

Significant Legislative Rule Analysis (SA)  
Education and Training Requirements  
WAC 246-812-240  
Nonorthodontic Removable Oral Devices  
WAC 246-812-250  
Teeth Whitening Services  
March 10, 2014

**Section 1. What is the scope of the rule?**

Substitute House Bill (SHB) 1271 (Chapter 172, Laws of 2013) amended chapter 18.30 RCW and increased the scope of practice for denturists. The bill directs the Board of Denturists (board) to specify in rule the education and training necessary to provide either nonorthodontic removable oral devices, or teeth whitening services.

The proposed rules (WAC 246-812-240) provide the process, education and training requirements necessary to obtain an endorsement to a denturist license in order to provide nonorthodontic removable oral devices. The proposed rules: establish the level of education and training required prior to denturists providing nonorthodontic removable oral devices; require the education and training programs and curriculums to be board approved; and establish what will be accepted as evidence of adequate education and training.

The proposed rules also provide the process, education and training requirements necessary to obtain an endorsement to a denturist license in order to provide teeth whitening services (WAC 246-812-250). The proposed rules: establish the level of education and training required prior to the denturists providing teeth whitening services; require the education and training programs and curriculums to be board approved; require the denturist to provide the patient with written and verbal information and answer any questions related to teeth whitening trays and teeth whitening solutions; and requires denturists to obtain and retain written patient consent on a board approved form for the teeth whitening services.

A denturist must receive a separate endorsement for each type of service provided.

**Section 2. What are the general goals and specific objectives of the proposed rule's authorizing statute?**

SHB 1271 directs the board to adopt rules that specify the education and training necessary prior to providing nonorthodontic removable oral devices and teeth whitening services. A licensed denturist must provide documentation to the board that they received the required training.

The proposed rules implement the statutory intent by establishing the education and training that is required by a denturist prior to being able to provide teeth whitening services and

nonorthodontic removable oral devices; requiring education and training programs and curriculums to be board approved; and requiring the patient to complete a patient informed consent form for teeth whitening services. The board will issue endorsements on the dentist license after completion of the board approved education and training;

The statute's objectives the rules implement are:

1. Establishing the level of education and training required prior to providing services;
2. Requiring board approval of education and training programs and curriculums;
3. Establishing what will be accepted as evidence of adequate education and training in order to issue an endorsement to the license; and
4. Requiring the dentist to obtain and retain a board approved informed consent form from the patient for teeth whitening services.

### **Section 3. What is the justification for the proposed rule package?**

The proposed rules will achieve the authorizing statute's goals and objectives by establishing the level of education and training that is required prior to a licensed dentist providing nonorthodontic removable oral devices and teeth whitening services and establishing a process for endorsement.

The board has assessed and determined that there are no feasible alternatives to rulemaking as rules are required by statute. The board has also elected to take additional action by requiring a board approved patient consent form for teeth whitening services. These standards need to be established in rule to be enforced.

If the proposed rules are not adopted, the board will be hampered in its ability to clearly identify if a licensed dentist has received adequate education and training to provide nonorthodontic removable oral devices and teeth whitening services.

### **Section 4. What are the costs and benefits of each rule included in the rules package? What is the total probable cost and total probable benefit of the rule package?**

As defined in RCW 34.05.328 both proposed rules require a significant analysis. The following is the analysis.

#### **WAC 246-812-240 Nonorthodontic removable oral devices**

The proposed rule requires licensed dentists to provide evidence that they have obtained six hours of education and training in nonorthodontic removable devices that consists of a minimum of four hours in instruction in snore guards and sleep apnea and an additional minimum of two hours in bruxism devices, sports mouth guards, and removable cosmetic appliances.

Nonorthodontic removable oral devices are defined in statute. The proposed rule requires the education and training to be obtained in a board approved program or course curriculum.

To receive an endorsement, the applicant must provide evidence of adequate education and training by submitting to the department either: (a) A declaration approved by the board that verifies proof of completion of education and training signed and dated by both the presenter and the dentist; or (b) A declaration that the education and training was included in a board approved educational program.

*Rule Cost/Benefit Analysis* – Department of Health staff contacted education providers to determine their capacity to offer the required education and training.

