

Significant Legislative Rule Analysis
WAC 246-812 WAC
Rules Concerning Board of Denture Technology
August 1, 2014

Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.

Substitute House Bill (SHB) 1270 (Chapter 171, Laws of 2013) amended chapter 18.30 RCW to make the Board of Denturists (board) the disciplining authority for licensed denturists under the Uniform Disciplinary Act. Denturist-related duties once assigned to the Secretary of Health are now the duties of the board, with the exception of issuance of licenses. Proposed changes to chapter 246-812 WAC replaces references to the Secretary of Health with references to the board throughout the chapter. The proposed rules also adopt without material change existing rules that denturists were required to comply with under the Secretary of Health’s authority, but now fall under the duty of the board. These rules include such things as sexual misconduct and mandatory reporting requirements. The proposed rules align existing denturist rules with changes made in legislation.

In addition, the board reviewed chapter 246-812 WAC and is proposing rule amendments to:

- Make general housekeeping and clarification changes;
- Amend the continuing competency requirements;
- Adopt new temporary practice permit requirements for military spouses;
- Adopt new requirements for background checks for temporary practice permits for licensed denturists;
- Adopt a retired active licensure status;
- Clarify the inactive status license requirements;
- Clarify criteria for denturist education program approval; and
- Change the title from Board of Denture Technology to Board of Denturists.

Is a Significant Analysis required for this rule?

Yes, portions of the rule meet the definition of a legislatively significant rule, as defined in RCW 34.05.328 and require a significant analysis. However, the department has determined that no significant analysis is required for the following portions of the rule.

Table: Non-Significant Rule Identification-Reason

#	WAC Section	Section Title/Subject	Reason
1	246-812-010	Definitions	Terms defined in this section clarify meaning and do not set standards that could require action or enforcement.
2	246-812-015	Adjudicative proceedings – Procedural rules.	The proposed changes make the rule compliant with SHB 1270, which made the board the disciplinary authority. The proposed changes replace all Secretary of

#	WAC Section	Section Title/Subject	Reason
			Health references to the board.
3	246-812-120	Denturist licensure – Initial eligibility and application requirements	The proposed changes reduce barriers. In addition, the changes provide clarification and make other housekeeping changes without changing the effects of the rule.
4	246-812-125	Denturist licensure-Endorsement	The proposed changes provide clarification of the process without changing the effects of the rule.
5	246-812-131	Temporary practice permit-Military spouse	The proposed changes adopt without material change the department’s process for issue these permits.
6	246-812-136	Temporary practice permit-Background check	The proposed changes are explicitly and specifically dictated in statute. RCW 18.130.064 authorizes fingerprint-based national background checks when a state background check is inadequate, such as out-of-state applicants.
7	246-812-150	Examination-Content and scores	The proposed changes provide clarification without changing the effects of the rule.
8	246-812-155	Denturist examination scores	The proposed changes provide clarification without changing the effects of the rule.
9	246-812-158	Examination review procedures	The proposed changes adopt without material change existing rules that denturist were required to comply with under the Secretary of Health’s authority, but now fall under the duty of the board.
10	246-812-160	Expired license	The proposed changes provide clarification of the process without changing the effects of the rule.
11	246-812-165	Retired Active License	This procedural rule establishes a process requirement to apply for a retired active license at a reduced fee.
12	246-812-330	Privileged communications	The proposed amendment makes housekeeping changes without changing the effects of the rule.
13	246-812-340	Patient abandonment	The proposed changes provide clarity and provides best practices of how the attending denturist may withdraw his or her responsibility for a patient without changing the effects of the rule.
14	246-812-350	License display-Notification of address	The proposed amendments make housekeeping changes without changing the effects of the rule.
15	246-812-360	Identification of new dentures	The proposed amendments make housekeeping changes without changing the effects of the rule.
16	246-812-390	Improper billing practices	The proposed amendments make

