2011
Effective Dates: March 28, 2011 through August 24, 2011
Hearing Date: May 25, 2011

Scope Statements

Agriculture, Trade and Consumer Protection

SS 008–11

In accordance with 2011 Wisconsin Act 21 (s. 227.135(2), Stats.), this scope statement was approved by the Governor on July 27, 2011 before DATCP took any action in proceeding with this proposed rule, including submission of this scope statement for publication.

Subject

Regulation of Wisconsin's Shellfish Shippers and Processors.

Administrative Code References

Chapter ATCP 70, Subchapter IV, Wis. Admin. Code (Existing).

Statutory Authority

DATCP proposes to revise ch. ATCP 70, Wis. Admin. Code, under authority of ss. 93.07 (1), 97.09, and 97.29 (5), Stats.

Preliminary Objectives

This proposed rule change would modify DATCP's food processing plant rule, as it relates to the processing of shellfish (*e.g.*, oysters, clams and scallops). Subchapter IV of chapter ATCP 70 sets certain standards for food safety practices specifically for food processing plants that process fish (which includes shellfish).

Under current rules, food processing plants in Wisconsin that perform fish processing may receive and process shellfish from another state for final sale only within the state. The proposed rule would allow for Wisconsin food processing plant businesses to process and repack shellfish for further shipment to other states.

Policy Analysis

Proposed rule revisions may allow qualifying Wisconsin food processing businesses to participate with 37 other states that are members of the Interstate Shellfish Sanitation Conference (ISSC). The ISSC is the primary voluntary national organization of state shellfish regulatory officials; it provides guidance and counsel on matters for the sanitary control of shellfish.

The ISSC has entered into a memorandum of understanding with the United States Food and Drug Administration (FDA). Together, FDA and state sanitation officials through the ISSC have created a federal/state cooperative program called the National Shellfish Sanitation Program (NSSP), which promotes and improves the sanitation of shellfish moving in interstate commerce through federal/state cooperation and uniformity of state shellfish programs.

The proposed rule would adopt portions of the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish (2009), which sets the sanitary control standards for shellfish for human consumption. Wisconsin food processing businesses that met these standards would

then be certified to process and ship shellfish (that originally were produced outside the state) in interstate commerce.

Comparison with Federal Regulations

There is no federal law related to the transportation and processing of shellfish. However, FDA publishes the National Shellfish Sanitation Program (NSSP), which contains a model ordinance that states may use to develop uniform shellfish regulations and allow for interstate commerce.

Entities Affected by the Rule

Licensed Wisconsin food processing plants and warehouses.

Policy Alternatives

Do nothing. If DATCP takes no action, there will be no provision to allow state food processing plants to process and repackage shellfish (obtained outside the state) for further processing and shipping into interstate commerce. Current rules allow Wisconsin (a shellfish non-producing state) to receive shellfish and then sell them at retail only within Wisconsin borders.

Statutory Alternatives

None at this time.

Estimate of Time Needed to Develop the Rule

DATCP estimates it will use the equivalent of .1 FTE staff to revise this rule. This anticipates an 18month period for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

DATCP Board Authorization

DATCP may not begin drafting this rule until the Board of Agriculture, Trade and Consumer Protection (Board) approves this scope statement. The Board may not approve this scope statement sooner than 10 days after this scope statement is published in the Wisconsin Administrative Register. Before DATCP holds public hearings on this rule, the department must prepare an economic impact analysis and the Board must approve the hearing draft. The Governor and the Board must also approve the final draft rule before the rule can be adopted.

Natural Resources

Fish, Game, etc., Chs. NR 1—

SS 006–11

(DNR # FR–18–11)

This statement of scope was approved by the governor on July 14, 2011.

Subject

Revision of Chapter NR 46, Wis. Admin. Code relating to the administration of the Managed Forest Law (MFL) Program.

