

STATE OF WISCONSIN  
DENTISTRY EXAMINING BOARD

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IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD  
DENTISTRY EXAMINING BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 22-087)  
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PROPOSED ORDER

An order of the Dentistry Examining Board to amend DE 13.03 (1m), relating to controlled substances prescribing continuing education requirements.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

**Statutes interpreted:** ss. 440.035 (2) and 447.056, Stats.

**Statutory authority:** ss. 15.08 (5) (b) and 447.02 (1) (f), Stats.

**Explanation of agency authority:**

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 447.02 (1) (f), Stats., provides “[the examining board may promulgate rules] governing compliance with continuing education requirements under s. 447.056.”

**Related statute or rule:** None

**Plain language analysis:**

The objective of this proposed rule is to extend the 2 hour-controlled substances prescribing continuing education requirement outlined in DE 13.03 (1m) that was previously only in effect for the 2019 and 2021 license renewal periods. The Board also removed the word “responsible” from the requirement, as all controlled substances prescribing should be done responsibly, so there is no need to specify. In addition, the Board removed the word “acute” from the requirement, because patients may also receive care for chronic pain as well as care for acute pain.

**Summary of, and comparison with, existing or proposed federal regulation:** None

**Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:** N/A

**Comparison with rules in adjacent states:**

**Illinois:** The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Dentists in Illinois, with input from the Illinois Board of Dentistry. The Illinois Board is also responsible for the promulgation of rules to implement certain sections of the Illinois Dental Practice Act. This Act contains requirements for dental practice, including continuing education. Illinois does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [225 Illinois Compiled Statutes ch. 25; Illinois Administrative Code Title 68, Chapter 8, Subchapter b, Part 1220, Section 1220.440].

**Iowa:** The Iowa Dentistry Board is responsible for the licensure and regulation of Dentists in Iowa. Listed in the Iowa Administrative Code are the requirements for dental practice, including continuing education. Iowa requires each licensed dentist who has prescribed opioids during a renewal period to complete at least 1 hour of continuing education on the topic of opioids, which can count toward the 30 required hours for that renewal period. This 1 hour of continuing education content needs to include “guidelines for prescribing opioids, including recommendations on limitations of dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacological therapy options.” [650 Iowa Administrative Code ch. 25].

**Michigan:** The Michigan Board of Dentistry is responsible for the licensure and regulation of Dentists in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for dentistry in Michigan, among several other occupations. These regulations include requirements for continuing education. Michigan does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [Michigan Compiled Laws s. 333.166].

**Minnesota:** The Minnesota Board of Dentistry is responsible for the licensure and regulation of Dentists in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for continuing education. Minnesota does not require specific continuing education coursework on the topic of prescribing controlled substances for the treatment of dental pain or an equivalent topic [Minnesota Administrative Rules part 3100.5100].

**Summary of factual data and analytical methodologies:**

The Board reviewed Wisconsin Administrative Code chapter DE 13 to determine what changes were needed to update the controlled substances prescribing continuing education requirement.

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

The proposed rule was posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

**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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

**Agency contact person:**

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing January 4, 2023, to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1 DE 13.03 (1m) is amended to read:

**DE 13.03 (1m)** ~~RESPONSIBLE PRESCRIBING~~ PRESCRIBING CONTROLLED SUBSTANCES CONTINUING EDUCATION. The 30 credit hours of continuing education shall include 2 hours in the topic of ~~responsible~~ prescribing of controlled substances for the treatment of acute dental pain. ~~This subsection applies to the bienniums ending in 2019 and 2021.~~

SECTION 2 EFFECTIVE DATE. The rules adopted in this order shall take effect on October 1, 2023.

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(END OF TEXT OF RULE)  
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This Proposed Order of the Dentistry Examining Board is approved for submission to the Governor and Legislature.

Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson  
Dentistry Examining Board