CHAPTER 447
DENTISTRY EXAMINING BOARD

447.01 Definitions. In this chapter:
(1) “Accredited” means accredited by the American Dental Association commission on dental accreditation or its successor agency.
(1m) “Community rehabilitation program” means a nonprofit entity, county, municipality, or state or federal agency that directly provides, or facilitates the provision of, vocational rehabilitation services to individuals who have disabilities to maximize the employment opportunities, including career advancement, of such individuals.
(2) “Dental disease” means any pain, injury, deformity, physical illness or departure from complete dental health or the proper condition of the human oral cavity or any of its parts.
(3) “Dental hygiene” means the performance of educational, preventive or therapeutic dental services. “Dental hygiene” includes any of the following:
(a) Removing supragingival or subgingival calculus or deposits, subgingival cement or extrinsic stains from a natural or restored surface of or a fixed replacement for a human tooth.
(b) Deep scaling or root planing a human tooth.
(c) Conditioning a human tooth surface in preparation for the placement of a sealant and placing a sealant.
(d) Conducting a substantive medical or dental history interview or preliminary examination of a dental patient’s oral cavity or surrounding structures, including the preparation of a case history or recording of clinical findings.
(e) Conducting an oral screening without the written prescription of a dentist.
(f) Participating in the development of a dental patient’s dental hygiene treatment plan.
(g) Any other practice specified in the rules promulgated under s. 447.02 (1) (d).
(4) “Dental hygiene student” means an individual who is enrolled in and in regular attendance at an accredited dental hygiene school.
(5) “Dental hygienist” means an individual who practices dental hygiene.
(6) “Dental student” means an individual who is enrolled in and in regular attendance at an accredited dental school.
(7) “Dentist” means an individual who practices dentistry.
(8) “Dentistry” means the examination, evaluation, diagnosis, prevention, or treatment, including surgery, of diseases, disorders, or conditions of the human oral cavity or its adjacent or associated tissues and structures, or of the maxillofacial area, and their impact on the human body.

447.02 Dentistry examining board. (1) The examining board may promulgate rules:
(a) Governing the reexamination of an applicant who fails an examination specified in s. 447.04 (1) (a) 5. or (2) (a) 5. The rules may specify additional educational requirements for those applicants and may specify the number of times an applicant may be examined.
(b) Governing the standards and conditions for the use of radiation and ionizing equipment in the practice of dentistry.
(c) Subject to ch. 553 and s. 447.06 (1), governing dental franchising.
(d) Specifying practices, in addition to the practices specified under s. 447.01 (3) (a) to (f), that are included within the practice of dental hygiene.
(e) Providing for the granting of temporary licenses under this chapter.
(f) Governing compliance with continuing education requirements under s. 447.056.
(2) The examining board shall promulgate rules specifying all of the following:
(a) The conditions for supervision and the degree of supervision required under ss. 447.03 (3) (a), (b) and (d) 2. and 447.065.
(b) The standards, conditions and any educational requirements that are in addition to the requirements specified in s. 447.04 (1) that must be met by a dentist to be permitted to induce general anesthesia or conscious sedation in connection with the practice of dentistry.
(c) Whether an individual is required to be licensed under this chapter to remove plaque or materia alba accretions with mechanical devices.

Cross-reference: See definitions in s. 440.01.
(d) The oral systemic premedications and subgingival sustained release chemotherapeutic agents that may be administered by a dental hygienist licensed under this chapter under s. 447.06 (2) (e) 1. and 3.

(e) The educational requirements for administration of local anesthesia by a dental hygienist licensed under this chapter under s. 447.06 (2) (e) 2.

(f) A requirement that a mobile dentistry program registrant establish procedures for a patient treated in the mobile dentistry program to access his or her patient records.

(g) Standards for conduct for the operation of a mobile dentistry program in this state, the provision of dental services through a mobile dentistry program, and the use of portable dental equipment.

(h) A definition of “mobile dentistry program” and the activities that constitute the operation of a mobile dentistry program for purposes of the registration requirement under s. 447.058.

(i) Provisions implementing s. 447.40.

(j) The educational requirements for a dental hygienist licensed under this chapter to administer nitrous oxide inhalation analgesia under s. 447.06 (2) (e) 4.

(3) (a) The examining board may issue a permit authorizing the practice in this state, without compensation, of dentistry or dental hygiene to an applicant who is licensed to practice dentistry or dental hygiene in another state, if all of the following apply:

1. The examining board determines that the applicant’s services will improve the welfare of Wisconsin residents.

2. The examining board determines that the applicant is qualified and satisfies the criteria specified under s. 447.04 (1) (b) 1. to 3., except that the examining board may not require the applicant to pass an examination of state statutes and rules relating to dentistry or dental hygiene.