Objective of the Rule

Revision of NR 46 provisions related to administration of the MFL program is being requested to (1) streamline processing of MFL entries, transfers, and withdrawals, (2) increase efficiencies and reduce staff time, (3) provide greater flexibility in meeting landowner and program goals, and (4) meet addition needs and desires of the public.

The Division of Forestry is working through its Strategic Direction and must find enough efficiency in administering all of its programs in order to adequately provide service to Wisconsin's citizens with reduced budgets and personnel. A critical analysis of the administration of the MFL program may help the Division of Forestry to succeed in providing forestry service now and into the future.

Policy Analysis

Wisconsin's Managed Forest Law (MFL) was created in 1986 for the purpose of promoting sound forestry practices on privately owned woodlands. Since 1986 the MFL program has been amended many times to balance the incentive for private landowners to enroll in MFL program with the public willingness to support it. The sum of these changes had made the MFL program complex and difficult to explain, enter and enforce.

Recent changes to MFL as a result of 2009 Wisconsin Act 365 have made many improvements to streamlining the administration of the MFL program. Additional streamlining changes are needed to continue reducing customer approval time and DNR and cooperating foresters' time in review and establishment of management practices. Changes may also allow for greater flexibility in meeting landowner goals and program requirements.

Statutory Authority

Statutory authority for creation of this new rule can be found in ch. 77, Wis. Stats.

Comparison with Federal Regulations

There are no existing or proposed federal regulations to compare with Wisconsin's Managed Forest Law or Forest Crop Law programs.

Entities Affected by the Rule

DNR Forestry personnel, cooperating foresters, certified plan writers, Wisconsin Woodland Owner's Association, Wisconsin Wildlife Federation, forest industries and loggers, Wisconsin Counties Association, Wisconsin Towns Association, and Wisconsin Treasurers Association are some of the groups that will be impacted or interested in changes to NR 46.

Estimate of Time Needed to Develop the Rule

The department estimates that approximately 200 hours of existing staff time will be needed to develop this rule. The time includes meeting with department staff and partners to collect information on streamlining measures, drafting the rule, taking the rule to statewide public hearing, preparation

for meetings with the Natural Resources Board, legislative review, and rule adoption.

Agency Contact

Kathy Nelson
Forest Tax Policy Chief
Wisconsin Department of Natural Resources
101 S. Webster Street
P.O. Box 7921
Madison, WI 53707–7921
Phone: 608–266–3545
Kathryn.Nelson@Wisconsin.gov

Revenue**SS 007–11**

This scope statement was approved by the governor on July 25, 2011.

Subject

Chapter Tax 2, relating to income taxation, returns, records, and gross income.

Objective of the rule

The objective of the proposed rule changes is to administer the provisions of s. 71.255 (6) (bm), Stats., as created by 2011 Wisconsin Act 32.

Policy analysis

Existing policies are as set forth in the rules. No new policies are being proposed, other than to reflect law changes. If the rules are not changed, they will be incorrect in that they will not reflect current law or current Department policy.

Statutory Authority

Sections 71.255 (6) (bm) 4., as created by 2011 Wisconsin Act 32, and 227.24, Stats.

Estimate of Time Needed to Develop the Rule

The department estimates it will take approximately 175 hours to develop the emergency and proposed permanent rule orders.

Entities Affected by the Rule

Corporations in a combined group having at least one member with a pre–2009 net business loss carryforward, as well as persons who prepare franchise and income tax returns for those corporations.

Comparison with Federal Regulations

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rules.

Contact person:

Dale Kleven: (608)266–8253 or
dale.kleven@revenue.wi.gov

Rule–Making Notices

Notice of Hearing

Safety and Professional Services — Dentistry Examining Board CR 11–033

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 sections DE 2.03 (1) (intro.), (a), (2), (3), (5) (a) (intro.), and (b); and to create sections DE 2.03 (1) (d), (4), (5) (a) 4. and Chapter DE 13, relating to licensure renewal and continuing education for dentists and dental hygienists.

Hearing Information

Date: Wednesday, September 7, 2011
Time: 8:30 A.M.
Location: 1400 East Washington Avenue
 Room 121A
 Madison, WI 53703

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.

