

Report From Agency

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : NOTICE OF PUBLIC HEARING
PROCEEDINGS BEFORE THE : CR 11-035
DENTISTRY EXAMINING BOARD :

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Wisconsin Dentistry Examining Board, will hold a public hearing at the time and place indicated below to consider an order adopting permanent rules to amend ss. DE 2.03 (1) (b), (5) (a) 2., 2.04 (1) (g), (h), (2) (a), (g), (h), 6.02 (4) (c), 7.03 (2), 7.05 (2) (a), and to create s. DE 2.03 (1) (c), (5) (a) 3., relating to CPR training for licensure renewal for dentists and dental hygienists and related to certification of dental hygienists to administer local anesthesia, and unprofessional advertising for dentists.

Hearing Date, Time and Location

Date: September 7, 2011
Time: 8:30 a.m.
Location: 1400 East Washington Avenue
Room 121A
Madison, Wisconsin

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Even if you appear at the hearing in person, you are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Board Services, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by the date and time of the hearing to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 447.05 and 447.07(3)(m) and (o), Stats.

Statutory authority:

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

Explanation of agency authority:

Section 15.08(5)(b), Stats., requires that examining boards shall promulgate rules for their own guidance and for the guidance of the professions over which they have jurisdiction. Section 227.11(2), Stats., permits an agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency.

Related statute or rule:

There are no related statutes or rules other than those listed above.

Plain language analysis:

The proposed rules make it clear that individuals renewing on a timely basis, renewing late, those seeking licensure by endorsement, or those seeking certification as a dental hygienist permitted to administer local anesthesia must provide proof of proficiency in cardiopulmonary resuscitation from a course provider approved by the Wisconsin department of health services. The proposed rule changes also clarify what is considered a specialty that may be advertised by dentists.

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

There are no related statutes or rules other than those listed above.

Comparison with rules in adjacent states:

Illinois:

Dentists in Illinois are not required to have certification in CPR for licensure. However, s. 225 ILCS 25/8.1 b) 4) provides that no dentist may administer general anesthesia, deep sedation, or conscious sedation without a permit for such purposes from the Illinois department of professional regulation. The Illinois statutes do require dental hygienists to hold current certification in CPR for licensure. 225 ILCS 25/13 (4). Dental hygienists may count their CPR certification training toward their continuing education requirements for renewal. 225 ILCS 25/16.

The statutes permit dental hygienists to administer local anesthetics upon successful completion of a training program approved by the department. 225 ILCS 25/18 a) (vi). Illinois's administrative rules specify that applicants for initial and renewal licensure as a dental hygienist must show current certification in Basic Life Support for Healthcare Providers (BLS), or its equivalent, from the American Red Cross, the American Heart Association or an equivalent agency unless physically disabled. 68 Ill. Admin. Code 1220.200 (d), 1220.270 a) 2).

To practice as a dental specialist in Illinois, a dentist must obtain a specialty license in addition to his or her license to practice general dentistry. 225 ILCS 25/11 (b). A dentist who does not hold a license in one of the dental specialties, endodontics, pediatric dentistry, prosthodontics,

periodontics, oral and maxillofacial radiology or surgery, or orthodontics and dentofacial orthopedics, may not advertise as a specialist in such areas. 68 Ill. Admin. Code 1220.421 f). See <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1296&ChapterID=24>, <http://www.ilga.gov/commission/jcar/admincode/068/06801220sections.html>.

All sections of the Illinois Administrative Code can be accessed at:

<http://www.ilga.gov/commission/jcar/admincode/068/06801220sections.html>

Iowa:

Applicants for licensure as either a dentist or dental hygienist in Iowa must show current certification in CPR in a nationally recognized course. Section 153.15A 1. b., Iowa Code; Sections 650-11.2 (2) i., 11.3 (2) i. To renew either type of license, the licensee must have current CPR certification in a nationally recognized course, and such courses must include a clinical component. Section 650—14.1 (4). Dental hygienists may only administer local anesthesia as delegated by, and under the direct supervision of a licensed dentist. Sections 650-10.3 (1) e., 10.3 (4).

