



Scott Walker, Governor
Dave Ross, Secretary

DENTISTRY EXAMINING BOARD
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
January 6, 2016

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

8:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Pledge of Allegiance

B. Adoption of Agenda (1-3)

C. Approval of Minutes – November 4, 2015 (4-7)

D. Administrative Updates (8-12)

- 1) Election of Officers
- 2) Liaison Appointments and Delegated Authorities
- 3) Board Member Term Expiration Dates
 - a. Debra Beres – 7/1/2016
 - b. Mark Braden – 7/1/2018
 - c. Eileen Donohoo – 7/1/2018
 - d. Leonardo Huck – 7/1/2017
 - e. Lyndsay Knoell – 7/1/2018
 - f. Timothy McConville – 7/1/2017
 - g. Wendy Pietz – 7/1/2017
 - h. Carrie Stempski – 7/1/2018
 - i. Beth Welter – 7/1/2018

E. 8:30 A.M. PUBLIC HEARING On Clearinghouse Rule 15-095 Relating to Mobile Dentistry (13-26)

- 1) Review and Respond to Clearinghouse Report and Public Hearing Comments

F. Legislative/Administrative Rule Matters – Discussion and Consideration (27-42)

- 1) Adoption of CR 15-056 Relating to Dental Hygienists Administering Nitrous Oxide
- 2) Adoption of CR 15-057 Relating to Informed Consent
- 3) Update on Legislation and Pending and Possible Rulemaking Projects

G. Examination Matters (43)

- 1) Current Exam Options Discussion
- 2) Exam Presentation Request

H. Speaking Engagements, Travel, or Public Relation Requests

- 1) ADEX Travel Report from Leonardo Huck

I. Items Added After Preparation of Agenda

- 1) Introductions, Announcements and Recognition
- 2) Election of Board Officers
- 3) Appointment of Board Liaison(s)
- 4) Administrative Updates
- 5) Education and Examination Matters
- 6) Credentialing Matters
- 7) Practice Matters
- 8) Legislative/Administrative Rule Matters
- 9) Liaison Report(s)
- 10) Informational Item(s)
- 11) Disciplinary Matters
- 12) Presentations of Petition(s) for Summary Suspension
- 13) Petitions for Designation of Hearing Examiner
- 14) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 15) Presentation of Proposed Final Decision(s) and Order(s)
- 16) Presentation of Interim Orders
- 17) Petitions for Re-Hearing
- 18) Petitions for Assessments
- 19) Petitions to Vacate Orders
- 20) Requests for Disciplinary Proceeding Presentations
- 21) Motions
- 22) Petitions
- 23) Appearances from Requests Received or Renewed
- 24) Speaking Engagement(s), Travel, or Public Relation Request(s)

J. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (Wis. Stat. s. 19.85(1)(a),); to consider licensure or certification of individuals (Wis. Stat s. 19.85(1)(b), Stats.; to consider closing disciplinary investigations with administrative warnings (Wis. Stat. s. 19.85 (1)(b), and 440.205,); to consider individual histories or disciplinary data (Wis. Stat. s. 19.85 (1)(f),); and to confer with legal counsel (Wis. Stat. s. 19.85(1)(g),).

K. Deliberation on Division of Legal Services and Compliance (DLSC) Matters

- 1) **Monitoring**
- 2) **Administrative Warnings**
- 3) **Proposed Stipulations, Final Decisions and Orders**
 - a) 14 DEN 049 – Thomas Hughes, D.D.S. (44-52)
 - b) 14 DEN 086 – Farshad Rouhani, D.M.D. (53-60)

4) Case Closures

- a) 14 DEN 037 – H.L.R. **(61-64)**
- b) 14 DEN 060 – M.D.S. **(65-68)**

L. Consulting with Legal Counsel

M. Deliberation of Items Received After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP)
- 6) Petition(s) for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Administrative Warnings
- 10) Review of Administrative Warning
- 11) Proposed Final Decisions and Orders
- 12) Matters Relating to Costs/Orders Fixing Costs
- 13) Case Closings
- 14) Proposed Interim Orders
- 15) Petitions for Assessments and Evaluations
- 16) Petitions to Vacate Orders
- 17) Remedial Education Cases
- 18) Motions
- 19) Petitions for Re-Hearing
- 20) Appearances from Requests Received or Renewed

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

N. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

O. Open Session Items Noticed Above not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING DATE MARCH 2, 2016

**DENTISTRY EXAMINING BOARD
MEETING MINUTES
November 4, 2015**

PRESENT: Debra Beres, RDH; Mark Braden, DDS; Eileen Donohoo, RDH; Leonardo Huck, DDS; Lyndsay Knoell, DDS; Timothy McConville, DDS; Wendy Pietz, DDS; Carrie Stempski, RDH; Beth Welter, DDS

STAFF: Brittany Lewin, Executive Director; Amber Cardenas, Legal Counsel; Nifty Lynn Dio, Bureau Assistant; and other Department staff

CALL TO ORDER

Lyndsay Knoell, Chair, called the meeting to order at 8:30 a.m. A quorum of nine (9) members was confirmed.

ADOPTION OF AGENDA

Amendments to Agenda

- *Added Closed Session Item: "APPEARANCE – Dental Faculty License – Mohamed Ibrahim Application"*

MOTION: Eileen Donohoo moved, seconded by Debra Beres, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Eileen Donohoo moved, seconded by Timothy McConville, to approve the minutes of September 2, 2015 as published. Motion carried unanimously.

**LEGISLATIVE/ADMINISTRATIVE RULE MATTERS – DISCUSSION AND
CONSIDERATION**

DE 10 – Mobile Dentistry – Economic Impact Analysis and Comments

MOTION: Eileen Donohoo moved, seconded by Carrie Stempski, to modify the language in DE 10.04 to mitigate the economic impact. Motion failed. In Favor: 3, Opposed: 5, Abstained: 1

Possible Rulemaking Regarding Sedation

MOTION: Mark Braden moved, seconded by Debra Beres, to authorize a Scope Statement on revising DE 11 relating to Sedation Permits and designate Wendy Pietz to approve for submission to the Governor's Office and publication and to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

MOTION: Debra Beres moved, seconded by Leonardo Huck, to authorize Wendy Pietz as the liaison regarding DE 11. Motion carried unanimously.

2015 Assembly Bill 368 and Senate Bill 327

MOTION: Lyndsay Knoell moved, seconded by Wendy Pietz, to authorize the Legislative Liaison to discuss and speak on behalf of the Board regarding 2015 Assembly Bill 368 and Senate Bill 327. Motion carried unanimously.

MOTION: Lyndsay Knoell moved, seconded by Debra Beres, to designate Mark Braden as the Legislative Liaison. Motion carried unanimously.

