

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

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| IN THE MATTER OF RULEMAKING | : | PROPOSED ORDER OF THE |
| PROCEEDINGS BEFORE THE | : | DENTISTRY EXAMINING BOARD |
| DENTISTRY EXAMINING BOARD | : | ADOPTING RULES |
| | : | (CLEARINGHOUSE RULE 22-086) |

PROPOSED ORDER

An order of the Dentistry Examining Board to amend DE 11.025 (3) (e); create DE 11.035 (1) (q) 1. to 6. and 11.035 (2) (s) 1. to 6.; and renumber and amend DE 11.035 (1) (q) as (1) (q) (intro.) and 11.035 (2) (s) as 11.035 (2) (s) (intro.), relating to precertification sedation education requirements.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 447.02 (2) (b), Stats.

Statutory authority: ss. 15.08 (5) (b) and 447.02 (2) (b), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 447.02 (2) (b), Stats, provides that the examining board shall promulgate rules specifying “the standards, conditions and any educational requirements that are in addition to the requirements specified in s. 447.04 (1) that must be met by a dentist to be permitted to induce general anesthesia or conscious sedation in connection with the practice of dentistry.”

Related statute or rule: s. 447.04 (1), Stats.

Plain language analysis:

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.

Summary of, and comparison with, existing or proposed federal regulation: None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: No comments were received.

Comparison with rules in adjacent states:

Illinois: The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of Dentists in Illinois, with input from the Illinois Board of Dentistry. The Illinois Board is also responsible for the promulgation of rules to implement certain sections of the Illinois Dental Practice Act. This Act contains requirements for dental practice, including dentistry done under anesthesia or sedation [225 Illinois Compiled Statutes ch. 25]. The rules in the Illinois Administrative Code require a Dentist applying for a moderate sedation permit to complete 75 hours of didactic and clinical study and supervised experience in providing moderate sedation to 20 or more patients [Illinois Administrative Code s. 1220.510].

Iowa: The Iowa Dentistry Board is responsible for the licensure and regulation of Dentists in Iowa. Listed in the Iowa Administrative Code are the requirements for dental practice, including dentistry done under anesthesia or sedation. Iowa requires a Dentist applying for a moderate sedation permit to complete a training program that includes a minimum of 60 hours of instruction and management of at least 20 patients or an accredited residency program that includes clinical experience in moderate sedation [650 Iowa Administrative Code ch. 29].

Michigan: The Michigan Board of Dentistry is responsible for the licensure and regulation of Dentists in Michigan. Act 368 Article 15 of the Michigan Compiled Laws includes the regulations for dentistry in Michigan, among several other occupations. [Michigan Compiled Laws s. 333.166] The Michigan Department of Licensing and Regulatory Affairs has administrative rules that include requirements for anesthesia and sedation dentistry. These rules require a Dentist who administers intravenous conscious sedation to have completed at least 60 hours of training in intravenous conscious sedation including a minimum of 40 hours of supervised clinical instruction where they have sedated not less than 20 cases [Michigan Administrative Rules R 338.11602].

Minnesota: The Minnesota Board of Dentistry is responsible for the licensure and regulation of Dentists in Minnesota. Part 3100 of the Minnesota Administrative Code includes the regulations for dentistry in Minnesota, including the requirements for anesthesia and sedation dentistry. Minnesota requires a Dentist applying for initial certification for moderate sedation to have completed at least 60 hours of didactic education in enteral and parenteral sedation including at least 10 individual supervised cases of parenteral moderate sedation. No more than 5 of those cases may be performed on a patient simulation manikin. [Minnesota Administrative Rules part 3100.3600]

Summary of factual data and analytical methodologies:

The Board reviewed Wisconsin Administrative Code DE 11 to determine which case requirements are necessary for safe training of Dentists for anesthesia permits.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis: The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-26-7139; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing on January 4, 2023, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 11.025 (3) (e) is amended to read:

DE 11.025 (3) (e). Evidence of certification in Advanced Cardiovascular Life Support or Pediatric Advanced Life Support through a course that ~~follows~~ is certified by the American Heart Association ~~guidelines~~. Pediatric Advanced Life Support is required if treating pediatric patients.

SECTION 2. DE 11.035 (1) (q) is renumbered as DE 11.035 (1) (q) (intro.) and amended to read:

DE 11.035 (1) (q) (intro.) 20 cases, which may include group observation cases-, that each meet all of the following requirements:

SECTION 3. DE 11.035 (1) (q) 1. to 6. is created 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.

SECTION 4. DE 11.035 (2) (s) is renumbered as DE 11.035 (2) (s) (intro.) and amended to read:

DE 11.035 (2) (s) (intro.) 20 individually managed cases-, that each meet the all of following requirements:

SECTION 5. DE 11.035 (2) (s) 1. to 6. is created to read:

- DE 11.035 (2) (s) 1. Must occur in person;
2. Include full review of patient medical history, including pertinent lab values;
 3. Applicant shall be in the room for the duration of the case;
 4. Applicant shall supervise recovery and discharge of the patient;
 5. Applicant shall have full view of the patient and access to the patient's airway;
 6. Anesthesia monitors shall be in full view of the applicant.

SECTION 6. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

 (END OF TEXT OF RULE)

This Proposed Order of the Dentistry Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chairperson
 Dentistry Examining Board