

**Report From Agency**

**STATE OF WISCONSIN  
DENTISTRY EXAMINING BOARD**

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**IN THE MATTER OF RULEMAKING :  
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE  
: CR 15-056  
DENTISTRY EXAMINING BOARD :  
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**I. THE PROPOSED RULE:**

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

**II. REFERENCE TO APPLICABLE FORMS:**

N/A

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA document is attached.

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

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.

**V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:**

The Dentistry Examining Board held a public hearing on September 2, 2015. The following people either testified at the hearing, or submitted written comments:

Linda Jorgenson, Wisconsin Dental Hygienists Association  
Mara Brooks, Wisconsin Dental Association

The Dentistry Examining Board summarizes the comments received either by hearing testimony or by written submission as follows:

The Wisconsin Dental Hygienists' Association (WI-DHA) Board of Trustees (BOT) testified in opposition to the proposed rule. The WI-DHA requested that their original recommendation for a 12 hour certification course offered only through CODA accredited dental programs be reinstated in the draft of administrative rules.

Mara Brooks testified in support of the proposed rule.

The Dentistry Examining Board did not modify its rule in response to public comments.

## **VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

### **2. Form, Style, and Placement in Administrative Code**

**Comment:** The Board should add a provision to the rule that establishes a procedure for Board approval of certification programs referred to in s. DE 15.05. This will enable dental hygienists to know whether a certification program that is offered provides adequate instruction to entitle them to receive a certificate to administer nitrous oxide inhalation analgesia. It is unclear how the Board would know whether a certification program attended by a dental hygienist meets the requirements set forth in s. DE 15.05 (2) if a provision of this type is not added to the rule. [For examples of rule provisions providing for approval of training programs, see ss. ATCP 136.08 (2), FD 6.06, and DHS 129.27.]

**Response:** The Dentistry Examining Board does not have the authority to impose requirements on certification program providers including requiring prior program approval. The Board only has the authority to establish the educational requirements for dental hygienist certification to administer nitrous oxide inhalation analgesia.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

## **VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:**

N/A