Three of the five board approved programs already have this training included in their curriculum. However before this training will be accepted, the board will have to approve the curriculum. Practicing denturists and applicants who have not had the training will incur training costs to earn their endorsement. The two board approved programs that currently do not offer this type of training have the option of adding this training to their curriculum. One of these programs, Bates Technical College in Washington, indicated that it would take approximately one week to create the training to submit to the board for approval.

Department staff contacted the Washington Denturist Association (WDA) and found out that the WDA intends on offering the required education and training in nonorthodontic removable oral devices at their annual association meeting in May 2014. The association has contracted with an individual from Canada to provide the training on removable anti-snoring devices and Ultradent Products, Inc. will be presenting training on teeth whitening, bruxism devices, sports mouth guards and removable cosmetic appliances.

If a dentist elects to attend the meeting solely for the new training requirements, they can expect to incur costs for hotel, meals, and conference fee registration of approximately \$1,133, assuming that there are no job loss days as a result of attending the training. Mileage or airfare would be an additional cost. If, however, a dentist had intended to attend the 2014 annual association meeting, practically, there would be no additional cost other than the few hours invested in training on this topic.

There are only nominal costs associated with providing the board with documentation verifying proof of completion of the education and training.

The benefits of obtaining the education and training are: denturists will be able to provide nonorthodontic removable oral devices, which may increase their revenue. Patients and the public at large will benefit from having trained denturists. Lastly, the endorsement will increase confidence in dentist profession.

## **WAC 246-812-250 Teeth whitening services**

The proposed rule requires licensed denturists to provide evidence that they have obtained two hours of instruction in teeth whitening services. Teeth whitening services are defined in statute. The education and training must be obtained in a board approved program or course curriculum.

To receive an endorsement, the applicant must provide evidence of adequate education and training by submitting to the department either: (a) A declaration approved by the board that verifies proof of completion of education and training signed and dated by both the presenter and the denturist; or (b) A declaration that the education and training was included in a board approved educational program.

The proposed rule requires a denturist to provide the patient with written and verbal information and answer any questions related to teeth whitening trays and teeth whitening solutions, and to also obtain and retain written patient consent on a board approved form.

*Rule Cost/Benefit Analysis* – Department of Health staff also queried the currently approved education and training programs to determine their capacity to provide education and training of teeth whitening services and learned the same conditions apply as the proposed rule above; three currently approved schools already offer this training in their curriculum and the other schools have the option of adding this training to their curriculum. Denturists would have the ability to obtain the required education and training at the association meeting in May 2014. As above, they could incur the costs up to an estimate of \$1,133, not including mileage or airfare if they were attending the meeting solely to meet the training requirements.

There are only nominal costs associated with providing the board with documentation verifying proof of completion of the education and training.

The proposed rule also requires denturists to provide patients with written and verbal information and answer any questions related to teeth whitening trays and teeth whitening solutions that include how the procedure works, alternatives to whitening, and risks. Before conducting the teeth whitening service, the denturist must obtain a written patient consent form, on a form approved by the board, and retain this form in the patient's records. Department staff asked several denturists about the potential compliance costs of providing this information and they indicated that there would be a nominal cost of compliance.

The benefits of obtaining the education and training are denturists will be able to provide teeth whitening services, which may increase their revenue. Patients and the public at large will also benefit from having trained denturists. Lastly, the endorsement will increase confidence in the denturist profession.

### Cost-Benefit Conclusion

The proposed rules implement RCW 18.30.010, amended by SHB 1271, which allows denturists to provide nonorthodontic removable oral devices and teeth whitening services. The proposed rules establish the education and training requirements; requires the board to approve the

curriculum; and sets the requirements for evidence of adequate education and training. The proposed rule also requires a denturist to provide the patient with written and verbal information and answer any questions related to teeth whitening trays and teeth whitening solutions, and to also obtain and retain written patient consent on a form approved by the board.