(b) A permit under this subsection shall authorize the practice of dentistry or dental hygiene in a specified area of the state for a period of time not more than 10 days in a year and may be renewed by the examining board. The examining board may not require an applicant to pay a fee for the issuance or renewal of a permit under this subsection.

(4) In the course of investigating a violation of this chapter, the examining board may require, by order or subpoena, that a person who manages or controls a business that offers dental or dental hygiene services, including management or control of a business through which the person allows another person to offer dental or dental hygiene services, produce patient health care records, as defined in s. 146.81 (4).

(5) Except as provided in ss. 447.058 and 447.063, nothing in this chapter may be construed as authorizing the examining board to regulate business or administrative support functions or services, that do not constitute the practice of dentistry or dental hygiene, provided to a business that provides dental or dental hygiene services.

Cross-reference: See also DE and chs. DE 7, 10, and 11, Wis. adm. code.

447.03 License required. (1) DENTISTS. Except as provided under sub. (3) and ss. 257.03 and 447.02 (3), no person may do any of the following unless he or she is licensed to practice dentistry under this chapter:

(a) Practice or offer to practice dentistry.

(b) Use or permit to be used, directly or indirectly, for a profit or otherwise for himself or herself, or for any other person, the title, or append to his or her name the words or letters, “doctor”, “Dr.”, “Doctor of Dental Surgery”, “D.D.S.”, or “D.M.D.”, or any other letters, titles, degrees, terms or descriptive matter, personal or not, which directly or indirectly represent him or her to be engaged in the practice of dentistry.

(c) Inform the public directly or indirectly in any language, orally, in writing or printing, or by drawings, demonstrations, signs, pictures or other means that he or she can perform or will attempt to perform dental services of any kind.

(2) DENTAL HYGIENISTS. Except as provided under sub. (3) and s. 447.02 (3), no person may do any of the following unless he or she is licensed to practice dental hygiene under this chapter:

(a) Practice or offer to practice dental hygiene.

(b) Represent himself or herself to the public as a dental hygienist or use, in connection with his or her name, any title or description that may convey the impression that he or she is a dental hygienist.

(3) EXCEPTIONS. No license or certificate under this chapter is required for any of the following:

(a) A dental student who practices dentistry under the supervision of a dentist in an infirmary, clinic, hospital or other institution connected or associated for training purposes with an accredited dental school.

(b) A dental hygiene student who practices dental hygiene under the supervision of a dentist in an infirmary, clinic, hospital or other institution connected or associated for training purposes with an accredited dental hygiene school.

(c) An individual licensed to practice dentistry or dental hygiene in another state or country who practices dentistry or dental hygiene in a program of dental education or research at the invitation of a group of dentists or practices dentistry or dental hygiene under the jurisdiction of the army, navy, air force, U.S. public health service or veterans bureau.

(d) Any of the following individuals who do not engage in the private practice of dentistry and do not have an office outside the institution at which he or she is appointed or employed:

1. A nonclinical instructor in dental science who is employed by an accredited dental school.

2. A dental fellow engaged in dental science teaching or research who is appointed by and is under the supervision of the faculty of an accredited dental school.

3. A dental intern who is appointed by a hospital located in this state, if the hospital is accredited for dental internship training and the internship does not exceed one year.

4. A dental resident who is appointed by a hospital located in this state for a 2nd or subsequent year of advanced study of dental science if the hospital is accredited for dental residency training.

(e) Any examiner representing a testing service approved by the examining board.

(f) 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.

2. The amounts payable for the services are billed to the dentist.

(g) Any individual who provides remediable procedures that are delegated under s. 447.065 (1).

(h) A physician licensed under subch. II of ch. 448 acting within the scope of his or her license.

Cross-reference: See also chs. DE 2, 3, 9, 11, and 12, Wis. adm. code.

447.04 Licensure. (1) DENTISTS. (a) The examining board shall grant a license to practice dentistry to an individual who does all of the following:

1. Submits an application for the license to the department on a form provided by the department.

2. Pays the fee specified in s. 440.05 (1).

3. Submits evidence satisfactory to the examining board that he or she has graduated from an accredited dental school.
4. Submits evidence satisfactory to the examining board that he or she has passed the national dental examination and the examination of a dental testing service approved by the examining board.

