

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date June 27, 2025								
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DE 5, 8, and 14									
4. Subject Informed Consent									
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected s20.165(1)(g)								
7. Fiscal Effect of Implementing the Rule <table style="width: 100%;"><tr><td><input type="checkbox"/> No Fiscal Effect</td><td><input type="checkbox"/> Increase Existing Revenues</td><td><input checked="" type="checkbox"/> Increase Costs</td><td><input type="checkbox"/> Decrease Costs</td></tr><tr><td><input type="checkbox"/> Indeterminate</td><td><input type="checkbox"/> Decrease Existing Revenues</td><td colspan="2"><input type="checkbox"/> Could Absorb Within Agency's Budget</td></tr></table>		<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs	<input type="checkbox"/> Decrease Costs	<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget	
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8. The Rule Will Impact the Following (Check All That Apply) <table style="width: 100%;"><tr><td><input type="checkbox"/> State's Economy</td><td><input type="checkbox"/> Specific Businesses/Sectors</td></tr><tr><td><input type="checkbox"/> Local Government Units</td><td><input type="checkbox"/> Public Utility Rate Payers</td></tr><tr><td colspan="2"><input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</td></tr></table>		<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors	<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers	<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)			
<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors								
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<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)									
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0									
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No									
11. Policy Problem Addressed by the Rule Informed consent regulations for dentists and dental therapists are in Wis. Admin. Code ch. DE 14. The proposed rule adds detail to the regulations for a dentist or dental therapist to obtain informed consent from a patient. It clarifies that the dentist or dental therapist must obtain the patient's informed consent to all services, treatments, or procedures in the treatment plan. For recordkeeping of the patient's informed consent, it requires that the dentist or dental therapist document: (1) The patient's informed consent to the treatment plan. (2) The patient's acknowledgment of reasonable alternate modes of treatment. (3) The patient's acknowledgment of the benefits and risks involved in the treatment plan and the benefits and risks involved with reasonable alternate modes of treatment. The proposed rule adds a provision to ch. DE 5, Unprofessional Conduct, to state that it is unprofessional conduct for a dentist or dental therapist to fail to obtain informed consent and fail to document that informed consent was obtained. The board believes this rule is important for patient safety and protection, and that current informed consent rules are not adequate.									
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule was posted to the public for Economic Impact Analysis comments as required, and will be subject to an official public hearing, along with other steps of the rule process.									
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.									
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)									

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DSPS estimates a total of \$4,100.00 in one-time and \$31,500.00 in ongoing staffing costs to implement the rule. The estimated need for 0.1 limited term employee (LTE) is for legal review, promulgating rules, updating systems, and training. The estimated annual staffing need for a 0.3 full time employee (FTE) is for increased customer service, intake, processing and investigation of complaints, prosecution and paralegal duties. The one-time and annual estimated costs cannot be absorbed in the currently appropriated agency budget.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit of this rule is that it will increase dental patient safety and financial protection. The board believes this rule is necessary and that current informed consent regulations are not adequate. If the rule does not go forward, risks to dental patients may continue.

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is that it will increase safety and transparency in the dentistry industry and help improve dental care in the state.

17. Compare With Approaches Being Used by Federal Government

None.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: In Illinois, medical patients have “The right of each patient to care consistent with sound nursing and medical practices, to be informed of the name of the physician responsible for coordinating his or her care, to receive information concerning his or her condition and proposed treatment, to refuse any treatment to the extent permitted by law, and to privacy and confidentiality of records except as otherwise provided by law” [410 Illinois Compiled Statutes 50/3(a)]. This applies to dental patients.

Iowa: Iowa law requires informed consent as follows: “Informed consent. Dental records shall include, at a minimum, documentation of informed consent that includes discussion of procedure(s), treatment options, potential complications and known risks, and patient's consent to proceed with treatment” [650 Iowa Administrative Code 27.11 (1) (e)]. It does not specify whether verbal or written informed consent is required, so it is presumed that verbal informed consent is allowed.

Michigan: In Michigan, at the inception of care for a patient, both of the following must occur: “Each dentist, dental therapist, dental assistant, registered dental assistant, and registered dental hygienist shall identify himself or herself to the patient as a dentist, dental therapist, dental assistant, registered dental assistant, or registered dental hygienist,” and “the patient shall be provided with a written consent for treatment” [Michigan Administrative Rules R 338.11103].

Minnesota: In Minnesota, the dental records for each patient must include a notation that: “the dentist, advanced dental therapist, dental therapist, dental hygienist, or licensed dental assistant discussed with the patient the treatment options and the prognosis, benefits, and risks of each treatment that is within the scope of practice of the respective licensee” and “the patient has consented to the treatment chosen” [Minnesota Administrative Rules 3100.9600]. It does not specify whether verbal or written informed consent is required, so it is presumed that verbal informed consent is allowed.

19. Contact Name	20. Contact Phone Number
Jake Pelegrin, Administrative Rules Coordinator	(608) 267-0989

This document can be made available in alternate formats to individuals with disabilities upon request.

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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- ☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☐ No
