

Report From Agency

**STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD**

IN THE MATTER OF RULE-MAKING	:	REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE	:	ON CLEARINGHOUSE RULE 06-016
DENTISTRY EXAMINING BOARD	:	(s. 227.19 (3), Stats.)

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rule changes will have no impact on the department's funds. Also, the department has determined that this rule change has no significant fiscal effect on the private sector.

IV. STATEMENT EXPLAINING NEED:

This proposed rule-making order is being promulgated pursuant to s. 447.02 (1) (d), Stats. The Dentistry Examining Board is granted authority to promulgate rules to carry out the practice of dental hygiene. A new type of anesthesia is being marketed in Wisconsin which is applied topically or by applicator. Currently, the statutes require a dental hygienist to get extra education and a certificate to administer anesthesia by injection. The board has determined that the use of the new anesthesia does not require additional education other than what is already received in dental hygiene school and, that a certificate is not needed for use of the new anesthesia by topical application or by applicator. This rule codifies those findings by the board.

V. NOTICE OF PUBLIC HEARING AND SUMMARY OF PUBLIC COMMENTS:

A public hearing was held on May 3, 2006. The following individuals appeared in support of the proposed rule-making:

Debbie Rosema, R.DH., Waukesha, WI
Dr. Eva Dahl, Onalaska, WI, Wisconsin Dental Association
Mara Brooks, Madison, WI, Wisconsin Dental Association

There were no other appearances at the public hearing nor were any written comments received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 5.a. The rule analysis states that the rule creates a definition of “local anesthesia” to “clarify educational requirements” for dental hygienists who apply topical anesthesia. However, the rule creates confusion as to what educational requirements do apply for administration of topical anesthesia.

First, one result of defining “local anesthesia” in ch. DE 7 to exclude topical anesthesia, is to eliminate the authority of a hygienist who is certified under ch. DE 7 to apply topical anesthesia. Thus, a hygienist who is certified to inject anesthesia would not be authorized to apply anesthesia topically.

Second, it appears that administration of topical anesthesia is not included within the “Practice of dental hygiene defined” in s. DE 3.02, which sets forth the practices that a dental hygienist may perform. Since, as discussed above, under the rule, a ch. DE 7 certification would not authorize administration of topical anesthesia, it appears that no dental hygienists would have authority to administer topical anesthesia.

The rule should clearly specify who may administer topical anesthesia and whether specific training is required to receive this authorization. If the board wishes to exempt dental hygienists who administer only topical anesthesia, but not other forms of local anesthesia, from certain provision of ch. DE 7, this could be done more explicitly.

Response: The analysis has been redrafted to clarify that the rule does not contain any educational requirements for dental hygienists who apply topical anesthesia. Language was added to the definition of “local anesthesia” to clarify that a dental hygienist may administer anesthesia either topically or by applicator without obtaining a certificate.

The other recommendation suggested in the Clearinghouse Report was accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.