5. Passes an examination administered by the examining board on the statutes and rules relating to dentistry.

5m. Submits evidence satisfactory to the examining board that he or she has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

6. Completes any other requirements established by the examining board by rule.

(b) Except as provided in par. (c), the examining board may grant a license to practice dentistry to an individual who is licensed in good standing to practice dentistry in another state or territory of the United States or in another country if the applicant complies with all of the following requirements:

1. Meets the requirements for licensure established by the examining board by rule.

2. Submits evidence satisfactory to the examining board that the person has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education qualified to provide such instruction. The examining board shall consult with the department of health services to determine whether an individual, organization, or institution of higher education is qualified to provide instruction under this subdivision.

3. Presents the license to the examining board and pays the fee specified under s. 440.05 (2).

(c) 1. The examining board shall grant a license to practice dentistry to an applicant who is licensed in good standing to practice dentistry in another jurisdiction upon presentation of the license and who does all of the following:

a. Pays the fee specified in s. 440.05 (2).

b. Submits evidence satisfactory to the examining board that the applicant has been offered employment as a full-time faculty member at a school of dentistry in this state.

c. Makes responses during any interview that the examining board may require that demonstrate, to the satisfaction of the examining board, that the applicant is competent to practice dentistry.

d. Submits evidence satisfactory to the examining board that the person has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education qualified to provide such instruction. The examining board shall consult with the department of health services to determine whether an individual, organization, or institution of higher education is qualified to provide instruction under this subdivision.

2. A license granted under subd. 1. authorizes the license holder to practice dentistry only within educational facilities.

3. A license granted under subd. 1. is no longer in effect if the license holder ceases to be employed as a full-time faculty member at a school of dentistry in this state.

4. The examining board may promulgate rules to carry out the purposes of this paragraph.

DENTAL HYGIENISTS. (a) The examining board shall grant a license to practice dental hygiene to an individual who does all of the following:

1. Submits an application for the license to the department on a form provided by the department.

2. Pays the fee specified in s. 440.05 (1).

3. Submits evidence satisfactory to the examining board that he or she has graduated from an accredited dental hygiene school.
a. 344.05 (3)(b) (a) A mobile dentistry program registrant shall submit an application for renewal, and the applicable renewal fee determined by the department under s. 440.03 (9) (a), to the department on a form provided by the department on or before the applicable renewal date specified under s. 440.08 (2) (a).

History: 2013 a. 244.

Cross-reference: See also ch. DE 10, Wis. adm. code.

447.06 Practice limitations. (1) No contract of employment entered into between a dentist and any other party under which the dentist renders dental services may require the dentist to act in a manner which violates the professional standards for dentistry set forth in this chapter. Nothing in this subsection limits the ability of the other party to control the operation of the dental practice in a manner in accordance with the professional standards for dentistry set forth in this chapter.

(1g) No contract of employment entered into between a dentist and any other party under which the dentist is employed to practice dentistry may require a dentist to meet a minimum quota for the number of patients seen or the number of procedures performed.

(1r) No contract of employment entered into between a dental hygienist and any other party under which the dental hygienist is...
Employed to practice dental hygiene may require a dental hygienist to meet a minimum quota for the number of patients seen or the number of procedures performed.

(2) (a) A hygienist may practice dental hygiene or perform remediable procedures only as an employee or as an independent contractor and only as follows:
   1. In a dental office.
   2. For a school board, a governing body of a private school, as defined in s. 115.001 (3d), or a governing body of a tribal school, as defined in s. 115.001 (15m).
   3. For a school for the education of dentists or dental hygienists.
   4. For a state or federal prison, county jail or other federal, state, county or municipal correctional or detention facility, or a facility established to provide care for terminally ill patients.
   5. For a local health department, as defined in s. 250.01 (4).
   6. For a charitable institution open to the general public or to members of a religious sect or order.
   7. For a nonprofit home health care agency.
   8. For a nonprofit dental care program serving primarily indigent, economically disadvantaged or migrant worker populations.
   9. At a facility, as defined in s. 50.01 (1m), an adult family home certified under s. 50.032 or licensed under s. 50.033, an adult day care center, as defined in s. 49.45 (47), a community rehabilitation program, a hospital, as defined in s. 50.33 (2), or a facility that is primarily operated to provide outpatient medical services.
   (b) A dental hygienist may practice dental hygiene or perform remediable procedures under par. (a) 1. only as authorized by a dentist who is licensed to practice dentistry under this chapter and who is present in the facility in which those practices or procedures are performed, except as provided in par. (c).
   (c) A dental hygienist may practice dental hygiene or perform remediable procedures under par. (a) 1. if a dentist who is licensed to practice dentistry under this chapter is not present in the facility in which those practices or procedures are performed only if all of the following conditions are met:
   1. The dental hygiene practices or remediable procedures are performed under a written or oral prescription.
   2. The dentist who made the written or oral prescription has examined the patient at least once during the 12-month period immediately preceding:
      a. The date on which the written or oral prescription was made; and
      b. The date on which the dental hygiene practices or remediable procedures are performed.
   3. The written or oral prescription specifies the practices and procedures that the dental hygienist may perform with the informed consent of the patient or, if applicable, the patient’s parent or legal guardian.
   (d) A dental hygienist may not diagnose a dental disease or ailment, determine any treatment or any regimen of any treatment outside of the scope of dental hygiene, prescribe or order medication or perform any procedure that involves the intentional cutting of soft or hard tissue of the mouth by any means.
   (e) Pursuant to a treatment plan approved by a dentist who is licensed under this chapter, a dental hygienist licensed under this chapter may administer the following upon delegation by the dentist if the dentist remains on the premises in which the practices are performed and is available to the patient throughout the completion of the appointment:
      1. Oral systemic premedications specified by the examining board by rule.
      2. If the dental hygienist is certified under s. 447.04 (2) c. 1., local anesthesia.
      3. Subgingival sustained release chemotherapeutic agents specified by the examining board by rule.