CLOSED SESSION

MOTION: Mark Braden moved, seconded by Leonardo Huck, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Lyndsay Knoell, Chair, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Debra Beres-yes; Mark Braden-yes; Eileen Donohoo-yes; Leonardo Huck-yes; Lyndsay Knoell-yes; Timothy McConville-yes; Wendy Pietz-yes; Carrie Stempski-yes; and Beth Welter-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:46 a.m.

RECONVENE TO OPEN SESSION

MOTION: Debra Beres moved, seconded by Eileen Donohoo, to reconvene to Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 11:54 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Mark Braden moved, seconded by Eileen Donohoo, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

APPLICATION REVIEW

MOTION: Debra Beres moved, seconded by Leonardo Huck, to approve the application of J.L. for a Dental Hygiene License, once all other requirements are met. Motion carried unanimously.

MOTION: Eileen Donohoo moved, seconded by Debra Beres, to approve the application of M.I. for a Dental Faculty License, once all other requirements are met. Motion carried unanimously.

DELIBERATION ON ADMINISTRATIVE WARNING

14 DEN 054

MOTION: Debra Beres moved, seconded by Leonardo Huck, to issue an Administrative Warning in the matter of DLSC case number **14 DEN 054**. Motion carried unanimously.

MONITORING MATTERS

Gretchen Evenson, D.D.S. – Requesting Full Licensure

MOTION: Debra Beres moved, seconded by Wendy Pietz, to deny the request of Gretchen Evenson, D.D.S. for Full License Reinstatement. **Reason for Denial:** The Respondent has not demonstrated continuous successful compliance (i.e. missed check-ins.) Respondent may petition for full license in 6 months if she shows continuous compliance. Motion carried.

(Carrie Stempski recused herself and left the room for deliberation and voting in the matter of Gretchen Evenson, D.D.S.)

Michael Laska, D.D.S. – Requesting a Monitoring Interruption

MOTION: Eileen Donohoo moved, seconded by Leonardo Huck, to deny the request of Michael Laska, D.D.S. for a monitoring interruption. **Reason for Denial:** Applicant must comply with the terms of the Order dated 9.9.2014. Motion carried unanimously.

(Wendy Pietz recused herself and left the room for deliberation and voting in the matter of Michael Laska, D.D.S.)

Steven Schnoll, D.D.S. – Requesting a Reduction in Drug Screens

MOTION: Timothy McConville moved, seconded by Beth Welter, to grant the request of Steven Schnoll, D.D.S. for reduction in drug screens to twelve screens and one hair test. Motion carried unanimously.

Jeffrey Slavik, D.D.S. – Requesting Termination of Impairment Limitations

MOTION: Eileen Donohoo moved, seconded by Debra Beres, to grant the request of Jeffrey Slavik, D.D.S. for termination of impairment limitations. Respondent must still comply with the third molar extraction limitation from the order dated 12.30.2014. Motion carried unanimously.

PRESENTATION AND/OR DELIBERATION ON PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

14 DEN 092 – Michael Kowalski, D.D.S.

MOTION: Beth Welter moved, seconded by Debra Berez, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against **Michael Kowalski, D.D.S.**, DLSC case number **14 DEN 092**. Motion carried unanimously.

(Eileen Donohoo and Mark Braden recused themselves and left the room for deliberation and voting in the matter of Michael Kowalski, D.D.S., DLSC case number 14 DEN 092.)

15 DEN 022 – Robert J. Vandyke, D.D.S.

MOTION: Mark Braden moved, seconded by Eileen Donohoo, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against **Robert J. Vandyke, D.D.S.**, DLSC case number **15 DEN 022**. Motion carried unanimously.

15 DEN 037 – Joseph R. Bullock, D.D.S.

MOTION: Eileen Donohoo moved, seconded by Mark Braden, to **adopt** the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against **Joseph R. Bullock, D.D.S.**, DLSC case number **15 DEN 037**. Motion carried unanimously.

ADJOURNMENT

MOTION: Debra Beres moved, seconded by Lyndsay Knoell, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:54 a.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Nifty Lynn Dio, Bureau Assistant		2) Date When Request Submitted: 12/18/15 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting									
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board											
4) Meeting Date: 01/06/2016	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Updates 1. Election of Officers 2. Liaison Appointments and Delegated Authorities									
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A									
10) Describe the issue and action that should be addressed: 1. Elect Officers for 2016 2. The Chair Appoints Liaisons 3. The Board should consider continuation or modification of previously delegated authorities											
11) Authorization <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; border-bottom: 1px solid black;">Nifty Lynn Dio</td> <td style="width: 40%; border-bottom: 1px solid black; text-align: right;">12/18/2015</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Signature of person making this request</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (if required)</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				Nifty Lynn Dio	12/18/2015	Signature of person making this request	Date	Supervisor (if required)	Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date	
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Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.											

CURRENT OFFICERS AND DELEGATED AUTHORITIES

2015 ELECTION RESULTS	
Board Chair	Lyndsay Knoell
Vice Chair	Mark Braden
Secretary	Debra Beres

LIAISON APPOINTMENTS

Practice Questions Liaisons:	All Board Officers
Screening Panel:	Lyndsay Knoell, Debra Beres
DLSC Liaison:	Mark Braden
Credentialing Liaisons:	Debra Beres, Wendy Pietz
Education and Examinations Liaison:	Eileen Donohoo
Website Liaison:	Beth Welter
PAP Liaison:	Tim McConville
PDMP Liaison:	Wendy Pietz

Types of Liaisons	Description	Delegation Date: Board Member Name
Practice Questions Liaisons	Address practice related questions.	Board Officers
Screening Panel Liaison	Reviews complaints received by the Department to determine whether a case should be opened for investigation.	Lyndsay Knoell Debra Beres Vacancy – Public Member
Legal Services and Compliance Monitoring	Work with DSPS monitors to carry out board orders	Mark Braden
Credentialing Liaison	Consult with Department staff on the processing of applications in line with the parameters set forth in the “Credentialing Procedure” document for the board	Debra Beres Wendy Pietz
Office of Education and Examination Liaison	Make decisions on routine questions involving the administration of examinations and approval of education programs. Conscious sedation course approval.	Eileen Donohoo Vacancy - Dentist
Website Liaison	Work with DSPS staff to manage/update website content.	Beth Welter Vacancy – Public Member

CURRENT OFFICERS AND DELEGATED AUTHORITIES

PAP Liaison	Work with PAP Coordinator to ensure compliance with PAP agreements. See SPS 7 for more information.	Tim McConville
PDMP Liaison		Wendy Pietz