Per the Iowa Dental Board website, examples of nationally recognized CPR certification providers are the American Heart Association and the Red Cross. The Board has prohibited CPR certification from online or other homestudy courses. Eligible CPR certifications courses must include a clinical component. <http://www.state.ia.us/dentalboard/da.html>

While Iowa does not issue licenses for specialty dentistry, an individual may represent him or herself as a specialist in the areas of dental public health, endodontics, oral and maxillofacial pathology, radiology, or surgery, orthodontics, pediatric dentistry, periodontics, or prosthodontics if the requirements for any such specialty, as set forth in ss. 650-28.2 to 28.10, Ill. Admin. Code, are met. Section 650-28.1, Ill. Admin. Code. No dentist may state or imply that he or she is certified as a specialist when that is not the case. Nor may a dentist use the terms “specialist,” “specializing in,” or other similar terms in connection with areas not recognized as specialties under ch. 650-28, Ill. Admin. Code when representing him or herself to the public. Section 650-26.4 (2).

See <http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>.

PDFs for all chapters for the Iowa Administrative Code can be found at:

<http://www.legis.state.ia.us/asp/ACODocs/chapterList.aspx?pubDate=01-13-2010&agency=650>

Michigan:

Michigan does not require CPR certification for initial licensure of dentists or dental hygienists. However, applicants for renewal of either type of license must hold current certification in basic or advanced cardiac life support from an agency or organization that grants certification pursuant to standards substantially equivalent to the standards adopted elsewhere in the administrative code. Sections R 338.11701 (2), 11704 (2), Mich. Admin. Code. The Michigan Board of Dentistry has adopted by reference the standards for certification in basic and advanced cardiac

life support for professional providers set forth by the American Heart Association in its 2005 “Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care.” Section R 338.11705 (5), Mich. Admin. Code. Dental hygienists may only administer local anesthesia to a patient over 18 years of age and may only do so if they are under the direct supervision of a dentist, have successfully completed an approved course, successfully completed an examination within 18 months of completion of that course, and hold a current certification in basic or advanced cardiac life support. Section R 388.11409 (1) (b), Mich. Admin. Code.

Michigan issues specialty licenses in the areas of oral and maxillofacial surgery, orthodontics or orthodontics and dentofacial orthopedics, prosthodontics, periodontics, pediatric dentistry, endodontics, and oral pathology or oral and maxillofacial pathology. Section R 388.11501 (1) (a-g), Mich. Admin. Code. A dentist who is not licensed as a specialist shall not announce or hold himself out to the public as limiting his practice to, as being specially qualified in, or giving special attention to, any of the recognized specialties. Section R 388.11525 (1), Mich. Admin. Code.

See

http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33811101&Dpt=LG&RngHigh=.

Michigan administrative code can be found at:

http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33811101&Dpt=CH&RngHigh=

Minnesota:

Minnesota requires dentists to hold a current CPR certification for initial licensure only if the dentist wishes to administer anesthesia, deep sedation, or moderate sedation. Minn. R. 3100.3600 (2) (a) (4). Dental hygienists are not required to hold a current CPR certification for initial licensure. All dentists and hygienists must complete a CPR certification course equivalent to the American Heart Association healthcare provider course or the American Red Cross professional rescuer course, and must hold a current CPR certificate for renewal of licensure. Minn. R. 3100.5100 (3) (A) (3). A dental hygienist may administer local anesthesia without the dentist being present in the dental office or on the premises if the procedure is performed with prior knowledge and consent of the dentist. Before administering local anesthesia, a dental hygienist must have successfully completed an accredited didactic and clinical program. Minn. R. 3100.8700 (1) (J).

Minnesota grants special dentistry licenses in the areas recognized by the American Dental Association. Minn. Stats. 150A.06 (1c) (a). Minnesota also recognizes special areas of dentistry that are suitable for advertising, which are endodontics, oral and maxillofacial surgery, oral pathology, orthodontics, pediatric dentistry, periodontics, prosthodontics, and public health. Minn. R. 3100.7000 (1). In order to advertise as a specialist, a licensed dentist must comply with the requirements of Minn. R. 3100.7000 (2). If those requirements are not met, a dentist may still practice as a specialist, but may not use the terms “specialist,” “specialty,” “specializing,” or

“limited to” in advertising, and all advertising must state that the services are being provided by a general dentist. Minn. R. 3100.7000 (3).