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4. If the dental hygienist is certified under s. 447.04 (2) d. 1., nitrous oxide inhalation analgesia.


447.063 Preservation and transfer of patient health care records. (1) A person who manages or controls a business that offers dental or dental hygiene services, including management or control of a business through which the person allows another person to offer dental or dental hygiene services, shall preserve patient health care records, as defined in s. 146.81 (4), for an amount of time determined by the examining board by rule.

(2) A person who manages or controls a business that offers dental or dental hygiene services, including management or control of a business through which the person allows another person to offer dental or dental hygiene services, shall, upon request of a patient or person authorized by the patient, as defined in s. 146.81 (5), transfer the patient health care records, as defined in s. 146.81 (4), of the patient to another person that the patient or person authorized by the patient specifies to receive the patient health care records.


447.065 Delegation of remediable procedures and dental practices. (1) A dentist who is licensed to practice dentistry under this chapter may delegate to an individual who is not licensed under this chapter only the performance of remediable procedures, and only if all of the following conditions are met:
   (a) The unlicensed individual performs the remediable procedures in accordance with a treatment plan approved by the dentist.
   (b) The dentist is on the premises when the unlicensed individual performs the remediable procedures.
   (c) The unlicensed individual’s performance of the remediable procedures is subject to inspection by the dentist.

(2) Subject to the requirements under s. 447.06 (2), a dentist who is licensed to practice dentistry under this chapter may delegate to a dental hygienist who is licensed to practice dental hygiene under this chapter the performance of remediable procedures and the administration of oral systemic premedications, local anesthesia, nitrous oxide inhalation analgesia, and subgingival sustained release chemotherapeutic agents.

(3) A dentist who delegates to another individual the performance of any practice or remediable procedure is responsible for that individual’s performance of that delegated practice or procedure.


447.067 Identification of removable prosthetic devices. (1) Except as provided in sub. (2), a dentist who constructs a removable prosthetic device shall mark the device with the patient’s first and last name. Except as provided in sub. (2), a dentist who authorizes a dental laboratory or dental laboratory technician to construct a removable prosthetic device shall ensure that the device is marked with the patient’s first and last name.

(2) The following exceptions apply to the identification required under sub. (1):
   (a) The first, middle and last name initials of the patient may be substituted for the first and last name of the patient if, in the professional judgment of the dentist, it is impracticable to mark the first and last name of the patient.
   (b) The name and the initials of the patient may be omitted if each of those forms of identification is medically contraindicated.

History: 1993 a. 103.

447.07 Disciplinary proceedings. (1) The examining board may, without further notice or process, limit, suspend, or revoke the license or certificate of any dentist or dental hygienist, or the registration of a mobile dentistry program registrant, who fails, within 60 days after the mailing of written notice to the dentist’s, dental hygienist’s, or registrant’s last known address, to renew the license, certificate, or registration.
(3) Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings in regard to any alleged action of any dentist or dental hygienist, of a mobile dentistry program registrant, or of any other person it has reason to believe is engaged in or has engaged in the practice of dentistry or dental hygiene, or the operation of a mobile dentistry program, in this state, and may, on its own motion, or upon complaint in writing, reprimand any dentist or dental hygienist who is licensed or certified under this chapter, or any mobile dentistry program registrant, or deny, limit, suspend, or revoke his or her license or certificate, or the registration of the mobile dentistry program registrant, if it finds that the dentist, dental hygienist, or mobile dentistry program registrant has done any of the following:

(a) Engaged in unprofessional conduct or violated the standards of conduct established by the examining board under s. 447.02 (2) (g).