DELEGATION OF AUTHORITY

- MOTION:** Eileen Donohoo moved, seconded by Beth Welter, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters, make appointments to vacant liaison, panel and committee positions, and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.
- MOTION:** Eileen Donohoo moved, seconded by Beth Welter, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director or designee to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.
- MOTION:** Eileen Donohoo moved, seconded by Beth Welter, to adopt the “Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor” document as presented in today’s agenda packet. Motion carried unanimously.
- MOTION:** Eileen Donohoo moved, seconded by Beth Welter, to delegate authority to the Credentialing Liaison(s) to address all issues related to credentialing matters. Motion carried unanimously.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Kelley Sankbeil Monitoring Supervisor Division of Legal Services and Compliance		2) Date When Request Submitted: December 14, 2015 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 													
3) Name of Board, Committee, Council, Sections:															
4) Meeting Date:	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Delegation to Monitoring Liaison and Department Monitor													
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:												
10) Describe the issue and action that should be addressed: Delegated Authority Motion: <p style="margin-left: 40px;"><i>“ _____ moved, seconded by _____ to adopt/reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today’s agenda packet.”</i></p>															
<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; border: none;">11)</td> <td style="width: 60%; border: none; text-align: center;">  </td> <td style="width: 30%; border: none; text-align: center;"> Authorization December 14, 2015 </td> </tr> <tr> <td style="border: none;">Signature of person making this request</td> <td style="border: none;"></td> <td style="border: none; text-align: center;">Date</td> </tr> <tr> <td style="border: none;">Supervisor (if required)</td> <td style="border: none;"></td> <td style="border: none; text-align: center;">Date</td> </tr> <tr> <td style="border: none;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</td> <td style="border: none;"></td> <td style="border: none; text-align: center;">Date</td> </tr> </table>				11)		Authorization December 14, 2015	Signature of person making this request		Date	Supervisor (if required)		Date	Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date
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Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.
- 8. Grant or deny Monitored Respondent requests to appear before the Board/Section.**

This is a new Delegated Authority as some Respondents are requesting appearances to dispute the delegated decision of the Liaisons. Some Boards have requested this additional delegated authority due to meeting time constraints.

Current Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sharon Henes Administrative Rules Coordinator		2) Date When Request Submitted: 17 December 2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting													
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board															
4) Meeting Date: 6 January 2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Public Hearing on Clearinghouse Rule 15-095 relating to mobile dentistry Review and respond to Clearinghouse Report and Public Hearing comments													
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:													
10) Describe the issue and action that should be addressed: Hold Public Hearing at 8:30 a.m. Discuss any public hearing comments. Review, discuss and respond to any Clearinghouse comments.															
11) Authorization <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; border-bottom: 1px solid black;"><i>Sharon Henes</i></td> <td style="width: 40%; border-bottom: 1px solid black; text-align: right;"><i>17 December 2015</i></td> </tr> <tr> <td style="font-size: small;">Signature of person making this request</td> <td style="text-align: right; font-size: small;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> </tr> <tr> <td style="font-size: small;">Supervisor (if required)</td> <td style="text-align: right; font-size: small;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;"> </td> <td style="border-bottom: 1px solid black;"> </td> </tr> <tr> <td colspan="2" style="font-size: small;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				<i>Sharon Henes</i>	<i>17 December 2015</i>	Signature of person making this request	Date			Supervisor (if required)	Date			Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date	
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STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

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

PROPOSED ORDER

An order of the Dentistry Examining Board to create DE 10 relating to mobile dentistry.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 447.058 and 447.07, Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.02 (2) (f), (g) and (h), Stats.

Explanation of agency authority:

Each examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular profession. s. 15.08(5)(b)

The examining board shall promulgate rules specifying: 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; standards of 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; and 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. ss. 447.02(2)(f), (g) and (h), Stats.

Related statute or rule:

Plain language analysis:

This rule implements 2013 Act 244 by creating DE 10.

DE 10.01 defines mobile dentistry program as a program which uses portable equipment or supplies in a location that is not a dental or hospital facility or is a self-contained facility that moves. The definition excludes the following: dental or dental hygiene care provided within a 30 mile radius of a main or satellite facility provided the care is billed by that facility and necessary follow-up care is being provided by the dentist or dental hygienist; the care is being

provided to no more than 2 per day to a new or established patient of record of a main or satellite dental facility; and the Department of Health conducting screenings as part of the Centers for Disease Control and Prevention surveys. The first two exceptions allow for a dentist or dental hygienist to make “house calls” and the last recognizes the unique nature of the survey screenings.

DE 10.02 creates the registration requirements. An applicant would be required to fill out an application, pay a fee, and provide a list of all employees or contractors who are providing dental or dental hygiene care and their Wisconsin dentist or dental hygienist license number. A renewal fee requires a renewal form and fee and a current list of their employees or contractors. If a person owns or operates more than one mobile dentistry program, a registration is required for each program.

DE 10.03 requires access to patient records. Each patient is to be provided with the name and contact information of the program and the registration number. At the time of providing services, the program is required to provide the patient with a written description of the services provided, the provider’s name and license number and the findings and recommendations. Mobile dentistry records are subject to the same rules governing a dentist or dental hygienist working in a dental facility. A mobile dentistry program is required to provide access to patient records.

DE 10.04 requires a mobile dentistry program to have a written protocol for follow-up care in a dental facility that is permanently established within a 60 mile radius of where the mobile dentistry services were provided. The protocol must include a written agreement with at least one provider for emergency treatment.

DE 10.05 lists unprofessional conduct as a violation of the standards of conduct all licensed dentists and dental hygienists are required to maintain or the specific mobile dentistry access to patient records or written protocols. In addition, it is unprofessional conduct for a mobile dentistry program registrant to fail to update the department within 30 days of new employees or contractors providing dental or dental hygienist services in Wisconsin.

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

Comparison with rules in adjacent states:

Illinois: Illinois defines mobile dental vans and portable dental units as any self-contained or portable dental unit in which dentistry is practiced that can be moved, towed, or transported from one location to another in order to establish a location where dental services can be provided. A dentist providing services through a mobile dental van or portable dental unit is to provide to the patient or the patient’s parent or guardian, in writing, the dentist’s name, license number, address, and information on how the patient or the patient’s parent or guardian may obtain the patient’s dental records.

Iowa: Iowa does not require the registration of mobile dentistry programs.

