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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

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* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

**STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 09-007)**

TO: Senator Jim Holperin, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 409 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DENTISTRY EXAMINING BOARD is submitting in final draft form rules relating to licensure of foreign trained dentists.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

Thank you.

**STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD**

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
DENTISTRY EXAMINING BOARD : **ON CLEARINGHOUSE RULE 09-007**
: **(s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

The Department of Regulation and Licensing estimates that this rule will require staff time in the Office of Legal Counsel, Office of Examinations, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$9,732. The total on-going salary and fringe costs are estimated at \$1,146. The department finds that this rule has no significant fiscal effect on the private sector.

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

Until July 2, 2003, the Dentistry Examining Board relied on the Marquette University School of Dentistry to provide a program to meet the need for the evaluation of didactic and clinical training of graduates of dental schools that are not accredited. At the request of the Marquette University School of Dentistry, the evaluation program was discontinued and due to the unavailability of a board approved evaluation program, the board ceased licensing of foreign trained dentists. The board subsequently began a search for other acceptable programs.

The endorsement licensure provision is amended to enable foreign trained dentists to qualify for a license through endorsement. Currently, a foreign trained dentist cannot qualify for a license through endorsement because they do not meet the requirement that the applicant graduated from an accredited school of dentistry. This rule proposal enables a foreign trained dentist to qualify for a license through endorsement if he or she submits evidence satisfactory to the board that he or she has graduated from a foreign dental school and has successfully completed an accredited postgraduate program in advanced education in general dentistry or an accredited general dental practice

residency. All other requirements for qualifying for a license through endorsement remain in effect for all applicants.

Section DE 2.01 (1), relating to the initial licensing requirements for all applicants, is amended to remove the language relating to foreign trained dentists. A new provision is created for initial licensure that applies only to foreign trained dentists. A foreign trained dentist will qualify for a license if he or she submits to the board evidence of graduation from a foreign dental school, evidence of successful completion of an accredited postgraduate program in advanced education in general dentistry or an accredited general dental practice residency. In addition, a foreign trained dentist must submit the same information required of non-foreign trained dentists.

Chapter DE 4, Educational Programs Meeting Licensing and Certification Requirements, is being repealed. Section DE 4.01 states that the board shall approve ADA CODA accredited educational programs. That is already established in statute. It also allows the board to approve other programs. This rule repeals the board's ability to approve other programs.

Section DE 4.02 gives the board the authority to approve evaluation programs for foreign trained dentists. Repealing this provision takes away that authority from the board. The repeal of this provision is consistent with this proposed rule-making order. This rule-making order deletes the language in s. DE 2.01 (1) (e) that states that a foreign trained dentist meets the educational requirements for a license if verification is provided from a "board approved foreign graduate evaluation program of successful completion of the evaluation course." By deleting that language, s. DE 4.02 becomes obsolete for licensure purposes and should be repealed. This rule-making order replaces that deleted language by requiring a foreign trained applicant to have completed an ADA CODA approved program.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on March 4, 2009. The following individuals appeared at the public hearing and provided oral and written comments, all in support of the proposed rule-making:

Eugene Shoemaker, Waukesha, WI, Vice President, Wisconsin Dental Association.
Jeremy Levin, Sauk City, WI, Director of Advocacy, Rural Wisconsin Health Cooperative.
Tom Petri, Madison, WI, Wisconsin Primary Health Care Association.

Public comments submitted in opposition to the rule:

Richard J. Hagner, D.D.S., M.A.G.D., A.B.G.D., submitted written comments in opposition to the rule. Dr. Hagner is the President of the Wisconsin Academy of General Dentistry and a Clinical Assistant Professor at Marquette University School of Dentistry.

The board considered Dr. Hagner's comments at its meeting on May 6, 2009. Based upon its review of Dr. Hagner's comments, the board elected not to make changes to the proposed rules.

Dr. Hagner's comments and the board's response can be summarized as follows:

1. The challenge is to make sure that all dentists, foreign trained or not, have the public clinical skills at the time of licensing to protect the health, welfare and safety of the public.

The board concurs with Dr. Hagner's conclusion that the ultimate goal of licensing is to provide protection to the public.

2. Wis. Stats. s. 447.04 (1) (b) 1., states, in part, that the board may grant a license to practice dentistry to an individual who is licensed in good standing to practice dentistry in another state or territory of the United States or in another country if the applicant complies with certain requirements. Dr. Hagner believes that the requirement that the applicant be "in good standing" to practice dentistry should be included in the proposed rule under s. DE 2.01 (1).

The board's response is that it is not necessary to include the "good standing" requirement in the rules because it is already contained in the statutes. The board will apply the "good standing" requirement at the time it considers whether an applicant has satisfied all requirements for licensure.

