

STATE OF WISCONSIN
DENTISTRY EXAMINING BOARD

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

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Dentistry Examining Board in ss. 15.08 (5) (b), 227.11 (2), 447.02 (1) (d) and (2) (d) and (e), Stats., and interpreting s. 447.01 (3) (g), Stats., the Dentistry Examining Board will hold a public hearing at the time and place indicated below to consider an order to renumber DE 7.02; and to create DE 7.02 (2), relating to the definition of "local anesthesia" administered by dental hygienists.

Hearing Date, Time and Location

Date: May 3, 2006
Time: 9:00 a.m.
Location: 1400 East Washington Avenue
Room 121C
Madison, Wisconsin

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but 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 Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by May 15, 2006, to be included in the record of rule-making proceedings. Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 447.01 (3) (g), Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2), 447.02 (1) (d) and (2) (d) and (e), Stats.

Explanation of agency authority:

Section 447.02 (2) (d), Stats., authorizes the Dentistry Examining Board to promulgate rules relating to agents that may be administered by a dental hygienist.

Related statute or rule:

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

Plain language analysis:

This proposed rule-making order will exempt subgingival, local anesthetics administered by applicator from the educational requirements of Chapter DE 7, which currently apply to dental hygienists who administer local anesthesia by injection. With the exception, the 10 hours of didactic and 11 hours of clinical education would not be required if the dental hygienist limits administration of local anesthetics to applicators.

A new type of subgingival, local anesthesia applied by applicator, not by injection, is available is being marketed in Wisconsin. The current rule concerning certification of dental hygienists to administer local anesthesia does not explicitly contemplate local anesthetics administered in this manner, so a definition of “local anesthesia” is being created to clarify educational requirements for dental hygienists who apply local, subgingival anesthesia by applicator.

SECTION 1 rennumbers DE 7.02.

SECTION 2 creates a definition for “local anesthesia” to except drugs administered topically or by applicator from dental hygienists’ educational requirements for the administration of local anesthesia.

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

There is no existing or proposed federal regulation for summary and comparison.

Comparison with rules in adjacent states:

Illinois:

No board decision. To consider week of 4/11/05.

Iowa:

No board decision.

Michigan:

No board decision.

Minnesota:

Treated the same as any other subgingival medicament.

Summary of factual data and analytical methodologies:

The Dentistry Examining Board discussed how chapter DE 7 applies to Oraqix, a new medicament that is administered via a surface applicator rather than by injection. In considering

the rule as currently written, the board decided the rule is not clear as applied to the new medicaments because it was written to require training for administering injection of local anesthetics. The board also decided that because of the recent introduction of the product type, the rule did not contemplate training requirements necessary to administer it. The board decided by consensus that a course requirement for local anesthetics delivered via surface applicators should not be subject to the course requirement for injections.

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

This proposed rule will impact all dental hygienists licensed in Wisconsin. There are no small businesses affected by this rule that meet the statutory definition contained in s. 227.114 (1), Stats. The certification of no impact on small business is based on the fact that a substantial number of the 4,886 total active licensed hygienists work as employees of a dentist as defined by the practice limitation in s. 447.06, Stats. The proposed rule does not include any additional reporting or bookkeeping requirements. The proposed rule requires dental hygienists to obtain additional professional skills related to coursework for providing local anesthetics delivered via surface applicators.

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 proposed rule will have no impact on the department’s funds.

Effect on small business:

These proposed rules will have no significant 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 larry.martin@dr1.state.wi.us, 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 53708-8935. Telephone: (608) 266-0495. Email: pamela.haack@dr1.state.wi.us.

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. Email pamela.haack@drl.state.wi.us. Comments must be received on or before May 15, 2006, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. DE 7.02 is renumbered DE 7.02 (1).

SECTION 2. DE 7.02 (2) is created to read:

DE 7.02 (2) "Local anesthesia" as used in this chapter means a drug administered other than topically or by applicator for the elimination of sensation, especially pain, in one part of the body. "Local anesthesia" includes medication administered by regional injection.

DE 7.02 CR06- (Dental hygienists administering local anesthesia) Hearing Notice 2-21-06