

Report From Agency

**STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
DENTISTRY EXAMINING BOARD : CR 11-033**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

No new forms are referenced in this proposal.

III. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

Continuing education requirements for dental hygienists were passed in 2005 Wis. Act 318, creating s. 447.055, Stats., and for dentists in 2007 Wis. Act 31, creating s. 447.056, Stats. The statutes require dental hygienists to complete 12 credit hours of CE during each two-year licensure renewal period, and dentists, 30 credit hours of CE during each two-year licensure renewal period. The instant rule-making proposal of the Dentistry Examining Board (the Board) creates ch. DE 13, Wis. Admin. Code, to implement the statutory continuing education requirements for both professions. Proposed ch. DE 13 includes s. DE 13.01, stating the authority under which the Board adopts the new rules; s. DE 13.02, defining terms used in the chapter; s. DE 13.03, establishing the continuing education requirements for dentists and related general provisions, and describing permissible methods for obtaining continuing education credit; s. DE 13.04, establishing the continuing education requirement for dental hygienists and related general provisions, and describing permissible methods for obtaining continuing education credit; and s. DE 13.05, setting forth the criteria for acceptable continuing education programs for both dentists and dental hygienists.

Proposed new ch. 13 necessitates amendments to s. DE 2.03, which provides license renewal requirements and procedures for both credentials, because renewal of either requires continuing education compliance.

IV. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The only public comments taken at the September 7, 2011 public hearing on this rule-making proposal were from representatives of the Wisconsin Dental Association (WDA), Dr. Steve Stoll and Mara Brooks. They indicated that the WDA fully supports this proposal, and suggested two

non-substantive revisions. First, in the second sentence of proposed s. DE 13.03 (3), the WDA asked that the phrase “or medicine” be inserted after the word “dentistry.” The WDA pointed out that, in addition to courses in the practice of dentistry, s. 447.056, Stats., specifically includes courses in the practice of medicine as creditable continuing education for dentists. The Board agreed and adopted this suggestion.

Next, the WDA requested that proposed s. DE 13.03 (5) read: “Active enrollment in an accredited post-doctoral dental residency training program for at least 12 months of the current licensure cycle will be accepted as meeting the required 30 credit hours of continuing education.” The WDA explained that as drafted, the proposed rule does not clearly express the Board’s intent to allow dentists to satisfy the continuing education requirement for one biennial renewal cycle if he or she has spent at least 12 months of that two-year cycle in a residency training program. The WDA also suggesting inserting the term “post-doctoral” between “accredited” and “residency training program,” for consistency with references to “post-doctoral residency training program” elsewhere in the DE rules. The Board agreed with both of these recommendations and adopted them.

On its own motion, the Board changes the original draft proposal that was submitted to the legislative clearinghouse as follows. As described in Section V. below, the Board partially rejects the clearinghouse’s recommendations in Comment 2.d., by maintaining the full reference to pars. (1) (a) to (d) in s. DE 2.03 (3). For consistency, the Board adds “to (d)” after “sub. (1) (a)” in subs. DE 2.03 (2), and maintains the full reference to subds. (a) 1. to 4. in par. DE 2.04 (5) (b). Next, as indicated in the original proposal, under s. DE 13.04 (1) (a), the Board intends to accept courses or programs in the practice of medicine in satisfaction of a dental hygienist’s continuing education requirement. Sections DE 13.04 (3) and 13.05 (2) (a) are therefore changed accordingly.

V. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2.d. “It is not clear why the amendment to s. DE 2.03 (3) is necessary. The paragraphs under sub. (1) are already included within the scope of sub. (1), so it is unnecessary to list ‘(a) to (d)’ separately. In addition, if the proposed amendment is made to strike ‘and (2)’, the provision would appear to no longer encompass renewal requirements for dental hygienists provided under sub. (2). Is that the intent? If so, the references to dental hygienists should be stricken, and ‘subs.’ should be replaced with ‘sub.’.”

Response: Accepted in part, rejected in part. The intent of the proposed amendment to s. DE 2.03 (3) is to include dental hygienists within the scope of that rule. Thus, the phrase “and (2)” that had been stricken is replaced in this draft. However, the Board maintains the full reference to subds. (1) (a) to (d) for the overall clarity of s. 2.03 (3). The other originally proposed amendments for s. 2.03 (3), i.e., the insertion of “the” after “meet” and before “requirements,” and changing the word “in” to “under” are also maintained.

All other clearinghouse recommendations are accepted in full.

VI. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These proposed rules will have no significant economic impact on small businesses, as the term “small business” is defined in s. 227.114 (1), Stats. Requiring CPR/AED training for all renewing licensees will impose some costs on them, but the costs will not be significant. Some dental practice firms may choose to incur the costs of their dentists’ and hygienists’ training, but again, relative to such firms’ overall earnings, these costs should be minimal. All other changes in this proposal are essentially non-substantive, as either clarifying existing rules, or capitalizing words that the Board believes should have been capitalized previously. Thus, no final regulatory flexibility analysis of this proposal is necessary.

DE 2, 13 CR 11-033 (CPR training, specialty advertising) Report to legislature 2-28-12