3. The Illinois summary in Section 4 of the plain language analysis appears to be missing some information at the end of the second sentence.

The board has revised Section 4 to incorporate the missing information.

4. It appears that under s. DE 2.01 (1) (f), the requirement for the National Board Examination has been eliminated for the licensing of foreign trained dentists.

The board's response is that the requirement for the national examination has not been eliminated for the licensing of foreign trained dentists. The requirement for verification of successful completion of the national examination is set forth in proposed s. DE 2.01 (1m) (b).

5. The curriculum offered in conjunction with postgraduate residency programs is usually very good; however, there is no explanation of how clinical competency is evaluated or assessed during the programs.

The board's response is that if a postgraduate residency program is accredited by the American Dental Association Commission on Dental Accreditation (CODA), the program must comply with the accreditation standards established by that organization. CODA accreditation standards mandate that a program proves that it accepts the

competency of the individuals enrolled in its training program. A program must also document outcomes and training hours, as well as perform evaluations of the individuals enrolled in the program.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

DE 2, 4 CR09-007 (Foreign trained dentists) Report to Leg 6-26-09

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DENTISTRY EXAMINING BOARD
DENTISTRY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 09-007)

PROPOSED ORDER

An order of the Dentistry Examining Board to repeal ch. DE 4; to renumber DE 1.02 (1); to amend DE 2.01 (1) (e) and 2.04 (1) (a); and to create DE 1.02 (1) and 2.01 (1m), relating to licensure of foreign trained dentists.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 447.04 (1) (a) and (b), Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 447.04 (1) (b) 1., Stats.

Explanation of agency authority:

Section 447.04 (1) (b) 1., Stats., enables the Dentistry Examining Board to write rules for the licensing of individuals who are licensed in good standing to practice dentistry in another country.

Related statute or rule:

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

Plain language analysis:

This proposed rule-making creates a route for foreign trained dentists to be licensed in Wisconsin. It creates requirements that a foreign trained dentist must meet to get a license for both initial licensure and endorsement.

SECTION 1 renumbers s. DE 1.02 (1).

SECTION 2 creates a definition for “accredited” to mean accredited by the American Dental Association’s Commission on Dental Accreditation (ADA CODA) or its successor agency. This is the same definition that is in s. 447.01 (1), Stats.

SECTION 3 amends the rule to delete foreign trained dentists from the initial licensing requirements in s. DE 2.01 (1). Section DE 2.01 (1) lists the items and evidence an applicant must submit to the board to receive an initial license.

SECTION 4 creates a new provision for initial licensure that applies only to foreign trained dentists. A foreign trained dentist will qualify for a license if he or she submits to the board evidence of graduation from a foreign dental school and evidence of the successful completion of an accredited postgraduate program in advanced education in general dentistry or an accredited general dental practice residency. In addition, a foreign trained dentist must submit the same information required of non-foreign trained dentists listed in s. DE 2.01 (1) (a) to (d), (f) and (g).

SECTION 5 amends the endorsement licensure provision in s. DE 2.04 (1) (a), to enable foreign trained dentists to qualify for a license through endorsement. Currently, a foreign trained dentist cannot qualify for a license through endorsement because they do not meet the requirement that the applicant graduated from an accredited school of dentistry. This rule enables a foreign trained dentist to qualify for a license through endorsement if he or she submits evidence satisfactory to the board that he or she has graduated from a foreign dental school and has successfully completed an accredited postgraduate program in advanced education in general dentistry or an accredited general dental practice residency. All other requirements for qualifying for a license through endorsement remain in effect for all applicants.

SECTION 6 repeals ch. DE 4, Educational Programs Meeting Licensing and Certification Requirements. Chapter DE 4 consists of ss. DE 4.01 and 4.02. Section DE 4.01 states that the board shall approve ADA CODA accredited educational programs. That is already established in statute. It also allows the board to approve other programs. This rule repeals the board’s ability to approve other programs.

Section DE 4.02 gives the board the authority to approve evaluation programs for foreign trained dentists. Repealing this provision takes away that authority from the board. The repeal of this provision is consistent with this proposed rule-making order. This rule-making order deletes the language in s. DE 2.01 (1) (e) that states that a foreign trained dentist meets the educational requirements for a license if verification is provided from a “board approved foreign graduate evaluation program of successful completion of the evaluation course.” By deleting that language, s. DE 4.02 becomes obsolete for licensure purposes and should be repealed. This rule-making order replaces that deleted language by requiring a foreign trained applicant to have completed an ADA CODA approved program.

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

There are no existing or proposed federal regulations.

Comparison with rules in adjacent states:

Iowa:

Iowa requires attendance of at least 2 years at an ADA CODA accredited school. No DDS or DMD is required, but the dean of the school attended must verify the same level of didactic and clinical education has been achieved as a graduate of the dental school. A diploma, degree, or certificate must be awarded upon completion.