Submittal of Written Comments

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 KristineI.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.

Copies of Proposed 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 KristineI.Anderson@wisconsin.gov.

Analysis Prepared by Department of Safety and Professional Services

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 Statutory 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 rules or statutes

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.

Comparison with federal regulations

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>, www.state.ia.us/dentalboard/con_ed.html.

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

http://www.michigan.gov/documents/mdch_rdh_rda_cebro_c_122702_7.pdf. See also http://www.michigan.gov/documents/mdch_rdh_rda_cebro_c_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 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 documentation used to determine effect on small business

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.

Small Business Impact

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.

Fiscal Estimate

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

Anticipated costs incurred by private sector

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

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 KristineI.Anderson@Wisconsin.gov.

Notice of Hearing

**Safety and Professional Services —
Dentistry Examining Board**

CR 11-034

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 sections DE 1.02 (2), 2.015 (1) (c), (2) (a), (b), (3), (4), and section DE 2.04 (1) (e), and to repeal the Note following section DE 1.02 (2), relating to the active practice of dentistry, specialty certification, and faculty licenses.

Hearing Information

Date: Wednesday, September 7, 2011
Time: 8:30 A.M.
Location: 1400 East Washington Avenue
 Room 121A
 Madison, WI 53703

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.

Submittal of Written Comments

Comments may be submitted to Kris Anderson, 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: KristineI.Anderson@Wisconsin.gov. Comments must be received on or before the date and time of the public hearing to be included in the record of rule–making proceedings.

Copies of Proposed 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 KristineI.Anderson@wisconsin.gov.

Analysis Prepared by Department of Safety and Professional Services

Statutes interpreted

Sections 447.04 (1) (a) 6., (b) 1., (c), Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), 447.04 (1) (c) 4., Stats.

Explanation of Statutory 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 447.04 (1), Stats., authorizes the Wisconsin dentistry examining board to grant a license to practice dentistry to any individual who meets the requirements set forth in that subsection.

Related rules or statutes

There are no other related statutes or rules beyond those indicated above.

Plain language analysis

The dentistry examining board believes that its existing rules create barriers to licensing dentists. Currently, the board's active practice rule does not recognize residency training as a qualifying activity for active practice in endorsement licensure, but the rule does count hours spent in private practice and clinical instruction at a dentistry school

accredited by the American Dental Association. The board therefore proposes to change the definition of active practice in s. DE 1.02 (2) to include years spent in postgraduate dental residency training as qualifying for active practice hours for licensure by endorsement.

Next, the dentistry examining board proposes to amend s. DE 2.015 to extend the faculty license opportunities currently available for prospective faculty members at Marquette University School of Dentistry to prospective faculty members at accredited institutions in Wisconsin that teach dentistry to post–graduate residents.

Lastly, the dentistry examining board will continue to accept board certification in an accredited specialty to meet the requirements of licensure by endorsement. However, the dentistry examining board proposes to repeal the requirement in s. DE 2.04 (1) (e) that specialty certification must have been obtained within the 10 years preceding a licensure application, as the board has determined it is not necessary to restrict the time for acquiring the board certification.

Comparison with federal regulations

There are no federal regulations regarding the licensure of dentists.

Comparison with rules in adjacent states

Illinois:

Applicants for dentistry licensure by endorsement in Illinois must have been “lawfully engaged in the practice of dentistry...for at least 3 of the 5 years immediately preceding the filing of his or her application....” For purposes of endorsement licensure, the practice of dentistry includes the practice of a licensed dental specialty. An applicant may also count time spent practicing dentistry in the military service, if such service was within the immediately preceding 5 years. 225 ILCS 25/19. 68 Ill. Admin. Code 1120.410 a).

Applicants for licensure in a dental specialty must have passed an examination for specialty licensure within 3 years prior to specialty licensure. 68 Ill. Admin. Code 1220.320 e).