Michigan: Michigan defines mobile dentistry as a self-contained, intact facility in which dentistry or dental hygiene is practiced that may be transported from one location to another or a site used on a temporary basis to provide dental services using portable equipment. An application shall include: a list of each dentist, dental hygienist and dental assistant who will provide care including each individual's name, address, telephone number and license number; a written plan and procedure for providing emergency follow-up care to each patient; a signed memorandum of agreement between the operator and at least one dentist who can arrange for or provide follow-up services at a site within a reasonable distance for the patient; if provides only preventative services, a signed memorandum of agreement for referral for comprehensive dental services between the operator and at least 1 dentist; and proof of general liability insurance covering the mobile dental facility. If an operator has a memorandum of agreement due to its status as a state of Michigan designated or funded oral health prevention program with oversight from the department of community health, the operator is exempt from any requirement concerning a memorandum of agreement. The patient shall be provided a copy of a written treatment plan which shall address comprehensive services to be provided either at the mobile dental facility or through a dentist under a memorandum of agreement with the operator of the mobile dental facility. If the operator is unable to make arrangements for continued treatment, he or she shall place written documentation of the attempts in the patient record and make the documentation available to the department upon request. The operator shall provide access to records upon request.

Minnesota: Minnesota does not require the registration of mobile dentistry programs.

Summary of factual data and analytical methodologies:

The Board formed a committee which looked at the proposals from stakeholders as well as reviewing other states' laws. The committee and Board spent considerable time discussing issues relating to the definition of mobile dentistry programs and protocols for follow-up care balancing the accessibility of the programs to operate in the state with the safety of the public.

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

The rules were posted for economic comments for 14 days. One comment was received requesting an exemption from the rule for mobile dentistry programs receiving partial funding from the state. The Board invited Matt Crespino of Children's Health Alliance of Wisconsin to a meeting to discuss his economic concerns. Mr. Crespino focused on exempting his programs and not on the economic impact on mobile dentistry programs in general. The Board decided not to make changes to the rule to mitigate the economic impact to programs receiving state funds.

Throughout the rule promulgation process, the Board solicited comments from stakeholders. A main concern of all stakeholders is for patients treated by a mobile dentistry program to obtain follow-up care. The Board considered many alternatives to reach this objective with a goal for the rule to not be a burden on small businesses. Requiring a mobile dentistry program to have protocols for follow-up care, including a written agreement for emergency care meets the objective of protecting public health but not burdening businesses.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules may have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. and are submitted to the Small Business Regulatory Review Board for a determination on whether the rules will have a significant economic impact on a substantial number of small businesses. The Department’s Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 267-2435

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

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

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to Sharon.Henes@wisconsin.gov. Comments must be received at or before the public hearing to held on January 6, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapter DE 10 is created to read:

CHAPTER DE 10
MOBILE DENTISTRY

DE 10.01 Definitions. In this chapter:

(1) “Mobile dentistry program”

(a) Mobile dentistry program means a program delivering dental or dental hygiene care in one of the following:

1. Using portable equipment or supplies that are transported to any location that is not an intact dental or hospital facility.
2. In a self-contained, intact facility that can be moved.

(b) A program providing dental or dental hygienist care is not a mobile dentistry program if it meets one of the following requirements:

1. The dental or dental hygiene care is provided within a 30 mile radius of their main or satellite facility and all of the following:
 - a. The care is billed by the main or satellite dental facility.
 - b. The dentist or dental hygienist provides any necessary follow-up care to the patient.
2. The dental or dental hygiene care is being provided to a new or established patient of record of the main or satellite dental facility and no more than 2 patients per day are being treated using portable equipment or a self-contained, intact facility that can be moved.
3. Department of health conducting surveillance screenings as part of the state oral disease prevention program cooperative agreement with the Centers for Disease Control and Prevention, Division of Oral Health.

(2) “Mobile dentistry program registrant” means a person registered under s. 447.058, Stats.

DE 10.02 Mobile dentistry program registration. (1) REGISTRATION REQUIRED. (a) No person may own or operate a mobile dentistry program in this state unless the person is registered under this section. A person that wishes to own or operate more than one mobile dentistry program in this state shall apply for a separate registration under this section for each mobile dentistry program the person owns or operates.

(b) A mobile dentistry program providing dental hygiene as defined by s. 447.01 (3), Stats. or dentistry as defined by s. 447.01 (8), Stats. constitutes the operation of a mobile dentistry program and requires registration.

(2) REGISTRATION. An applicant for registration to own or operate a mobile dentistry program shall submit all of the following:

- (a) An application for registration on a form provided by the department.
- (b) The fee specified in s. 440.05 (1).
- (c) A list of all employees or contractors who are providing dental or dental hygiene care in Wisconsin. The list shall include the Wisconsin license number for each person providing dental or dental hygiene care.

(3) RENEWAL. A mobile dentistry program registrant renewing a registration shall submit all of the following:

- (a) A renewal form provided by the department.
- (b) The renewal fee as determined by the department under s. 440.03 (9) (a).
- (c) A list of all employees or contractors who are providing dental or dental hygiene care in Wisconsin. The list shall include the Wisconsin license number for each person providing dental care.

DE 10.03 Access to patient records. The mobile dentistry program registrant shall do all of the following:

- (1) Provide each patient with the name and contact information of the mobile dentistry program and registration number providing services.
- (2) At the time of providing services, give each patient a written description of the dental services provided for that patient, any provider’s name and license number, and the findings and recommendations.
- (3) Maintain patient dental records in accordance with ch. DE 8, Wis. Admin. Code.

(4) Provide access to dental records in accordance with s. 146.83, Stats.

DE 10.04 Protocol for follow-up care. There is a written protocol for follow-up care for patients treated in the mobile dental program in a dental facility that is permanently established within 60 mile radius of where services were provided. The protocol shall include a written agreement with at least one provider for emergency treatment.

DE 10.05 Standards of conduct. Unprofessional conduct by a mobile dentistry program registrant includes any of the following:

- (1) Failure to update the Department within 30 days of new employees or contractors providing dental or dental hygienist services in Wisconsin.
- (2) Violating any provision under ss. DE 10.03 or 10.04.
- (3) Engaging in unprofessional conduct under s. DE 5.02.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the third month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

DE 10

3. Subject

Regulation of mobile dentistry programs

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165(1)(g)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The policy addressed by the rule is to implement 2013 Act 244 by doing the following: create a definition of "mobile dentistry program"; define the activities that constitute the operation of a mobile dentistry program; requirements for obtaining a registration; requirements for patient access to dental records; and standards of conduct for the operation of a mobile dentistry program, the provision of dental services through a mobile dentistry program and the use of portable dental equipment.

10. 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.

This rule was posted for 14 days for economic comment. Matt Crespin of Children's Health Alliance of Wisconsin submitted economic comments citing the requirement for the written protocol for follow-up care to include a written agreement with a least one provider for emergency treatment may create an economic impact and requesting an exemption from the written agreement for programs receiving state funding. Mr. Crespin further requested an exemption from registration for all programs receiving state funding. The Board invited Mr. Crespin to a Board meeting to discuss his economic concerns. It is the Board's opinion that privately funded programs should be on the same playing field as those who are partially funded by the state, therefore, no exemptions should not be created in the rules for programs receiving state funding.