(b) Made any false statement or given any false information in connection with an application for a license, certificate, or registration or for renewal or reinstatement of a license, certificate, or registration, or received a license, certificate, or registration through error.

(c) Been adjudicated mentally incompetent by a court.

(d) Directly or indirectly sent, for a purpose other than shade verification, impressions or measurements to a dental laboratory without a written work authorization on a form approved by the examining board and signed by the authorizing dentist, or directly or indirectly sent a patient, or an agent of a patient, to a dental laboratory for any purpose other than for shade verification. The examining board or its agents or employees may inspect dental offices and the work authorization records of dental laboratories to determine compliance with this paragraph.

(e) Subject to ss. 111.321, 111.322, and 111.335, been convicted of a crime, the circumstances of which substantially relate to the practice of dentistry or dental hygiene or the operation of a mobile dentistry program.

(f) Violated this chapter or any federal or state statute or rule that relates to the practice of dentistry or dental hygiene, or the operation of a mobile dentistry program.

(g) Subject to ss. 111.321, 111.322 and 111.34, practiced dentistry or dental hygiene while his or her ability was impaired by alcohol or other drugs.

(h) Engaged in conduct that indicates a lack of knowledge of, an inability to apply or the negligent application of, principles or skills of dentistry or dental hygiene.

(i) Obtained or attempted to obtain compensation by fraud or deceit.

(j) Employed, directly or indirectly, any unlicensed or uncertified person to perform any act requiring licensure or certification under this chapter.

(k) Engaged in repeated irregularities in billing a 3rd party for services rendered to a patient. In this paragraph, “irregularities in billing” includes:

1. Reporting charges for the purpose of obtaining a total payment in excess of that usually received for the services rendered.

2. Reporting incorrect treatment dates for the purpose of obtaining payment.

3. Reporting charges for services not rendered.

4. Incorrectly reporting services rendered for the purpose of obtaining payment.

5. Abrogating the copayment provisions of a contract by agreeing to forgive any or all of the patient’s obligation for payment under the contract.

(L) Violated ch. 450 or 961.

(m) Made a substantial misrepresentation in the course of practice, or in the operation of a mobile dentistry program, that was relied upon by a client.

(n) Violated any order of the examining board.

(o) Advertised by using a statement that tends to deceive or mislead the public.

(5) The examining board may reinstate a license, certificate, or registration that has been voluntarily surrendered or revoked on terms and conditions that it considers appropriate. This subsection does not apply to a license or registration that is revoked under s. 440.12.

(7) In addition to or in lieu of a reprimand or denial, limitation, suspension, or revocation of a license, certificate, or registration under sub. (3), the examining board may assess against an applicant, licensee, certificate holder, or mobile dentistry program registrant a forfeiture of not more than $5,000 for each violation enumerated under sub. (3).

447.09 Penalties. Any person who violates this chapter may be fined not more than $1,000 or imprisoned for not more than one year in the county jail or both for the first offense and is guilty of a Class I felony for the 2nd or subsequent conviction within 5 years.


447.10 Injunction. If it appears upon the complaint of any person to the examining board, or it is believed by the examining board that any person is violating this chapter, the examining board, or the district attorney of the proper county, may investigate such alleged violation, and may, in addition to or in lieu of any other remedies provided by law, bring action in the name and on behalf of the state against any such person to enjoin such violation. Between meetings of the examining board, its president and secretary, acting in its behalf, are empowered jointly to make such an investigation, and on the basis thereof to seek such relief. Investigations conducted by the examining board, or by its president and secretary, shall be conducted according to rules promulgated under s. 440.03 (1).

History: 1977 c. 418.

447.11 Wisconsin Dental Association. The Wisconsin Dental Association is continued with the general powers of a domestic nonstock corporation. It may take by purchase or gift and hold real and personal property. It may adopt, alter and enforce bylaws and rules for the admission and expulsion of members, the election of officers and the management of its affairs.

History: 1989 a. 349.