#	WAC Section	Section Title/Subject	Reason
			housekeeping changes without changing the effects of the rule.
17	246-812-395	Mandatory reporting	Adopts the secretary model rules for mandatory reporting as listed under chapter 246-16 WAC.
18	246-812-470	Definitions	Terms defined in this section clarify meaning and do not set standards that could require action or enforcement. In addition, this section of the rule adopts without material change existing rules that denturist were required to comply with under the Secretary of Health's authority, but now fall under the duty of the board.
19	246-812-480	Sexual misconduct	The proposed rule adopts an existing rule denturist were required to comply with under the Secretary of Health's authority, and amends the definition of sexual misconduct to provide clarity and consistency with department's enforcement of the rule.
20	246-812-510	Definitions	The proposed amendments make housekeeping changes without changing the effects of the rule.
21	246-812-520	Use of barriers and sterilization techniques	The proposed amendments make housekeeping changes without changing the effects of the rule.
22	246-812-601	Purpose	The proposed amendments make housekeeping changes without changing the effects of the rule.
23	246-812-610	Definitions	The proposed amendments make housekeeping changes without changing the effects of the rule.
24	246-812-620	Approval of substance abuse monitoring programs	The proposed amendments make housekeeping changes without changing the effects of the rule.
25	246-812-630	Participation in approved substance abuse monitoring program	The proposed amendments make housekeeping changes without changing the effects of the rule.

The board is proposing to repeal the following rule sections because these mandatory reporting requirements are required under chapter 246-16 WAC.

#	WAC Section	Section Title/Subject
26	246-812-170	License renewal form
27	246-812-400	Denturist associations or societies
28	246-812-410	Insurance carriers
29	246-812-420	Professional liability carriers
30	246-812-430	Courts
31	246-812-440	State and federal agencies

32	246-812-450	Professional standards review organizations
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Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

The general goal of chapter 18.30 RCW is to assure the public’s health, provide a mechanism for consumer protection, and offer cost-effective alternatives for denture care services and products to individual consumers and the state. No person may represent himself or herself as a licensed denturist or use any title or description of services without applying for licensure, meeting the required qualifications, and being licensed as a denturist by the board.

The proposed rules are used to assure the public’s health and protection by implementing the following objectives:

- Adopting without material change existing rules that denturist were required to comply with under the Secretary of Health’s authority, but now fall under the duty of the board. These rules include such things as sexual misconduct and mandatory reporting requirements.
- Aligning existing denturist rules with changes made in legislation.
- Making general housekeeping and clarification changes;
- Amending the continuing competency requirements;
- Adopting new temporary practice permit requirements for military spouses;
- Adopting new requirements for background checks for temporary practice permits for licensed denturist;
- Adopting a retired active licensure status;
- Clarifying the inactive status license requirements;
- Clarifying criteria for denturist education program approval; and
- Changing the title from Board of Denture Technology to Board of Denturists.

Explain how the department determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

The proposed rules will achieve the authorizing statute’s goals and objectives by providing up-to-date requirements that are clear, concise and necessary to assure patient safety.

The Department of Health has assessed and determined that there are no feasible alternatives to rulemaking as rules are required by statute. These standards need to be established in rule to be enforced.

Explain how the department determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

The portions of the proposed rule that are significant are analyzed below. As discussed above, other portions of the proposed rule are not significant and are therefore not included in this analysis.

WAC 246-812-020 Continuing competency requirements

Rule Overview- The proposed rule changes the reporting period for continuing competency from every two years to yearly, amends the annual credit hour requirement accordingly, and adds additional continuing competency categories to include: licensure examination standardization and calibration workshops and administration; volunteering; and passage of the denturist jurisprudence examination.

The proposed rule also requires those denturists that hold an endorsement for nonorthodontic removable oral devices to obtain two hours of continuing competency every three years. This must include continuing competency in the making, placing, constructing, altering, reproducing, or repairing of bruxism devices and snoring devices. This does not increase the continuing competency requirement.