Persons with full–time appointments to teach dentistry at an approved dental school or hospital situated in Illinois may receive, without examination, a restricted faculty dentistry license. 225 ILCS 25/11 (d).

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1296&ChapterID=24>,
<http://www.ilga.gov/commission/jcar/admincode/068/068012200D04100R.html>.

Iowa:

The Iowa statutes permit licensure of dentists “by credentials” for applicants licensed to practice dentistry in another state, territory, or district of the United States. Such applicants must have been engaged in the legal practice of dentistry in the jurisdiction in which they were licensed for the three consecutive years immediately preceding their application for Iowa licensure. Iowa Code s. 153.21. The statutory definition of the “practice of dentistry” does not preclude practice in the United States military service. Iowa Code s. 153.13.

Neither the Iowa statutes, nor its administrative rules make any reference to certification in a dental specialty in the context of application for licensure by credentials.

Under s. 153.37, Iowa Code, the Iowa dental board may issue a permit to practice dentistry within a college of dentistry and its affiliated teaching facilities to a faculty member of such college who is not otherwise a licensed Iowa

dentist. Section 650–13.2 (1), Iowa Admin. Code, specifies that “[t]he board may issue a faculty permit entitling the holder to practice dentistry...as a faculty member within the University of Iowa College of Dentistry...and affiliated teaching facilities.”

<http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>.

Michigan:

Michigan applicants for licensure as a dentist by endorsement do not have to have been practicing in the endorsing state for any minimum amount of time. However, if the applicant has practiced in the other jurisdiction for less than 5 years, and had taken a regional or state examination administered by an entity other than the North East Regional Board of Dental Examiners (NERB), he or she must arrange to have the examination taken evaluated by the Michigan Board of Dentistry for a determination of equivalency to NERB. If the dentistry board finds non–equivalency, the applicant will be required to pass all or part of the NERB examination for Michigan licensure. Michigan Admin. Code R 338.11255 (2) (f).

An applicant for specialty licensure by endorsement must first obtain a license to practice general dentistry. Thus, the foreign–jurisdiction specialty license must meet the requirements for a general dentistry license in Michigan to be used as the basis for endorsement licensure. The new licensee may then use his or her foreign–jurisdiction specialty certification to apply for specialty licensure by endorsement in Michigan. R 338.11267 (1).

Finally, the Michigan dentistry board “may issue a limited license...to an individual who is a graduate dentist...and who is employed by a dental program or a dental auxiliary program as a faculty member.” R 338.11247 (3). There does not appear to be any limitation on the site of the dental program employment other than that it should be in Michigan. http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33811101&Dpt=LG&RngHigh=.

See also

http://www.michigan.gov/lara/0,1607,7-154-27417_27529_27533---,00.html

Minnesota:

An applicant for dentistry licensure by credentials in Minnesota may become licensed in Minnesota based on his or her performance record if, among other things, the applicant has been in active practice at least 2,000 hours within 36 months of the application date. Section 150A.06, Subd. 4. (a) (1), Minn. Stats. The Minnesota administrative rules provide that the active practice of dentistry in United States government service may also count toward the hours requirement for licensure by credential. Section 3100.1400 A., Minnesota Admin. Rules.

Applicants for general dentistry licensure by credentials may not count specialty practice hours toward the 2,000 active practice requirement. However, licensure in a dental specialty in Minnesota does not require a general dentistry license first. Section 150A.06, Subd. 1c., Minn. Stats. Thus, an applicant for licensure by credentials as a dental specialist may count time spent in active dental specialty practice in another jurisdiction or a postdoctoral specialty education program or United States government service toward the hours requirement. Section 150A.06, Subd. 1c. (b) (3).

To practice dentistry in a school of dentistry, a faculty member must hold either a “limited faculty license,” or a “full

faculty license.” Section 150A.06, Subd. 1a. (a), Minn. Stats. The board of dentistry may issue such licenses to faculty members of a Minnesota school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association. Sections 150A.06, Subd. 1a. (a), (b), Minn. Stats. <https://www.revisor.mn.gov/statutes/>.

