

Report From Agency

**STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
DENTISTRY EXAMINING BOARD : CR 22-086**

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 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:

The objective of the proposed rule was to update and add details to the requirements listed in DE 11.035. Therefore, the Board amended DE 11.035 (1) (q) and (2) (s) to add additional requirements for sedation permit education cases. The Board also updated DE 11.025 (3) to align it with the expectations of the Board that courses are certified by the American Heart Association. By providing these additional requirements, the Board will be able to issue sedation permits in an efficient and safe manner.

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 January 4, 2023. The following people either testified at the hearing, or submitted written comments:

- Attorney Kathleen Marcus, DOCS Education
- Michael Silverman, DMD, DOCS Education
- David Blanchard, DDS
- Brad Camp, DDS
- William Caputo, DDS
- Eric Carlson, DDS
- Nathan Knutsen, DDS
- Andrew Scott, DDS
- Jacob Sladky, DDS

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

- Attorney Marcus and Dr. Silverman provided comments on behalf DOCS Education. Included in those comments were the following main points:
 - DOCS education trains the vast majority of sedation dentists in Wisconsin
 - “This new requirement would effectively eliminate the enteral sedation permit in Wisconsin.”
 - 20 patient cases would be approximately 60 hours of treatment time that dentists would need to attend
 - DOCS has a live patient experience conducted via livestream that is available for Board members to review
 - Interactive livestream meets requirements for the one live patient experience for the enteral permit in California
 - There are no courses available that meet the 20 case enteral sedation requirements, which would essentially cause dentists to either forgo offering sedation or obtain IV sedation training instead
 - The requirement for enteral sedation as written is twice the clinical hours required for the parenteral or IV permits
- Dr. Silverman also commented that Colorado, Kansas, Texas, Nebraska, Mississippi, Atlanta, Georgia, South Carolina, Tennessee, Massachusetts, Utah, Arizona, Oregon, Washington, and Idaho all do not have 20 live in person patient cases for enteral sedation permit education,
- Dr. David Blanchard expressed concerns about patients who need oral sedation and how essential the ability to provide this service for his patients is.
- Dr. Brad Camp also expressed concerns about patients who need oral sedation not being able to receive the care that they need, as well as the fact that essential care may be delayed due to fear of IV sedation or patient inability to access an oral surgeon near them.
- Dr. William Caputo stated that oral conscious sedation is very safe and patients are less likely to have an emergency situation under this type of sedation, than if they were not sedated.
- Dr. Eric Carlson opposed the rule, stating that it would result in patients going without necessary preventative care which would lead to more emergency room visits and tax an already overwhelmed medical system.
- Dr. Nathan Knutsen opposed the rule, expressing concerns about patients needing oral sedation, as well as that there is not a course offered that provides 20 in person cases.
- Dr. Andrew Scott opposed the rule, stating that it would likely take away necessary dental care for a large part of Wisconsin. They also recommended reverting the requirements back to previous years, such as 2018.
- Dr. Jacob Sladky opposed the rule, stating it would limit the ability of dentists to treat anxious patients.

The Dentistry Examining Board explains modifications to its rule-making proposal prompted by public comments as follows:

- The Board asked and received additional information from DOCS education about the other states that Dr. Silverman mentioned in his comment about enteral sedation permits. The Department also provided the Board with additional information on other states not included in the adjacent state analysis or the list

from DOCS education. Based on public comment and this additional information, the Board made the following changes:

- DE 11.035 (1) (q) 1. to 5. was changed to 1. to 6.
- DE 11. 035 (1) (q) 1. to 6. was updated to read:
“DE 11.035 (1) (q) 1. At least 3 cases must occur in person as live clinical dental experiences. These cases may occur at any time or location permitted by the education program. The remaining cases may include simulations or video presentations.
2. One case with experience in returning a patient from deep to moderate sedation, which may be done by simulation or video presentation.
3. Include full review of patient medical history, including pertinent lab values.
4. Applicant shall be present and participate for the duration of live clinical dental experience cases up through recovery and discharge of the patient and shall participate in any remaining cases via simulation or video presentation to completion.
5. Applicant shall observe the administration of medicines.
6. Patient and any anesthesia monitors shall be in full view of the applicant.”

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

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

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A