Rule Cost/Benefit Analysis – The proposed changes will benefit licensees by adding additional continuing competency categories that will increase the number of options for continuing competency courses. Patients may benefit as providers are more likely to stay up-to-date on technical changes and practice improvements through the requirement for more frequent continuing competency. The denturist will be required to stay up-to-date on changes that may occur for bruxism devices and snoring devices. There will be a nominal cost for the licensee as they will be required to sign the continuing competency attestation yearly versus every two years.

WAC 246-812-161 Inactive License

Rule Overview- The proposed rule defines how a licensed denturist may obtain an inactive license, establishes renewal requirements of an inactive license, and establishes requirements to return to active status:

- A licensed denturist must hold an active license in good standing to obtain an inactive license.
- A denturist who holds an inactive license:
 - May not practice in Washington; and
 - Must pay applicable fees to renew annually.
- A denturist may return to active status:
 - If they had an inactive status for three years or less and they:
 - Pay applicable fees;
 - Request in writing to be placed on active status;
 - Provide a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the practice of the profession;
 - Provide a written declaration that he or she has not voluntarily given up any credential or privilege or has not been restricted in the practice of denturism in lieu of or to avoid formal action;
 - Satisfy the continuing competency requirements; and
 - Provide proof of AIDS education if not previously provided; or

- If they had an inactive status for more than three years, had been actively practicing in a jurisdiction approved by the board, and they:
 - Pay applicable fees;
 - Provide primary source verification of the active denturist license;
 - Provide verification of current active practice in a jurisdiction approved by the board for the last three years;
 - Request in writing to be placed on active status;
 - Provide a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the practice of the profession;
 - Provide a written declaration that he or she has not voluntarily given up any credential or privilege or has not been restricted in the practice of denturism in lieu of or to avoid formal action;
 - Satisfy the continuing competency requirements for the two most recent years; and
 - Provide proof of AIDS education if not previously provided; or
- If they had an inactive status for more than three years and the denturist has not been actively practicing in a jurisdiction approved by the board, they:
 - Request in writing to be placed on active status;
 - Pay applicable fees;
 - Successfully complete the written and clinical examinations;
 - Provide primary source verification of all state licenses from other states;
 - Satisfy the continuing competency requirements for the two most recent years;
 - Provide proof of successful completion of the approved written jurisprudence examination within the past year; and
 - Provide proof of AIDS education, if never previously provided.

Rule Cost/Benefit Analysis – The inactive license will allow a licensed denturist not actively practicing to keep a license in Washington for a fee that is less than the active license fee.

The rule does impose additional costs to the licensed denturist if they have been inactive and not actively practicing in a jurisdiction approved by the board for more than three years. If they wish to return to active practice, they must take and pass the jurisprudence, written and clinical examinations. The associated cost is \$1,500.00 total for the written and clinical examinations. There is no cost for the jurisprudence examination.

All licensees returning to active status must pay the current fee of \$1,855.00. Although there are costs to return to active status, the standards established will ensure practitioners are current with denturism practices before returning to practice denturism in Washington.

WAC 246-812-200 Approval of denturist program

Rule Overview- The proposed rule sets out the process the board will use when reviewing an application for approval for a denturist program. This includes a process for denturist education programs that have already received approval from a national professional association.

Rule Cost/Benefit Analysis – The board has been approving/re-approving denturist programs since 1994. The board has authority in the statute to review and approve denturism programs but did not have rules establishing the requirements or standards the programs must meet. The board took this opportunity to review their current program application process and place the requirements and standards in rule.

Currently every five years board staff notify the approved programs that their approval is expiring and that they must re-apply for continued approval. The programs are given 30 days to comply and submit the completed application and all documents, which includes items listed in WAC 246-812-220. The program can request an extension of time to complete the application process. Once the department has received the completed application and documents, a copy is made and the school review is assigned to two board members. The board members review the documents and give their overview at the next regularly scheduled board meeting. If the application and documentation is not complete, department staff notifies the program and requests the additional information. The program is given two weeks to submit the information.