11. Identify the local governmental units that participated in the development of this EIA.

None

12. 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)

The Board did not find an economic or fiscal impact on business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

The Board did determine there may be an economic and fiscal cost to mobile dentistry programs. The Board was unable to determine the compliance costs to be incurred by the requirement of a written agreement for emergency treatment. Throughout the development of the rule, differing opinions were offered by stakeholders as to the cost of obtaining the written agreement for emergency treatment. The Board's position is if a requirement does create an economic impact,

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

the economic impact should not affect only private businesses. The mobile dentistry program requirements should be the same regardless of whether the program is privately or partially public funded.

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

The benefit to implementing the rule is to create clarity regarding the mobile dentistry program. In addition, 2013 Act 244 does not go into effect until the 1st day of the 3rd month after the rules have been submitted to the legislative reference bureau for publication. Therefore the alternative to implementing the rule is 2013 Act 244 would not become effective and there would be no registration of mobile dentistry programs.

14. Long Range Implications of Implementing the Rule

The long range implication is the registration of mobile dentistry program resulting in access to patient records and safety of the public.

15. Compare With Approaches Being Used by Federal Government

None

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

Iowa and Minnesota do not require the registration of mobile dentistry programs.

Illinois defines mobile dental vans and portable dental units as any self-contained or portable dental unit in which dentistry is practiced that can be moved, towed, or transported from one location to another in order to establish a location where dental services can be provided. A dentist providing services through a mobile dental van or portable dental unit is to provide to the patient or the patient's parent or guardian, in writing, the dentist's name, license number, address, and information on how the patient or the patient's parent or guardian may obtain the patient's dental records.

Michigan defines mobile dentistry as a self-contained, intact facility in which dentistry or dental hygiene is practiced that may be transported from one location to another or a site used on a temporary basis to provide dental services using portable equipment. An application shall include: a list of each dentist, dental hygienist and dental assistant who will provide care including each individual's name, address, telephone number and license number; a written plan and procedure for providing emergency follow-up care to each patient; a signed memorandum of agreement between the operator and at least one dentist who can arrange for or provide follow-up services at a site within a reasonable distance for the patient; if provides only preventative services, a signed memorandum of agreement for referral for comprehensive dental services between the operator and at least 1 dentist; and proof of general liability insurance covering the mobile dental facility. If an operator has a memorandum of agreement due to its status as a state of Michigan designated or funded oral health prevention program with oversight from the department of community health, the operator is exempt from any requirement concerning a memorandum of agreement. The patient shall be provided a copy of a written treatment plan which shall address comprehensive services to be provided either at the mobile dental facility or through a dentist under a memorandum of agreement with the operator of the mobile dental facility. If the operator is unable to make arrangements for continued treatment, he or she shall place written documentation of the attempts in the patient record and make the documentation available to the department upon request. The operator shall provide access to records upon request.

17. Contact Name

Sharon Henes

18. Contact Phone Number

(608) 261-2377

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

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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)

The Board was unable to determine whether there would be an economic impact on small businesses by requiring a written referral agreement for emergency care. The standard of care for all dentists and dental hygienists is to make referrals if necessary. Many mobile dentistry programs already have referral protocols in place and written agreements in place. It is difficult to quantify the costs associated with obtaining a written referral agreement for emergency care as there are many factors such as type of mobile dentistry program, geographic location in the state and existing relationships between mobile dentistry programs and local dentists.

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

The Board received input from stakeholders throughout the drafting of the rule. In addition, the rule was posted for economic impact comments.

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

The Board did not accept the recommendation to have reports submitted to the board, department of safety and professional services or department of health services. The Board considered a notification system to all or a percentage of dentists in the area to ensure follow-up care and it was determined to be a burden and would not protect the public. The Board also considered requiring a written referral agreement for all follow-up care.

The method incorporated into the rule to reduce the impact on mobile dentistry programs and protect the public was to require a written referral agreement for emergency care only. This provides the patient with a referral to obtain necessary emergency care.

5. Describe the Rule's Enforcement Provisions

A complaint submitted to the Board would be investigated and a determination made whether to pursue disciplinary action on the mobile dentistry registration.

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

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **15-095**

AN ORDER to create ch. DE 10, relating to mobile dentistry.

Submitted by **DENTISTRY EXAMINING BOARD**

12-02-2015 RECEIVED BY LEGISLATIVE COUNCIL.

12-18-2015 REPORT SENT TO AGENCY.

SG:MM

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Legislative Council Deputy Director

CLEARINGHOUSE RULE 15-095

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

a. The organizational structure of s. DE 10.01 (1) should be reviewed for excess subdivision. Additionally, the agency should consider whether the material in s. DE 10.01 (1) (b) is substantive material that would be better placed elsewhere in ch. DE 10.

b. In s. DE 10.01 (1) (b) (intro.), “hygienist” should be changed to “hygiene”. A phrase such as “are satisfied” should follow “all of the following” in s. DE 10.01 (1) (b) 1. (intro.). In the same rule subdivision, to who or what does the word “their” refer?

c. Should s. DE 10.02 require an applicant to include, in the application, proof that the applicant has established the protocol for follow-up care, as required under s. DE 10.04, and procedures for a patient to access his or her records, as required under s. 447.02 (2) (f), Stats.?

d. The requirement in s. DE 10.02 (1) (b) is redundant and should be deleted.

e. The rule should require an applicant for registration to provide the person’s name and tax identification number and the person’s business address and telephone number. [See s. 447.058 (2) (a) 1., Stats.]

f. The rule should specify which state agency is referred to by the term “Department” in s. DE 10.05 (1). In addition, “department” should not be capitalized. [See s. 1.01 (4), Manual.]

g. Section DE 10.01 (1) (b) 3. should be rewritten in the form of a requirement that must be met in order to be exempt from the registration requirement. In addition, to which department does the rule refer? There is neither a state nor federal “department of health”. The pertinent

Wisconsin agency is the “department of health services”, and the federal agency is the “department of health and human services”.

h. Section DE 10.04 should be rewritten in the form of a mandatory action, using the term “shall”. [s. 1.01 (2), Manual.]

i. Proper citation format, prescribed by s. 1.07 (2) (Table) of the Manual, should be reviewed throughout the proposed rule. For example, use “, Stats.” following the citations in s. DE 10.02 (2) (b) and (3) (b), and delete “Wis. Admin. Code” in s. DE 10.03 (3).