447.12 County and district dental societies. (1) The dentists of any county who are licensed to practice dentistry under this chapter, provided there are at least 5 in the county, may organize a county dental society as a component of the Wisconsin Dental Association. When so organized it shall be a body corporate, and shall be designated as the dental society of the county, and shall have the general powers of a corporation and may take by purchase or gift and hold real and personal property. County dental societies now existing are continued with the powers and privileges conferred by this chapter. A county or district dental society that was in existence but unincorporated on September 29, 1963, is not required to incorporate unless that is the express wish of the majority of its members.

(2) Persons who hold the degree of doctor of dental surgery, or its equivalent, and any other persons who have been licensed
by the examining board to practice dentistry in this state, shall be
elegible to meet for the organization of or to become members of
a county dental society.

If there are not a sufficient number of dentists in a given
county to form a dental society under sub. (1), those residing in the
county may unite with those of adjoining counties and organize a
multi-county or district dental society as a component of the Wis-
consin Dental Association. The organizational meeting shall be
held at the time and place agreed upon in writing by a majority of
those eligible to belong.

A county or district dental society may adopt, alter and
enforce articles and bylaws, or a constitution and bylaws for the
admission and expulsion of members, the election of officers and
the management of its affairs, but no instrument or action on the
part of the society is valid if it is inconsistent with the articles,
i(bylaws or policies of the Wisconsin Dental Association, or if it
violates the autonomy of any other component of the Wisconsin
Dental Association. Any county or district dental society which
incorporates after September 29, 1963, shall file its articles as pro-
vided in ch. 181.

History: 1989 a. 349.

447.13 Service insurance corporations for dental care. The Wisconsin Dental Association or, in a manner and to
the extent approved by the Wisconsin Dental Association, a
county or district dental society, may establish in one or more
counties a service insurance corporation for dental care under ch.
613.

History: 1975 c. 223; 1989 a. 349.

447.15 Definitions applicable to indemnification and insurance provisions. In ss. 447.15 to 447.31:
(1) “Dental society” means a county or district dental society
organized or continued under s. 447.12.
(2) “Director or officer” means any of the following:
(a) A natural person who is or was a director or officer of a den-
tal society.
(b) A natural person who, while a director or officer of a dental
society, is or was serving at the dental society’s request as a direc-
tor, officer, partner, trustee, member of any governing or deci-
sion-making committee, employee or agent of another dental
society or corporation, partnership, joint venture, trust or other
enterprise.
(c) A natural person who, while a director or officer of a dental
society, is or was serving an employee benefit plan because his or
her duties to the dental society also imposed duties on, or other-
wise involved services by, the person to the plan or to participants
in or beneficiaries of the plan.
(d) Unless the context requires otherwise, the estate or per-
sonal representative of a director or officer.
(3) “Expenses” include fees, costs, charges, disbursements,
attorney fees and any other expenses incurred in connection with a
proceeding.
(4) “Liability” includes the obligation to pay a judgment, set-
tlement, forfeiture, or fine, including any excise tax assessed with
respect to an employee benefit plan, plus costs, fees, and sur-
charges imposed under ch. 814, and reasonable expenses.
(5) “Party” means a natural person who was or is, or who is
threatened to be made, a named defendant or respondent in a
proceeding.
(6) “Proceding” means any threatened, pending or com-
pleted civil, criminal, administrative or investigative action, suit,
arbitration or other proceeding, whether formal or informal, which
involves foreign, federal, state or local law and which is brought by
or in the right of the dental society or by any other per-
son.

History: 1987 a. 13; 2003 a. 139.

447.17 Mandatory indemnification. (1) A dental society
shall indemnify a director or officer, to the extent he or she has
been successful on the merits or otherwise in the defense of a pro-
ceeding, for all reasonable expenses incurred in the proceeding if
the director or officer was a party because he or she is a director
or officer of the dental society.
(2) (a) In cases not included under sub. (1), a dental society
shall indemnify a director or officer against liability incurred by
the director or officer in a proceeding to which the director or offi-
cer was a party because he or she is a director or officer of the den-
tal society, unless liability was incurred because the director or
officer breached or failed to perform a duty he or she owes to the
dental society and the breach or failure to perform constitutes any
of the following:
1. A willful failure to deal fairly with the dental society or its
members in connection with a matter in which the director or offi-
cer has a material conflict of interest.
2. A violation of criminal law, unless the director or officer
had reasonable cause to believe his or her conduct was lawful or
no reasonable cause to believe his or her conduct was unlawful.
3. A transaction from which the director or officer derived an
improper personal profit.
4. Willful misconduct.
(b) Determination of whether indemnification is required
under this subsection shall be made under s. 447.19.
(c) The termination of a proceeding by judgment, order, settle-
ment or conviction, or upon a plea of no contest or an equivalent
plea, does not, by itself, create a presumption that indemnification
of the director or officer is not required under this subsection.
(3) A director or officer who seeks indemnification shall make
a written request to the dental society.
(4) (a) Indemnification under this section is not required to the
extent limited by the dental society’s articles, constitution or
bylaws under s. 447.23.
(b) Indemnification under this section is not required if the
director or officer has previously received indemnification or
allowance of expenses from any person, including the dental soci-
ety, in connection with the same proceeding.