Summary of data and analytical methodologies

The dentistry examining board seeks to remove some unnecessary roadblocks to licensure for dentists. Allowing residency hours to count as active practice hours for licensure by endorsement and allowing board certification, regardless of when obtained, to count in meeting the requirements of licensure by endorsement will make licensure easier for endorsement candidates. Additionally, medical institutions which teach dentistry in post–graduate residency training programs have been requesting for years that the faculty license be extended to other institutions which train dental residents, beyond the Marquette University School of Dentistry. This rule clarifies that faculty licenses may be issued to individuals with job offers from institutions with post–graduate residency training programs and clarifies that the safeguards associated with the faculty license apply to those institutions as well. This change will allow more candidates to obtain a faculty license.

Analysis and supporting documentation used to determine effect on small business

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.

Small Business Impact

These proposed rules were reviewed by the department’s Small Business Review Advisory Committee on May 19, 2011. 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.

Fiscal Estimate

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

Anticipated costs incurred by private sector

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

Agency Contact Person

For copies of, or questions about this rule–making proposal, please contact Kris Anderson, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 116, P.O. Box 8935, Madison, Wisconsin 53708; telephone: 608–261–2385; email: Kristine1.Anderson@Wisconsin.gov.

**Notice of Hearing
Safety and Professional Services —
Dentistry Examining Board
CR 11–035**

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 sections DE 2.03 (1) (b), (5) (a) 2., 2.04 (1) (g), (h), (2) (a), (g), (h), 6.02 (4) (c), 7.03 (2), 7.05 (2) (a), and to create section DE 2.03 (1) (c), (5) (a) 3., relating to CPR training for licensure renewal for dentists and dental hygienists and related to certification of dental hygienists to administer local anesthesia, and unprofessional advertising for dentists.

Hearing Information

Date: Wednesday, September 7, 2011
Time: 8:30 A.M.
Location: 1400 East Washington Avenue
 Room 121A
 Madison, WI 53703

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.

Submittal of Written Comments

Comments may be submitted to Kris Anderson, 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.

Copies of Proposed 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.

Analysis Prepared by Department of Safety and Professional Services

Statutes interpreted

Sections 447.05 and 447.07 (3) (m) and (o), Stats.

Statutory authority

Sections 15.08 (5) (b) and 227.11 (2), Stats.

Explanation of Statutory 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.

Related rules or statutes

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

Plain language analysis

The proposed rules make it clear that individuals renewing on a timely basis, renewing late, those seeking licensure by endorsement, or those seeking certification as a dental hygienist permitted to administer local anesthesia must provide proof of proficiency in cardiopulmonary resuscitation from a course provider approved by the Wisconsin department of health services. The proposed rule changes also clarify what is considered a specialty that may be advertised by dentists.

Comparison with federal regulations

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

Comparison with rules in adjacent states

Illinois:

Dentists in Illinois are not required to have certification in CPR for licensure. However, s. 225 ILCS 25/8.1 b) 4) provides that no dentist may administer general anesthesia, deep sedation, or conscious sedation without a permit for such purposes from the Illinois department of professional regulation. The Illinois statutes do require dental hygienists to hold current certification in CPR for licensure. 225 ILCS 25/13 (4). Dental hygienists may count their CPR certification training toward their continuing education requirements for renewal. 225 ILCS 25/16.

The statutes permit dental hygienists to administer local anesthetics upon successful completion of a training program approved by the department. 225 ILCS 25/18 a) (vi). Illinois's administrative rules specify that applicants for initial and renewal licensure as a dental hygienist must show current certification in Basic Life Support for Healthcare Providers (BLS), or its equivalent, from the American Red Cross, the American Heart Association or an equivalent agency unless physically disabled. 68 Ill. Admin. Code 1220.200 (d), 1220.270 a) 2).