Minnesota statutes may be viewed at: <https://www.revisor.mn.gov/statutes/?id=150A.06>

Minnesota Administrative Code may be viewed at:

<https://www.revisor.mn.gov/rules/?id=3100&format=pdf>

Summary of factual data and analytical methodologies:

The Dentistry Examining Board considered the requirements for CPR and seeks to clarify the CPR requirements for licensing and certification and to rely on the Wisconsin Department of Health Services to determine qualified providers of CPR training. Additionally, the board considered acceptable advertising for dental specialties and decided to limit specialty advertising to those approved by a national organization, the American Dental Association Commission on Dental Accreditation (CODA).

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

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that this rule will require staff time in the Division of Enforcement. The total on-going salary and fringe costs are estimated at \$36,460.

Effect on small business:

These proposed rules were reviewed by the department’s Small Business Review Advisory Committee on May 19, 2011. It was determined the rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at John.Murray@Wisconsin.gov, or by calling 608-266-8608.

Agency contact person:

Kris Anderson, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2385; email at Kristine1.Anderson@Wisconsin.gov.

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

Comments may be submitted to Kris Anderson, Department of Safety and Professional Services, Division of Board Services, 1400 E. Washington Ave., Room 151, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to Kristine1.Anderson@Wisconsin.gov. Comments must be received on or before the date and time of the hearing to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 2.03 (1) (b) is amended to read:

(b) The fee authorized by s. 440.08 (2), Stats.;

SECTION 2. DE 2.03 (1) (c) is created to read:

(c) Evidence satisfactory to the board that the licensee has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator, achieved through instruction provided by an individual, organization, or institution of higher education approved by the Wisconsin department of health services; and

SECTION 3. DE 2.03 (5) (a) 2. is amended to read:

2. The fee authorized by s. 440.08 (2), Stats., plus the applicable late renewal fee authorized by s. 440.08 (3), Stats.;

SECTION 7. DE 2.03 (5) (a) 3. is created to read:

3. Evidence satisfactory to the board that the licensee has current proficiency in cardiopulmonary resuscitation, including the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved by the department of health services; and

SECTION 1. DE 2.04 (1) (g), (h), (2) (a), (g), (h) are amended to read:

(1) (g) The applicant possesses a current certificate of proficiency in cardiopulmonary resuscitation from a course provider approved by the Wisconsin department of health services.

(h) The applicant has disclosed all discipline which has ever been taken against the applicant in any jurisdiction shown in reports from the national practitioner data bank and the American ~~association~~Association of dental~~Dental~~ ~~examiners~~Examiners.

(2) (a) The applicant has graduated from a school of dental hygiene accredited by the American ~~dental~~Dental ~~association~~Association.

(g) The applicant possesses a current certificate of proficiency in cardiopulmonary resuscitation from a course provider approved by the Wisconsin department of health services.

(h) The applicant has disclosed all discipline which has ever been taken against the applicant in any jurisdiction shown in reports from the national practitioner data bank and the ~~American association~~Association of dental~~Dental~~ examiners~~Examiners~~.

SECTION 2. DE 6.02 (4) (c) is amended to read:

(c) Notice of a practice as a specialist in a dental specialty unless the dentist has successfully completed a post-doctorate ~~course~~educational training program approved by the Commission on Dental Accreditation of the American Dental Association in a specialty recognized by the Commission on Dental Accreditation ~~of the American Dental Association.~~ ~~This limitation does not apply to a dentist who announced a limitation of practice prior to 1967.~~Advertising as a specialist in a non-American Dental Association-recognized specialty is prohibited.

SECTION 3. DE 7.03 (2) is amended to read:

(2) Provide evidence of current qualification in cardiopulmonary resuscitation from ~~either the American heart association or American red cross~~a course provider approved by the Wisconsin department of health services.

SECTION 4. DE 7.05 (2) (a)

(a) Show evidence of current qualification in cardiopulmonary resuscitation from ~~either the American heart association or the American red cross~~a course provider approved by the Wisconsin department of health services.

(END OF TEXT OF RULE)

COPIES OF RULE

Copies of this proposed rule are available upon request to Kris Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Kristine1.Anderson@wisconsin.gov.