447.19 Determination of right to indemnification. Unless otherwise provided by the articles, constitution or bylaws
or by written agreement between the director or officer and the
dental society, the director or officer seeking indemnification
under s. 447.17 (2) shall select one of the following means for
determining his or her right to indemnification:
(1) By majority vote of a quorum of the board of directors con-
sisting of directors not at the time parties to the same or related
proceedings. If a quorum of disinterested directors cannot be
obtained, by majority vote of a committee duly appointed by the
board of directors and consisting solely of 2 or more directors not
at the time parties to the same or related proceedings. Directors
who are parties to the same or related proceedings may participate
in the designation of members of the committee.
(2) By independent legal counsel selected by a quorum of the
board of directors or its committee in the manner prescribed in
sub. (1) or, if unable to obtain such a quorum or committee, by a
majority vote of the full board of directors, including directors
who are parties to the same or related proceedings.
(3) By a panel of 3 arbitrators consisting of one arbitrator
selected by those directors entitled under sub. (2) to select inde-
pendent legal counsel, one arbitrator selected by the director or
officer seeking indemnification and one arbitrator selected by the
2 arbitrators previously selected.
(4) By an affirmative vote of a majority of members who are
entitled to vote and who are present in person or represented by
proxy at a meeting at which a quorum is present, if there are mem-
bers having voting rights. Unless the articles, constitution or
bylaws provide otherwise, members holding one-twentieth of the
votes entitled to be cast, present in person or represented by proxy,
shall constitute a quorum at a meeting of members. Membership rights owned by, or voted under the control of, persons who are at the time parties to the same or related proceedings, whether as plaintiffs or defendants or in any other capacity, may not be voted in making the determination.

(5) By a court under s. 447.27.

(6) By any other method provided for in any additional right to indemnification permitted under s. 447.25.


447.21 Allowance of expenses as incurred. Upon written request by a director or officer who is a party to a proceedings, a dental society may pay or reimburse his or her reasonable expenses as incurred if the director or officer provides the dental society with all of the following:

(1) A written affirmation of his or her good faith belief that he or she has not breached or failed to perform his or her duties to the dental society.

(2) A written undertaking, executed personally or on his or her behalf, to repay the allowance and, if required by the dental society, to pay reasonable interest on the allowance to the extent that it is ultimately determined under s. 447.19 that indemnification under s. 447.17 (2) is not required and that indemnification is not ordered by a court under s. 447.27 (2) (b). The undertaking under this subsection shall be an unlimited general obligation of the director or officer and may be accepted without reference to his or her ability to repay the allowance. The undertaking may be secured or unsecured.


447.23 Dental society may limit indemnification. (1) A dental society’s obligations to indemnify under s. 447.17 may be limited as follows:

(a) If the dental society is organized before June 13, 1987, except as provided in s. 447.12 (4), by an amendment to its articles, constitution or bylaws which becomes effective on or after June 13, 1987.

(b) If the dental society is organized on or after June 13, 1987, except as provided in s. 447.12 (4), by its articles, constitution or bylaws, including any amendments to its articles, constitution or bylaws.

(2) A limitation under sub. (1) applies if the first alleged act of a director or officer for which indemnification is sought occurred while the limitation was in effect.


447.25 Additional rights to indemnification and allowance of expenses. (1) Except as provided in sub. (2), ss. 447.17 and 447.21 do not preclude any additional right to indemnification or allowance of expenses that a director or officer may have under any of the following:

(a) The articles, constitution or bylaws.

(b) A written agreement between the director or officer and the dental society.

(c) A resolution of the board of directors.

(d) A resolution, after notice, adopted by a majority vote of members who are entitled to vote.

(2) Regardless of the existence of an additional right under sub. (1), the dental society may not indemnify a director or officer, or permit a director or officer to retain any allowance of expenses unless it is determined by or on behalf of the dental society that the director or officer did not breach or fail to perform a duty he or she owes to the dental society which constitutes conduct under s. 447.17 (2) (a) 1., 2., 3. or 4. A director or officer who is a party to the same or related proceeding for which indemnification or an allowance of expenses is sought may not participate in a determination under this subsection.

