

Report From Agency

**STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
DENTISTRY EXAMINING BOARD : CR 11-034**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

None.

III. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The Dentistry Examining Board finds that its existing rules create barriers to licensing dentists in Wisconsin. Under the current “active practice” requirement for licensure by endorsement in s. DE 1.02 (2), Wis. Admin. Code, post-doctoral dental residency training is not listed, but time spent in private practice or clinical instruction at a dentistry school accredited by the American Dental Association (ADA) is. The Board therefore requests to change the definition of “active practice” in s. DE 1.02 (2) to include dental residency training as well. Adding residency training to the list of activities that qualify as “active practice” will make that requirement less burdensome, and allow more candidates to obtain licensure by endorsement. This requested change is business-friendly in that it will encourage more dentists to practice in Wisconsin.

Next, the Dentistry Examining Board proposes to amend s. DE 2.015 to extend the “faculty license” currently available only to members of the Marquette University School of Dentistry (MUSoD) faculty to faculty at other Wisconsin institutions that have ADA-accredited post-doctoral dental residency programs. The intent of faculty licensure is to allow instructors of dental education who are licensed in other jurisdictions to perform instruction-related procedures on actual patients. This amendment would enhance the ability of accredited Wisconsin institutions other than MUSoD to hire and retain talented instructors. Good teachers and real-world instruction promote high quality dental education in this state, resulting in better-trained practitioners and safer dental practice. These results make Wisconsin a more attractive environment for dentists considering opening or moving a dental practice here.

The final amendment requested under this proposal concerns another aspect of licensure by endorsement. As currently written, s. DE 2.04 (1) (e) requires applicants for endorsement licensure who are relying on certification in an ADA-accredited dental specialty to have successfully completed their certification examination within the 10 years preceding their

endorsement application. The Board intends to continue accepting the dental specialty certification examination for purposes of the requirement under s. DE 2.04 (1) (e), but proposes to repeal the “within the previous 10 years” limitation. The Board has determined that this limitation is not necessary. Again, this amendment would facilitate more endorsement licensure, thus encouraging more dentistry practice in Wisconsin.

IV. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

Three members of the public registered to speak at the September 7, 2011 public hearing on this rule-making proposal. Dr. Steve Stoll and Mara Brooks, representing the Wisconsin Dental Association (WDA), spoke in favor of the amendments to chs. DE 1 and 2, with three suggested revisions. Dr. Steve Sewall of the Wisconsin Society of Oral and Maxillofacial Surgeons (WSOMS) registered to speak in opposition to the proposal.

The WDA first requested that the Board add the word “accredited” before “post-graduate dental residency training” in the second sentence of amended s. DE 1.02 (2). Doing so would make the “active practice of dentistry” definition consistent with each of the five references in amended s. DE 2.015 to “post-graduate residency training.” The Board adopted this suggestion.

The WDA next proposed replacing the word “graduate” with “doctoral” in all instances of the term “post-graduate” in amended ss. DE 1.02 (2) and 2.015. The WDA explained that the national accreditation standards use “post-doctoral” when referring to residency training programs. The Board adopted this suggestion.

Third, the WDA asked for additional language in amended s. DE 2.015 (2) (a) to make the rule more consistent with the intent of the original faculty licensure provision. The WDA recommended inserting the phrase “affiliated with” before “an accredited post-doctoral residency training program,” and substituting “the” for “an” at the beginning of that phrase. The WDA further suggested inserting “accredited” before “school of dentistry.” The Board adopted those changes.

For its final revision, the WDA recommended defining “full-time faculty,” as used in s. DE 2.015 (1) (c), to mean a faculty member who works five days per week under a 12-month contract with the affiliated educational facility. This was also a point of concern for Dr. Steve Sewall, who testified that the term “full-time faculty” can describe several different work-hours agreements. Dr. Sewall suggested that the Board consider using the definition of “full-time” found in the Wisconsin Statutes. The Board rejected both the WDA’s and Dr. Sewall’s suggestions, fearing that a specific definition of “full-time faculty” may not encompass the wide range of possibilities that term implies. The Board resolved not to define “full-time faculty,” but to decide the applicability thereof to faculty licensure applicants on a case-by-case basis.

As noted, Dr. Sewall registered in opposition to the DE 1, 2 rule-making proposal. However, he gave only the testimony described above, regarding a definition of “full-time faculty” as used in amended s. DE 2.015 (1) (c). Dr. Sewall raised no other objections.

On its own motion, the Board elected to keep the word “primary” before “educational facility” in s. DE 2.015 (2) (a), as that phrase appears in the existing rule.

V. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

The Board accepts the recommendations of the legislative clearinghouse in their entirety.

VI. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules will have no significant economic impact on small businesses, as the term “small business” is defined in s. 227.114 (1), Stats. Rather, the amendments to ss. DE 1.02, 2.015, and 2.04 proposed herein will reduce the burden on applicants for dentistry licensure by endorsement, and otherwise provide greater opportunity for dentists of foreign jurisdictions to practice while teaching at accredited dental education facilities. Thus, no final regulatory flexibility analysis is necessary.

DE 1, 2 CR 11-034 (Active practice, faculty licenses) Report to legislature 2-28-12