To practice as a dental specialist in Illinois, a dentist must obtain a specialty license in addition to his or her license to practice general dentistry. 225 ILCS 25/11 (b). A dentist who does not hold a license in one of the dental specialties, endodontics, pediatric dentistry, prosthodontics, periodontics, oral and maxillofacial radiology or surgery, or orthodontics and dentofacial orthopedics, may not advertise as a specialist in such areas. 68 Ill. Admin. Code 1220.421 f). See

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1296&ChapterID=24>,
<http://www.ilga.gov/commission/jcar/admincode/068/06801220sections.html>.

All sections of the Illinois Administrative Code can be accessed at:

<http://www.ilga.gov/commission/jcar/admincode/068/06801220sections.html>

Iowa:

Applicants for licensure as either a dentist or dental hygienist in Iowa must show current certification in CPR in a nationally recognized course. Section 153.15A 1. b., Iowa Code; Sections 650–11.2 (2) i., 11.3 (2) i. To renew either type of license, the licensee must have current CPR certification in a nationally recognized course, and such courses must include a clinical component. Section 650–14.1 (4). Dental hygienists may only administer local anesthesia as delegated by, and under the direct supervision of a licensed dentist. Sections 650–10.3 (1) e., 10.3 (4).

Per the Iowa Dental Board website, examples of nationally recognized CPR certification providers are the American Heart Association and the Red Cross. The Board has prohibited CPR certification from online or other homestudy courses. Eligible CPR certifications courses must include a clinical component.

<http://www.state.ia.us/dentalboard/da.html>

While Iowa does not issue licenses for specialty dentistry, an individual may represent him or herself as a specialist in the areas of dental public health, endodontics, oral and maxillofacial pathology, radiology, or surgery, orthodontics, pediatric dentistry, periodontics, or prosthodontics if the requirements for any such specialty, as set forth in ss. 650–28.2 to 28.10, Ill. Admin. Code, are met. Section 650–28.1, Ill. Admin. Code. No dentist may state or imply that he or she is certified as a specialist when that is not the case. Nor may a dentist use the terms “specialist,” “specializing in,” or other similar terms in connection with areas not recognized as specialties under ch. 650–28, Ill. Admin. Code when representing him or herself to the public. Section 650–26.4 (2). See

<http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>.

PDFs for all chapters for the Iowa Administrative Code can be found at:

<http://www.legis.state.ia.us/asp/ACODocs/chapterList.aspx?pubDate=01-13-2010&agency=650>

Michigan:

Michigan does not require CPR certification for initial licensure of dentists or dental hygienists. However, applicants for renewal of either type of license must hold current certification in basic or advanced cardiac life support from an agency or organization that grants certification pursuant to standards substantially equivalent to the standards adopted elsewhere in the administrative code. Sections R 338.11701 (2), 11704 (2), Mich. Admin. Code. The Michigan Board of Dentistry has adopted by reference the standards for certification in basic and advanced cardiac life support for professional providers set forth by the American Heart Association in its 2005 “Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care.” Section R 338.11705 (5), Mich. Admin. Code. Dental hygienists may only administer local anesthesia to a patient over 18 years of age and may only do so if they are under the direct supervision of a dentist, have successfully completed an approved course, successfully completed an examination within 18 months of completion of that course, and hold a current certification in basic or advanced cardiac life support. Section R 388.11409 (1) (b), Mich. Admin. Code.

Michigan issues specialty licenses in the areas of oral and maxillofacial surgery, orthodontics or orthodontics and dentofacial orthopedics, prosthodontics, periodontics, pediatric dentistry, endodontics, and oral pathology or oral and maxillofacial pathology. Section R 388.11501 (1) (a–g), Mich. Admin. Code. A dentist who is not licensed as a specialist shall not announce or hold himself out to the public as limiting his practice to, as being specially qualified in, or giving special attention to, any of the recognized specialties. Section R 388.11525 (1), Mich. Admin. Code. See http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33811101&Dpt=LG&RngHigh=

Michigan administrative code can be found at: http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33811101&Dpt=CH&RngHigh=

Minnesota:

