

FEB 13 2001

**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 00-143)**

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 a system of remediation for applicants who have failed the clinical and laboratory examinations more than three times.

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.

**STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 00-143
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:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

This rule-making order of the Dentistry Examining Board creates s. DE 2.09, relating to a system of remediation for applicants who have failed the clinical and laboratory examinations more than three times.

Currently, there is no system of remediation in place for those dental applicants who have failed the clinical and laboratory examinations more than three times. In order to protect the health, safety, and welfare of the public, a system of remediation is necessary to ensure that applicants who have deficiencies obtain the necessary training and education before being able to take further examinations.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on January 3, 2001. There were no appearances at the public hearing nor were any written comments received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 4. Consideration should be given to cross-referencing new s. DE 2.09 in s. DE 2.01 (1) (g) and (2) (b). Response: The cross-reference has been added to s. DE 2.01 (1) (g). It has not been added to s. DE 2.01 (2) (b) because it is not intended to apply to hygienists.

Comment 5.a. Neither the introductory clause nor the department's analysis indicates that the rule applies both to applicants for license as a dentist and to applicants for license as a dental hygienist. Response: The rule is only intended to apply to dentists

The remaining recommendations suggested in the Clearinghouse Report were accepted.

VII. 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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2/13/2001

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 00-143)

PROPOSED ORDER

An order of the Dentistry Examining Board to amend DE 2.01 (1) (g); and to create DE 2.09, relating to a system of remediation for applicants who have failed the clinical and laboratory examinations more than three times.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 447.04 (1) (a) 6. and (2) (a) 6., Stats.

Statutes interpreted: s. 447.04 (1) (a) 6. and (2) (a) 6., Stats.

This rule-making order of the Dentistry Examining Board creates s. DE 2.09, relating to a system of remediation for applicants who have failed the clinical and laboratory examinations more than three times.

Currently, there is no system of remediation in place for those dental applicants who have failed the clinical and laboratory examinations more than three times. In order to protect the health, safety, and welfare of the public, a system of remediation is necessary to ensure that applicants who have deficiencies obtain the necessary training and education before being able to take further examinations.

TEXT OF RULE

SECTION 1. DE 2.01 (1) (g) is amended to read:

DE 2.01 (1) (g) Verification from the central regional dental testing service or other board-approved testing services of successful completion of an examination in clinical and laboratory demonstrations taken within the 5-year period immediately preceding application. In this paragraph, "successful completion" means an applicant has passed all parts of the examination in no more than 3 attempts on any one part, as required in s. DE 2.09. ~~If an applicant fails to successfully complete the examination, he or she reverts to the status of a new applicant for examination in clinical and laboratory demonstrations.~~

SECTION 2. DE 2.09 is created to read:

DE 2.09 Failure and reexamination. An applicant who fails to achieve a passing grade on the board-approved examination in clinical and laboratory demonstrations may apply for reexamination on forms provided by the board and shall pay the appropriate fee for each reexamination as required in s. 440.05, Stats. If the applicant fails to achieve a passing grade on any part of the second reexamination, the applicant may not be admitted to any further examination until the applicant reapplies for licensure and presents evidence satisfactory to the board of further professional training or education as the board may prescribe following its evaluation of the applicant's specific case.

(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 _____
Chairperson
Dentistry Examining Board

FISCAL ESTIMATE

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: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

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

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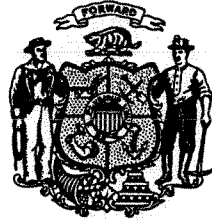
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CLEARINGHOUSE REPORT TO AGENCY

[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 00-143

AN ORDER to amend DE 2.01 (1) (g); and to create DE 2.09, relating to a system of remediation for applicants who have failed the clinical and laboratory examinations more than three times.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

10-10-00 RECEIVED BY LEGISLATIVE COUNCIL.
11-02-00 REPORT SENT TO AGENCY.

RS:DD;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)]

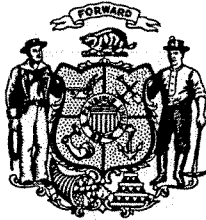
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-143

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.]

2. Form, Style and Placement in Administrative Code

The department's analysis fails to summarize the content of the rule.

4. Adequacy of References to Related Statutes, Rules and Forms

Consideration should be given to cross-referencing new s. DE 2.09 in s. DE 2.01 (1) (g) and (2) (b).

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

a. Neither the introductory clause nor the department's analysis indicates that the rule applies both to applicants for license as a dentist and to applicants for license as a dental hygienist.

b. In s. DE 2.09, first sentence, "shall" should precede "pay." In the second sentence, it appears that reference should be to the "second" reexamination, rather than the "third" reexamination to be consistent with the department's analysis. Further, in the second sentence, for consistency with s. DE 2.01 (1) (g), should "any part of" follow "on"? If that change is made, does the sentence then become inconsistent with s. DE 2.01 (2) (b)? Clarification is in order.