Depending upon the program, it may take a member from four to eight hours or more to review the documentation. Based on past experience, it takes the program approximately a week to complete the re-approval application, gather all documentation and submit it to the department.

By establishing in rule the criteria for approving/re-approving denturist programs, the board will save time and money by employing a standardized format for the review process. Both the board and the national denturist professional association will benefit by knowing what the process is for review and approval. This will ultimately, reduce costs of correcting program deficiencies and result in more timely program approvals. Denturists will benefit by keeping the cost of board administration as low as possible.

The proposed rule is similar to rules that are used by other health professions that review and approve school programs and the process has worked well. There will be no added costs for the approved programs.

WAC 246-812-220 Standards required for approval of schools or programs of denturism

Rule Overview- The proposed rule establishes the standards and application content requirements the board will use when reviewing applications for denturist educational program approval.

Rule Cost/Benefit Analysis- The cost associated with preparing the application is addressed in the previous section (WAC 246-812-200). The benefit of this rule is that a school seeking approval will know exactly what they have to submit for approval. These standards are necessary for schools to adequately train their students.

WAC 246-812-230 Site review procedures for approval of programs of denturism

Rule Overview- The proposed rule allows the board, at its discretion, to send a representative or evaluation committee to inspect any program that is requesting approval.

Rule Cost/Benefit Analysis - The proposed rule will have an impact, namely the time spent on conducting the site review. Typically, based on past experience, these inspections take a few hours to complete at a nominal cost. The benefit of the rule is to enable the board to determine if applicants have the required facilities necessary to operate a program.

WAC 246-812-310 Record Content

Rule Overview- The proposed rule identifies the required patient and treatment information to be included in a patient's record.

Rule Cost/Benefit Analysis- The benefit of the proposed rule is enhanced patient safety. Thorough, legible patient records are vital to patient safety. The original written or electronic record, as well as changes, corrections, or deletions to any written or electronic record should be noted properly. The proposed rule is similar to the standards recommended by the National Denturist Association and American Dental Association.

There are minor expected costs for denturists to comply with the new recordkeeping rule. Department staff conducted a small poll of licensed Washington denturists to determine impact of the proposed rule. Respondents indicated that a denturist spends approximately ten minutes per patient on charting and that complying with the proposed rule would incur very little additional time. One could reasonably assume the rule could result in one additional minute per patient for improved recordkeeping. Accurate, legible and complete recordkeeping is good business practice, saving time and reducing duplication of effort. In addition to the benefit of an accurate record for patient safety, the gains in efficiency would offset the minor costs in record keeping.

WAC 246-812-320 Record retention and accessibility requirements

Rule Overview- The proposed rule increases by one year the length of time a denturist must maintain patient records. The proposed rule distinguishes between minor and adult records and adds retention time for minors' records. Amendments also reference appropriate statutes associated with accessibility, privacy, and destruction of records and deletes unnecessary rule language unrelated to record retention. Rule language was deleted and rewritten into the proposed new WAC 246-817-310, where appropriate.

Rule Cost/Benefit Analysis- The proposed rule requires denturists to keep records for six years from the date of last treatment for patients eighteen years and older. The board analyzed other record retention requirements. For example, the Washington State Dental Quality Assurance Commission guidelines require dental records to be kept for six years. The Washington State Health Care Authority WAC 182-502-0020 requires records to be kept for six years. The board concluded that six years was an adequate amount of time to retain records.

The proposed rule requires denturists to keep records for patients under the age of eighteen years old for six years after the patient turns eighteen years old. Children's health status changes rapidly during growth and patient records are essential in providing continuous care.