Illinois:

A minimum of two academic years of general dental clinical training at a school in the United States or Canada approved by the department (ADA CODA) approved school is required. However, an accredited advanced dental education program approved by the department.

Michigan:

Michigan requires completion of, at minimum, a 2 year program in an ADA approved school. No DDS or DMD is required. The individual must be confirmed by the dean of the school attended.

Minnesota:

A 2001 law makes international graduates eligible to take the clinical examination (e.g., CRDTS) if education is determined to be equivalent to an ADA CODA accredited dental education program. International Credentialing Associates, Inc., (ICA) is the equivalency evaluation company the board uses. Minnesota accepts completion of an advanced program in dentistry (ADA CODA approved) in lieu of ICA evaluation.

Summary of factual data and analytical methodologies:

The board reviewed its current rules and the rules of other states. A considerable amount of time was spent during board meetings examining how foreign trained dentists are credentialed. This involved an analysis of the available evaluation programs that are operational in other states. The board also examined the process of accrediting postgraduate residency training programs. Representatives of the American Dental Association presented information to the board regarding its accreditation standards and procedures, and a significant amount of time was spent discussing how best to credential foreign trained dentists.

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

No new reports or forms are required under the rule. The impact on small businesses is anticipated to be positive due to the increase in the number of dentists available for hire. Nearly all dental practices in Wisconsin are small businesses.

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 Office of Legal Counsel, Office of Examinations, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$9,732. The total on-going salary and fringe costs are estimated at \$1,146.

Effect on small business:

These proposed rules will have no 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 hector.colon@wisconsin.gov, or by calling 608-266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0495; email at pamela.haack@wisconsin.gov.

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

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to pamela.haack@wisconsin.gov. Comments must be received on or before March 20, 2009, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 1.02 (1) is renumbered DE 1.02 (1m).

SECTION 2. DE 1.02 (1) is created to read:

DE 1.02 (1) "Accredited" means accredited by the American dental association commission on dental accreditation or its successor agency.

SECTION 3. DE 2.01 (1) (e) is amended to read:

DE 2.01 (1) (e) Evidence satisfactory to the board of having ~~completed educational requirements in s. 447.04 (1), Stats~~ graduated from an accredited dental school. In the case of a graduate of a foreign dental school, verification shall be provided from a board-approved foreign graduate evaluation program of successful completion of the evaluation course.

SECTION 4. DE 2.01 (1m) is created to read:

DE 2.01 (1m) An applicant for a license as a dentist who is a graduate of a foreign dental school shall submit all of the following to the board:

(a) Evidence satisfactory to the board of having graduated from a foreign dental school.

(b) The information required in sub. (1) (a) to (d), (f) and (g).

(c) Evidence of the successful completion of an accredited postgraduate program in advanced education in general dentistry or an accredited general dental practice residency.

SECTION 5. DE 2.04 (1) (a) is amended to read:

DE 2.04 (1) (a) The applicant has graduated from a ~~an accredited school of dentistry accredited by the American dental association or the applicant has graduated from a foreign dental school and has successfully completed an accredited postgraduate program in advanced education in general dentistry or an accredited general dental practice residency.~~ an accredited school of dentistry or the applicant has graduated from a foreign dental school and has successfully completed an accredited postgraduate program in advanced education in general dentistry or an accredited general dental practice residency.

SECTION 6. Ch. DE 4 is repealed.

(END OF TEXT OF RULE)

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.

Dated _____

Agency _____

Chairperson
Dentistry Examining Board

DE 2, 4 CR09-007 (Foreign trained dentists) Draft 6-26-09



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **09-007**

AN ORDER to repeal chapter DE 4; to renumber DE 1.02 (1); to amend DE 2.01 (1) (e) and 2.04 (1) (a); and to create DE 1.02 (1) and 2.01 (1m), relating to licensure of foreign trained dentists.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

01-22-2009 RECEIVED BY LEGISLATIVE COUNCIL.

02-19-2009 REPORT SENT TO AGENCY.

RS:REL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 09-007

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the second sentence of the plain language analysis of SECTION 4 of the rule, the comma should be replaced by the word “and” in order to accurately reflect s. DE 2.01 (1m). Also, in the last sentence of the description of SECTION 4, the appropriate cross-reference is “s. DE 2.01 (1) (a) to (d), (f), and (g).”

b. The rule preface uses the acronyms “ADA CODA,” “ADA,” and “CODA.” Is there a reason for not using one acronym? If not, one acronym should be used consistently throughout the rule preface.

c. The rule preface description of the rules in Illinois contains an incomplete sentence.

d. In s. DE 1.02 (1), “Dental Association Commission on Dental Accreditation” should be changed to the lower-case.