(3) Sections 447.15 to 447.31 do not affect a dental society’s power to pay or reimburse expenses incurred by a director or officer in any of the following circumstances:

(a) As a witness in a proceeding to which he or she is not a party.

(b) As a plaintiff or petitioner in a proceeding because he or she is or was an employee, agent, director or officer of the dental society.


447.27 Court−ordered indemnification. (1) Except as provided otherwise by written agreement between the director or officer and the dental society, a director or officer who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. Application shall be made for an initial determination by the court under s. 447.19 (5) or for review by the court of an adverse determination under s. 447.19 (1), (2), (3), (4) or (6). After receipt of an application, the court shall give any notice it considers necessary.

(2) The court shall order indemnification if it determines any of the following:

(a) That the director or officer is entitled to indemnification under s. 447.17 (1) or (2). If the court also determines that the dental society unreasonably refused the director’s or officer’s request for indemnification, the court shall order the dental society to pay the director’s or officer’s reasonable expenses incurred to obtain the court−ordered indemnification.

(b) That the director or officer is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, regardless of whether indemnification is required under s. 447.17 (2).


447.29 Indemnification and allowance of expenses of employees and agents. A dental society may indemnify and allow reasonable expenses of an employee or agent who is not a director or officer to the extent provided by the articles, constitution or bylaws, by general or specific action of the board of directors or by contract.


447.31 Insurance. A dental society may purchase and maintain insurance on behalf of an individual who is an employee, agent, director or officer of the dental society against liability asserted against and incurred by the individual in his or her capacity as an employee, agent, director or officer, or arising from his or her status as an employee, agent, director or officer, regardless of whether the dental society is required or authorized to indemnify or allow expenses to the individual against the same liability under ss. 447.17, 447.21, 447.25 and 447.29.


447.34 Reliance by directors or officers. Unless the director or officer has knowledge that makes reliance unwarranted, a director or officer of a county or district dental society organized or continued under s. 447.12 may, in discharging his or her duties to the dental society, rely on information, opinions, reports or statements, any of which may be written or oral, formal or informal, including financial statements and other financial data, if prepared or presented by any of the following:

(1) An officer or employee of the dental society whom the director or officer believes in good faith to be reliable and competent in the matters presented.

(2) Legal counsel, certified public accountants licensed under ch. 442, or other persons as to matters the director or officer believes in good faith that the committee merits confidence.

(3) In the case of reliance by a director, a committee of the board of directors of which the director is not a member if the director believes in good faith that the committee merits confidence.

447.36 Consideration of interests in addition to members’ interests. In discharging his or her duties to a county or district dental society organized or continued under s. 447.12 and in determining what he or she believes to be in the best interests of the dental society, a director or officer may, in addition to considering the effects of any action on members, consider the following:

(1) The effects of the action on employees, suppliers and customers of the dental society.

(2) The effects of the action on communities in which the dental society operates.

(3) Any other factors the director or officer considers pertinent.


447.38 Limited liability of directors and officers. (1) Except as provided in subs. (2) and (3), a director or officer of a county or district dental society organized or continued under s. 447.12 is not liable to the dental society, its members or creditors, or any person asserting rights on behalf of the dental society, its members or creditors, or any other person, for damages, settlements, fees, fines, penalties or other monetary liabilities arising from a breach of, or failure to perform, any duty resulting solely from his or her status as a director or officer, unless the person asserting liability proves that the breach or failure to perform constitutes any of the following:

(a) A willful failure to deal fairly with the dental society or its members in connection with a matter in which the director or officer has a material conflict of interest.

(b) A violation of criminal law, unless the director or officer had reasonable cause to believe his or her conduct was lawful or no reasonable cause to believe his or her conduct was unlawful.

(c) A transaction from which the director or officer derived an improper personal profit.

(d) Willful misconduct.


447.40 Informed consent. Any dentist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable dentist standard is the standard for informing a patient under this section. The reasonable dentist standard requires disclosure only of information that a reasonable dentist would know and disclose under the circumstances. The dentist’s duty to inform the patient under this section does not require disclosure of any of the following:

(1) Detailed technical information that in all probability a patient would not understand.

(2) Risks apparent or known to the patient.

(3) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

(4) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

(5) Information in cases where the patient is incapable of consenting.

(6) Information about alternate modes of treatment for any condition the dentist has not included in his or her diagnosis at the time the dentist informs the patient.

History: 2013 a. 345.