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. It is unclear what is meant by the requirement, in s. DE 10.03 (1), that a registrant must provide each patient with the “registration number providing services”. This provision should be clarified.

b. The rule should establish an affirmative requirement that a mobile dentistry program provide notification when new employees or contractors begin to provide services, rather than simply stating that it is unprofessional conduct for a registrant to fail to do so.

c. The rule should specify how a person’s registration may be reinstated following any disciplinary action that affects the person’s registration status.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sharon Henes Administrative Rules Coordinator		2) Date When Request Submitted: 17 December 2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Dentistry Examining Board			
4) Meeting Date: 6 January 2015	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislation and Rule Matters – Discussion and Consideration 1. Adoption of CR 15-056 Relating to Dental Hygienists Administering Nitrous Oxide 2. Adoption of CR 15-057 Relating to Informed Consent 3. Update on Legislation and Pending and Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Sharon Henes</i>		<i>17 December 2015</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DENTISTRY EXAMINING
	:	BOARD
DENTISTRY EXAMINING	:	ADOPTING RULES
BOARD	:	CLEARINGHOUSE RULE 15-056

ORDER

An order of the Dentistry Examining Board to amend DE 3.03 (1) and 11.03 (1) and to create Chapter DE 15 relating to certificate for dental hygienists to administer nitrous oxide inhalation analgesia.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 447.04 (2) (d) 1., 447.06 (2) (e) 4., Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), and 447.02 (2) (j), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats. Each examining board shall 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 227.11 (2) (a), Stats., provides that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 447.02 (2) (j), Stats. The examining board shall promulgate rules specifying, “[t]he educational requirements for a dental hygienist licensed under this chapter to administer nitrous oxide inhalation analgesia under s. 447.06 (2) (e) 4.”

Related statute or rule:

Section 447.065 (2), Stats.

Plain language analysis:

2013 Wisconsin Act 354 required the Dentistry Examining Board to grant a certificate to administer nitrous oxide inhalation analgesia to a dental hygienist who is licensed by the Board and who satisfies certain educational requirements that the Act directs the Board to establish by rule. Under 2013 Wisconsin Act 354, the certificate to administer nitrous oxide inhalation analgesia remains in effect while the dental hygienist holds a valid license to practice dental hygiene in Wisconsin, unless the Dentistry Examining Board suspends or revokes the certificate. The proposed rule implements 2013 Wisconsin Act 354 by establishing the requirements for the certificate.

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

None.

Comparison with rules in adjacent states:

Illinois: Dental hygienists may administer and monitor nitrous oxide provided they complete a 14 hour course relative to nitrous oxide analgesia and submit certification of completion of the required course to the supervising dentist. An individual who graduated from an approved dental hygiene program after January 1, 1998 that contained nitrous oxide analgesia administration and monitoring shall not be required to complete the 14 hour course upon proof to the dentist of the required curriculum. The dental hygienist must maintain BLS certification or its equivalent in addition to the required courses (Ill. Admin. Code tit. 68 pt. 1220).

Iowa: A dental hygienist may administer nitrous oxide inhalation analgesia provided the administration of nitrous oxide inhalation analgesia has been delegated by a dentist and the hygienist has completed a board approved course of training (Iowa Admin. Code r. 650- 29.6 (4)).

Michigan: A dentist may delegate administering nitrous oxide analgesia to a registered dental hygienist under direct supervision to a patient 18 years of age or older if the dental hygienist has met all of the following: (1) Successfully completed an approved course in the administration of nitrous oxide analgesia including content in nitrous oxide analgesia medical emergency techniques, pharmacology of nitrous oxide, nitrous oxide techniques, and if such a course is available, selection of pain control modalities. The course must consist of a minimum of 4 hours didactic instruction and 4 hours of clinical experience; (2) Successfully completed a state or regional board administered written examination in local anesthesia within 18 months of completion of the approved course; (3) Successfully completed a state or regional board administered written examination on nitrous oxide analgesia, within 18 months of completion of the approved course; and (4) Maintains and provides evidence of current certification in basic or advanced cardiac life support. A

dental hygienist shall not administer more than 50% nitrous oxide (Mich. Admin. Code r. 338.11410 and MCL 333.16611 (4)).

Minnesota: A dental hygienist may administer nitrous oxide inhalation analgesia in accordance with all of the following: (1) Completion of CPR training and current CPR certification; (2) Usage of only use fail-safe anesthesia equipment capable of positive pressure respiration; (3) Successful completion of a course on the administration of nitrous oxide inhalation analgesia from an institution accredited by the Commission on Dental Accreditation. The course must be a minimum of 12 hours comprised of didactic instruction, personally administering and managing at least three individual supervised cases of analgesia, and supervised clinical experience using fail-safe anesthesia equipment capable of positive pressure respiration; (4) Under the appropriate level of supervision by a dentist who is current with the requirements to administer nitrous oxide inhalation analgesia (Minn. Admin. Code 3100.3600 subp. 4.).

Summary of factual data and analytical methodologies:

This rule implements 2013 Wisconsin Act 354. Numerous other states' requirements were reviewed and considered while drafting these rules.

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document 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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone (608) 261-2377; email at Sharon.Henes@wisconsin.gov.

TEXT OF RULE

SECTION 1. DE 3.03 (1) is amended to read:

DE 3.03 (1) Administer or prescribe, either narcotic or analgesics or systemic-affecting nonnarcotic drugs, or anesthetics except as provided under ch. DE 15.

SECTION 2. DE 11.03 (1) is amended to read:

DE 11.03 (1) A dentist or a dental hygienist who holds a valid certificate under ch. DE 15 may use nitrous oxide inhalation on an outpatient basis for dental patients provided that he or she ~~has~~ utilizes adequate equipment with failsafe features and a 25% minimum oxygen flow.

SECTION 3. Chapter DE 15 is created to read:

CHAPTER DE 15

CERTIFICATION OF DENTAL HYGIENISTS TO ADMINISTER NITROUS OXIDE INHALATION ANALGESIA

DE 15.01 Authority. The rules in this chapter are adopted pursuant to ss. 15.085 (5) (b), 227.11 (2) (a), and 447.02 (2) (j), Stats.

DE 15.02 Definitions. In this chapter:

- (1) “Accredited” has the meaning given in s. 447.01 (1), Stats.
- (2) “ADA CERP” means american dental association continuing education recognition program.
- (3) “AGD PACE” means academy of general dentistry program approval for continuing education.

DE 15.03 Qualifications for certification of licensed dental hygienists to administer nitrous oxide inhalation analgesia. The board shall grant certification to administer nitrous oxide inhalation analgesia to an applicant who satisfies all of the following conditions:

- (1) The applicant holds a valid license to practice as a dental hygienist in this state.
- (2) The applicant has completed the educational requirements of s. DE 15.05.
- (3) The applicant has submitted the information required in the application under s. DE 15.04.

DE 15.04 Application procedure. An applicant for a certificate to administer nitrous oxide inhalation analgesia shall file a completed application on a form provided by the board. The application shall include all of the following:

(1) The dental hygienist license number in this state and the signature of the applicant.