The proposed rule incorporates requirements from chapter 70.02 RCW and states that a denturist must respond to written requests for patient records. This modification restates RCW 70.02.080 in part. This topic is a common question from denturists and patients. The board determined it is a benefit to have the requirement listed in this rule amendment; restating RCW 70.02.080 assures denturists have knowledge of statutory requirements.

The proposed rule states that the destruction of records must be in compliance with chapter 70.02 RCW and the Health Insurance Portability and Accountability Act. Likewise, this is a common question from denturists and patients. The board determined it is also beneficial to have the reference listed in this rule

amendment. By referencing state and federal laws, this assures denturists have knowledge of the statutory requirements.

A denturist may incur minimal cost increases associated with maintaining patient records (both adult and juveniles) for a longer period of time. In the small survey mentioned above, respondents indicated that the cost of storing adult patient records for one additional year is minimal. It was also indicated that the cost of storing patient records for six years after the patient reached the age of eighteen years old is minimal. The benefit is that licensed denturists may have complete information available in treatment records that is standardized.

Cost-Benefit Conclusion

The rule package largely amends rules to reflect the change in authority from a Secretary of Health profession to the Board of Denturists. These changes touch on many areas including the categories listed below:

Regulatory Authority:

There is no cost to the proposed rule revisions. These changes merely reflect the statutory change in regulatory authority.

Continuing Competency:

There will be nominal costs for the licensee as they will be required to attest to having continuing competency credits yearly versus every two years. The licensee will benefit with having additional categories in which to obtain continuing competency credits.

Examination Review:

There is no cost to the proposed rule revisions. These changes merely reflect in rule what the board has been requiring by policy. By standardizing the process in rule, administrative costs may be reduced.

Inactive License:

The proposed rule changes do impose additional costs to the licensed denturist if they have been inactive and not actively practicing in a jurisdiction approved by the board for more than three years. If they wish to return to active practice, they must take and pass the jurisprudence, written and clinical examinations. The public will benefit with the assurance that the denturist is competent.

Standard Requirements and Approval of Denturist Programs:

The proposed rules are similar to rules that are in other health professions that do school/program approvals and have determined that the process works well. There will be no added costs for the approved programs. This rule merely incorporates what was required by policy. By standardizing the process in rule, administrative costs will be reduced.

Record Content Change:

There are minimal expected costs for denturists to comply with this proposed rule. A small informal poll was conducted of three denturists in different areas of the state. All three denturists indicated there would be minimal impact (cost and time) on their practice to comply with the proposed rule. The benefit will be enhanced patient safety as the patient records will be thorough, legible, complete and accurate.

Record Retention and Accessibility Requirements Change:

There are minimal expected costs for denturists to comply with this proposed rule. A small informal poll was conducted of three denturists in different areas of the state. All three denturists indicated there would

be minimal impact (cost and time) on their practice to comply with the proposed rule. The public will benefit by the assurance that denturists will have knowledge of statutory requirements on record retention and accessibility requirements.

In conclusion, although there are several sections where the analysis indicates that denturists may incur nominal costs of the proposals, the total probable benefits of this rule package, as described above, exceed the total probable costs.

Identify alternative versions of the rule that were considered, and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

The board developed the proposed rules collaboratively. The collaborative process included sending notice of the rulemaking to the listserv and three open public rules workshops. The workshops were held in Tumwater, with workshop video conferencing in Spokane and Kent for one workshop. There was one participant at each video conference location. All the workshops were during board meetings and were noted on the board's agenda. The agenda was sent to the listserv and posted to the program's website. Department staff also discussed the rules during the Washington Denturist Association meeting in October in Richland.

Prior to the workshops, the department had sent out draft language to give the stakeholders a starting point. There were no alternatives presented.

Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

The rule does not require those to whom it applies to take an action that violates requirements of federal or state law.

Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

The board determined that the rule does not impose more stringent performance requirements on private entities than on public entities

Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary.

The rule does not differ from any applicable federal regulation or statute.

Demonstrate that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

There are no other applicable laws.