Minnesota requires dentists to hold a current CPR certification for initial licensure only if the dentist wishes to administer anesthesia, deep sedation, or moderate sedation. Minn. R. 3100.3600 (2) (a) (4). Dental hygienists are not required to hold a current CPR certification for initial licensure. All dentists and hygienists must complete a CPR certification course equivalent to the American Heart Association healthcare provider course or the American Red Cross professional rescuer course, and must hold a current CPR certificate for renewal of licensure. Minn. R. 3100.5100 (3) (A) (3). A dental hygienist may administer local anesthesia without the dentist being present in the dental office or on the premises if the procedure is performed with prior knowledge and consent of the dentist. Before administering local anesthesia, a dental hygienist must have successfully completed an accredited didactic and clinical program. Minn. R. 3100.8700 (1) (J).

Minnesota grants special dentistry licenses in the areas recognized by the American Dental Association. Minn. Stats. 150A.06 (1c) (a). Minnesota also recognizes special areas of dentistry that are suitable for advertising, which are endodontics, oral and maxillofacial surgery, oral pathology, orthodontics, pediatric dentistry, periodontics, prosthodontics, and public health. Minn. R. 3100.7000 (1). In order to advertise as a specialist, a licensed dentist must comply with the requirements of Minn. R. 3100.7000 (2). If those requirements are not met, a dentist may still practice as a specialist, but may not use the terms “specialist,” “specialty,” “specializing,” or “limited to” in advertising, and all advertising must state that the services are being provided by a general dentist. Minn. R. 3100.7000 (3).

Minnesota statutes may be viewed at: <https://www.revisor.mn.gov/statutes/?id=150A.06>.

Minnesota Administrative Code may be viewed at: <https://www.revisor.mn.gov/rules/?id=3100&format=pdf>.

Summary of data and analytical methodologies

The Dentistry Examining Board considered the requirements for CPR and seeks to clarify the CPR requirements for licensing and certification and to rely on the Wisconsin Department of Health Services to determine qualified providers of CPR training. Additionally, the board considered acceptable advertising for dental specialties and decided to limit specialty advertising to those approved by a national organization, the American Dental Association Commission on Dental Accreditation (CODA).

Analysis and supporting documentation used to determine effect on small business

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.

Small Business Impact

These proposed rules were reviewed by the department’s Small Business Review Advisory Committee on May 19, 2011. 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.

Fiscal Estimate

The department estimates that this rule will require staff time in the Division of Enforcement. The total on–going salary and fringe costs are estimated at \$36,460.

Anticipated costs incurred by private sector

The department finds that this rule has no significant fiscal

effect on the private sector.

Agency Contact Person

Kris Anderson, 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.

Submittal of Proposed Rules to the Legislature

Please check the Bulletin of Proceedings — Administrative Rules for further information on a particular rule.

Children and Families
Safety and Permanence, Chs. DCF 35–59
CR 11–026

Revises Chapters DCF 52, 54 and 57, relating to rate regulation of residential care centers for children and youth, child–placing agencies, and group homes.

This rule is not subject to s. 227.185. The statement of scope for this rule, published in Register No. 655, on July 14, 2010, was sent to LRB prior to the effective date of 2011 Wis. Act 21.

Rule Orders Filed with the Legislative Reference Bureau

The following administrative rule orders have been filed with the Legislative Reference Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Legislative Reference Bureau at bruce.hoesly@legis.wisconsin.gov or (608) 266–7590 for updated information on the effective dates for the listed rule orders.

**Safety and Professional Services —
Marriage and Family Therapy, Professional
Counseling and Social Work Examining Board
CR 11–028**

Revise Chapter MPSW 3, relating to social work training certificate.
Effective 10–1–11.

The State of Wisconsin
Department of Administration
Bureau of Document Services
Document Sales and Distribution Section
4622 University Avenue
Madison, Wisconsin 53705-2156

First Class

U.S. POSTAGE PAID

Madison, Wisconsin

Permit Number 1369

First Class Mail

Dated Material. Please Do Not Delay!