(2) Evidence of successful completion of a didactic and clinical certification program, resulting in the dental hygienist becoming competent to administer nitrous oxide inhalation analgesia under the delegation and supervision of a dentist, the curriculum of which meets or exceeds the basic course requirements set forth in s. DE 15.05.

DE 15.05 Educational requirements. The board shall grant certification to administer nitrous oxide inhalation analgesia to a licensed hygienist who completes a certification program that meets all of the following:

(1) The certification program in the administration of nitrous oxide inhalation analgesia shall be sponsored by an accredited dental or dental hygiene school or be an approved ADA CERP or AGD PACE provider.

(2) The nitrous oxide inhalation analgesia administration certification program shall provide a minimum of 8 hours of instruction and shall consist of all of the following:

(a) Didactic instruction including all of the following:

1. Legal aspects of nitrous oxide inhalation analgesia administration in Wisconsin.

2. Physiological and psychological aspects of anxiety.

3. Stages of consciousness and the levels of sedation.

4. Respiratory and circulatory physiology and related anatomy.

5. Pharmacology of nitrous oxide.

6. Advantages and disadvantages as well as the indications and contraindications for nitrous oxide inhalation analgesia administration.

7. Patient evaluation, selection, and preparation for nitrous oxide inhalation analgesia administration.

8. The function of the basic components of nitrous oxide inhalation analgesia delivery and scavenging systems including all of the following:

- a. Inspecting all components of the nitrous oxide inhalation analgesia delivery equipment.
- b. Assembling and disassembling components.
- c. Operating nitrous oxide inhalation analgesia equipment.
- d. Disinfecting and sterilizing nitrous oxide inhalation analgesia equipment.

9. Safe and effective administration of nitrous oxide inhalation analgesia to patients in a clinical setting including all of the following:

- a. Determining the patient's ideal flow rate and tidal volume.
- b. Performing titration to effect.
- c. Determining the ideal percentage of nitrous oxide flow rate for individual patients.
- d. Calculating the percentage of nitrous oxide at peak flow.

10. Monitoring and documenting a patient undergoing nitrous oxide inhalation analgesia.

11. Complications associated with nitrous oxide inhalation analgesia administration and the prevention, recognition, and management of associated medical emergencies.

12. Troubleshooting problems with nitrous oxide inhalation analgesia administration.

13. Potential health hazards associated with nitrous oxide inhalation analgesia administration.

(b) Clinical experience consisting of three inductions of nitrous oxide inhalation analgesia on another person under supervision of the instructor.

(3) The certification program shall have a dentist licensed under ch. 447, Stats., present in the facility and available to both the patients and to the students of the class.

(4) The certification program shall include a final assessment of competency of the didactic and clinical components of the program.

DE 15.06 Dentist responsibility for the administration of nitrous oxide inhalation analgesia. A dental hygienist may administer nitrous oxide inhalation analgesia only if all of the following requirements are met:

(1) The nitrous oxide inhalation analgesia is administered pursuant to a treatment plan approved by the dentist.

(2) The dentist remains on the premises.

(3) The dentist is available to the patient throughout the completion of the appointment.

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.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chairperson
Dentistry Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

The benefit of the proposed rule is that it brings the Dentistry Examining Board administrative rules in compliance with 2013 Wisconsin Act 354.

14. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule is regulatory clarity for dental hygienist credential holders as the administrative code will align with the statutory requirements established in 2013 Wisconsin Act 354.

15. Compare With Approaches Being Used by Federal Government

None.

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

Illinois: Dental hygienists may administer and monitor nitrous oxide provided they complete a 14 hour course relative to nitrous oxide analgesia and submit certification of completion of the required course to the supervising dentist. An individual who graduated from an approved dental hygiene program after January 1, 1998 that contained nitrous oxide analgesia administration and monitoring shall not be required to complete the 14 hour course upon proof to the dentist of the required curriculum. The dental hygienist must maintain BLS certification or its equivalent in addition to the required courses (Ill. Admin. Code tit. 68 pt. 1220).

Iowa: A dental hygienist may administer nitrous oxide inhalation analgesia provided the administration of nitrous oxide inhalation analgesia has been delegated by a dentist and the hygienist has completed a board approved course of training (Iowa Admin. Code r. 650- 29.6 (4)).

Michigan: A dentist may delegate administering nitrous oxide analgesia to a registered dental hygienist under direct supervision to a patient 18 years of age or older if the dental hygienist has met all of the following: (1) Successfully completed an approved course in the administration of nitrous oxide analgesia including content in nitrous oxide analgesia medical emergency techniques, pharmacology of nitrous oxide, nitrous oxide techniques, and if such a course is available, selection of pain control modalities. The course must consist of a minimum of 4 hours didactic instruction and 4 hours of clinical experience; (2) Successfully completed a state or regional board administered written examination in local anesthesia within 18 months of completion of the approved course; (3) Successfully completed a state or regional board administered written examination on nitrous oxide analgesia, within 18 months of completion of the approved course; and (4) Maintains and provides evidence of current certification in basic or advanced cardiac life support. A dental hygienist shall not administer more than 50% nitrous oxide (Mich. Admin. Code r. 338.11410 and MCL 333.16611 (4)).

Minnesota: A dental hygienist may administer nitrous oxide inhalation analgesia in accordance with all of the following: (1) Completion of CPR training and current CPR certification; (2) Usage of only use fail-safe anesthesia equipment capable of positive pressure respiration; (3) Successful completion of a course on the administration of nitrous oxide inhalation analgesia from an institution accredited by the Commission on Dental Accreditation. The course must be a minimum of 12 hours comprised of didactic instruction, personally administering and managing at least three individual supervised cases of analgesia, and supervised clinical experience using fail-safe anesthesia equipment capable of positive pressure respiration; (4) Under the appropriate level of supervision by a dentist who is current with the requirements to administer nitrous oxide inhalation analgesia (Minn. Admin. Code 3100.3600 subp. 4.).

17. Contact Name

Katie Vieira (Paff)

18. Contact Phone Number

(608) 261-4472

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STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DENTISTRY EXAMINING
	:	BOARD
DENTISTRY EXAMINING	:	ADOPTING RULES
BOARD	:	(CLEARINGHOUSE RULE 15-057)

ORDER

An order of the Dentistry Examining Board to create DE Chapter 14 relating to informed consent.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 447.40, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) (a), 447.40, and 447.02 (2) (i), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats. Each examining board shall 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 227.11 (2) (a), Stats., provides that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 447.40, Stats. 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.

Section 447.02 (2) (i), Stats. The examining board shall promulgate rules specifying the provisions for implementing s. 447.40.