The requirement that a licensee obtain four hours of instruction in snore guards and sleep apnea; two hours in bruxism devices, sports mouth guards and removable cosmetic appliances and two hours in teeth whitening services can be counted towards the applicable continuing competency requirement. Denturists that offer teeth whitening services will have to provide information, as described above, to their patients. Collectively, although there are nominal costs of complying with this proposed rule, the benefits of having a mechanism in place for denturists to gain the skills to safely provide these services exceed these costs. Therefore the total probable benefits of the rule exceed the total probable costs.

## **Section 5. What alternative versions of the rule were considered? Is the proposed rule the least burdensome approach?**

### **WAC 246-812-240 Nonorthodontic removable oral devices**

#### **Descriptions of alternatives considered**

The board developed the proposed rules collaboratively. The collaborative process included sending notice of the rulemaking to the listserv, holding three open public rules workshops and posting the information to the denturist program website. 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 held during board meetings and were noted on the board's agenda. Department staff discussed the rules during the Washington Denturist Association meeting in October 2013 in Richland.

The board considered listing out exact training requirements, but determined that it would be too burdensome. They decided to require specific hours in these procedures instead and leave it up to the presenter to determine the course outline. This outline will be presented to the board for review and approval or denial.

The board reviewed the nonorthodontic removable oral devices and teeth whitening curriculum from two of the three board approved Canadian schools. Northern Alberta Institute of Technology (NAIT) curriculum includes 25 hours in removable oral devices. These hours include both didactic and clinical training for the denturist students. George Brown College curriculum includes a week course in removable oral devices. These hours include both didactic and clinical training for the denturist students. The board determined that as most denturists have experience in providing oral devices that requiring the minimums listed below would be more than adequate:

- (a) A minimum of four hours of instruction in snore guards and sleep apnea; and
- (b) A minimum of two hours in bruxism devices, sports mouth guards, and removable cosmetic appliances.

### **Least burdensome determination**

The proposed rule is the least burdensome option as it provides the education and training required in order to provide nonorthodontic removable oral devices.

The other alternative is to have no rules. However, the legislature directed the board to adopt rules, and without rules, practicing denturists would not know what education and training is required to provide nonorthodontic removable oral devices or perform teeth whitening services under the new law. While this would be the least burdensome approach, it would not provide assurances that denturists have obtained the requisite training and education to safely provide these services.

### **WAC 246-812-250 Teeth whitening services**

#### **Descriptions of alternative considered**

The board developed the proposed rules collaboratively. The collaborative process included sending notice of the rulemaking to the listserv, holding three open public rules workshops and posting the information to the denturist program website. 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 held during board meetings and were noted on the board's agenda. Department staff discussed the rules during the Washington Denturist Association meeting in October in Richland.

The board considered listing out exact training requirements, but determined that it would be too burdensome. They decided to require specific hours in these procedures instead and leave it up to the presenter to determine the course outline. This outline will be presented to the board for review and approval or denial.

The board reviewed the nonorthodontic removable oral devices and teeth whitening curriculum from two of the three board approved Canadian schools. Northern Alberta Institute of Technology (NAIT) curriculum includes 10 hours in teeth whitening. These hours include both didactic and clinical training for the denturist students. George Brown College curriculum includes a week course in teeth whitening. These hours include both didactic and clinical training for the denturist students. The board determined that as most denturists have experience in providing oral devices that requiring two hours of instruction in teeth whitening services listed below would be more than adequate.

### **Least burdensome determination**

The proposed rule is the least burdensome option as it provides the education and training required in order to provide teeth whitening services.

The other alternative is to have no rules. However, the legislature directed the board to adopt rules, and without rules, practicing denturists would not know what education and training is required to provide nonorthodontic removable oral devices or perform teeth whitening services under the new law. While this would be the least burdensome approach, it would not provide assurances that denturists have obtained the requisite training and education to safely provide these services.

**Section 6. Does the rule require anyone to take an action that violates 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.

**Section 7. Does the rule impose more stringent performance requirements on private entities than on public entities unless the difference is required in federal or state law?**

It was determined that the rule does not impose more stringent performance requirements on private entities than on public entities.

**Section 8. Does the rule differ from any federal regulation or statute applicable to the same activity or subject matter and, if so, is the difference 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.

**Section 9. Has the rule been coordinated, to the maximum extent possible, with other federal, state, and local laws applicable to the same activity or subject matter?**

There are no other applicable laws.