

WISCONSIN LEGISLATIVE COUNCIL STAFF



JUL 12 REC'D

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

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

CLEARINGHOUSE RULE 99-099

AN ORDER to create DE 3.04, relating to the oral systemic premedications and subgingival sustained release chemotherapeutic agents that may be administered by a licensed dental hygienist.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

06-14-99 RECEIVED BY LEGISLATIVE COUNCIL.

07-08-99 REPORT SENT TO AGENCY.

RS:RW:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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CLEARINGHOUSE RULE 99-099

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the definition of "oral systemic premedications" in s. DE 3.04 (1), the agency may wish to clarify that the term refers to antibiotics that are administered "orally" to patients.

b. It appears that the last sentence of s. DE 3.04 (1) duplicates the provision contained in s. DE 3.04 (3). If so, it should be deleted from s. DE 3.04 (1). In any event, substantive material should not be contained in a definition.

c. In s. DE 3.04 (3), it is not clear that the treatment plan under par. (a) has to be approved by the same dentist "who remains on the premises" under par. (b). The confusion stems from the references to "a dentist" in s. DE 3.04 (3) (intro.) and s. DE 3.04 (3) (a) and the reference to "the dentist" in s. DE 3.04 (3) (b).

d. 1997 Wisconsin Act 96 also authorizes a dental hygienist, under certain circumstances to administer local anesthesia. The agency should consider the inclusion of a statement in the analysis explaining the reason for omitting reference to local anesthesia in this rule.

e. Section 447.02 (2) (d), Stats., requires the board to promulgate rules specifying "the oral systemic premedications and subgingival sustained release chemotherapeutic agents that may be administered by a dental hygienist" Further, in s. 447.06 (2) (e), Stats., upon the delegation of a licensed dentist, a dental hygienist is authorized to administer oral systemic

premedications *specified by the Examining Board by rule* and subgingival sustained release chemotherapeutic agents *specified by the Examining Board by rule*. Technically, the rule does not specify which premedications or agents a hygienist may administer; instead, the rule defines the terms and specifies the conditions and procedures under which the drugs may be administered. The agency should review the rule to determine whether it would be feasible and advisable to clarify this aspect of the rule by more specific references to the drugs that may be administered.

MAR 21 2000

**STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 99-099)**

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DENTISTRY EXAMINING BOARD is submitting in final draft form rules relating to the oral systemic premedications and subgingival sustained release chemotherapeutic agents that may be administered by a licensed dental hygienist.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.



Tommy G. Thompson
Governor

State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

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Administrative Rules in Final Draft Form

Dentistry Examining Board

**Rule:
DE 3.04**

**Clearinghouse Rule:
No. 99-099**

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors; Professional Geologists, Hydrologists and Soil Scientists; Auctioneer; Barbering and Cosmetology; Chiropractic; Controlled Substances; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Podiatry; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary.

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**STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 99-099
DENTISTRY EXAMINING BOARD : (s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

The projected net annualized fiscal impact on state funds of the proposed rule is: \$1,000. These rules would require the development and printing for new applications for this certification. There would also be administrative costs to process these applications. The agency estimates these costs at approximately \$1,000. These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

This proposed rule-making order of the Dentistry Examining Board adopts rules mandated under 1997 Wisconsin Act 96, respecting the oral systemic premedications and subgingival chemotherapeutic agents that may be administered by a dental hygienist upon the delegation of a dentist. Under the Act, the scope of practice of a dental hygienist is expanded to permit the administration of oral systemic premedications and subgingival chemotherapeutic agents, pursuant to a treatment plan approved by a dentist who is present in the dental facility when the medications are provided and who is available throughout the completion of the patient's appointment. The proposed rules permit a dentist to determine, in his or her professional judgment, the specific medications that may be administered to a patient by a dental hygienist.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on September 1, 1999. The following individuals appeared in support of the proposed rules:

Barbara Fried, Cincinnati, OH
Nancy McKenney, Appleton, WI
Cindi Due, Racine, WI
Linda Jorgenson, River Falls, WI
Timothy J. McNarara, DDS, Whitefish Bay, WI

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

The recommendation suggested in the Clearinghouse Report was accepted.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 99-099)

PROPOSED ORDER

An order of the Dentistry Examining Board to *create* DE 3.04, relating to the oral systemic premedications and subgingival sustained release chemotherapeutic agents that may be administered by a licensed dental hygienist.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 447.02 (2) (d), Stats., as created by 1997 Wisconsin Act 96.

Statutes interpreted: s. 447.06 (2) (e) 1. and 3., Stats.

This proposed rule-making order of the Dentistry Examining Board adopts rules mandated under 1997 Wisconsin Act 96, respecting the oral systemic premedications and subgingival chemotherapeutic agents that may be administered by a dental hygienist upon the delegation of a dentist. Under the Act, the scope of practice of a dental hygienist is expanded to permit the administration of oral systemic premedications and subgingival chemotherapeutic agents, pursuant to a treatment plan approved by a dentist who is present in the dental facility when the medications are provided and who is available throughout the completion of the patient's appointment. The proposed rules permit a dentist to determine, in his or her professional judgment, the specific medications that may be administered to a patient by a dental hygienist.

TEXT OF RULE

SECTION 1. DE 3.04 is created to read:

DE 3.04 Oral systemic premedications and subgingival sustained release chemotherapeutic agents. (1) "Oral systemic premedications" means antibiotics that are administered orally to patients prior to providing dental or dental hygiene services in order to mitigate against the risk of patients developing a bacterial infection.

(2) "Subgingival sustained release chemotherapeutic agents" means medications that are applied under the gum tissue in periodontal pockets to treat periodontal or gum disease.

(3) A dentist may delegate to a dental hygienist the administration of oral systemic premedications and subgingival sustained release chemotherapeutic agents to patients only if all of the following conditions are met:

(a) The administration is performed pursuant to a treatment plan for the patient approved by a dentist.

(b) A dentist remains on the premises in which the administration is performed and is available to the patient throughout the completion of the appointment.

(END OF TEXT OF RULE)

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

Dated _____ Agency _____

FISCAL EFFECT

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$1,000.00. These rules would require the development and printing for new applications for this certification. There would also be administrative costs to process these applications. The agency estimates these costs at approximately \$1,000.00 to start this certification requirement.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

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3/21/2000