

Clearinghouse Rule 13-060

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

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

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PROPOSED ORDER

An order of the Dentistry Examining Board to amend DE 9.02 (intro.), (1), (2) and (4); create DE 9.015; and repeal and recreate DE 9.01, relating to lab work authorizations.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

Statutes interpreted: Section 447.03 (3) (f) 1., Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2), and 447.03 (3) (f) 1., Stats.

Explanation of agency 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 447.03 (3) (f) 1. Stats., authorizes the Wisconsin dentistry examining board to grant a license to practice dentistry to any individual who meets the requirements established in ch. 447, Stats., with some exceptions. One specific exception is enumerated in s. 447.03 (3) (f), which reads:

“A dental laboratory or dental laboratory technician to construct appliances or restorations for dentists if all of the following apply: 1. The appliances or restorations are constructed upon receipt from a dentist of impressions or measurements, directions, and a written work authorization on a form approved by the examining board.”

Related statute or rule:

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

Plain language analysis: The objective of the proposed rule is to eliminate the requirement that a written authorization for dental laboratory work shall be on a form approved by the board. The proposed rule will also allow for the continued use of current technologies, such as the request may be made electronically and work orders detailed digitally.

SECTIONS 1. and 2. These sections are proposed to separate the subjects of authority and definitions from the current section; s. DE 9.01 whereby creating two renumbered sections ss. 9.01 and 9.015. The definitions for both dental laboratory and work authorization now clearly remove any reference to a written request or the use of a board-approved form.

SECTION 3. This section deals primarily with the changes to no longer requiring written lab work authorizations, in so far as amending ss. DE 9.02 (Intro.), (1), (2) and (4) to remove references to out-dated methods of work order requests.

Summary of, and comparison with, existing or proposed federal regulation:

No rules or laws were found in an Internet-based search of the U.S. Code or the Code of Federal Register (CFR) for dental lab work authorizations, written or electronic, made by dentists.

Comparison with rules in adjacent states:

Illinois: The Illinois statutes and codes were researched via the Internet and no specifications were found for dental work authorizations, either written or electronic. [PART 1220 ILLINOIS DENTAL PRACTICE ACT]

Iowa: In searching Iowa codes, ch. 153, Dentistry, no specifications were found for dental work authorizations, either written or electronic. [http://www.state.ia.us/dentalboard/board/rules-policy/docs/IowaCode153_2013.pdf]

Michigan: Board of Dentistry **2012-111 LR**, No specifications were found for dental work authorizations, either written or electronic. [http://www7.dleg.state.mi.us/orr/Files/AdminCode/1118_2012-111LR_AdminCode.pdf]

Minnesota: Minnesota board of dentistry rules for dentists, hygienists, and assistants are contained in ch. 3100 [<https://www.revisor.mn.gov/rules/?id=3100>]. No specifications were found for dental work authorizations, either written or electronic.

Summary of factual data and analytical methodologies:

The Board, in reviewing their rules in response to Executive Order 61, recognized these out-dated methods for making lab work order requests and authorizations. These methods are costly and time consuming to small business.

The proposed provisions are expected to make such requests more efficient, more accurate and less costly for small business.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The Dentistry Examining Board in reviewing their rules in response to Executive Order 61 found that the industry has replaced an outdated process with technological advances.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708-8935; telephone 608-266-0955 or telecommunications relay at 711; email at Jean.MacCubbin@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Jean.MacCubbin@wisconsin.gov. Comments must be received on or before the hearing to be held on November 6, 2013 to be included in the record of rule-making proceedings.

-PROPOSED TEXT BEGINS ON NEXT PAGE-

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TEXT OF RULE

SECTION 1. DE 9.01 is repealed and recreated to read:

DE 9.01 Authority. The provisions in this chapter are adopted pursuant to authority in ss. 15.08 (5) and 227.11 (2) (a), Stats., and ch. 447, Stats.

SECTION 2. DE 9.015 created to read:

DE 9.015 Definitions. In this chapter:

(1) “Dental laboratory” means any dental workroom directly or indirectly engaged in the construction, repair or alteration of appliances to be used as substitutes for or as a part of natural teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(2) “Work authorization” means an official, signed request to a dental workroom or laboratory from a licensed dentist that clearly and thoroughly transmits at least the date of request, the doctor’s name, license number and contact information, the patient information, choice of base material, choice of metal alloy or type of porcelain to be used for the prosthesis, choice of margin and pontic design of the prosthesis, impressions or measurements, and shade description.

SECTION 3. DE 9.02 (Intro.), (1), (2) and (4) are amended to read:

DE 9.02 Work authorizations. ~~Written work~~ Work authorizations shall ~~be on a form approved by the board~~ include data which is substantially similar to the ~~official board~~ form set forth below:

(1) Each work authorization ~~or a carbon copy thereof~~ shall be retained and filed by the issuing dentist and by the dental laboratory for a period of at least 3 years from the date of issuance. The filed work authorization ~~or carbon copy thereof~~ shall be available for inspection by the board or its representatives during such period.

(2) No dental laboratory shall have in its possession any prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for or as a part of natural teeth or jaws or associated structures, or for the correction of malocclusions or deformities, either completed or being fabricated, without having in its possession a ~~written, signed work authorization therefore.~~

(4) The board, its agents or employees may inspect dental laboratories' records of work authorization. Any dental laboratory which violates any provisions of this ~~act~~ chapter, or refuses to allow the board, its agents or employees to inspect the work authorization records is subject to such penalties as provided ~~by law~~ in s. 470.09, Stats.

SECTION 4. EFFECTIVE DATE. 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.

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(END OF TEXT OF RULE)

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Dated _____

Agency _____
Board Chairperson
Dentistry Examining Board