Related statute or rule:

Sections 446.08, 448.697, and 449.25, Stats.

Plain language analysis:

The duty of certain health care professionals, other than physicians, to obtain informed consent from their patients before conducting treatment had not been codified as a statutory duty prior to the passage of 2013 Wisconsin Act 345. Act 345 sets forth the dentists' duty to obtain informed consent from their patients and institutes the reasonable dentist standard as the standard for informing patients regarding their treatment options. The reasonable dentist standard requires disclosure only of the information that a reasonable dentist would know and disclose under the circumstances.

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

Although several federal agencies require investigators to obtain informed consent of human subjects participating in investigative trials, there are no specific federal regulations regarding dentists obtaining informed consent from their patients or the reasonable dentist standard.

Comparison with rules in adjacent states:

Illinois: Illinois Administrative Code is silent with regards to dentists' duty to obtain informed consent (68 Il. Admin. Code pt. 1220).

Iowa: Iowa Administrative Code regarding record keeping states that dental records must include, at a minimum, documentation of informed consent that includes a discussion of procedures, treatment options, potential complications, and known risks, and patient's consent to proceed with treatment (Iowa Admin. Code r. 650-27.11).

Michigan: Michigan Administrative Code is silent with regards to dentists' duty to obtain informed consent (Mich. Admin. Code r. 338.11101 - 338.11821).

Minnesota: Minnesota Administrative Code requires that dental records must include a notation that the dentist, advanced dental therapist, or dental therapist discussed with the patient the treatment options and the prognosis, benefits, and risks of each; and the patient has consented to the treatment chosen (Minn. R. 3100.9600 subp. 9).

Summary of factual data and analytical methodologies:

No factual data or analytical methodologies were used in drafting the proposed rule due to the proposed rule being prompted by the passage of 2013 WI Act 345. Adjacent states' requirements were reviewed.

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

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

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document 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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone (608) 261-2377; email at Sharon.Henes@wisconsin.gov.

TEXT OF RULE

SECTION 1. Chapter DE 14 is created to read:

CHAPTER DE 14

INFORMED CONSENT

DE 14.01 Authority and purpose. (1) **AUTHORITY.** The rules in this chapter are adopted pursuant to the authority delegated in ss. 15.08 (5) (b), 227.11 (2) (a), and 447.02 (2) (i), Stats.

(2) **PURPOSE.** The purpose of the rules is to define the obligation of a dentist to communicate alternate modes of treatment to a patient.

DE 14.02 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 prior to treating the patient. 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.

DE 14.03 Recordkeeping. A dentist's patient record shall include documentation that alternate modes of treatment have been communicated to the patient and informed consent has been obtained from the patient.

DE 14.04 Exceptions to communication of alternate modes of treatment. A dentist is not required to disclose the types of information listed in ss. 447.40 (1) to (6), Stats.

Note: Section 447.40, Stats., reads: "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.

SECTION 2. 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.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chairperson
Dentistry Examining Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

DE 14

3. Subject

Relating to informed consent

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The duty of certain health care professionals, other than physicians, to obtain informed consent from their patients before conducting treatment had not been codified as a statutory duty prior to the passage of 2013 Wisconsin Act 345. Act 345 sets forth the dentists' duty to obtain informed consent from their patients and institutes the reasonable dentist standard as the standard for informing patients regarding their treatment options. The reasonable dentist standard requires disclosure only of the information that a reasonable dentist would know and disclose under the circumstances.

10. 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.

This proposed rule was posted for a period of 14 days to solicit comments from the public. No businesses, business sectors, associations representing businesses, local governmental units, or individuals contacted the department about the proposed rule during that time period.

11. Identify the local governmental units that participated in the development of this EIA.

None. This rule does not affect local government units.

12. 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)

The rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local government units, or the state's economy as a whole.

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

The benefit of the proposed rule is that it brings the Dentistry Examining Board administrative rules in compliance with

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

2013 Wisconsin Act 345.

14. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule is regulatory clarity for dentist license holders as the administrative code will align with the statutory requirements established in 2013 Wisconsin Act 345.

15. Compare With Approaches Being Used by Federal Government

None.

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

Illinois: Illinois Administrative Code is silent with regards to dentists' duty to obtain informed consent (68 Il. Admin. Code pt. 1220).

Iowa: Iowa Administrative Code regarding record keeping states that dental records must include, at a minimum, documentation of informed consent that includes a discussion of procedures, treatment options, potential complications, and known risks, and patient's consent to proceed with treatment (Iowa Admin. Code r. 650-27.11).

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17. Contact Name

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To: Dr. Lyndsay Knoell, Chair of Wisconsin Dentistry Examining Board

From: Dr. Ryan Braden, President of Wisconsin Dental Association and
Dr. William Lobb, Dean of Marquette University School of Dentistry

Re: Presentation on non-patient based exam by Dr. Jack Gerrow of Canada

Given the DEB's recent interest in reviewing the regional dental examinations that are currently accepted for initial licensure in the state of Wisconsin, the WDA and MUSoD are jointly requesting that the DEB invite Dr. Jack Gerrow of the National Dental Examining Board of Canada (NDEB) to make a presentation at the March 2, 2016 DEB meeting on the NDEB certification process. This would include information on the format and structure of the Written Examination and the Objective Structured Clinical Exam (OSCE). The NDEB certification process differs from the current US-based dental clinical examinations in many ways but in particular it does not involve patients in a high-stress two-day examination format where failure of a patient to show or failure to find a patient with the prescribed dental needs required by the exam can often lead to failure of the candidate.

Dr. Gerrow has informed us that he is willing to make a presentation at your meeting on Wednesday, March 2, if you choose to invite him. This presentation would include a basic introduction of the NDEB examinations and an opportunity to ask him, MUSoD and WDA, any follow up questions you might have about the practical implementation here in Wisconsin.

Should you be supportive of adoption of this as a pathway to licensure, both the WDA and MUSoD realize that the DEB would not likely support that this become the *only* pathway but we do believe it would be in the best long-term interest of the state if it became one of the options to initial licensure. MUSoD is interested in offering this type of examination at the dental school should the DEB approve it. Please let us know if this is something the DEB members are interested in learning about. If not, we would also be interested in knowing why the DEB is not interested in this option. For some preliminary information on the OSCE, please feel free to visit the following website:

<http://www.ndeb.ca/en/accredited/osce-examination>.

We'd be happy to coordinate this presentation with Dr. Gerrow or if you wish to contact him directly, Dr. Gerrow's mailing address is: 80 Elgin St. 2nd Floor in Ottawa, ON, K1P 6R2. His phone number is (613)791-6861 and his mail is jgerrow@ndeb-bned.ca. We look forward to hearing from you about this potential opportunity.